



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

FOURTH SECTION

CASE OF KUČERA v. SLOVAKIA

(Application no. 48666/99)

JUDGMENT

STRASBOURG

17 July 2007

FINAL

17/10/2007

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 Kučera 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 S. PAVLOVSKI,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,

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

Having deliberated in private on 15 May 2007 and on 26 June 2007,

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

PROCEDURE

1. The case originated in an application (no. 48666/99) against the Slovak Republic lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovakian national, Mr Pavel Kučera (“the applicant”), on 3 September 1998.

2. The applicant, who had been granted legal aid, was represented by Mrs A. Kubovičová, a lawyer practising in Považská Bystrica. On 22 February 2007 he appointed Mr L. Košťá, a lawyer practising in Bratislava, to represent him before the Court. The Government of the Slovak Republic (“the Government”) were represented by Mrs M. Pirošíková, their Agent.

3. The applicant alleged, in particular, violations of Article 5 §§ 1, 3 and 4 of the Convention in the context of his detention on remand as well as a violation of Article 8 of the Convention on account of the police's entry into his apartment and his ability to meet with his wife during his detention on remand.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. By a decision of 4 November 2003, the Court declared the application partly admissible.

6. The applicant and the Government each filed observations on the merits (Rule 59 § 1). The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the parties replied in writing to each other's observations.

7. On 15 March 2005 the Court decided to adjourn the case pending the outcome of domestic proceedings in which the applicant had claimed compensation pursuant to the State Liability Act of 1969 and Articles 11 et seq. of the Civil Code.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The applicant was born in 1962 and lives in Považská Bystrica.

9. The applicant was the director of the Police Department in the Považská Bystrica District. His application relates to criminal proceedings instituted against him, the circumstances of which are described below.

A. Entry by the police into the applicant's apartment

10. According to the applicant, at 6 a.m. on 17 December 1997 several armed policemen in masks burst into his flat without his consent. The policemen presented a police investigator's decision to the applicant and his wife. It was dated 17 December 1997 and accused them, together with several others, of extortion. The investigator suspected the accused of having forced the owner of a limited liability company to transfer his shares in the company and his car to a third party.

11. According to the Government, the police had come to the applicant's door and entered the apartment with the applicant's permission. The purpose of their visit had been to deliver the investigator's decision to the applicant and his wife.

12. The applicant was brought to the Regional Office of Investigation in Žilina. The applicant's wife was allowed to take their daughter to the kindergarten and she too was subsequently escorted to the Regional Office of Investigation, where she and the applicant were questioned. The applicant was held in a cell until 5 a.m. on 18 December 1997 when a public prosecutor ordered his release.

13. On 19 December 1997 an officer of the Police Interventions Department in Žilina wrote a report on the visit to the applicant's apartment on 17 December 1997. It indicated that the purpose of the visit had been fulfilled and that the applicant had been escorted to the Regional Office of Investigation. It had not been necessary to use any coercive measures, no one had been injured and no damage had been caused.

14. On 4 February 1998 the applicant filed a complaint about the incident of 17 December 1997. It was transferred to the Inspection Department of the Police Corps within the Ministry of the Interior.

15. On 5 March 1998 the applicant stated to the investigator that the police had entered his apartment without a search warrant after he had opened the door. They had delivered an envelope to him and had looked around the apartment without his consent.

16. On 22 April 1998 the applicant's wife was questioned. She stated that she had been in bed when the police arrived. After her husband had opened the door she had heard him asking the policemen what had happened and what they wanted. She had gone to the door and seen four policemen in the corridor, two of whom were wearing masks. She was asked to sign a document. Subsequently, the masked policemen had left with her husband and two officers in plain clothes had remained in the apartment with her, before accompanying her to the kindergarten. The officers had then taken her to the Regional Office of Investigation. No force had been used. She said that she had not heard her husband give the policemen permission to enter the apartment.

17. The investigator took statements from three policemen who had gone to the applicant's apartment on 17 December 1997. On 15 April 1998 Officer B. of the police interventions unit stated that the applicant had asked to be allowed to read the charge and to get dressed. The officers of the criminal police had therefore asked him whether they could enter the apartment. According to Officer B., the applicant had replied in the affirmative. Two members of the criminal police and two members of the police interventions unit had entered the apartment. On 24 April 1998 Officer M. stated that the applicant had invited them into the corridor of his apartment as he had not wanted to deal with them at the front door. The police had served the charge on both the applicant and his wife. They had not used force and did not search the apartment. Finally, on 26 May 1998 Captain B. stated that the applicant had invited them into his apartment as he considered that the whole matter was a mistake. No search had been carried out.

18. On 28 May 1998 the Inspection Department of the Police Corps dismissed the applicant's complaint about the police's entry into his apartment on 17 December 1997. The decision was based on statements of the applicant and his wife and on the explanations given by the three policemen involved. The inspection department concluded that there was no evidence of an offence having been committed.

B. Criminal proceedings and the applicant's detention on remand

19. On 19 December 1997 the police again arrested the applicant. On 20 December 1997 a judge of the Trenčín District Court remanded him in

custody with effect from 19 December 1997. Reference was made to Article 67 § 1(b) of the Code of Criminal Procedure. The judge found that Mr R., the alleged victim, had described in detail the acts the accused were alleged to have committed, including threats of physical liquidation. There was nothing to indicate that those statements were wholly unsubstantiated. The judge therefore considered the detention of the accused necessary to prevent them from exerting further pressure on the alleged victim.

20. On 27 January 1998 the Trenčín Regional Court dismissed the applicant's complaint against the decision to remand him in custody. It found that the acts the applicant and his co-accused were alleged to have committed had been described in detail by the alleged victim and several witnesses. Both the serious nature of those accusations and the need to take further evidence justified the conclusion that the accused's release could jeopardise the investigation.

21. In a letter dated 25 February 1998, the applicant asked for his release. He argued that the available evidence showed that the accusations the alleged victim had made against the applicant were false.

