



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

FOURTH SECTION

CASE OF STANKOVÁ v. SLOVAKIA

(Application no. 7205/02)

JUDGMENT

STRASBOURG

9 October 2007

FINAL

31/03/2008

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 Stanková 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. 7205/02) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovak national, Mrs Milota Stanková (“the applicant”), on 4 January 2002.

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

3. The applicant alleged, in particular, that her right to respect for her private life and home had been violated in that she had been ordered to move out of a flat.

4. On 29 January 2006 the President of the Fourth Section of the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1951 and lives in Kežmarok.

6. The applicant and her husband held a joint tenancy of a three-room flat owned by a cooperative in Poprad.

7. Owing to differences with her husband, the applicant left the flat together with her two children in 1992. They started living in a two-room

flat owned by the Poprad Municipality. It was leased by the applicant's father, who suffered from a long-term illness and died on 21 January 1994. The applicant and her two children, born in 1979 and 1982 respectively, continued to live in the flat. The applicant paid the rent.

8. In a decision which became final on 7 November 1994 a court granted a divorce order in respect of the applicant and her husband. Their children were placed in the applicant's custody.

9. On 6 February 1995 the applicant and her former husband reached an agreement whereby the latter would continue using the flat in which they had formerly lived together. On 6 March 1995 the cooperative which owned the flat and of which the applicant was a member approved a request for the flat to be exchanged for a one-room flat in Kežmarok. The applicant's former husband lived in the flat in Kežmarok until his death on 1 August 1995. His and the applicant's son inherited membership rights in respect of the cooperative which owned the flat in Kežmarok, including the right to use it. The applicant later started leasing the flat with a view to improving her financial situation.

10. After her father's death the applicant requested to be registered as permanently residing in the flat where she had lived since 1992. In a letter of 19 July 1995 the mayor of Poprad replied that the position was unclear. It had to be determined, in particular, whether the tenancy had passed to the applicant pursuant to Article 706 § 1 of the Civil Code after her father's death.

11. On 4 August 1995 the Poprad Municipal Office informed the applicant that she had formally ceased to be a tenant of the flat which she had used with her former husband on 6 February 1995 – that is, after the death of her father. The right to use her father's flat had not passed to the applicant after the former's death as the requirements of Article 706 § 1 of the Civil Code had not been met.

12. On 3 September 1996 the Poprad Municipal Office included the applicant on a list of persons seeking the tenancy of a flat. No municipal flat could be put at the applicant's disposal at that time as other persons were above her on the list.

13. As the applicant had refused to move out, on 30 August 1996 the Poprad Municipal Housing Company sought a judicial order for her eviction.

14. On 31 October 1996 the Poprad District Court ordered the applicant to move out of the flat within 30 days after its judgment had become final. On 29 October 1997 the Prešov Regional Court upheld the first-instance judgment. The courts established that the applicant had not become a tenant of the flat originally used by her father since, at the time of the latter's death, she had been registered as a user of a different flat, in which she had lived with her former husband. The requirements of Article 706 § 1 of the Civil Code had not been met. After her father's death the applicant had lived in

the flat in issue without any justification. In addition, the District Court held that the applicant could live in the flat in Kežmarok which her son had inherited from her former husband. The plaintiff had rightly sought the protection of its ownership rights in respect of the flat.

15. The applicant lodged an appeal on points of law, arguing that the plaintiff company lacked the capacity to take part in the proceedings. On 28 July 1998 the Supreme Court dismissed the appeal on points of law, holding that the plaintiff was a legal entity established by the Poprad Municipality. As such it had standing to sue the applicant.

16. The Poprad Municipality requested that the order be enforced. The applicant objected that her son had reached the age of majority and that she could not live in his flat in Kežmarok. The Poprad District Court dismissed the objection on 10 May 1999, holding that the issue could not be examined in the context of the enforcement proceedings. On 18 June 1999 an enforcement officer enforced the judgment, in accordance with the relevant provisions of the Executions Order 1995, with the result that the applicant was obliged to move out of the flat in which she had lived since 1992.

17. On 8 July 1999 that flat was allocated to a municipal employee who lived in a one-room flat and who had applied, on 24 June 1999, for a bigger one as she had to take care of an elderly and ill relative. Later the new tenant acquired ownership of the flat for a relatively small sum in accordance with the relevant law.

18. The applicant, with her under-age daughter, started living in the one-room flat in Kežmarok inherited by the applicant's son. The flat has a surface area of 33 square metres. The applicant has continued to work in Poprad. The distance between the two towns is approximately 15 kilometres.

