CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

CASE OF KURIL v. SLOVAKIA

(Application no. 63959/00)

JUDGMENT

STRASBOURG

3 October 2006

FINAL

03/01/2007

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 Kuril v. Slovakia,

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

Sir Nicolas BRATZA, *President*,
Mr G. BONELLO,
Mr M. PELLONPÄÄ,
Mr K. TRAJA,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,
and Mrs F. ELENS-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 6 May 2006 and on 12 September 2006,

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

PROCEDURE

1. The case originated in an application (no. 63959/00) 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, Mr Ladislav Kuril ("the applicant"), on 31 August 2000.

2. The applicant was represented by Mrs E. Ľalíková, 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 1946 and lives in Tatranská Štrba.

1. Proceedings concerning compensation for loss of salary

5. On 11 June 1992 the applicant filed an action with the Poprad District Court. He claimed compensation for loss of salary on the ground that he had been unlawfully dismissed from a co-operative.

6. On 11 November 1996 the District Court dismissed the action after having held several hearings. The applicant appealed.

7. On 13 February 1998 the Prešov Regional Court quashed the first-instance judgment.

8. On 11 June 1998 the Prešov Regional Court excluded the District Court judge dealing with the case.

9. After having held several hearings and having taken additional evidence, the Poprad District Court dismissed the applicant's action on 25 May 2001. On 2 July 2001 the applicant appealed.

10. On 4 July 2002 the Prešov Regional Court quashed the first-instance judgment of 25 May 2001.

11. On 27 August 2002 the applicant filed an appeal on points of law against the Regional Court's decision. On 26 June 2003 the Supreme Court dismissed the appeal. In its decision the Supreme Court noted that the first-instance judgment had to be quashed as the District Court had disregarded the legal opinion earlier expressed by the court of appeal by which it was bound.

12. On 4 November 2004 the District Court delivered a judgment on the merits of the case. The court ordered the defendant to pay the equivalent of approximately 6,400 euros to the applicant in compensation for loss of salary for the period from 13 February 1992 to 31 December 1997. The defendant appealed on 1 December 2004.

13. On 28 April 2005 the Regional Court in Prešov dismissed the appeal as having been lodged out of time. The defendant filed an appeal on points of law.

14. On 22 November 2005 the Supreme Court quashed the Regional Court's decision of 28 April 2005 as being erroneous.

15. The parties submitted no information about any further developments in the case.

2. Proceedings concerning compensation for damage

16. On 4 December 1992 the applicant filed an action against a co-operative with the Poprad District Court. He claimed compensation for damage relating to his dismissal from a job.

17. On an unspecified date the case file was submitted to the Ministry of Justice. It was returned to the District Court on 26 October 1995.

18. Several hearings were held in 1996 and the District Court dismissed the action on 27 November 1996. The judgment was served on 28 February 1997, and the applicant appealed on 13 March 1997.

19. On 3 December 1997 the Prešov Regional Court quashed the first-instance judgment.

20. On 11 June 1998 the Prešov Regional Court excluded the District Court judge from dealing with the case at her own request.

21. On 28 May 1999 the District Court stayed the proceedings pending the outcome of the above proceedings concerning the applicant's claim relating to salary.

22. On 4 November 2004 the District Court delivered a judgment on the merits of the case. It ordered the defendant to pay the equivalent of approximately 1,700 euros plus default interest in damages to the applicant. The defendant appealed on 1 December 2004.

23. On 22 August 2005 the Regional Court in Prešov dismissed the appeal as having been filed out of time.

3. Proceedings before the Constitutional Court

24. In 2003 the applicant filed a complaint with the Constitutional Court pursuant to Article 127 of the Constitution. He alleged that the Poprad District Court had violated his constitutional right to a hearing without unjustified delay in the above two sets of proceedings. He also claimed 500,000 Slovakian korunas (SKK) in just satisfaction.

25. On 14 November 2003 the Constitutional Court declared the complaint admissible.

26. On 18 February 2004 the Constitutional Court found that the applicant's right to a hearing without unjustified delay had been violated by the Poprad District Court in both sets of proceedings.

27. As regards the proceedings concerning compensation for loss of salary, the Constitutional Court noted that the case was not particularly complex and that the applicant had not in any substantial manner contributed to their length. The court further found that undue delays had occurred between 16 May 1993 and 26 October 1995, that is a period of more than two years and five months. Another delay occurred between 11 June 1998 and 26 April 1999. The Constitutional Court also noted that in its decision of 26 June 2003 the Supreme Court found that the District Court had disregarded the legal opinion of the court of appeal and that its judgment had therefore to be quashed. The Constitutional Court concluded that the overall length of the proceedings was in any event excessive.

28. As regards the proceedings concerning the applicant's claim for damages, the Constitutional Court found that the case was not complex and that no delays were imputable to the applicant. The overall length of the proceedings was excessive due to the manner in which the District Court had dealt with the case.