22. The request for release was filed with the Trenčín Regional Prosecutor's Office on 5 March 1998. The public prosecutor refused to release the applicant and submitted his request to the Trenčín District Court the same day.

23. On 12 March 1998 the Trenčín District Court dismissed the request on the ground that the available evidence did not indicate that the alleged victim's statements were false and the applicant's detention was still necessary within the meaning of Article 67 § 1(b) of the Code of Criminal Procedure. The decision was served on the applicant and his lawyer on 18 and 19 March 1998 respectively.

24. On 23 and 26 March 1998 the applicant filed a complaint. He alleged that despite the fact that the investigation had been under way for a long time, no direct evidence had been obtained against him. The applicant had been cross-examined in the presence of the alleged victim, who had expressly stated that the applicant had exerted no pressure on him.

25. The file was submitted to the Trenčín Regional Court on 2 April 1998. On 12 May 1998 the Trenčín Regional Court dismissed the applicant's complaint for the reasons set out in the District Court's decision. It added that the applicant's detention was also necessary on the ground that he had attempted, on 19 January 1998, to send a letter to his wife from the prison in secret. The decision was served on the applicant on 28 May 1998.

26. On 8 June 1998 Judge T., one of the two judges at the District Court in Trenčín then dealing with criminal matters, informed the President of that court that she had a conflict of interest as she had earlier acted as a lawyer of the alleged victim and had had contact with the applicant and his wife. The judge stated that she agreed to her replacement by a different judge pursuant to Article 30 § 4 of the Code of Criminal Procedure. On 18 June

1998 Judge T. formally requested the Trenčín Regional Court to allow her to stand down. The Regional Court granted the request on 7 July 1998. The decision stated that Judge T. had asked to be allowed to stand down after the applicant's request for release was submitted to her for a decision.

27. In the meantime, on 13 June 1998, Judge Š., the other District Court judge involved in criminal matters, extended the period of detention of the applicant and four other accused until 19 December 1998. As regards the applicant, the decision stated that he had attempted to send a letter to his wife from the prison in secret. His wife had consulted the file on the premises of the Trenčín Regional Court without the prior consent of the public prosecutor or investigator and in the absence of the judge dealing with the case. There was a risk that the accused might interfere with witnesses and their co-accused or hamper the investigation into the case.

28. The applicant complained that the judge who had extended his detention on 13 June 1998 had not been entitled to deal with the case as by the time no decision had been taken on the request by the other judge to withdraw from the case.

29. On 22 September 1998 the General Prosecutor's Office found that the decision of 13 June 1998 to extend the applicant's detention had been taken in accordance with Article 71 § 1 of the Code of Criminal Procedure. The letter stated, *inter alia*, that the President of the Trenčín District Court had found no reason for proceeding pursuant to Article 30 § 4 of the Code of Criminal Procedure, and that the judge had therefore asked on 18 June 1998 to be allowed to stand down. The decision on the extension of the applicant's detention on remand and the decisions on the judge's request to withdraw were independent of each other and did not affect the merits of the case.

30. The Government submitted a statement made by the President of the Trenčín District Court on 16 January 2004 explaining that, at the relevant time, Judges T. and Š. dealt with all criminal matters. The public prosecutor's proposal to extend the detention of the applicant and his co-accused had been registered as a new matter in Judge Š.'s division in accordance with the work schedule for 1998 that had been issued by the President of the District Court. It had been allocated file number 4Tp 41/98. Judge Š. had ruled on the proposal on 13 June 1998.

As regards Judge T., the applicant's request for release had fallen to be examined by her. The file was registered under number 3Tp 42/98. Following Judge T.'s complete withdrawal from the criminal case concerning the applicant, the applicant's request for release had been assigned to Judge Š.

The practice had been to register separately all new submissions on which the District Court was required to decide at the pre-trial stage of the criminal proceedings against the applicant and his co-accused. As a result,

different judges had determined various issues concerning the same accused.

31. On 26 July 1998 the Trenčín District Court dismissed the applicant's request for release for the reasons set out in its decisions of 20 December 1997 and 13 June 1998. The decision was taken in response to the applicant's complaint of 26 April 1998 to the General Prosecutor's Office about his detention. The complaint was treated as an application for release and was submitted to the Trenčín District Court on 5 June 1998 for decision.

32. On 11 August 1998 the applicant filed another request for release. Referring to the particular circumstances of the case and the statements of various witnesses, he claimed that there was no evidence against him. There was nothing to suggest that he had threatened the alleged victim. The content of the letter he had attempted to send to his wife from the prison was purely personal and had no bearing on the criminal proceedings. His wife had consulted the case-file in accordance with the relevant provisions of the Code of Criminal Procedure in the presence of two employees of the Regional Court.

33. The public prosecutor submitted the request to the Trenčín District Court on 28 August 1998, which dismissed it on 10 September 1998. The decision was served on 21 September 1998. It stated that the case was complex and that the available evidence indicated that the alleged victim's fear that the applicant might interfere with the witnesses in the event of his release was justified.

34. On 25 and 29 September 1998 the applicant filed a complaint in which he alleged that the investigation into the accusation against him had ended, that the witnesses had been heard and that there was no evidence that he had attempted to interfere with the witnesses or anybody else.

35. On 5 November 1998 the Trenčín Regional Court dismissed the applicant's complaint. The Regional Court held that the evidence taken did not weaken the suspicion that the applicant had committed the offence of which he was accused. The serious nature of the offence in question and the fact that it was likely that it had been committed by an organised group justified the conclusion that the applicant's continued detention was necessary within the meaning of Article 67 § 1(b) of the Code of Criminal Procedure. The file was returned to the District Court on 22 December 1998. The Regional Court's decision of 5 November 1998 was served on the applicant on 15 February 1999.

36. On 16 November 1998 the applicant requested the Regional Prosecutor's Office in Trenčín to deal with the charges against him and his wife in a separate set of proceedings pursuant to Article 23 § 1 of the Code of Criminal Procedure. He explained that several other charges against the other accused were being examined in the proceedings. As a result, there had been no progress in the investigation in respect of the accusation against

the applicant for several months. There was no reason for his continued detention as the investigation into the accusation against him had ended in October 1998.

