



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

FOURTH SECTION

CASE OF KOMANICKÝ v. SLOVAKIA (No. 3)

(Application no. 72092/01)

JUDGMENT

STRASBOURG

17 June 2008

FINAL

17/09/2008

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 Komanický v. Slovakia (No. 3),

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

Nicolas Bratza, *President*,
Giovanni Bonello,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä,
Ledi Bianku,
Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 27 May 2008,

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

PROCEDURE

1. The case originated in an application (no. 72092/01) 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 a Slovakian national, Mr Ioan Kornelij Komanický (“the applicant”), on 15 June 2001.

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

3. On 11 November 2005 the President of the Chamber decided to give notice of the application to the Government. It was decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3 of the Convention).

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1943 and lives in Bardejov.

1. Background information

5. The applicant was employed by the District National Committee (*Okresný národný výbor*) in Bardejov. In 1988 he was dismissed for breach of discipline. Subsequently courts at two levels of jurisdiction declared the dismissal unlawful. Their decisions became final on 2 August 1991.

In 1990, while the above proceedings were pending, the national committees ceased to exist *ex lege* and their liquidation was formally completed on 31 July 1991. The national committees were replaced by district offices (*okresné úrady*) which were not, strictly speaking, the legal successors to the former.

6. On 2 September 1991 the Bardejov District Office terminated the applicant's contract of employment on the ground that the district national committee which had formerly employed him had ceased to exist. The applicant challenged this decision. He argued, in particular, that the government regulations on the liquidation of the former national committees were unlawful, that he had become an employee of the Bardejov District Office after his dismissal in 1988 was declared unlawful on 2 August 1991, and that the District Office had paid his salary until the end of 1991. He claimed compensation for damage caused by the termination of his contract of employment.

7. On 6 March 1996 the Košice Regional Court upheld the first-instance judgment dismissing the action.

8. The proceedings described below relate to the applicant's subsequent attempts to obtain redress for the termination of his contract of employment.

2.1 Proceedings concerning the applicant's action of 27 May 1996 (the Bardejov District Court file no. 4C 451/96)

9. On 27 May 1996 the applicant sued the Bardejov District Office for a severance payment in respect of his dismissal in 1991. He further claimed a certificate of employment.

10. On 11 October 1996 the Bardejov District Court exempted the applicant from the obligation to pay a court fee. On 11 September 1998 it asked him for further particulars of his claim.

11. On 30 May 2001 the District Court discontinued the proceedings in respect of three claims which the applicant had withdrawn. It further decided to examine the remaining claim concerning a severance payment separately (see proceedings no. 4C 52/03 described below).

12. The applicant appealed.

13. On 28 February 2002 the Prešov Regional Court upheld the District Court's decision to discontinue the proceedings in respect of the three claims. That decision became final on 28 January 2003. The Regional Court further rejected the remainder of the appeal as no appeal lay in respect of a procedural decision to examine a claim in separate proceedings.

14. On 23 December 2002 the applicant appealed on points of law against the Regional Court's decision. The District Court, which processed the appeal on points of law prior to its submission to the Supreme Court, requested further information from him on 27 January 2003.

15. After obtaining the relevant information the District Court appointed a lawyer on 21 February 2005 to represent the applicant in the cassation

proceedings. On 22 March 2005 the District Court again invited the applicant to give further details of his appeal.

16. On 11 August 2005 the Supreme Court declared the appeal on points of law inadmissible as none of the statutory grounds permitting the use of that remedy had been established.

2.2 Proceedings concerning the applicant's claim for a severance payment (the Bardejov District Court file No. 4C 52/03)

17. The Bardejov District Court started dealing with the claim for a severance payment (which had been filed on 27 May 1996 – see paragraphs 9 and 11 above) on 14 March 2003.

18. Between 14 October 2003 and 22 September 2005 it held six hearings at which the applicant failed to appear. He informed the court that he did not wish to attend.