29. In its finding the Constitutional Court awarded the applicant SKK 120,000 (the equivalent of 2,965 euros at that time) in just satisfaction in respect of both sets of proceedings which the District Court was obliged to pay within two months from the date of service of the decision. The Constitutional Court also ordered the Poprad District Court to reimburse the costs of the constitutional proceedings and to proceed with both cases without further delay.

THE LAW

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

30. The applicant complained that the length of the 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..."

31. The Government did not contest that argument. They argued, however, that the applicant could no longer be considered a victim as the Constitutional Court had afforded appropriate redress. In addition, it was open to the applicant to file a new constitutional complaint in respect of any delays which may have occurred following the delivery of the Constitutional Court's finding of 18 February 2004.

32. The applicant disagreed. He argued, in particular, that the just satisfaction awarded was disproportionately low and that further delays occurred after the Constitutional Court had decided on his complaint.

33. As regards the proceedings concerning compensation for loss of salary, the period to be taken into consideration began on 11 June 1992 and has not yet ended. Its length has thus exceeded 14 years and 3 months for three levels of jurisdiction.

34. As regards the proceedings concerning the claim for damages, the period to be taken into consideration lasted from 4 December 1992 to 22 August 2005, that is 12 years, 8 months and 20 days for two levels of jurisdiction.

A. Admissibility

35. As to the Government's argument that the applicant cannot be considered a "victim", within the meaning of Article 34 of the Convention, of a violation of his right to a hearing within a reasonable time, this issue 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 - ...).

36. In his submission to the Constitutional Court the applicant exclusively complained about delays in the proceedings before the District Court. The Constitutional Court, which was bound by the applicant's claim, analysed the relevant parts of the two sets of proceedings complained of in the light of the criteria which the Court itself applies. It concluded that the District Court had violated the applicant's right to a hearing without

unjustified delay and awarded the applicant the equivalent of EUR 2,965 in respect of the length of both sets of proceedings complained of. The just satisfaction awarded by the Constitutional Court amounts to approximately 16 per cent of what the Court would be likely to have awarded the applicant at that time in accordance with its practice, taking into account the particular circumstances of the two sets of proceedings. This factor alone leads to the conclusion that the redress provided to the applicant at domestic level, considered on the basis of the facts of which he complains before the Court, was insufficient. In these circumstances, the argument that the applicant has lost his status as a "victim" cannot be upheld.

37. The Constitutional Court explicitly ordered the District Court in Poprad to proceed with the applicant's cases without 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 he 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 he may be understood as complaining also about delays in the proceedings before the Regional Court and the Supreme Court. The applicant failed to do so, and this fact has to be taken into account when determining the merits of the application and, if appropriate, any just satisfaction award to be made under Article 41 of the Convention.

38. 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

39. 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). The Court reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

40. 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).

41. Having examined all the material submitted to it, the Court finds no argument capable of persuading it to reach a different conclusion in the

present case. Having regard to what was at stake for the applicant and to its case-law on the subject, the Court concurs with the Constitutional Court that in the instant case the length of both sets of proceedings complained of was excessive and failed to meet the "reasonable time" requirement.

42. As regards the period subsequent to the delivery of the Constitutional Court's judgment of 18 February 2004, the District Court determined the merits of both actions on 4 November 2004, that is within approximately 8 months. The Court accepts that the District Court thus complied with the Constitutional Court's order.

To the extent that the cases were subsequently examined by a court of appeal and a court of cassation, it was open to the applicant to seek redress before the Constitutional Court (see paragraph 37 above).

43. 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. APPLICATION OF ARTICLE 41 OF THE CONVENTION

44. 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."

45. In the application form submitted on 27 October 2000 the applicant claimed, provisionally, SKK 1 million in compensation for damage and SKK 200,000 for his costs and expenses.

46. On 7 January 2005, after the application had been communicated to the respondent Government and the parties informed that the admissibility and merits of the case would be examined at the same time, the Court invited the applicant to submit his claims for just satisfaction before 7 February 2005. The relevant part of the Registry's letter reads as follows:

> "... according to the Court's established case law, failure to submit quantified claims within the time allowed for the purpose under Rule 60 § 1, together with the required supporting documents, entails the consequence that the Chamber will either make no award of just satisfaction or else reject the claim in part. This applies even if the applicant has indicated his wishes concerning just satisfaction at an earlier stage of the proceedings. No extension of the time allowed will be granted."

47. The applicant did not submit any such claims.

48. In these circumstances, the Court makes no award under Article 41 of the Convention (see, for example, *Bzdúšek v. Slovakia*, no. 48817/99, § 32, 21 June 2005, with further references).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention in both sets of proceedings complained of.

3. *Decides* to make no award under Article 41 of the Convention.

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

Françoise ELENS-PASSOS	Nicolas BRATZA
Deputy Registrar	President