37. On 4 December 1998 the Trenčín District Court dismissed the applicant's request of 23 November 1998 for release. The judge found that the reasons for the applicant's detention on remand, as set out in the above decisions, were still relevant. The offences in question were serious and there was a suspicion that they had been committed in the context of organised crime. The decision was served on 15 December 1998.

38. On 9 February 1999 the Trenčín Regional Court dismissed a complaint filed by the applicant on 18 December 1998 against the District Court's decision. The Regional Court's decision was served on the applicant on 25 February 1999.

39. In the meantime, on 7 December 1998, the Trenčín District Court extended the detention of the applicant and four other accused until 9 June 1999. The decision stated that the case was complex and that several of those involved had been accused of further offences. Co-operation with the German authorities was necessary with a view to establishing the relevant facts. There was a risk that the accused would interfere with the witnesses or otherwise hamper the investigation into the case. The decision referred to the previous decisions on the detention of the accused. It contained no specific reasons on the need for the further detention of the applicant.

40. On 16 February 1999 the applicant filed another request for release. The public prosecutor submitted it to the Trenčín District Court on 3 March 1999. The District Court dismissed the request on 16 March 1999. The decision stated that one of the accused had been arrested in the Czech Republic and would be extradited to Slovakia. Further investigations needed to be carried out including investigations into the criminal activity of which the applicant had been accused. The decision became final on 26 March 1999.

41. In the meantime, on 25 March 1999, the applicant again applied for release. On 6 April 1999 the Regional Prosecutor's Office informed him that under Article 72 § 2 of the Code of Criminal Procedure he was not allowed to re-apply for release until fourteen days after the date the decision on his previous request had become final.

42. On 15 April 1999 the applicant filed a further application for release. He argued that there was no indication that he had been involved in the offences that were under examination.

43. The public prosecutor submitted the file with the application for release to the Trenčín District Court on 16 April 1999. On 20 April 1999 the District Court dismissed the request, holding that the applicant's continued detention was necessary within the meaning of Article 67 § 1(b) of the Code of Criminal Procedure.

44. On 26 April 1999 the applicant filed a complaint. He argued that the investigation into the case had ended. The file was submitted to the Trenčín Regional Court on 20 May 1999. The Regional Court dismissed the complaint on 10 June 1999.

45. In the meantime, on 11 May 1999, the applicant and his counsel examined the file. On 9 June 1999 the public prosecutor indicted the applicant, his wife and seven others before the Banská Bystrica Regional Court. The applicant and his wife were indicted on one count of extortion committed as members of an organised group. The indictment comprised nine other counts which did not concern the applicant or his wife.

46. On 23 June 1999 the Regional Court in Banská Bystrica dismissed a request by the applicant for release. On 30 June 1999 the applicant filed a complaint. He alleged that he had not threatened Mr R., the injured party, who in any event was abroad. There existed no relevant reason for his continued detention.

47. On 16 September 1999 the Regional Court in Banská Bystrica dismissed the applicant's further request for release. The decision referred to a statement by R. according to which the applicant had threatened him on 4 March 1997.

48. The applicant was released from custody on 19 December 1999. During his time in detention he had not been allowed any visits from his wife until 29 January 1999. Prior to that, on 6 May 1998, counsel for the applicant and his wife had requested that her clients be allowed to meet, if need be in the presence of the investigator. Reference was made to the suffering caused by the lengthy separation of the applicant from his wife and also to the fact that the investigation into the offences in issue had practically ended.

49. On 11 February 1999 the applicant's wife complained that her request for leave to visit the applicant on 24 February 1999 had not been accepted. She referred to a statement by the investigator of 15 January 1999 that he did not intend to carry out further questioning of the applicant or his wife.

50. On 28 January 2000 the Banská Bystrica Regional Court acquitted the applicant and his wife pursuant to Article 226(c) of the Code of Criminal Procedure, as it had not been shown that they had committed extortion. The court convicted seven other defendants.

51. On 7 February 2001 the Supreme Court quashed the relevant part of the Banská Bystrica Regional Court's judgment of 28 January 2000. The Supreme Court acquitted the applicant and his wife pursuant to Article 226(b) of the Code of Criminal Procedure, holding that their actions did not constitute an offence.

C. The applicant's attempts to obtain compensation

52. On 26 June 2002 the applicant and his wife sought damages from the State, as represented by the Ministry of Justice. They claimed compensation for the expenses they had incurred in the criminal proceedings. The applicant also claimed a specific sum in compensation for loss of income. He argued that a sum which the Ministry had paid to him earlier on that account had not been determined correctly. Finally, the applicant and his wife claimed 7,000,000 and 5,000,000 Slovakian korunas (SKK) respectively as compensation for non-pecuniary damage.

53. An initial decision by the District Court in Banská Bystrica was quashed by the Regional Court in Banská Bystrica on 30 April 2004. The Regional Court instructed the District Court to establish whether the plaintiffs were claiming compensation for damage under the State Liability Act of 1969 exclusively or whether they were also claiming compensation for non-pecuniary damage pursuant to Articles 11 et seq. of the Civil Code.

54. On 31 May 2005 the District Court in Banská Bystrica ordered the defendant to pay SKK 7,000,000 and 5,000,000 to the applicant and SKK 5,000,000 to his wife in compensation for damage of a non-pecuniary nature. That decision was based on Articles 11 et seq. of the Civil Code. With reference to the State Liability Act 1969, the District Court also ordered the defendant to pay SKK 67,464 plus default interest to the applicant in compensation for lost income as well as SKK 170,535 plus default interest in reimbursement of the costs and expenses the applicant had incurred in the criminal proceedings.

55. The Ministry appealed, arguing that the first-instance court had erroneously applied Articles 11 et seq. of the Civil Code, that the applicant had been prosecuted and tried in accordance with the relevant provisions of the criminal law, and that the impact of the criminal proceedings on him could not be qualified as an unjustified interference with his personal rights.