19. The applicant filed a petition under Article 130 § 3 of the Constitution, alleging, *inter alia*, a violation of her constitutional right to protection of her private and family life as well as a violation of her ownership rights in the proceedings referred to above. She argued that the municipality had been informed that she had moved to her father's flat in 1992 with the intention of living there permanently. She had requested to be allocated municipal housing and had therefore believed that her interests would be protected. The municipality's argument that she could live in her son's one-room flat in Kežmarok was unreasonable. In addition, her daughter, who was under age, was disturbed by having to live in that flat as the girl's father had committed suicide there.

20. On 12 April 2000 the Constitutional Court declared admissible the complaint alleging a violation of the applicant's right to respect for her private and family life.

21. On 10 July 2001 the Constitutional Court found that by its judgment of 29 October 1997 the Prešov Regional Court had violated the applicant's rights under Article 19 § 2 and Article 21 § 3 of the Constitution.

22. The decision stated that the ordinary courts' conclusion that the requirements of Article 706 § 1 of the Civil Code had not been met in the applicant's case was correct as such. It also had to be considered, however, whether there had been a pressing social need for the interference and whether it had been proportionate to the legitimate aim pursued, having regard to the particular circumstances of the case.

23. The applicant had not acted contrary to the law when she had moved to her father's flat in 1992. She had lived in that flat continuously, together with her children, even after her father's death. At the time of the examination of the request for her eviction the applicant had had no other place to live. The flat was to be regarded, therefore, as the applicant's home.

24. The Constitutional Court noted that Article 3 of the Civil Code permitted the granting of relief from hardship in justified cases by ensuring that alternative accommodation should be provided to persons who had been ordered to move out of a flat. As to the Supreme Court's practice and, in particular, judgment no. 1 Cdo 48/97 (see paragraph 40 below), the circumstances of the applicant's case were different in that the applicant had legally moved into the flat in 1992 and the flat was owned by the municipality and not by individuals. In any event, neither Article 3 § 1 of the Civil Code nor any other legal provision could be interpreted and applied in a manner producing effects incompatible with Slovakia's obligations under international treaties.

25. In view of Article 20 § 3 of the Constitution, the municipality's ownership rights in respect of the flat could not be dissociated from its obligation to assist citizens of Poprad in having their basic needs satisfied. In the circumstances of the case, it should have been examined whether ordering the applicant to leave the flat, together with her under-age daughter and without providing them with alternative accommodation, was *contra bonos mores* within the meaning of Article 3 § 1 of the Civil Code. The protection of family, minors and juveniles under Article 41 of the Constitution should also have been taken into account.

26. Furthermore, the Poprad Municipality had registered the applicant as a person seeking a flat, after having verified whether her request had been justified, at approximately the same time as it had initiated judicial proceedings for her eviction. It should have been verified whether the municipality, as the owner and manager of municipal flats, had a compelling reason for ordering the applicant to move out of the flat immediately without being obliged to provide her with alternative accommodation.

27. The Constitutional Court did not consider the applicant's behaviour improper. In 1992 she had left the cooperative flat where she had lived with a view to avoiding the negative impact of her husband's inappropriate behaviour on her and her children. The applicant had petitioned for divorce

and her return to that flat would not have resolved her personal situation as her husband also had the right to use it.

28. Finally, the applicant had used the flat for a long time and the representatives of the municipality had initially not taken a firm standpoint as regards her title to use the flat. Reference was made, in particular, to the mayor's letter of 19 July 1995. The owner of the flat had therefore contributed to the applicant's belief that she would not be obliged to leave the flat without alternative accommodation being provided to her. In 1996, when the judicial proceedings had started, the applicant had been in a difficult situation as the mother of two under-age children who had lost their father.

29. When deciding the case, the Prešov Regional Court had not duly considered the above relevant facts. Its decision to uphold the first-instance judgment ordering the applicant to leave the flat without being provided with any other accommodation therefore amounted to an interference with the applicant's right to respect for her private and family life and for her home which was not based on relevant and sufficient reasons. As a result, and also having regard to the particular protection which Article 41 § 1 of the Constitution afforded to children and juveniles, that interference could not be regarded as being necessary in a democratic society.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Constitutional provisions and practice

30. Article 19 § 2 guarantees to every person the right to protection against unjustified interference with his or her private and family life.

31. In decision II. ÚS 23/00 of 23 March 2000 the Constitutional Court rejected a petition filed by a judge who alleged a violation of Article 19 §§ 2 and 3 of the Constitution in that the Ministry of Justice had asked him to submit a financial statement. The decision stated that the petitioner should have sought redress before the ordinary courts by means of an action under Articles 11 et seq. of the Civil Code for protection of his personal rights.

