



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

FOURTH SECTION

CASE OF JUDT v. SLOVAKIA

(Application no. 70985/01)

JUDGMENT

STRASBOURG

9 October 2007

FINAL

09/01/2008

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 Judt 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 K. TRAJA,

Mr S. PAVLOVSKI,

Mr J. ŠIKUTA,

Mrs P. HIRVELÄ, *judges*,

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

Having deliberated in private on 18 September 2007,

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

PROCEDURE

1. The case originated in an application (no. 70985/01) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Slovak nationals, Mr Ján Judt and Mr Miroslav Judt on 12 April 2001 and 24 February 2003 respectively.

2. The Government of the Slovak Republic ("the Government") were represented by their Agent, Mrs M. Pirošíková.

3. On 7 October 2005 the Court decided to give notice of the application to the Government. 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

4. The first applicant, Mr Ján Judt, was born in 1944 and lives in Zvolen. The second applicant, Mr Miroslav Judt, is the son of the first applicant. He was born in 1983 and lives in Zvolen.

A. Proceedings concerning divorce and parental rights and obligations

5. On 6 June 1997 the first applicant's wife filed a petition for divorce and for determination of parental rights and obligations in respect of their son, the second applicant. The plaintiff claimed custody of the second applicant.

6. On 25 June 1997 the District Court in Zvolen scheduled a hearing for 15 July 1997; it sent the petition to the first applicant for comments. On the same day the court appointed a guardian – the Zvolen District Office, Department of Social Affairs - to defend the interests of the second applicant in the proceedings. The court made an inquiry about the parents' income.

7. On 30 June 1997 the first applicant asked for the hearing to be postponed as he had planned a holiday abroad with his son.

8. On 15 July 1997 the court adjourned the case until 4 September 1997 because of the parties' absence.

9. On 21 August 1997 the first applicant informed the court that he was unable to attend a hearing scheduled for 4 September 1997.

10. On 4 September 1997 the plaintiff excluded the possibility of reaching a friendly settlement. The case was adjourned until 7 October 1997.

11. On 1 October 1997 the first applicant apologised for his absence from the hearing scheduled for 7 October 1997. He explained that he hoped that the relations between him and the plaintiff would improve. The case was adjourned until 28 October 1997. The first applicant was to be summoned under the threat of imposition of a fine or his being brought by the police. The court made inquiries as to the relations within the family. It received replies on 24 October 1997. The authority appointed as guardian recommended the second applicant's examination by a child-psychiatrist.

12. On 28 October 1997 the court heard the parties.

13. On 28 November 1997 the first applicant filed a petition for an interim measure granting him the custody of his son and obliging the mother to contribute to the boy's maintenance.

14. On 2 December 1997 the court heard witnesses as proposed by the first applicant. The case was adjourned with a view to determining the financial situation of the parents and obtaining the opinion of an expert. On 3 December 1997 the court requested the parents to pay an advance on the costs of the expert.

15. On 16 December 1997 the first applicant challenged the District Court judge for bias. On 7 January 1998 the case file was submitted to the Banská Bystrica Regional Court which, by a decision of 9 February 1998, dismissed the request.

16. In March 1998 the District Court made inquiries about the parents' situation.

17. On 24 March 1998 the District Court granted a divorce to the plaintiff and the first applicant. The court established that there were serious conflicts between the spouses and that neither of them was interested in maintaining their marriage. The decision on the divorce became final on 1 May 1998.

18. By an interim measure forming a part of the judgment of 24 March 1998 the court placed the second applicant in the custody of the first applicant and ordered the plaintiff to contribute to the child's maintenance pending a final determination of the parents' rights and obligations. The court held that the statements of the parents were inconsistent and that the testimony of their son was not convincing. It therefore considered that it was necessary to obtain an expert opinion before deciding on the issue.

19. On 1 April 1998 the court ordered the taking of expert evidence and appointed an expert. The decision indicated that no appeal was available against it.