19. On 9 August 2004 the applicant asked for the trial judge to be required to stand down because of excessive delays in the proceedings and because the judge had been excluded for bias from two other sets of proceedings to which the applicant was a party.

20. On 13 August 2004 the Prešov Regional Court found no relevant reason for requiring the judge to stand down.

21. The proceedings are still pending.

2.3 Constitutional proceedings

22. On 20 March 2003 the applicant lodged a complaint with the Constitutional Court. He alleged a violation of his right to have the case determined without undue delay in the proceedings before the Bardejov District Court registered under file no. 4C 451/96. The applicant stated, *inter alia*, that the merits of his action had still not been determined after six years. He also alleged that his right to judicial protection had been jeopardised as a result of the length of the proceedings.

23. On 2 October 2003 the Constitutional Court rejected the complaint. It noted that the applicant, who was represented by an advocate, complained exclusively of the Bardejov District Court proceedings no. 4C 451/96. It noted that under section 20(3) of the Constitutional Court Act it was bound by plaintiffs' submissions as to the subject-matter of proceedings. It was the Constitutional Court's practice to examine length-of-proceedings complaints only where the proceedings complained of were still pending before the authority liable for the alleged violation when the complaint to the Constitutional Court was filed. That requirement had not been met as regards the applicant's complaint concerning the District Court's conduct in proceedings no. 4C 451/96 since that court's decision of 30 May 2001 had become final on 28 January 2003.

3.1 Proceedings concerning the applicant's action of 13 July 1998 (the Bardejov District Court file no. 4C 966/98)

24. On 13 July 1998 the applicant brought an action in the Bardejov District Court. He submitted that the State, represented by the Bardejov District Office, should be ordered to assign him work under a contract of employment and to satisfy his related financial claims.

25. On 14 December 1998 the District Court invited the applicant to submit further details of his claims. The applicant replied on 17 December 1998.

26. On 9 October 1999 the District Court informed the applicant that the claim was still incomplete. The applicant replied on 15 October 1999.

27. On 10 December 2001 the District Court discontinued the proceedings on the ground that the applicant had failed to submit his claim in accordance with the formal requirements. The applicant appealed. The District Court submitted the case to the court of appeal on 25 February 2002.

28. On 30 September 2002 the Prešov Regional Court upheld the District Court's decision.

29. On 3 December 2002 the applicant lodged an appeal on points of law. On 6 January 2003 he specified his grounds of appeal. He requested that he should be exempted from the obligation to pay a court fee and that the District Court should appoint a lawyer to represent him in the cassation proceedings. On 4 February 2003 the applicant submitted information about his financial situation.

30. On 7 April 2003 the applicant informed the President of the District Court in separate proceedings that he was ill and unable to respond to the court's requests. On 25 June 2003 he informed the District Court that he was no longer prevented from pursuing his cases.

31. On 7 November 2003 the district-court judge involved in the preliminary processing of the applicant's appeal on points of law asked for permission to withdraw from the case. On 26 November 2003 the Regional Court in Prešov dismissed her request.

32. On 29 January 2004 the District Court asked the applicant for details of any change in his situation compared with that set out in his statement of 4 February 2003. The applicant replied on 8 March 2004.

33. On 9 March 2004 the District Court asked the applicant to prove his and his wife's income. The applicant submitted the relevant documents on 1 April 2004.

34. On 3 June 2004 the District Court decided not to exempt the applicant from the obligation to pay a court fee. On 28 July 2004 he appealed. The Regional Court upheld the decision on 23 August 2004.

35. On 28 October 2004 the District Court asked the applicant to provide further particulars of his appeal on points of law and to appoint a lawyer to represent him in the cassation proceedings. The applicant replied on

10 November 2004. The District Court transferred the file to the Supreme Court on 27 December 2004.

36. On 10 February 2005 the Supreme Court discontinued the proceedings concerning the applicant's appeal on points of law on the ground that the applicant had not complied with the statutory requirement of compulsory legal representation. That decision became final on 7 March 2005.