32. Article 20 § 1 guarantees the right to own property. Paragraph 3 of Article 20 prohibits the abuse of ownership to the detriment of the rights of others or contrary to general interests protected by law.

33. Under Article 21 § 3, interference with the inviolability of the home (other than the search of a home in the context of criminal proceedings, which is governed by paragraph 2 of the same Article) may be permitted by law only where it is necessary in a democratic society for the protection of a person's life, health or property, for the protection of the rights and freedoms of others or in cases of serious threat to public order.

34. Article 41 § 1 provides that marriage, parenthood and family are to be protected by law. Particular protection is to be afforded to children and juveniles.

35. Pursuant to Article 130 § 3 of the Constitution, as in force until 30 June 2001, the Constitutional Court could commence proceedings upon a petition (*podnet*) filed by any individuals or corporations claiming that their rights had been violated.

36. According to its case-law under Article 130 § 3, the Constitutional Court lacked jurisdiction to draw legal consequences from a violation of a petitioner's constitutional rights. It could neither grant damages to the person concerned nor impose a sanction on the public authority liable for the violation found. In the Constitutional Court's view, it was therefore for the authority concerned to provide redress to the person whose rights were violated.

B. The Civil Code

37. Pursuant to Article 3 § 1, the exercise of civil rights and obligations must not interfere with the justified rights and interests of others unless there are relevant legal grounds and must not be *contra bonos mores*.

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

39. Under Article 706 § 1, where a tenant of a flat dies, unless the flat has been jointly leased by spouses, the tenancy passes to the late tenant's children and other close relatives, provided that they lived in the same household as the tenant at the time of his or her death and that they do not have their own flat.

C. The Supreme Court's practice

40. In judgment no. 1 Cdo 48/97, delivered on 20 November 1997, the Supreme Court expressed the view that Article 3 § 1 of the Civil Code could not be applied for the purpose of obliging the owner of a flat (three individuals in that particular case) to provide accommodation to a person who used the flat without any legal grounds. Imposing such an obligation would infringe the owner's property rights.

III. APPLICATION No. 48398/99

41. On 29 December 1998 the applicant lodged an application with the Court in which she complained under Article 6 § 1 and Article 8 of the Convention of the above-mentioned decisions of the ordinary courts leading

to her eviction from the flat in which she lived. The application was registered as no. 48398/99.

42. On 18 May 2001 a committee of three judges rejected the application as being inadmissible. At that time the constitutional proceedings initiated by the applicant were still pending. As the Constitutional Court had declared admissible the complaint alleging a violation of the applicant's right to respect for her private and family life, the Court considered the relevant part of the application to be premature at that time. The decision on admissibility reads as follows:

“The Court has examined the application and notes that the applicant has been informed of the possible obstacles to its admissibility. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that the application must be rejected, in accordance with Article 35 § 4 of the Convention.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

43. The applicant complained that she had been obliged to move out of the flat where she had lived. She alleged a violation of Article 8 of the Convention, which reads as follows:

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

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. Admissibility

44. The Government argued that the application was inadmissible on several grounds.

45. Firstly, the applicant had failed to exhaust domestic remedies as she had not sought redress by means of an action for protection of her personal rights under Articles 11 et seq. of the Civil Code after the delivery of the Constitutional Court's judgment of 10 July 2001.

46. Secondly, the application had been lodged on 4 January 2002, more than six months after the applicant had been obliged to move out of the flat

in question on 18 June 1999. As a petition under Article 130 § 3 of the Constitution was not an effective remedy which applicants were required to exhaust prior to lodging an application, the Constitutional Court's judgment of 10 July 2001 was not a “final” decision for the purposes of Article 35 § 1 of the Convention.

47. Thirdly, the complaint under Article 8 was in any event manifestly ill-founded.

48. The applicant disagreed with the Government's arguments.

49. The Court notes that the Constitutional Court, as the supreme authority charged with protection of human rights and fundamental freedoms in Slovakia, declared admissible and examined the merits of the applicant's complaint without requiring the applicant to use the remedy under Articles 11 et seq. of the Civil Code. The applicant was not obliged, for the purposes of Article 35 § 1 of the Convention, to initiate a new set of civil proceedings seeking protection of her personal rights after the delivery of the Constitutional Court's judgment. In particular, there is no indication of the existence, either at the relevant time or at present, of sufficiently consistent case-law to show that the possibility of obtaining redress in similar cases was sufficiently certain in practice and offered reasonable prospects of success as required by the relevant Convention case-law (see, *mutatis mutandis*, *Kontrová v. Slovakia*, no. 7510/04, §§ 43-44, ECHR 2007-... (extracts), as well as the admissibility decision of 13 June 2006 in that case).

