



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

FOURTH SECTION

**CASE OF ŠIDLOVÁ v. SLOVAKIA**

*(Application no. 50224/99)*

JUDGMENT

STRASBOURG

26 September 2006

**FINAL**

***26/12/2006***

*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 Šidlová 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 S. PAVLOVSCHI,

Mr L. GARLICKI,

Mr J. ŠIKUTA, *judges*,

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

Having deliberated in private on 5 September 2006,

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

**PROCEDURE**

1. The case originated in an application (no. 50224/99) 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 Tatjana Šidlová (“the applicant”), on 12 June 1999.

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

3. On 22 February 2005 the Court declared the application partly inadmissible and decided to communicate to the Government (i) the complaint under Article 6 § 1 of the Convention concerning the length of the proceedings relating to the estate of the applicant's late father, the defamation proceedings and the proceedings concerning the estate of the applicant's late mother; (ii) the complaint under Article 1 of Protocol No. 1 that, during the proceedings concerning the estates of her late father and mother, the applicant was deprived of the peaceful enjoyment of her possessions; and (iii) the complaint under Article 13 of the Convention that the applicant had no effective remedy at her disposal in respect of the complaint under Article 6 § 1 of the Convention of the length of the above three sets of proceedings. Applying Article 29 § 3 of the Convention, it was 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 1946 and lives in Bratislava.

#### **A. Proceedings concerning the estate of the applicant's late father**

5. The applicant's father was the joint owner of real property located in the cadastral area of Kysucké Nové Mesto. He died in 1994.

##### *1. Inheritance proceedings (case no. D836/94)*

6. On 25 November 1994 the Bratislava IV District Court (*Okresný súd*) opened inheritance proceedings concerning the estate of the applicant's father. Under the applicable procedural rules, the District Court entrusted the determination of the estate to a notary public.

7. On 26 November 1996 the notary issued an inheritance decision (*osvedčenie o dedičstve*) to the effect that the estate of the applicant's father included a half share in the above-mentioned real property and that the applicant had inherited half of that share. In the absence of an appeal, the decision became final and binding on 12 December 1996.

8. On 20 August 1997 the applicant sent a letter to the notary claiming that the decision of 26 November 1996 was incorrect in that it did not deal with all the immovable property which had belonged to her father. She requested “that the inheritance proceedings continue and be completed”. On 22 August 1997 the applicant sent a similar letter to the Bratislava IV District Court. She received no response.

##### *2. Proceedings regarding newly discovered inheritance (case no. D238/00)*

9. On 19 May 1999 the applicant lodged a formal application with the Čadca District Court for determination of the part of her father's estate which was not covered by the decision of 26 November 1996 as a “newly discovered inheritance” within the meaning of Article 175x of the Code of Civil Procedure.

10. On 8 August 1999 the Čadca District Court of the judicial district in which the property lies transferred the case to the Bratislava IV District Court, which had territorial competence to examine it.

11. On 13 March 2000 the Bratislava IV District Court entrusted the determination of the newly discovered estate to a notary public, who held hearings on 11 April and 31 May 2000 and determined the matter by a new

inheritance decision on 27 February 2001. In the absence of an appeal, the decision became final and binding on 17 March 2001.

12. During the proceedings the applicant lodged numerous complaints with various public bodies about the length of the proceedings and the way in which they were being conducted. She also lodged a criminal complaint and frequently submitted new information and made various suggestions as regards the conduct of the proceedings.

13. On 18 March 2000, in response to the applicant's complaint, the President of the Bratislava IV District Court accepted that there had been unjustified delays in the proceedings before that court, in particular after the applicant's application of 19 May 1999 had been transferred to it from the Čadca District Court. The President apologised for those delays.

14. In a letter of 24 November 2000 the Ministry of Justice informed the applicant that the conduct of the proceedings by the notary had been reviewed by the Slovakian Chamber of Notaries which had found the applicant's complaint of the notary's inactivity to be unsubstantiated. The notary had nevertheless been asked to keep the President of the Chamber informed about the progress in the proceedings. Furthermore, the applicant was advised that, in the present type of proceedings, the burden of substantiating the case lay with the plaintiff. Although it was primarily the responsibility of the applicant, the notary had proactively sought information and documents from cadastral registries and other public offices.