20. On 16 and 20 April 1998 respectively the first applicant challenged the expert and the District Court judge.

21. On 30 April 1998 the first applicant filed an appeal against the judgment of 24 March 1998 to the extent that it concerned an interim measure related to parental rights and obligations.

22. On 18 May 1998 the case file was submitted to the Regional Court for a decision on the first applicant's request for exclusion of the District Court judge. On 30 May 1998 the Regional Court excluded the judge concerned from dealing with the case as the judge considered herself to have been offended by the statements contained in the first applicant's request. The case file was returned to the District Court on 19 June 1998. The President of the District Court assigned the case to a different judge on 10 July 1998.

23. On 20 July 1998 the District Court requested the first applicant to specify the reasons for his appeal. The first applicant replied on 22 July 1998. On 2 September 1998 the case file was submitted to the Regional Court. On 30 September 1998 the Regional Court quashed the relevant part of the District Court's judgment of 24 March 1998. The Regional Court held that the first-instance court had not proceeded correctly in that it had granted the divorce to the second applicant's parents without determining their parental rights and obligations during the period after the divorce. Furthermore, the interim measure should have been issued by means of a separate decision.

24. The case file was returned to the District Court on 19 November 1998.

25. On 9 February 1999 the District Court asked the expert to comment on the first applicant's request for his exclusion. On 24 February 1999 the expert recommended that an expert from a different district should be appointed.

26. On 1 April 1999 the District Court issued an interim measure ordering that the custody of the second applicant should be given to the first applicant and that the plaintiff should contribute to his maintenance.

27. By a decision of 15 April 1999 the court appointed an expert in clinical child psychology. On 27 April 1999 the plaintiff challenged that expert. She also appealed against the injunction of 1 April 1999.

28. The District Court held that there was no reason for excluding the expert. It sent the case file to the expert on 10 June 1999. On 28 June 1999 the court warned the first applicant that a fine would be imposed on him if he failed to appear before the expert on 6 July 1999.

The applicant argued that he had informed the expert that he would not appear in June 1999 as the plaintiff's appeal of 1 April 1999 had not yet been decided. The court's warning was therefore erroneous.

29. At the request of the judge the expert returned the file to the District Court on 29 June 1999. It was submitted to the Regional Court which, on 26 July 1999, upheld the District Court's decision of 1 April 1999. The Regional Court's decision was served on 31 August 1999 and 3 September 1999.

30. On 28 October 1999 the expert submitted her opinion to the District Court.

31. In November 1999 the court made inquiries about the parents' financial situation.

32. On 20 December 1999 the District Court delivered a judgment on the merits placing the second applicant in the custody of the first applicant. It further obliged the plaintiff to contribute to the child's maintenance as from 1 April 1999 and decided on the mother's right to visit the second applicant. On 28 January 2000 the judgment became final in so far as it determined the custody of the second applicant and the mother's right to visit him.

33. On 21 January 2000 the first applicant appealed against the part of the judgment which determined the child's maintenance and the costs of the proceedings. After the plaintiff had submitted her comments the file was forwarded to the Regional Court on 14 March 2000.

34. On 31 March 2000 the Regional Court upheld the decision on the costs. It quashed the decision concerning the mother's obligation to contribute to the maintenance of the second applicant as that obligation should have been determined as from the date on which the decision on divorce had taken effect, that is 1 May 1998. The file was returned to the District Court on 26 May 2000.

35. In the course of June 2000 the District Court served the appellate court's decision; it also obtained further information from the parties.

36. The District Court held a hearing on the outstanding issue on 3 August 2000. Subsequently it decided to obtain further evidence in accordance with the first applicant's request.

37. On 23 January 2001 the District Court scheduled a hearing for 14 March 2001. It made inquiries with a view to establishing the relevant facts.

38. A hearing was held on 14 March 2001. In March and April 2001 the court obtained further information.

39. As the District Court judge involved had retired, the case was assigned to a different judge on 4 June 2001. The newly appointed judge made inquiries as to the relevant facts on 22 March 2002 and 9 May 2002. The court received the requested items of information between 9 April 2002 and 3 June 2002.