50. As to the argument that the application had been lodged out of time, the Court notes that on 18 May 2001 it declared inadmissible application no. 48398/99, in which the applicant had complained under Article 8 of the Convention of the ordinary courts' decisions leading to her eviction from the flat in which she had lived. At that time the constitutional proceedings on the merits of that complaint were still pending.

51. In general, the Court has not considered a petition under Article 130 § 3 of the Constitution to be an effective remedy which applicants were required to use for the purpose of Article 35 § 1 of the Convention (see, for example, *Marônek v. Slovakia* (dec.), no. 32686/96, 27 April 2000, or *Stančiak v. Slovakia* (dec.), no. 40345/98, 31 August 2000). It has therefore not regarded Constitutional Court decisions dismissing such petitions as final for the purposes of Article 35 § 1. More recently, the Court reached the same conclusion in a case in which the Constitutional Court, in proceedings under Article 130 § 3 of the Constitution, had found a violation of the plaintiff's constitutional rights (see *Šupa v. Slovakia* (dec.), no. 72991/01, 6 February 2007).

52. As indicated above, in application no. 48398/99 the applicant lodged her complaint about the proceedings leading to her eviction on 29 December 1998 – that is, within six months from the Supreme Court's decision of 28 July 1998 and prior to the enforcement of the judicial order

on 18 June 1999. When examining that application on 18 May 2001 the Court, noting that the Constitutional Court had declared admissible the applicant's complaint under Article 8, found the relevant part of the application premature without examining the substance of that complaint. In this respect the present case is different from *Šupa v. Slovakia* (cited above), where the application was lodged after the delivery of the Constitutional Court's judgment and more than six months after the final decision given by the ordinary courts. In these circumstances, rejecting this part of the application on the ground that the applicant had not complied with the six-month time-limit would be tantamount to a negation of her right of individual application under Article 34.

53. At the relevant time the Constitutional Court lacked power to provide redress to persons whose rights it had found violated in proceedings pursuant to Article 130 § 3 of the Constitution (see paragraph 36 above). The applicant therefore has not lost her status as a victim within the meaning of Article 34 of the Convention as a result of the Constitutional Court's judgment of 10 July 2001 (for recapitulation of the relevant case-law see, for example, *Amuur v. France*, judgment of 25 June 1996, *Reports of Judgments and Decisions* 1996-III, p. 846, § 36 and *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI).

54. The Court further notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

55. The applicant, with reference to the Constitutional Court's judgment of 10 July 2001, maintained that the interference with her rights under Article 8 of the Convention had been unjustified.

56. The Government admitted that the facts of the case amounted to an interference with the applicant's right to respect for her private life and home. The applicant had been obliged to move out of the flat by an enforcement officer following a final judgment delivered by the ordinary courts in accordance with the relevant provisions of the Slovakian legal order. The interference had pursued the legitimate aim of protecting the interests of the owner of the flat. The applicant, who had no legal title to use the flat in Poprad, had the possibility of living in her son's flat in Kežmarok. By ordering the applicant to leave the flat in Poprad the domestic courts had not overstepped the margin of appreciation reserved to Contracting States in similar situations. In addition, the applicant was herself responsible for the situation complained of as she had agreed to the exchange of the cooperative flat in Poprad for a smaller one in a different town in February 1995. At that time the applicant should have been aware that she had no entitlement to use her father's flat after the latter's death. The Government

concluded that the interference complained of was not disproportionate to the legitimate aim pursued.

57. The Court notes, and it has not been disputed between the parties, that the obligation on the applicant to leave the flat amounted to an interference with her right to respect for her home which was based on the relevant provisions of the Civil Code and the Executions Order 1995 (see paragraphs 16 and 39 above). That interference was therefore “in accordance with the law”. It pursued the legitimate aim of protecting the rights of the Poprad Municipality, which owned the flat.

58. The only point at issue in the present case is therefore whether that interference was “necessary in a democratic society” for achieving the aim pursued. In this connection, the Court has to consider whether, in the light of the case as a whole, the reasons adduced to justify the measure were relevant and sufficient for the purposes of paragraph 2 of Article 8 of the Convention. The notion of necessity implies a pressing social need; in particular, the measure employed must be proportionate to the legitimate aim pursued. The scope of the margin of appreciation enjoyed by the national authorities in similar cases will depend not only on the nature of the aim of the restriction but also on the nature of the right involved (see *Gillow v. the United Kingdom*, judgment of 24 November 1986, Series A no. 109, p. 22, § 55).