56. On 7 July 2006 the Regional Court in Banská Bystrica reversed the relevant part of the first-instance judgment. It took note of the applicant's arguments that the criminal proceedings had been unjustified and the decisions taken in those proceedings unlawful, that the applicant had been prohibited from meeting his wife and that his rights under the Convention had been violated. It summed up the Court's decision on the admissibility of the present application given on 4 November 2003. It also had regard to the documents included in the file concerning the criminal case against the applicant.

57. The Regional Court concluded that the applicant had not shown that the authorities involved in his criminal case had acted in an unlawful manner. In particular, as regards the entry of the police into the applicant's apartment on 17 December 1997, it noted that neither the applicant nor his wife had complained during their first interrogations on 17 and

19 December 1997. They had not submitted any evidence in support of that allegation. As regards the applicant's detention on remand, the Regional Court found that its length had not been excessive given the complexity of the case and the applicant's requests for release had been decided within a reasonable time.

58. Relying on the Supreme Court's judgment of 20 October 2005 in a different case (no. 5 Cdo 150/03), the Regional Court held that criminal proceedings conducted in compliance with the applicable law could not constitute unjustified interference with the accused's integrity even if they ended with his acquittal. The same applied to any other action taken by the competent authorities in respect of an accused in criminal proceedings. There had therefore been no unjustified interference with the applicant's rights under Articles 11 et seq. of the Civil Code.

59. The Regional Court went on to find, however, that the right of the applicant and his wife under Article 6 § 2 of the Convention to be presumed innocent had been violated in that public officials had made inappropriate statements about the case in the media. It ordered the Ministry to pay SKK 2,000,000 to the applicant and SKK 1,000,000 to the applicant's wife as compensation for non-pecuniary damage they had suffered as a result.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Code of Criminal Procedure

60. Article 23 § 1 provides that, with a view to expediting the proceedings or for other important reasons, proceedings concerning a particular offence or one of the accused may be conducted separately.

61. Under Article 30 § 4, where a judge whose impartiality is in question agrees to be replaced, the president of the court concerned may replace him or her by a different judge.

62. Pursuant to Article 67 § 1(b), an accused can only be remanded in custody when there are concrete grounds to believe that he or she will interfere with witnesses or the co-accused or otherwise hamper the investigation into the relevant facts of the case.

63. Article 72 § 2 entitles the accused to apply for release at any time. When the public prosecutor dismisses such an application in the course of pre-trial proceedings, he or she must submit it immediately to the court. The decision on an application for release must be taken without delay. If an application is dismissed, the accused may only renew it fourteen days after the decision has become final unless he or she invokes other reasons justifying his or her release.

B. The Civil Code

64. The right to protection of a person's dignity, honour, reputation and good name is guaranteed by Articles 11 et seq. of the Civil Code.

65. According to Article 11, any natural person has the right to protection of his or her personality, in particular, his or her life and health, civil and human dignity, privacy, name and personal characteristics.

66. By virtue of Article 13 § 1, any natural person has the right to request an order restraining any unjustified infringement of his or her personal rights and remedying the consequences of such infringement, and to obtain appropriate satisfaction.

67. Article 13 § 2 provides that in cases where the satisfaction obtained under Article 13 § 1 is insufficient, in particular because the loss of dignity and social status has been considerable, the injured party is entitled to compensation for non-pecuniary damage.

C. The Police Corps Act 1993

68. Under section 8(1), police officers are under a duty to respect people's honour and dignity while carrying out their duties. They must avoid inflicting unjustified harm or interfering with a person's rights beyond what is necessary to achieve the aim of their action. Pursuant to paragraph 2 of section 8, when police action interferes with a person's rights or freedoms, the police must inform that person of his or her rights as soon as possible.

69. Section 29(1) permits the police to open and enter apartments and to take measures with a view to preventing a danger where, *inter alia*, a person's life is at risk or where the perpetrator of a serious offence is on the premises and fails to comply with an order to come out. Paragraph 3 of section 29 requires the presence of an impartial person during such action unless the life or health of the witness is in danger or the circumstances permit no delay.

D. The Detention on Remand Act 1993

70. Section 10 of the Detention on Remand Act 1993 (*Zákon o výkone väzby*), the legislation in force at the material time, provided, *inter alia*, that a person remanded in custody for reasons set out in Article 67 § 1(b) of the Code of Criminal Procedure could receive visits only with the prior written consent of the authority dealing with the case.

E. The State Liability Act 1969

71. Section 1(1) of Act no. 58/1969 on the liability of the State for damage caused by a State organ's decision or by an erroneous official act ("the State Liability Act") provided that the State was liable for damage caused by the unlawful decisions of a public authority.

72. Section 18(1) rendered the State liable for damage caused in the context of carrying out functions vested in public authorities resulting from erroneous official acts of persons entrusted with the exercise of those functions. An award of compensation could be made when the plaintiff showed that he or she had suffered damage as a result of an erroneous act of a public authority, quantified its amount, and showed that there was a causal link between the damage and the erroneous act in question.

73. Under the domestic courts' practice, the State Liability Act 1969 did not allow for compensation for non-pecuniary damage unless it was related to a deterioration in a person's health (for further details see *Havala v. Slovakia* (dec.), no. 47804/99, 13 September 2001).

THE LAW

I. THE GOVERNMENT'S PRELIMINARY OBJECTION

74. As at the admissibility stage, the Government raised an objection relating to an alleged failure by the applicant to exhaust domestic remedies as required by Article 35 § 1 of the Convention. In their view, it was open to the applicant to obtain appropriate redress as regards his complaints under Article 5 §§ 1, 3 and 4 of the Convention by means of an action for damages under the State Liability Act 1969 and an action for protection of his personal rights under Articles 11 et seq. of the Civil Code. The Government relied on the Court's judgment in *N.C. v. Italy* [GC], (no. 24952/94, §§ 49-58, ECHR 2002-X) in this respect.