3.2 Constitutional proceedings

a) Complaint of 15 February 2002

37. On 15 February 2002 the applicant complained to the Constitutional Court about the length of the proceedings in his action commenced on 13 July 1998.

38. On 25 June 2003 the Constitutional Court found that during the relevant period, which had lasted from 13 July 1998 to 25 February 2002, the Bardejov District Court had infringed the applicant's constitutional right to have the case decided without undue delay. The District Court had been inactive without any justification between 16 October 1999 and 10 December 2001. The applicant had contributed to the length of the proceedings as he had failed to rectify defects in his action despite the District Court's requests (period until 15 October 1999). The Constitutional Court awarded the applicant 20,000 Slovakian korunas (SKK), which was equivalent to 477 euros (EUR) at that time, in respect of non-pecuniary damage. It also ordered the reimbursement of the applicant's costs.

b) Complaint of 5 February 2004

39. On 5 February 2004 the applicant complained to the Constitutional Court that the way in which the Bardejov District Court had processed his appeal on points of law had infringed his right to a hearing without unjustified delay.

40. On 14 May 2004 the Constitutional Court rejected the complaint as being manifestly ill-founded. The length of the proceedings under consideration (from 3 December 2002 to 5 February 2004) was not excessive in view of the fact that the District Court had dealt with the applicant's procedural motions for exemption from the obligation to pay a court fee and for appointment of a lawyer to represent him in the proceedings. The Constitutional Court also noted that in the relevant period the applicant had informed the District Court that health problems were preventing him from pursuing his cases.

4.1 Action of 13 July 1998 concerning the validity of the applicant's contract of employment (the Bardejov District Court file no. 4C 968/98)

41. On 13 July 1998 the applicant instituted proceedings in the Bardejov District Court, alleging that his employment with the Bardejov District Office still subsisted.

42. On 2 March 2007 the Prešov Regional Court upheld the first-instance judgment of 10 March 2006 dismissing the applicant's action. The Regional Court's judgment was served on the applicant on 26 March 2007.

43. On 23 April 2007 the applicant filed an appeal on points of law. The Supreme Court declared it inadmissible on 14 February 2008.

4.2 Constitutional proceedings

a) Complaint of 19 February 2003

44. On 19 February 2003 the applicant complained to the Constitutional Court about delays in the Bardejov District Court proceedings no. 4C 968/98.

45. On 28 March 2003 the Constitutional Court rejected the complaint as the applicant had not first sought redress from the President of the District Court pursuant to the relevant provisions of the State Administration of Courts Act 1992.

b) Complaint of 21 May 2007

46. On 21 May 2007 the applicant complained to the Constitutional Court that the Bardejov District Court and the Prešov Regional Court, in the proceedings leading to the latter court's judgment of 2 March 2007, had violated his right under Article 6 § 1 of the Convention to a fair hearing within a reasonable time. The applicant also relied on Articles 13 and 14 of the Convention.

47. The Constitutional Court declared the complaint inadmissible on 6 November 2007. As regards the complaint about the length of the proceedings, it observed that it had been filed after the courts concerned had decided the case, so that in accordance with its established case-law, the Constitutional Court lacked power to examine the complaint.

5.1 Proceedings concerning the applicant's actions of 9 November 1998 and 11 December 2002 (Bardejov District Court files nos. 4C 1620/98 and No. 3C 569/02)

a) Action of 9 November 1998 (proceedings no. 4C 1620/98)

48. On 9 November 1998 the applicant brought an action against the State represented by the Ministry of the Interior and the Bardejov District

Office. He claimed that the defendant should be ordered to assign him work under a contract of employment and to pay him arrears of salary.

49. On 21 May 1999 the Bardejov District Court directed the applicant, on pain of discontinuing the proceedings, to specify the sum of salary arrears claimed and to indicate which authority should be ordered to satisfy his claims.

50. The applicant replied on 6 June 1999. He stated, *inter alia*, that the State represented by the Bardejov District Office should be ordered to satisfy his claims. He asked for the arrears of salary to be determined in the course of the proceedings.