### *3. Proceedings concerning newly discovered inheritance (case no. D894/01)*

15. On 21 March 2001 the applicant made a written submission to the Bratislava IV District Court. She expressly stated that she agreed with the inheritance decision of 27 February 2001 and waived her right of appeal in respect of it. However, at the same time the applicant claimed that despite that decision the estate of her late father had still not been completely determined. The submission resulted in the opening of a new set of inheritance proceedings under Article 175x of the Code of Civil Procedure.

16. The District Court assigned the determination of the “newly discovered inheritance” to the same notary who had issued the inheritance decision of 27 February 2001. The applicant challenged the notary for bias. Her challenge was accepted and the case was assigned to three other notaries who were in turn all dismissed for bias. The matter is now still pending before a fifth notary.

### *4. Constitutional complaint*

17. In May 2003 the applicant lodged a complaint with the Constitutional Court (*Ústavný súd*) under Article 127 of the Constitution.

She directed the complaint against the Bratislava IV District Court and claimed that it had violated her right under Article 6 § 1 of the Convention to a hearing within a “reasonable time” in the proceedings relating to cases numbers D836/94, D238/00 and D894/01.

18. On 28 January 2004 the Constitutional Court declared the complaint inadmissible. It considered the matter as three separate sets of proceedings. As regards the first two sets, which had ended with the final and binding inheritance decisions of 26 November 1996 and 27 February 2001, the Constitutional Court found that the complaint was outside the statutory two-month time-limit. In so far as the complaint concerned the third set of proceedings, which had commenced further to the applicant's submission of 21 March 2001, the Constitutional Court found that it was manifestly ill-founded. The Constitutional Court took into account the fact that, although the applicant had had objections to the inheritance decision of 27 February 2001, she had chosen not to appeal against it but to initiate a new set of proceedings in which she had repeatedly challenged the notaries for bias. The course of the proceedings had also been substantially influenced by the fact that the applicant's sister, who was one of the heirs, resided in Sweden. Finally, the Constitutional Court considered that the period during which the notaries had sought information from cadastral and other public authorities to support the applicant's case could not be imputed to them as unjustified delays.

### **B. Defamation proceedings**

19. On 22 October 1996 the applicant's neighbour brought a civil action against her in the Bratislava IV District Court. He alleged that the applicant had publicly insulted him on numerous occasions and sought a judicial order that she apologise and pay him appropriate financial compensation.

20. On 22 January 1998 the District Court granted the action in full as regards the apology and in part as regards the compensation. The applicant lodged an appeal (*odvolanie*) against that judgment.

21. On 10 December 1999 the Regional Court upheld the judgment of 22 January 1998.

22. On 16 February 2000 the applicant lodged an appeal on points of law (*dovolanie*) against the judgment of 10 December 1999.

23. In July 2003 the applicant lodged a complaint with the Constitutional Court under Article 127 of the Constitution about the length of the above proceedings. In a submission of 20 April 2004, she specified that her complaint related exclusively to the part of the proceedings which concerned her appeal on points of law. In her constitutional complaint, the applicant was represented by a lawyer.

24. On 17 June 2004 the Constitutional Court found that there had been a violation of the applicant's right to a hearing “without unjustified delay”

(Article 48 § 2 of the Constitution) and “within a reasonable time” (Article 6 of the Convention) in the proceedings on the appeal on points of law. The Constitutional Court made an order that these proceedings be pursued promptly and awarded the applicant reimbursement of her legal costs and 30,000 Slovakian korunas<sup>1</sup> (SKK) by way of compensation in respect of non-pecuniary damage.

25. On 4 October 2004 the District Court discontinued the proceedings on the applicant's appeal on points of law on the ground that she had failed to pay the court fee. The decision was later quashed on an appeal by the applicant.

On 20 June 2005 the District Court ruled that the applicant did not qualify for an exemption from the obligation to pay the court fee as she had failed to substantiate her claim that she was indigent. The District Court reached its conclusion on the following grounds: the applicant had failed to provide proof of her regular expenses for medication and proof that she was receiving a disability pension; and, in accordance with the Constitutional Court's judgment (*nález*) of 17 June 2004 (see paragraph 24 above), she had been awarded an amount of money in damages. The applicant appealed against the decision and the proceedings are still pending.