They added that the remedy under Articles 11 et seq. of the Civil Code was effective also in respect of the applicant's complaints under Article 8 of the Convention.

75. The applicant contested those arguments.

76. In its decision on the admissibility of the present application the Court held that the applicant had not been required to use the above remedies for the purposes of Article 35 § 1 of the Convention. Subsequently the Court was informed that the applicant had tried to obtain redress by means of an action in which he had relied on both the State Liability Act 1969 and Articles 11 et seq. of the Civil Code. It therefore decided to

adjourn its examination of the case pending the outcome of the proceedings brought by the applicant. Those proceedings ended with the Banská Bystrica Regional Court's judgment given on 7 July 2006.

77. The Regional Court had regard to the alleged shortcomings in the criminal proceedings including those of which the applicant complains before the Court. It concluded that there had been no unjustified interference with the applicant's rights under Articles 11 et seq. of the Civil Code as the authorities involved had acted in compliance with the applicable law.

78. The applicant has thus used the remedy invoked by the Government, but he has been unable to obtain redress in respect of the complaints which the Court is called upon to examine.

79. The fact that the applicant was awarded, under the State Liability Act 1969, compensation for loss of salary and for expenses incurred in the criminal proceedings cannot affect the position. That redress resulted from the fact that the applicant was acquitted and not from any finding of a violation of the rights on which the applicant relies before the Court. The compensation awarded to the applicant cannot be considered to constitute recognition of or redress for the violation of the Convention rights alleged by him in the present application. It therefore cannot suffice to deprive the applicant of his status as a "victim" within the meaning of Article 34 of the Convention (see *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI; and, *mutatis mutandis*, *Yağcı and Sargin v. Turkey*, judgment of 8 June 1995, Series A no. 319-A, § 44). Similarly, the substantial amount of compensation for damage of a non-pecuniary nature awarded by the Regional Court was based on the finding of a violation of Article 6 § 2, that is, a provision which is not the subject-matter of the present application.

80. As regards the *N.C. v. Italy* [GC] judgment invoked by the Government, in that case the Court found the compensation which the applicant was entitled to obtain under the Italian Code of Criminal Procedure as a result of his acquittal to be indissociable from any compensation which he might have been entitled to under Article 5 § 5 of the Convention as a consequence of his deprivation of liberty being contrary to paragraphs 1 or 3 of that Article. It concluded that there had been no violation of Article 5 § 5 of the Convention in that case.

81. Unlike the position in the case of *N.C. v. Italy*, Article 5 § 5 of the Convention is not at stake in the present application in which the Court is required to determine whether or not there has been a violation of, *inter alia*, Article 5 §§ 1, 3 and 4 of the Convention. The reasons given by the Court for concluding that there had been no violation of Article 5 § 5 of the Convention in *N.C. v. Italy* and now relied on by the Government cannot be transposed to the determination of the complaints made by the applicant in the present application.

82. In these circumstances, the Government's preliminary objection must be dismissed.

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

83. The applicant complained that his detention on remand was unlawful as the judge who had decided on its extension on 13 June 1998 had not been entitled to deal with the case at that time. He relied on Article 5 § 1 of the Convention, which in its relevant part reads as follows:

“Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; ...”

84. The Government relied on the statement made by the President of the Trenčín District Court on 16 September 2004. At the relevant time, no indictment had yet been filed against the applicant and the other accused. For that reason, their criminal case had not been registered under just one file number. Various procedural issues on which the District Court had been required to decide had been registered separately and been distributed among the judges who dealt with criminal matters. The proposal to extend the applicant's detention on remand had been directly assigned to Judge Š. who had decided on it on 13 June 1998. Judge T., the other criminal judge available at the District Court, had stated, on 8 June 1998, that she had a conflict of interest. The court of appeal had later accepted this. In those circumstances, it would have been contrary to democratic principles to assign to Judge T. the request for an extension of the applicant's detention on remand.

85. The applicant argued that the way in which the District Court had registered the various submissions made in the criminal proceedings against him was either mistaken or deliberately confusing. He also pointed out that the Government had modified their arguments on this issue in the course of the proceedings before the Court.

86. In the instant case, the question arises whether the way in which the decision of 13 June 1998 to extend the applicant's detention was taken was “in accordance with a procedure prescribed by law”. In this respect, Article 5 § 1 of the Convention essentially refers back to national law and states the obligation to conform to the substantive and procedural rules thereof, but it requires in addition that any deprivation of liberty should be consistent with the purpose of Article 5 of the Convention, namely to protect individuals from arbitrariness. It is in the first place for the national authorities, notably the courts, to interpret and apply domestic law. However, since under Article 5 § 1 of the Convention failure to comply with domestic law entails a breach of the Convention, it follows that the Court can and should exercise a certain power to review whether this law has been complied with (see

Benham v. the United Kingdom, judgment of 10 June 1996, *Reports* 1996-III, pp. 752-53, §§ 40-41).

87. The Court accepts the explanation given by the President of the Trenčín District Court on 16 January 2004 (see paragraph 30 above). The documents available confirm that different judges dealt with separate submissions on which the District Court was required to decide at the pre-trial stage of the proceedings. The Trenčín Regional Court's decision of 7 July 1998 indicates that Judge T. asked to withdraw after the applicant's request for release had been submitted to her for a decision. There is no indication that that judge was or should have been involved in the examination of the proposal to extend the detention of the applicant and his co-accused which the prosecuting authority had submitted to the District Court and on which Judge Š. ruled on 13 June 1998.

88. In these circumstances, the Court finds no appearance of unlawfulness or arbitrariness in the manner in which the above request for an extension of the applicant's detention was handled and decided by the District Court in Trenčín.

89. There has therefore been no violation of Article 5 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

90. The applicant complained that his detention on remand had lasted an excessively long time. He alleged a violation of Article 5 § 3 of the Convention which provides:

“Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

91. The Government argued that the length of the applicant's detention on remand had not been excessive. The case was complex as it concerned particularly serious offences and involved nine accused; co-operation with foreign authorities had also been required. The applicant could not have been released at an earlier stage of the proceedings as the offence of which he had been accused was closely linked to different offences with which the other accused had been charged. The domestic courts had duly examined whether the applicant's detention had been necessary and the reasons for their decisions were sufficient and relevant.