51. On 17 June 1999 and 27 January 2000 the District Court summoned the applicant for an interview. In letters of 29 July 1999 and 8 February 2000 the applicant replied that his state of health did not allow him to attend and that that was likely to be the position for some time.

52. On 19 March 2002 the District Court discontinued the proceedings on the ground that the applicant had failed to rectify defects in his claim despite its request for him to do so. The court found that in his letter of 6 June 1999 the applicant had not sufficiently specified his claim. Its decision was served on the applicant on 22 March 2002. The applicant did not have a right of appeal.

53. On 29 March 2002 the applicant filed a motion with the Office of the Prosecutor General for an extraordinary appeal on points of law to be lodged against the District Court's decision. In a letter of 29 April 2002 he was informed that the requested remedy could not be used.

54. On 22 April 2002 the applicant lodged an appeal on points of law against the District Court's decision. The District Court, which was responsible for preparing the file for examination by the Supreme Court, invited the applicant to rectify defects in his appeal on points of law. The applicant replied on 10 June 2002 and the District Court submitted the file to the Supreme Court.

55. On 22 August 2002 the Supreme Court returned the file to the District Court on the ground that no appeal on points of law lay against decisions of first-instance courts. The letter stated that the file should be submitted to the Regional Prosecutor's Office so that an extraordinary appeal on points of law could be lodged if appropriate.

b) Action of 11 December 2002 (proceedings no. 3C 569/02)

56. In a fresh action filed on 11 December 2002 the applicant reiterated his employment-related claims.

57. The Bardejov District Court dismissed the action on 7 July 2004. On 20 September 2004 the applicant appealed.

58. On 27 January 2005 the Prešov Regional Court dismissed the appeal as having been submitted outside the statutory fifteen-day time-limit. The decision stated that the postal services had twice attempted to serve the first-

instance decision on the applicant at his address. As that had not been possible, he had been notified that the mail would be deposited at the post office. In accordance with the relevant provisions of the Code of Civil Procedure, the decision was deemed to have been served on the third day after it was deposited with the post office, namely on 23 August 2004. The applicant had collected the mail at the post office on 6 September 2004.

59. Prior to its decision the Regional Court asked the applicant whether he had been at his address on 19 and 20 August 2004 when the postal services had attempted to serve the first-instance decision on him and, if not, to provide evidence of his absence. The applicant replied that he was not obliged to reveal information about his private life.

5.2 Constitutional proceedings

a) Complaint of 26 November 2002

60. In a complaint of 26 November 2002 the applicant alleged a violation of his right to judicial protection in that the Supreme Court had not delivered a formal decision on his appeal on points of law of 22 April 2002 in proceedings no. 4C 1620/98.

61. On 8 January 2003 the Constitutional Court rejected the complaint as being manifestly ill-founded. It held that the action taken by the Supreme Court had not led to a constitutionally unacceptable interference with the applicant's rights. In particular, with reference to the relevant provisions of the Code of Civil Procedure, the Constitutional Court observed that an appeal on points of law was available only in respect of final decisions of courts of appeal. As the cassation appeal was not available in the applicant's case, the Supreme Court's failure to formally reject the applicant's appeal on points of law had therefore not been contrary to his right to judicial protection in the circumstances of the case.

b) Complaint of 10 February 2005

62. On 10 February 2005 the applicant complained to the Constitutional Court that the Prešov Regional Court had infringed Article 2 § 1 of Protocol No. 4 by requesting him to inform it of his whereabouts.

63. On 16 April 2005 the Constitutional Court declared the complaint manifestly ill-founded. It noted that the information requested by the Regional Court was pertinent for establishing the date of service of the first-instance decision and, consequently, for the determination of whether the applicant had lodged his appeal in time.

6.1 Proceedings concerning the applicant's action of 26 November 1998 (Bardejov District Court file no. 4C 1676/98)

64. On 26 November 1998 the applicant brought proceedings against the Bardejov District Office claiming salary arrears from 1 January 1992. On 25 January 1999 the District Court asked the applicant for further information. He replied on 27 February 1999 and 14 March 1999.