### **C. Proceedings concerning the estate of the applicant's late mother**

26. The applicant's mother was the joint –owner of some real property. She died in 1979.

27. On 12 November 1993 the applicant requested that this property be determined as a “newly discovered inheritance” under Article 175x of the Code of Civil Procedure. The determination was entrusted to a notary public, who held a hearing on 22 November 1995.

28. In July 1994 the notary requested copies of records concerning the estate from the Košice Land Registry. In February 1995 the Land Registry acknowledged receipt of the request and advised the notary that it had been put on a waiting list and she could expect it to take at least sixteen months to make the copies. In the event, these were made in June 1995.

29. In a letter of 11 July 1996 the notary informed the applicant that it was not clear from her submissions which precise plots in which cadastral areas formed part of the estate. The only identifiable plots lay in the cadastral area of Revúca and, unless the applicant specified any other property, the scope of the proceedings would be limited to those plots.

30. The notary subsequently sought the assistance of the Land Registry Offices in Revúca, Liptovský Mikuláš, Vrbica, Ružomberok and Rožňava in a vain search for the other plots mentioned in the applicant's submissions.

---

<sup>1</sup> SKK 30,000 is equivalent to approximately 790 euros (EUR).

31. The notary then requested a hearing for 21 June 1999. The summons stated that the estate consisted solely of the land in Revúca as the claim to any other land had not been substantiated.

32. On 8 July 1999 the Bratislava IV District Court made a ruling defining the scope of the estate and determining that the applicant and her sister had each inherited 50 percent of it.

33. In a letter of 27 July 1999, in response to a complaint by the applicant, the President of the District Court acknowledged that there had been delays in the proceedings that were partly imputable to the notary.

34. On 11 August 1999, further to a complaint by the applicant, the District Court issued a fresh decision in the case correcting typographical errors in the names of the applicant and her sister and in the applicant's sister's address.

35. On 1 October 1999, on the applicant's request, the District Court corrected a further clerical error concerning the definition of the share inherited by the applicant's sister.

## THE LAW

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

36. The applicant complained that the length of all of the above 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...”

#### A. Admissibility

##### *1. The proceedings concerning the estate of the applicant's late father*

###### **(a) Inheritance proceedings file number D836/94**

37. The Government submitted that, in so far as the application concerned this set of proceedings, it had been introduced outside the six-month time-limit prescribed in Article 35 § 1 of the Convention.

38. The applicant disagreed and maintained that all three sets of proceedings relating to the estate of her father were to be considered as a single matter. Her decision not to appeal against the first two inheritance decisions had been motivated by the fact that she had wanted those

decisions to become final so that she would be able to legitimize her title to at least a part of the estate.

39. The Court observes that the inheritance proceedings case number D836/94 ended with an inheritance decision of 26 November 1996. Although the applicant could have appealed against that decision, she has not done so and the decision became final and binding on 12 December 1996. The subsequent inheritance proceedings were conducted under separate case numbers, were classified as concerning “newly discovered inheritance” and, with regard to their substance, concerned different parts of the estate. The Court therefore considers that they have to be examined separately.

40. The application was introduced no earlier than 1999. It follows that the part concerning the proceedings relating to case number D836/94 was introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

**(b) Proceedings concerning newly discovered inheritance (case no. D238/00)**

41. In the Government's view, the period under consideration had only begun on 19 May 1999, when the applicant formally applied for proceedings to be commenced. They nevertheless accepted that the complaint was not manifestly ill-founded.

42. The applicant reiterated her complaint and argued that the relevant period had already commenced in April 1997 when she addressed her objections in respect of the inheritance decision of 26 November 1996 to the notary and to the Bratislava IV District Court.

43. For reasons similar to those stated in paragraph 39 above, the Court will examine the proceedings under file number D238/00 separately.

44. The Court observes that in April 1997, after the inheritance decision of 26 November 1996 had become final and binding, the applicant raised objections in respect of it by writing to the notary and the court involved. In the absence of a reply, she did not pursue those objections. On the contrary, more than two years later, on 19 May 1999, she lodged an application with another court, the Čadca District Court, for inheritance proceedings to be commenced. The Court finds that, in these circumstances, the relevant period for the purposes of Article 6 § 1 of the Convention began on 19 May 1999. It ended on 27 February 2001, after having lasted less than 1 year and 10 months.