40. A hearing was held on 22 August 2002. Prior to the hearing the first applicant had requested that further evidence be taken. Such evidence was obtained in the course of September 2002.

41. On 3 October 2002 the District Court determined the mother's obligation to contribute to the maintenance of the second applicant during the period from 1 May 1998 to 3 December 2001. The court noted that the mother had in the meantime contributed to the second applicant's maintenance. The outstanding sum for the above period amounting to the equivalent of 130 euros was payable to the second applicant within 15 days from the date on which the judgment took effect. The judgment was served on the parties on 4 and 11 November 2002.

42. On 15 and 20 November 2002 the applicants appealed. The first applicant submitted, *inter alia*, that he had paid in advance 1,000 Slovak korunas (SKK) on the costs of taking evidence and that only SKK 160 had been spent for that purpose. He requested that the remainder of the sum be returned to him. The first applicant later reiterated that request.

43. On 27 December 2002 the Banská Bystrica Regional Court modified the first-instance judgment in that the maintenance including the outstanding sum was payable to the first applicant and not to his son. The court of appeal noted that the District Court had established all relevant facts and that it had determined the maintenance with due regard to the situation of both parents and their son. The relevant decision became final on 13 March 2003.

44. In February 2004 an audit in the District Court's accounting office established that a bank invoice for SKK 123 relating to the above proceedings had not been paid and that an advance of SKK 1,000 which the first applicant had paid for the purposes of taking evidence had not been liquidated. Subsequently the District Court ordered the plaintiff to pay one half of the sum paid to the bank. The other half was deducted from the amount which the first applicant had paid and the remainder of that sum was to be returned to him. The first applicant challenged the decision and the relevant issues were twice examined by courts at two levels of jurisdiction. The final decision was given by the Regional Court on 27 July 2005.

B. Proceedings concerning the maintenance of the second applicant after 4 December 2001

45. On 4 December 2001 the second applicant filed a maintenance claim against his mother with the District Court in Zvolen. He explained that he had reached the age of majority on 23 October 2001. The District Court, after having taken the relevant evidence, delivered a judgment on 20 May 2002. In it the court determined the mother's obligation to contribute to the second applicant's maintenance with effect from 4 December 2001. The judgment became final on 4 July 2002.

C. Constitutional proceedings

46. On 18 December 2002 the applicants complained to the Constitutional Court that their human rights had been violated by the Zvolen District Court and by the Zvolen District Office which had been appointed as guardian of the second applicant for the purpose of the custody proceedings. They invoked Articles 6 § 1, 8, 13, 14 and 17 of the Convention and also Article 5 of Protocol No. 7. They complained, *inter alia*, about the length of the proceedings brought on 6 June 1997.

47. On 29 January 2003 the Constitutional Court declared admissible their complaint under Article 6 § 1 of the Convention about the length of the proceedings before the Zvolen District Court to the extent that they concerned the maintenance of the second applicant. As regards the other issues examined in the context of the proceedings brought in 1997, on which a final decision had already been given, the applicants had not filed their complaint within the two-month time-limit laid down in the Constitutional Court Act. In addition, the Constitutional Court found no apparent flaws in the proceedings indicating that the applicants' human rights had been violated.

48. On 4 February 2004 the Constitutional Court found that the Zvolen District Court had violated the applicants' right to a hearing within a reasonable time in the proceedings concerning the maintenance of the second applicant while he was a minor. It granted SKK 15,000¹ to each of the applicants in compensation for non-pecuniary damage sustained in that context.

49. The Constitutional Court held that it could only examine the length of the maintenance proceedings as from 20 December 1999 when the final decision on the custody of the second applicant had been given. It found that the first applicant's requests for an interim measure and a maintenance order filed on 27 November 1997 and 5 February 1998 respectively had been superfluous as at that time the divorce had not yet been granted. As to the

¹ SKK 15,000 was the equivalent of approximately 370 euros at that time.

conduct of the District Court, it had remained entirely inactive, due to the heavy workload of the judges, for approximately 9 months from 4 June 2001 to 22 March 2002. Given the subject-matter of the proceedings, such a delay was incompatible with the reasonable time requirement laid down in Article 6 § 1 of the Convention.