59. Because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to strike a fair balance between the interests involved (see *Eski v. Austria*, no. 21949/03, § 42, 25 January 2007). The Court's task is not to substitute itself for the domestic authorities in the exercise of their powers, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their margin of appreciation (see, *mutatis mutandis*, *Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299-A, p. 20, § 55, and *Elsholz v. Germany*, no. 25735/94, ECHR 2000-VIII, p. 363, § 48).

60. In the present case the Constitutional Court assessed the relevant facts in the light of the same criteria as the Court applies in similar cases. It concluded that the effect of the ordinary courts' decision ordering the applicant to leave the flat without being provided with any alternative accommodation produced effects which were incompatible with her right to respect for her private and family life and for her home, regard also being had to the special protection of children and juveniles under Article 41 § 1 of the Constitution.

61. The decision stated, in particular, that the interference at issue had not been necessary in a democratic society as it had not been based on relevant and sufficient reasons. The Constitutional Court put emphasis on the circumstances under which the applicant had left the flat which she had shared with her former husband and on her situation, the gravity of which

the Poprad Municipality had *de facto* acknowledged by including the applicant on the list of those seeking accommodation at approximately the same time as it had initiated judicial proceedings with a view to obliging the applicant to leave the flat. The Constitutional Court also took into account the fact that the Poprad Municipality was in charge of public housing. In that capacity, it was under an obligation to assist the town's citizens in resolving their accommodation problems.

62. Thus, the Constitutional Court examined in depth the relevant facts of the case and in its judgment it explained in detail the reasons why it considered that the applicant's right to respect for her home and private life had been violated. The Court finds the reasoning of the Constitutional Court convincing and sees no grounds for reaching a different conclusion.

63. The foregoing considerations are sufficient for the Court to conclude that the interference complained of was not "necessary in a democratic society".

There has accordingly been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

64. The applicant further complained of the fact that she had no effective remedy at her disposal in respect of the alleged violation of Article 8. She relied on Article 13 of the Convention, which provides:

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

A. Admissibility

65. The Government contested the applicant's argument.

66. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

B. Merits

67. Having regard to its finding under Article 8 (see paragraph 63 above), the Court considers that it is not necessary to examine whether, in this case, there has been a violation of Article 13.

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

68. The applicant complained that the flat which she had been obliged to leave had been allocated to a different person whose situation had been less urgent. She relied on Article 14 of the Convention, which provides:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

69. The Court has examined this complaint but finds, to the extent that it has been substantiated and falls within its competence, that it discloses no appearance of a violation of the Convention or its Protocols.

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

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

71. 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

72. The applicant claimed an overall sum of 1 million euros (EUR) in respect of pecuniary and non-pecuniary damage. As regards pecuniary damage, the claim comprised the costs of removal (EUR 125), sale of furniture (EUR 625), the daily travel expenses of both the applicant and her daughter to and from Poprad (EUR 2,800), the rent which the applicant had paid to the Poprad Municipality after her father's death (EUR 5,000) and compensation for lost time (EUR 27,500).

As to the claim for non-pecuniary damage, the applicant submitted that she and her children had suffered trauma as a result of the way in which the domestic authorities had dealt with their case.

73. The Government proposed that the claim should be dismissed.

74. The Court notes that the applicant has not supplied any evidence capable of supporting her claim for pecuniary damage which could be causally linked to the violation of the Convention it has found. It is therefore not appropriate to award any compensation under that head (see also *Angelova and Iliev v. Bulgaria*, no. 55523/00, § 125, 26 July 2007, and *Chassagnou and Others v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, § 130, ECHR 1999-III).

On the other hand, the applicant undeniably sustained non-pecuniary damage on account of the violation found. Ruling on an equitable basis, as required by Article 41 of the Convention, the Court decides to award the applicant EUR 3,000 under that head.

B. Costs and expenses

75. The applicant also claimed 15,200 Slovakian korunas (equivalent to approximately EUR 450) for the costs and expenses incurred before the domestic authorities.

76. The Government argued that the applicant had not substantiated her claim by any relevant documents.

77. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum claimed, namely EUR 450.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints under Articles 8 and 13 of the Convention concerning the applicant's eviction admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds* that there is no need to examine the complaint under Article 13 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage and EUR 450 (four hundred and fifty euros) in respect of costs and expenses, 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;

5. *Dismisses* the remainder of the applicant's 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