92. The applicant maintained that the reasons for his protracted detention had been neither relevant nor sufficient, in particular as regards the second half of that period when the investigation into his alleged offence had ended.

93. The Court notes that the applicant was first remanded in custody on 19 December 1997. The indictment was filed on 4 June 1999 and the

applicant was released on 19 December 1999. His detention thus lasted two years.

94. Whether a period of detention is reasonable must be assessed in each case individually according to its special features. Continued detention can be justified in a given case only if there are specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty. The persistence of reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the lawfulness of the continued detention, but after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds were “relevant” and “sufficient”, the Court must also ascertain whether the competent national authorities displayed “special diligence” in the conduct of the proceedings (for a recapitulation of the relevant case-law see, for example, *McKay v. the United Kingdom* [GC], no. 543/03, §§ 41-45, ECHR 2006-..., with further references).

95. The Court has acknowledged that the existence of a general risk flowing from the organised nature of the alleged criminal activities of an applicant can be accepted as the basis for his or her detention for a certain period of time. In such cases, involving numerous accused, the need to obtain voluminous evidence from many sources and to determine the facts and degree of alleged responsibility of each of the co-accused may constitute relevant and sufficient grounds for an applicant's detention during the period necessary to terminate the investigation, to draw up the bill of indictment and to hear evidence from the accused. Moreover, in cases concerning organised criminal groups, the risk that a detainee if released might bring pressure to bear on witnesses or other co-accused, or might otherwise obstruct the proceedings, is often particularly high (see *Celejewski v. Poland*, no. 17584/04, §§ 37-38, 4 May 2006).

96. The accusation against the applicant concerned an offence allegedly committed in the context of organised criminal activity. The domestic courts held that there was a risk that the applicant would interfere with witnesses or his co-accused or otherwise hamper the investigation into the relevant facts of the case if released.

97. The Court notes that on 16 November 1998 the applicant requested that the charges against him and his wife should be dealt with in a separate set of proceedings pursuant to Article 23 § 1 of the Code of Criminal Procedure. He relied on the fact that there had been no further progress in the investigation into the accusation against him for several months. Such a request was not unjustified. The criminal proceedings in issue concerned a number of offences unrelated to the applicant and his wife. The documents available indicate that the proceedings were considerably protracted owing to the need to carry out additional investigations into those offences.

98. On 7 December 1998 the Trenčín District Court extended the detention of the applicant and four other accused until 9 June 1999. That decision was explained by the complexity of the case. It indicated that several of the persons involved had been additionally accused of further offences. However, that decision contained no specific reasons as regards the need for the applicant's further detention.

99. The Court has noted that in the decision of 16 March 1999 the Trenčín District Court stated that one of the accused persons had been arrested in the Czech Republic and that a further investigation needed to be carried out into the case in that context. To the extent that the applicant was concerned, that investigation ended prior to 11 May 1999, when he was allowed to peruse the file prior to the filing of the indictment.

100. Having regard to the documents submitted by the parties the Court is not persuaded that, throughout the entire period of the applicant's detention, compelling reasons existed for fearing that he would interfere with witnesses or otherwise hamper the investigation into the case and certainly not such as to outweigh the applicant's right to trial within a reasonable time or release pending trial.

101. In view of the above considerations the Court, finds that the reasons on which the domestic courts relied were not relevant and sufficient to justify the overall length of the applicant's detention.

102. There has accordingly been a violation of Article 5 § 3 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

103. The applicant also complained that his requests for release from detention on remand of 25 February 1998, 11 August 1998 and 23 November 1998 had not been decided upon speedily. He relied on Article 5 § 4 of the Convention which provides:

“Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.”

104. The Government maintained that the length of time it had taken to examine the applicant's requests for release had not contravened Article 5 § 4 of the Convention in the circumstances of the case. They submitted that the case was complex and that the courts dealing with the applicant's requests had had to examine the whole file on each occasion.

105. The applicant contended that there had been unjustified delays in deciding, in particular, his complaints against the District Court's decisions to dismiss his applications for release as well as in serving the relevant decisions on him or his counsel.

106. Article 5 § 4, in guaranteeing to detained persons a right to institute proceedings to challenge the lawfulness of their deprivation of liberty, also proclaims their right, following the institution of such proceedings, to a speedy judicial decision concerning the lawfulness of detention and ordering its termination if it proves unlawful. The question whether a person's right under Article 5 § 4 has been respected has to be determined in the light of the circumstances of each case (see *Rehbock v. Slovenia*, no. 29462/95, § 84, ECHR 2000-XII, with further references).

107. Article 5 § 4 does not compel the Contracting States to set up a second level of jurisdiction for the examination of the lawfulness of detention and for hearing applications for release. Nevertheless, a State which institutes such a system must in principle accord to the detainees the same guarantees on appeal as at first instance. An overall assessment is required in such cases in order to determine whether a decision was given “speedily” (*Navarra v. France*, judgment of 23 November 1993, Series A no. 273-B, § 28, with further references).

108. The applicant's request for release dated 25 February 1998 was filed with the public prosecutor on 5 March 1998. The public prosecutor refused to release the applicant and submitted the request to the Trenčín District Court the same day. The District Court dismissed it on 12 March 1998. The decision was served on the applicant and his lawyer on 18 and 19 March 1998 respectively. On 23 and 26 March 1998 the applicant filed a complaint on which the Trenčín Regional Court ruled on 12 May 1998. The decision was served on the applicant on 28 May 1998. The examination of the applicant's request by courts at two levels of jurisdiction thus lasted 2 months and 7 days. The examination of the applicant's complaint against the District Court's decision took more than one and a half months. The Regional Court's decision of 12 May 1998 was served on 28 May 1998, that is 16 days after it was taken.