50. After its service on 12 March 2003 the applicants submitted to the Constitutional Court the judgment given by the Regional Court on 27 December 2002. On 26 November 2003 a judge informed the second applicant that that judgment could only be examined in the context of a new constitutional complaint. Subsequently the applicants made several further submissions. In particular, they complained under Article 6 § 1 of the Convention that the judicial decisions given in the context of the above proceedings were erroneous and that the judges involved had been biased. They further alleged a violation of Article 8 of the Convention in that the authority appointed to represent the interests of the child in the context of the proceedings had favoured the dissolution of the parents' marriage. They also alleged a violation of Article 14 of the Convention in that by their conduct the ordinary courts had discriminated against them. Under Article 13 of the Convention the applicants complained that the decision on the appointment of an expert had indicated that no appeal was available against it. Finally, they complained under Article 5 of Protocol No. 7 that the scope of the parental obligations imposed on the mother was narrower than those imposed on the first applicant.

51. On 25 February 2004 the Constitutional Court rejected the above complaint. In its decision the Constitutional Court addressed in detail the applicants' individual arguments. It concluded, however, that the facts complained of disclosed no appearance of a violation of the rights on which the applicants had relied.

52. As regards the complaints under Article 6 § 1 of the Convention in particular, the first-instance court had established the relevant facts and decided on the point in issue in accordance with the relevant law. Its conclusions were not arbitrary. The court of appeal had considered the arguments set out in the applicants' appeal. It had not considered it necessary to take further evidence as the issues raised by the case had been sufficiently established in the proceedings at first instance. Nothing indicated that the judges involved had been biased. The Regional Court had decided on the applicants' appeal against the first-instance judgment in less than three months. That period was not excessively long.

53. By granting the petition for divorce in accordance with the relevant law the ordinary courts had not acted contrary to the second applicant's rights under Article 8 of the Convention. The courts had granted custody of the second applicant to his father and they had determined the parental rights and observations in accordance with the applicable provisions of the

Family Act. Their decisions were not contrary to Article 5 of Protocol No. 7.

54. The complaint under Article 13 had been submitted out of time. It was in any event manifestly ill-founded as Article 17 of the Code of Civil Procedure permitted a party to request the exclusion of an expert.

55. Finally, the Constitutional Court found unsubstantiated the applicants' complaints under Articles 14 and 17 of the Convention.

THE LAW

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

56. The applicants complained that the length of the proceedings brought in 1997 was excessive, that the District Court was not an impartial tribunal as its judges had acted to their disadvantage and that the decisions given were arbitrary. They relied on Article 6 § 1 of the Convention which in its relevant part provides:

“In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing within a reasonable time by an ... impartial tribunal...”

A. Admissibility

1. As regards the length of the proceedings

57. The applicants' first complaint relates to the length of the proceedings concerning divorce and parental rights and obligations. Those proceedings began on 6 June 1997 and the last point in issue, namely the maintenance of the second applicant, was determined on 27 December 2002. The proceedings on the merits therefore lasted 5 years, 6 months and 22 days for two levels of jurisdiction. Subsequently, between February 2004 and July 2005, that is for approximately seventeen months, courts at two levels examined issues related to payment of an invoice and the liquidation of the first applicant's advance payment. The Court notes that the applicants have made no specific complaints in respect of the proceedings concerning the maintenance of the second applicant after 4 December 2001.

58. The Government objected that, in view of the Constitutional Court's judgment of 4 February 2004, the applicants could no longer claim to be victims of the alleged violation of their right to a hearing within a reasonable time in the proceedings concerning the maintenance of the second applicant. As regards the parts of the proceedings which concerned the divorce of the second applicant's parents and his custody, the application

was inadmissible as the applicants had filed it more than six months after the delivery of the final decisions on the relevant issues.