45. Having regard to the relevant criteria established by its case-law (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII) and, in particular, to the conduct of the applicant and the notary involved in the case (see paragraphs 12 and 14 above), the Court finds no indication that the above period was incompatible with the “reasonable time” requirement under Article 6 § 1 of the Convention.

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

**(c) Proceedings concerning newly discovered inheritance (case no. D894/01)**

46. The Government claimed that, even after her unsuccessful constitutional complaint of May 2003, it was open to the applicant to bring a new complaint of the length of this set of proceedings before the Constitutional Court under Article 127 of the Constitution. The Constitutional Court would have to examine the complaint in the light of the new circumstances, one of them being the increasing length of the proceedings. As the applicant had not done so, she had not complied with the requirement to exhaust domestic remedies pursuant to Article 35 § 1 of the Convention.

47. The applicant reiterated her complaint and argued that she had complied with the requirements of Article 35 § 1 of the Convention. She had unsuccessfully sought a remedy in the Constitutional Court and saw no reason to do so again.

48. For reasons similar to those stated above in paragraph 39, the Court will examine the proceedings relating to case number D894/01 separately.

49. The Court observes that the Constitutional Court examined and declared inadmissible the complaint of the length of the proceedings relating to case number D894/01 on 28 January 2004. At that time the proceedings had lasted less than 2 years and 11 months. During that period, allegations of bias in respect of several notaries had to be examined and, although the burden to substantiate the case lay principally with the applicant (see paragraph 14 above), the notaries had to seek information and evidence from various public offices. In view of those considerations, the Court does not find the Constitutional Court's assessment of the length of the proceedings at that time manifestly arbitrary or wrong.

50. Since the Constitutional Court's decision, the proceedings have lasted for an additional period of more than 2 years and 4 months and are still pending. Having regard to this development, the Court considers that the applicant could bring a fresh complaint of the continuing length of the proceedings in question before the Constitutional Court under Article 127 of the Constitution. In accordance with the subsidiary role of its review, the Court finds that the applicant should have done so for the purposes of Article 35 § 1 of the Convention.

It follows that this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

## 2. Defamation proceedings

### (a) First instance proceedings and appeal

51. The Government contended that the applicant had failed to respect the requirement to exhaust domestic remedies under Article 35 § 1 of the Convention in that she had not complained before the Constitutional Court under Article 127 of the Constitution of the overall length of the proceedings, that is, including the first-instance and the appeal phase.

52. The applicant disagreed and reiterated her complaint. In her view, it had not been possible for her to make a complaint under Article 127 of the Constitution of the length of the proceedings before the court of first instance which had ended with the judgment of 22 January 1998 and those before the court of appeal which had ended with the judgment of 10 December 1999 because the remedy under Article 127 of the Constitution had become available only after the expiry of the applicable time-limits, that is, on 1 January 2002 (see *Andrášik and Others v. Slovakia* (dec.), nos. 57984/00, 60237/00, 60242/00, 60679/00, 60680/00, 68563/01, 60226/00, ECHR 2002-IX).

53. The Court observes that in her constitutional complaint of July 2003, in which she was represented by a lawyer, the applicant contested the length of the proceedings exclusively as regards her appeal on points of law (see paragraph 23 above). The Constitutional Court's examination of individual human rights complaints being limited by statute to the summary of the complaint, as formulated by the defendant (see *Obluk v. Slovakia*, no. 69484/01, §§ 48 and 61, 20 June 2006), the Constitutional Court was prevented from examining the proceedings as a whole, that is, including the first-instance and appeal phases. The Court finds that, by failing to formulate her constitutional complaint in accordance with the applicable procedural rules and established practice (see *Akdivar and Others v. Turkey* [GC], no. 21893/93, § 6, ECHR 1996-IV) so as to allow the Constitutional Court to examine the overall length of the proceedings in issue (see *Obluk*, cited above, § 62), the applicant failed to exhaust domestic remedies as required by Article 35 § 1 of the Convention in relation to the first-instance and the appeal proceedings. The Court has reached this conclusion after having taken into account the information concerning the relevant domestic practice in interpretation and application of Article 127 of the Constitution, as most recently submitted by the respondent Government (see, for example, *Jakub v. Slovakia*, no. 2015/02, §§ 34-38, 28 February 2006), which is more comprehensive than the information made available to the Court in this respect in the past (see, for example, *L.R. v. Slovakia*, no. 52443/99, § 36-40, 29 November 2005).