109. As to the applicant's request for release of 11 August 1998, it was dismissed by the Trenčín District Court on 10 September 1998. The decision was served on 21 September 1998, and the applicant filed a complaint on 25 and 29 September 1998. The second-instance court dismissed the complaint on 5 November 1998. The proceedings thus lasted 2 months and 25 days. The Regional Court's decision of 5 November 1998 was served on the applicant on 15 February 1999, that is more than 3 months after it was taken.

110. The applicant's request for release of 23 November 1998 was dismissed by the Trenčín District Court on 4 December 1998. The decision was served on 15 December 1998 and the applicant challenged it on 18 December 1998. The Trenčín Regional Court dismissed the applicant's complaint against the first-instance decision on 9 February 1999. The proceedings thus lasted 2 months and 17 days. The examination of the applicant's complaint against the District Court's decision alone lasted 1

month and 22 days. The Regional Court's decision was served on the applicant on 25 February 2002, that is 16 days after it was taken.

111. Having regard to its practice (see *Dobrev v. Bulgaria*, no. 55389/00, § 96, 10 August 2006; and *Vejmola v. the Czech Republic*, no. 57246/00, § 47, 25 October 2005, with further references), the Court considers the above periods to be in breach of the requirement of a speedy decision laid down in Article 5 § 4 of the Convention. In particular, it finds no justification for the length of time it took to examine the applicant's complaints against the District Court's respective decisions. The time taken to serve the Regional Court's decisions is also relevant as well as the fact that Article 72 § 2 of the Code of Criminal Procedure did not permit the applicant to renew his request for release until fourteen days after the decision on his previous request had become final, unless he invoked different reasons (see *Singh v. the Czech Republic*, no. 60538/00, §§ 74 and 76, 25 January 2005).

112. There has accordingly been a violation of Article 5 § 4 of the Convention.

V. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

113. The applicant complained that the police had entered his apartment unlawfully and that he had not been allowed to meet his wife during his detention on remand. He relied on Article 8 of the Convention which provides:

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

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

A. As regards the entry of the applicant's apartment by the police

114. The Government argued that the applicant had voluntarily let the policemen enter his flat. There had therefore been no interference with his right under Article 8 of the Convention.

115. The applicant disagreed and maintained that the policemen, who had worn masks and aimed submachine guns at him, had entered his flat without his consent.

116. The Court notes that the Inspection Department of the Ministry of the Interior carried out an investigation into the alleged violation of the applicant's right to respect for his home. On the basis of the evidence obtained it concluded that the policemen had not acted contrary to the law.

117. It is uncontested that at least four policemen, two of whom belonged to a special unit and were armed and masked, entered the applicant's apartment at about 6 a.m. on 17 December 1997. Their purpose was to serve charges on the applicant and his wife and to escort them to the police investigator for questioning. In view of the contradictory statements of those involved and in the absence of any independent witnesses, it is not possible to establish whether or not the police entered the apartment with the applicant's consent.

118. The applicant and his wife were heard separately at a time when the applicant was detained in custody. There is no contradiction in their statements and nothing to indicate that those statements are untrue. On the other hand, when questioned, Officer B. of the police interventions unit stated that the members of the criminal police had asked the applicant whether they could enter the apartment whereas the other policemen involved alleged that the applicant had invited them to come in (see paragraph 17 above).

119. For the Court, considering the number of policemen involved, the fact that four of them belonged to a special interventions unit and openly carried submachine guns and were masked, and noting that they had come to the applicant's apartment at daybreak, it can reasonably be concluded that the applicant was left with little choice but to allow them to enter his apartment. It is difficult to accept that, in the circumstances, any consent given by the applicant was free and informed. There was accordingly an interference with his right to respect for his home. That interference will only be justified if it complies with the requirements set out in Article 8 § 2 of the Convention.

120. The Inspection Department of the Police Corps and the Regional Court in Banská Bystrica found that the police officers involved had not acted in an unlawful manner (see paragraphs 18 and 57 above). Even assuming that to have been the case, the Court notes that the issue before it is whether the interference complained of was "necessary in a democratic society". That matter, and in particular the issue of proportionality, was never addressed by the domestic authorities. For the Court, the interference must in the circumstances be considered disproportionate for the following reasons.

121. In particular, as indicated above, the police had come to the applicant's door in order to serve charges on him and his wife and to escort them to an investigator for questioning. There is no indication that the fulfilment of that task required the police to enter the apartment. The Government failed to provide a satisfactory and convincing explanation to justify that interference. The impugned measure must be considered disproportionate in the circumstances.

122. Furthermore, a risk of abuse of authority and violation of human dignity is inherent in a situation such as the one which arose in the present

case where, as stated above, the applicant was confronted by a number of specially trained masked policemen at the front door of his apartment very early in the morning. In the Court's view, safeguards should be in place in order to avoid any possible abuse in such circumstances and to ensure the effective protection of a person's rights under Article 8 of the Convention. Such safeguards might include the adoption of regulatory measures which both confine the use of special forces to situations where ordinary police intervention cannot be regarded as safe and sufficient and, in addition, prescribe procedural guarantees ensuring, for example, the presence of an impartial person during the operation or the obtaining of the owner's clear, written consent as a pre-condition to entering his or her premises. The Court notes that certain guarantees to that effect are incorporated in the Police Corps Act 1993 (see paragraphs 68 and 69 above). However, those guarantees failed to prevent the situation complained of in the instant case from occurring.

123. In view of the above considerations, the Court is not satisfied that the action in issue was compatible with the applicant's right to respect for his home.

124. There has accordingly been a violation of Article 8 of the Convention as a result of the entry by the police into the applicant's apartment.

B. As regards the applicant's inability to meet his wife

125. The Government argued, with reference to section 10 of the Detention on Remand Act 1993, that the interference had been lawful. It was aimed at preventing the applicant from hampering the investigation. The interference had been necessary in a democratic society as both the applicant and his wife had been accused of a particularly serious offence in the context of organised crime and the applicant had tried secretly to send a letter to his wife from prison.

126. The applicant contended that the refusal to allow him to meet with his wife over a period of thirteen months had no justification.