59. According to the applicants, they did not obtain appropriate just satisfaction at domestic level.

60. The proceedings were conducted before the District Court in Zvolen under a single case number notwithstanding that they concerned the determination of several inter-related issues, such as the divorce of the second applicant's parents and the exercise of parental rights and obligations. The Constitutional Court refused to consider the period during which the divorce and custody had been determined as final decisions on those issues had been given prior to the introduction by the applicants of their complaint under Article 127 of the Constitution.

61. The Court, in accordance with its practice, considers it appropriate to examine the overall length of the proceedings. In doing so it must however take into consideration the fact that the applicants' first constitutional complaint was only directed at the proceedings before the first-instance court. This fact has to be taken into account when determining the merits of this part of the application and, if appropriate, the applicants' claims for just satisfaction under Article 41 of the Convention (*Solárová and Others v. Slovakia*, no. 77690/01, § 42, 5 December 2006). Similarly, the Court notes that the first applicant did not complain to the Constitutional Court about delays in the proceedings concerning the amount which he had paid in advance at the District Court's request.

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

63. The Constitutional Court, after having analysed a part of the proceedings complained of in the light of the criteria which the Court also applies, awarded the applicants the equivalent of approximately 370 euros each on 4 February 2004. That amount corresponds approximately to 11 per cent of what the Court would be likely to award the applicants in accordance with its practice. The low amount of just satisfaction awarded to the applicants by the Constitutional Court, as compared with the amounts usually granted by the Court, alone leads to the conclusion that the redress provided to them at domestic level was insufficient. In these circumstances, the argument that the applicants have lost their status as "victims" cannot be upheld.

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.

2. *The other complaints under Article 6 § 1*

65. The Court notes that the first applicant did not appeal against the divorce and custody judgments. The applicants did not request the exclusion of judges who had determined the maintenance issue. In any event, the Court finds no reason for disagreeing with the Constitutional Court's view that there was nothing to indicate that the judges involved had been biased or that the ordinary courts had not respected the applicants' right under Article 6 § 1 to a fair hearing by an impartial tribunal.

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

B. Merits

67. The applicants argued that the proceedings had lasted an excessively long time mainly due to the conduct of the District Court in Zvolen.

68. The Government, with reference to the Constitutional Court's finding, admitted that the complaint was not unsubstantiated.

69. 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). In cases relating to civil status, what is at stake for the applicant is also a relevant consideration, and special diligence is required in view of the possible consequences which the excessive length of proceedings may have, notably on enjoyment of the right to respect for family life (*Laino v. Italy* [GC], no. 3158/96, § 18, ECHR 1999-I).

70. The proceedings concerned divorce and parental rights and obligations. What was at stake for the applicants therefore called for special diligence. The case was not particularly complex notwithstanding that expert opinions were needed with a view to establishing the situation of the persons concerned. The parties by their conduct contributed to a certain extent to the length of the proceedings. In particular, the first applicant excused himself from attending three hearings in 1997 and he twice challenged the District Court judge. The first applicant and the plaintiff respectively challenged the two experts appointed to submit an opinion.

71. As to the conduct of the domestic courts, the District Court decided on the petition for divorce on 23 March 1998, that is nine months after it had been filed. Subsequently a number of procedural issues had to be determined by courts at two levels at the parties' requests and an expert opinion was obtained. In a judgment of 20 December 1999 the District

Court granted custody of the second applicant to the first applicant, determined the mother's right to visit the former as well as the mother's obligation to contribute to the child's maintenance. The Court finds no unjustified delays in the relevant part of the proceedings.

72. The first applicant appealed against the decision concerning the second applicant's maintenance and that issue was subsequently determined by courts at two instances between March 2000 and 27 December 2002. During that period one substantial delay of approximately 9 months occurred due to the judges' heavy workload.