It follows that the relevant part of the application must be rejected under Article 35 §§ 1 and 4 of the Convention.

**(b) Appeal on points of law**

54. The Government contested the applicant's argument and submitted that, even after her partially successful constitutional complaint of July 2003, it was still open to her to lodge a fresh constitutional complaint regarding a breach of her right to a hearing within a reasonable time.

55. The applicant disagreed and reiterated her complaint, emphasising that the amount of just satisfaction awarded to her by the Constitutional Court was unacceptably low.

56. The Court observes that, in view of the Constitutional Court's judgment of 17 June 2004, a question arises 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 as regards the proceedings relating to her appeal on points of law.

57. The Court observes that in the present case the applicant's status as a "victim" depends on whether the redress afforded to her at the domestic level was adequate and sufficient having regard to Article 41 of the Convention. This issue falls to be determined in the light of the principles established under the Court's case law (see, most recently, *Scordino v. Italy* (no. 1) [GC], no. 36813/97, §§ 178-213, ECHR 2006-... and *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006-...).

58. At the time of the Constitutional Court's examination of the relevant part of the proceedings, on 17 June 2004, they had lasted four years and some four months. The Constitutional Court awarded the applicant the equivalent of approximately 790 euros (EUR) in respect of non-pecuniary damage. That amount is less than 25% of what the Court would generally award in a similar situation in a Slovakian case. Since the Constitutional Court's judgment the proceedings have been pending for over two more years and have still not been completed. In these circumstances, the redress obtained by the applicant at the domestic level must be considered as insufficient (see *Scordino (no. 1)*, cited above, §§ 205-06 and 214-15). The applicant can accordingly still claim to be a "victim" of a breach of the "reasonable time" requirement.

59. The period to be taken into consideration began on 16 February 2000 and has not yet ended. It has therefore lasted more than six years and four months to date.

60. The Court notes that this part of the application 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.

### 3. *Proceedings concerning the estate of the applicant's late mother*

61. The Government accepted that the complaint of the length of these proceedings was not manifestly ill-founded. They submitted, however, that the proceedings had also been protracted on account of the applicant's conduct.

62. The applicant reiterated her complaint, claiming that she had caused no delays in the proceedings and arguing that all the delays caused by public authorities, judicial or otherwise, were imputable to the respondent State.

63. The period to be taken into consideration began on 12 November 1993 and ended on 8 July 1999. In this context it is noted that the subsequent decisions of 11 August and 1 October 1999 merely concerned the correction of clerical errors, the latter decision pertaining to the applicant's sister only. They therefore cannot be taken into consideration for the purposes of Article 6 § 1 of the Convention. The period under consideration therefore lasted almost five years and eight months. In that period the matter was dealt with by a notary and a court at one level of jurisdiction.

64. 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**

65. 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, for example, (see *Frydlender*, cited above, § 43).

66. 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).

67. 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 in relation to the proceedings concerning the appeal on points of law in the defamation proceedings and the proceedings concerning the estate of the applicant's late mother. Having regard to its case-law on the subject, the Court considers that the length of the proceedings in question was excessive and failed to meet the "reasonable time" requirement.

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

## II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

68. The applicant further complained that she had no effective remedy at her disposal in relation to her complaint of the length of the proceedings. She relied on Article 13 of the Convention, which provides:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

### A. Admissibility

#### 1. *The proceedings concerning the estate of the applicant's late father*

##### (a) **Inheritance proceedings (case no. D836/94)**

69. The complaint of the length of these proceedings has been found to have been lodged out of time (see paragraph 40 above). The complaint of the lack of an effective remedy in that respect has the same factual and legal basis and is likewise out of time.