127. The Court reiterates that detention, likewise any other measure depriving a person of his liberty, entails inherent limitations on his private and family life. However, it is an essential part of a detainee's right to respect for family life that the authorities enable him or, if need be, assist him in maintaining contact with his close family. Any restriction in that respect must be applied "in accordance with the law", must pursue one or more legitimate aims listed in paragraph 2 of Article 8 and, in addition, must be justified as being "necessary in a democratic society". The notion of "necessity" for the purposes of Article 8 means that the interference must correspond to a pressing social need, and, in particular, must remain proportionate to the legitimate aim pursued. In assessing whether an

interference was “necessary” the Court will take into account the margin of appreciation left to the State authorities, but it is the duty of the respondent State to demonstrate the existence of the pressing social need behind the interference (see, among other authorities, *Klamecki v. Poland (no. 2)*, no. 31583/96, § 144, 3 April 2003, with further references).

128. The interference complained of was based on the relevant provisions of the Detention on Remand Act 1993. It can be considered as having pursued the aims of the prevention of crime and the protection of the rights of others, within the meaning of the second paragraph of Article 8, as that restriction was imposed in the context of the applicant's detention in criminal proceedings in which he was accused of extortion.

129. As to the question whether the interference was “necessary in a democratic society”, the Court notes that the applicant was allowed to meet with his wife for the first time on 29 January 1999. The refusal to allow the applicant to meet her during the period of 13 months during which he had been held in custody undoubtedly constituted a serious interference with his right to respect for his private and family life.

130. It is evident that there was a legitimate need to prevent the applicant from hampering the investigation, for example by exchanging information with his co-accused including his wife, in particular during the investigation into the relevant facts. The Court is not persuaded, however, that the interference complained of was indispensable for achieving that aim. In particular, there is no indication that allowing the applicant to meet with his wife under special visiting arrangements including, for example, supervision by an official would have jeopardised the ongoing investigation into the criminal case.

131. It is also questionable whether relevant and sufficient grounds existed for preventing the applicant from meeting his wife for such a long period. In particular, on 6 May 1998 counsel for the applicant and his wife requested that her clients be allowed to meet each other, even if this meant that the investigator had to be present. Reference was made to the suffering caused by the lengthy separation of the applicant from his wife and also to the fact that the investigation into the offences in issue had practically ended. Similarly, in the second half of 1998 the applicant indicated in his requests for release that at that time the investigation into the case exclusively concerned offences which were unrelated to him and his wife.

132. The Court has considered the fact that the applicant attempted, on 19 January 1998, secretly to send a letter to his wife from the prison (see paragraphs 25 and 27 above). It does not attach particular importance to this incident as it occurred at an early stage of the proceedings and it has not been alleged that the purpose of that letter was to interfere with the investigation.

133. In view of the above, the Court considers that the interference in issue cannot be regarded as having been “necessary in a democratic society”.

134. There has therefore been a violation of Article 8 of the Convention on account of prohibition on the applicant meeting with his wife.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

135. 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

136. As regards pecuniary damage, the applicant claimed 954,489 Slovakian korunas (SKK) as compensation for lost salary.

137. The Government objected that the applicant had already obtained redress in that respect before the domestic courts.

138. The Court notes that the domestic authorities compensated the applicant for the loss of salary resulting from his detention in the context of the criminal proceedings (see paragraphs 52 and 54 above). To the extent that the loss of income by the applicant may be considered as linked to the violation of his rights found above, the Court considers that the applicant obtained appropriate reparation at domestic level. It therefore makes no award under this head.

139. The applicant further claimed SKK 8,000,000 in respect of non-pecuniary damage. That sum comprised SKK 1,000,000 in respect of the rights he alleged before the Court had been violated and SKK 7,000,000 as compensation for the impact which the above events had had on the applicant's personality as well as on his family and professional life. The applicant also requested that the respondent Government should be ordered to apologise to him in the media and to undertake to reinstate him in his former job.

140. The Government pointed out that the domestic courts had awarded SKK 2,000,000 to the applicant as compensation for non-pecuniary damage.

141. The domestic award invoked by the Government is unrelated to the violation of the applicant's rights under the Convention which the Court has found (see paragraph 59 above). The Court considers that the applicant suffered damage of a non-pecuniary nature which is not sufficiently redressed by the finding of a violation of his rights under the Convention.

Deciding on an equitable basis, it awards the applicant EUR 6,000 under this head.

B. Costs and expenses

142. The applicant claimed SKK 438,960. That sum comprised postal expenses (SKK 13,230), various expenses incurred in the course of the applicant's detention (SKK 77,060), the costs of the defence in the criminal proceedings (SKK 341,070), the costs of an expert opinion on the impact of the detention on the applicant's health (SKK 4,400) and translation costs (SKK 3,200).

143. The Government objected that the applicant had not shown that the sums claimed had been necessarily incurred with a view to preventing the violation of the Convention rights which the applicant alleged. In any event, the applicant had obtained redress at the domestic level.

144. Having regard to the redress which the applicant obtained at the domestic level (see paragraph 54 above) and to the documents submitted, the Court considers it appropriate to award EUR 300 in respect of the costs of translation and postal expenses.

The applicant submitted no specific claim in respect of the costs of his legal representation in the proceedings under the Convention. The Court therefore makes no award in this respect.

C. Default interest

145. 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. *Dismisses* the Government's preliminary objection;
2. *Holds* that there has been no violation of Article 5 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
4. *Holds* that there has been a violation of Article 5 § 4 of the Convention;
5. *Holds* that there has been a violation of Article 8 of the Convention as regards the entry of the applicant's apartment by the police;

6. *Holds* that there has been a violation of Article 8 of the Convention as regards the refusal to allow the applicant to meet with his wife during his detention on remand;
7. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 6,000 (six thousand euros) in respect of non-pecuniary damage and EUR 300 (three hundred euros) in respect of costs and expenses, to be converted into the national 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;
8. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 17 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Nicolas BRATZA
President