73. Considering what was at stake for the applicants and in view of the above delay in particular, the Court finds that the overall length of the period under consideration was incompatible with the applicants' right to a hearing within a reasonable time.

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

II. ALLEGED VIOLATION OF ARTICLES 1, 8, 13, 14 AND 17 OF THE CONVENTION AND OF ARTICLE 5 OF PROTOCOL NO. 7

74. The second applicant alleged a violation of Article 8 of the Convention in that the courts and the authority appointed to act as his guardian had acted contrary to his interests in the above divorce and custody proceedings as a result of which he had been prevented from growing up in a two-parent family.

Under Article 13 of the Convention the first applicant complained that the decision of 1 April 1998 to appoint an expert had indicated that no appeal was available against it.

The second applicant complained under Article 14 of the Convention that the courts had discriminated against him in the above divorce, custody and maintenance proceedings.

The applicants alleged a violation of Article 5 of Protocol No. 7 in that the courts, when determining the maintenance issue, had not imposed on the second applicant's mother the same parental obligations as those imposed on the first applicant.

Finally, the second applicant submitted that the facts of the case also gave rise to violations of Articles 1 and 17 of the Convention.

75. Having regard to the documents submitted by the parties and, in particular, the reasons for the Constitutional Court's decision of 25 February 2004, the Court finds, to the extent that those complaints have been substantiated and fall within its competence, that they do not disclose any appearance of a violation of the Convention or its Protocols.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

77. 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

78. The applicants claimed the equivalent of 7,200 euros (EUR) each in respect of non-pecuniary damage.

79. The Government contested the claim.

80. Ruling on an equitable basis, and having regard to its case-law on the subject (see the recapitulation of the relevant principles and, *mutatis mutandis*, their application in *Scordino (no. 1)*, cited above, §§ 267-272), and taking into account the applicants' conduct (see paragraphs 61 and 70 above) as well as the fact that the applicants have already obtained some just satisfaction under the Constitutional Court's judgment of 4 February 2004, the Court awards each of the applicants EUR 1,000 in respect of the non-pecuniary damage.

B. Costs and expenses

81. The applicants also claimed the equivalent of EUR 30 for postage expenses incurred in the context of the proceedings before the Constitutional Court and the Court.

82. The Government left the matter to the Court's discretion.

83. The Court considers it reasonable to award the applicants the sum claimed, namely EUR 30.

C. Default interest

84. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT

1. *Declares* unanimously the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;

2. *Holds* unanimously that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* by six votes to one
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,000 (one thousand euros) each in respect of non-pecuniary damage and a global sum of EUR 30 (thirty euros) in respect of costs and expenses, the above amounts to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* unanimously the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 9 October 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Nicolas BRATZA
President

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

N.B.
T.L.E.

PARTLY DISSENTING OPINION OF JUDGE
CASADEVALL

(Translation)

1. I did not vote with the majority on point 3 of the operative provisions, on the award of just satisfaction under Article 41, because I consider, in the circumstances of the case, that the amount awarded for non-pecuniary damage is manifestly insufficient.

2. The case concerned the length of civil proceedings on a matter of family law. These lasted 5 years, 6 months and 22 days, at two levels of jurisdiction (see paragraph 57 of the judgment). After finding a violation of the Convention, the Slovakian Constitutional Court awarded the applicants a sum equivalent to EUR 740. To my mind that was only a token payment. If the Court had applied its normal criteria (an amount corresponding to the length of the proceedings, plus a reasonable amount to take into account the fact that the proceedings concerned personal status or capacity, minus a sum to reflect the cost of living in the respondent country and minus the sum already received through the national courts), by my calculations it should have awarded the applicants the overall sum of EUR 4,460.

3. Unfortunately, for as long as the sums awarded to the applicants by national courts in reparation for the non-pecuniary damage caused by the violation (in the sense of the effective remedy required by Article 13 of the Convention) continue to be manifestly unreasonable in relation to those awarded by the Court applications in length-of-proceedings cases like the present one will continue to pour in.