It follows that this complaint must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

##### (b) **Proceedings on newly discovered inheritance (case no. D238/00)**

70. As regards the alleged absence of an effective remedy in respect of the complaint of the length of these proceedings, the Court reiterates that Article 13 applies only where an individual has an “arguable claim” to be the victim of a violation of a Convention right (see *Boyle and Rice v. the United Kingdom*, judgment of 27 April 1988, Series A no. 131, § 52).

71. The Court has found above that the complaint of the length of the proceedings in issue was inadmissible. For similar reasons, the applicant did not have an “arguable claim” and Article 13 is therefore inapplicable.

72. Accordingly, this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected pursuant to Article 35 § 4.

##### (c) **Proceedings on newly discovered inheritance (case no. D894/01)**

73. As concluded above, the applicant can still effectively seek redress in respect of the length of these proceedings by lodging a fresh complaint with the Constitutional Court under Article 127 of the Constitution (see paragraph 50 above).

74. In view of this finding the complaint of the lack of an effective remedy in this respect is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

## 2. *Defamation proceedings*

75. The Court reiterates that Article 13 of the Convention guarantees the availability at the national level of a remedy to enforce the substance of the Convention rights and freedoms. Its effect is to require the provision of a domestic remedy capable of dealing with the substance of an “arguable complaint” under the Convention and of granting appropriate relief (see, amongst other authorities, *Aksoy v. Turkey*, judgment of 25 September 1996, Reports 1996-VI, p. 2286, § 95).

76. As to the length of the defamation proceedings, the applicant could and in fact did raise the complaint, in part, under Article 127 of the Constitution. To the extent that the application has been substantiated, the Court has found no reasons to doubt that, had she raised her constitutional complaint in accordance with the applicable procedural rules and established practice, she would have been able to challenge effectively the overall length of those proceedings (see paragraph 53 above).

77. The Court reiterates further that the word “remedy” within the meaning of Article 13 does not mean a remedy which is bound to succeed, but simply an accessible remedy before an authority competent to examine the merits of a complaint (see, *mutatis mutandis*, *Bensaid v. the United Kingdom*, no. 44599/98, § 56, ECHR 2001-I). In the light of this principle the Court finds that the fact that the redress obtained by the applicant from the Constitutional Court was not sufficient for the Convention purposes does not render the remedy under Article 127 of the Constitution in the circumstances of the present case incompatible with Article 13 of the Convention.

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

## 3. *Proceedings concerning the estate of the applicant's late mother*

79. The Court notes that the complaint of the lack of an effective remedy in respect of the length of these proceedings is linked to the complaint of their length which was examined above and must therefore likewise be declared admissible.

## **B. Merits**

80. The Government contested the applicant's argument and submitted that a separate examination of the complaint under Article 13 in relation to

the proceedings concerning the estate of the applicant's late mother was not called for.

81. The applicant disagreed and reiterated her complaint.

82. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudla v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI). It has found earlier that there were no legal remedies in Slovakia at the relevant time capable of effectively redressing alleged violations of the right to a hearing within a reasonable time (see, for example, *Macková v. Slovakia*, no. 51543/99, § 60, 29 March 2005) and sees no reason to reach a different conclusion in the present case.

83. Accordingly, the Court considers that in the present case there has been a violation of Article 13 of the Convention on account of the lack of a remedy under domestic law whereby the applicant could have obtained a ruling upholding her right to have her case heard within a reasonable time in the proceedings concerning the estate of her late mother, as set forth in Article 6 § 1 of the Convention.

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

84. Lastly, the applicant complained that, due to the excessively long proceedings concerning the estates of her late parents, she had been deprived of the peaceful enjoyment of her property. She relied on Article 1 of Protocol No. 1, which reads as follows:

“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.”

85. The Government argued that the applicant had failed to exhaust domestic remedies by asserting her property claims under the State Liability Act of 1969 and that, in any event, the applicant's rights under Article 1 of Protocol No. 1 have not been violated.

#### **A. Proceedings concerning the estate of the applicant's late father**

86. The Court observes that the complaint of a violation of the applicant's property rights as a consequence of the excessive length of the proceedings relating to the estate of the applicant's father has the same

factual and legal basis as the complaint of the excessive length of those proceedings. The latter complaint has been found above to be inadmissible for being out of time, manifestly ill-founded and for non-exhaustion of domestic remedies. The Court finds no reasons for reaching a different conclusion in respect of the complaint under Article 1 of Protocol No. 1.

It follows that this part of the application must be rejected in accordance with Article 35 §§ 1, 3 and 4 of the Convention.

### **B. Proceedings concerning the estate of the applicant's late mother**

87. The Court finds that this part of the application 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.

88. Having regard to the finding of a violation of the applicant's right to a hearing within a reasonable time in the proceedings concerning the estate of her late mother (see paragraph 67 above), the Court finds that it is not necessary to examine separately the merits of the complaint of the violation of the applicant's rights under Article 1 of Protocol No. 1 as a consequence of the excessive length of those proceedings (see, for example, *Versini v. France*, no. 40096/98, § 35, 10 July 2001).

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

89. 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**

90. The applicant claimed 126,158 Slovakian korunas (SKK) in respect of pecuniary damage in connection with the proceedings concerning the estate of her late father. This amount represented the difference between the real value of certain expropriated land and the price paid to her in compensation under the applicable price regulations (see the partial decision as to the admissibility of the present application of 22 February 2005). The applicant further claimed SKK 300,000<sup>1</sup>, SKK 500,000<sup>2</sup> and SKK 200,000<sup>3</sup> in respect of non-pecuniary damage for the proceedings concerning her

---

<sup>1</sup> SKK 300,000 is equivalent to approximately EUR 7,900.

<sup>2</sup> SKK 500,000 is equivalent to approximately EUR 13,150.

<sup>3</sup> SKK 200,000 is equivalent to approximately EUR 5,250.

father's estate, the defamation proceedings and the proceedings relating to her mother's estate, respectively.

91. The Government contested those claims.

92. The Court does not discern any causal link between the violations found (see paragraphs 67 and 83 above) and the pecuniary damage alleged and therefore rejects this claim. On the other hand, it considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis and having regard to the Court's case-law on the subject (see the recapitulation of the relevant principles and, *mutatis mutandis*, their application in *Scordino (no. 1)*, cited above, §§ 267-72) combined with the fact that the applicant had already obtained some just satisfaction under the Constitutional Court's judgment of 17 June 2004, it awards her EUR 5,500 under that head.

### **B. Costs and expenses**

93. The applicant also claimed SKK 8,645<sup>1</sup> for the costs and expenses incurred before the domestic courts and before the Court.

94. The Government submitted that the applicant's claim could be accepted only to the extent permitted under the Court's case-law, regard being had to the "subject value" of the case.

95. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 200 covering costs under all heads.

### **C. Default interest**

96. 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 admissible**

(a) the complaint under Article 6 § 1 of the Convention concerning the excessive length (i) of the proceedings on the appeal on points of law in

---

<sup>1</sup> SKK 8,645 is equivalent to approximately EUR 230.

- the defamation proceedings and (ii) of the proceedings concerning the estate of the applicant's late mother; and
- (b) the complaint under Article 13 of the Convention of the lack of an effective remedy in respect of the complaint under Article 6 § 1 of the Convention of the excessive length of the proceedings concerning the estate of the applicant's late mother; and
- (c) the complaint of the violation of the applicant's rights under Article 1 of Protocol No. 1 as a consequence of the excessive length of the proceedings concerning the estate of her late mother;
2. *Declares* inadmissible the remainder of the application;
  3. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the excessive length of (a) the proceedings concerning the appeal on points of law in the defamation proceedings and (b) the proceedings concerning the estate of the applicant's late mother;
  4. *Holds* that there has been a violation of Article 13 of the Convention on account of the lack of an effective remedy in respect of the complaint under Article 6 § 1 of the Convention of the excessive length of the proceedings concerning the estate of the applicant's late mother;
  5. *Holds* that it is not necessary to examine separately the merits of the complaint of the violation of the applicant's rights under Article 1 of Protocol No. 1 as a consequence of the excessive length of the proceedings concerning the estate of the applicant's late mother;
  6. *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 5,500 (five thousand and five hundred euros) in respect of non-pecuniary damage and EUR 200 (two hundred euros) in respect of costs and expenses, to be converted into Slovakian korunas at the rate applicable at the date of settlement, plus any tax that may be chargeable;
    - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
  7. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 September 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY  
Registrar

Nicolas BRATZA  
President