65. On 17 March 1999 the applicant was asked to pay a court fee. He sought exemption from this obligation on the grounds that he was indigent. The court summoned him to hearings scheduled for 10 October 2000 and 12 November 2002 respectively, but he said he could not attend.

66. On 5 June 2002 the applicant challenged the District Court judge for bias. The challenge was submitted to the Prešov Regional Court, which dismissed it on 6 August 2002.

67. On 7 November 2002 the applicant lodged an appeal on points of law against the Regional Court's decision of 6 August 2002. On 10 February 2003 he requested that the District Court appoint a lawyer to represent him in the cassation proceedings. He also challenged the District Court judge. On 13 October 2003 the Regional Court held that the judge was not excluded from dealing with the case in the context of the cassation proceedings.

68. On 7 January 2004 the District Court assigned a lawyer to represent the applicant in the proceedings concerning his appeal on points of law. On 31 January 2004 the applicant appealed against that decision.

69. In a letter of 3 February 2004 the District Court invited the applicant to inform the court whether he had been at his home between 8 January and 16 January 2004, to enable it to establish the date of service of the District Court's decision of 7 January 2004. In a letter of 26 March 2004, the applicant replied that he was not obliged to inform the court of his whereabouts.

70. On 26 May 2004 the Regional Court rejected the appeal against the District Court's decision of 7 January 2004 to appoint a lawyer as being out of time.

71. On 23 November 2006 the Supreme Court discontinued the proceedings on the applicant's appeal on points of law against the Regional Court's decision of 6 August 2002 as it lacked jurisdiction to review in cassation proceedings a decision whether or not to exclude a judge.

72. It appears that the proceedings on the merits are still pending.

6.2 Constitutional proceedings

a) Complaint of 14 April 2004

73. On 14 April 2004 the applicant complained to the Constitutional Court that the Bardejov District Court had infringed his right to a hearing

within a reasonable time when dealing with his appeal on points of law of 7 November 2002.

74. On 1 December 2004 the Constitutional Court, with reference to the length of the relevant proceedings (17 months) and the action taken by the District Court, dismissed the complaint as being manifestly ill-founded.

b) Complaint of 3 April 2007

75. On 3 April 2007 the applicant complained to the Constitutional Court about the length of the proceedings concerning his appeal on points of law of 7 November 2002. He also complained that the Supreme Court's decision of 23 November 2006 had infringed his right to a hearing by a tribunal. Finally, he alleged that the Prešov Regional Court had infringed Article 6 § 1 by its above decisions of 6 August 2002 and 13 October 2003.

76. On 24 May 2007 the Constitutional Court dismissed the complaint. It found that the complaint about the length of the proceedings on the appeal on points of law had been lodged out of time as the Supreme Court's decision of 23 November 2006 to discontinue the proceedings had been served on the applicant on 15 February 2007. Similarly, the two Regional Court's decisions had become final on 7 October 2002 and 18 December 2003 respectively. The applicant's complaint in that respect had been filed outside the statutory two-month time-limit. Finally, the Constitutional Court held that the Supreme Court's decision, delivered in accordance with the relevant provisions of the Code of Civil Procedure, to discontinue for lack of jurisdiction cassation proceedings related to the Regional Court's decision on the applicant's request for exclusion of a judge did not contravene his right under Article 6 § 1 of the Convention or its constitutional equivalent.

THE LAW

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

77. The applicant alleged a violation of Article 6 § 1 of the Convention, the relevant parts of which read as follows:

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

A. Admissibility

1. Complaints about the length of the proceedings

a) Proceedings concerning the action of 27 May 1996 (Bardejov District Court files nos. 4C 451/96 and 4C 52/03)

78. The Government objected that the applicant had not exhausted domestic remedies as he had failed to seek redress in respect of his length-of-proceedings complaint by means of a complaint under Article 127 of the Constitution, lodged in accordance with the applicable requirements.

79. The applicant disagreed.

80. The Court reiterates that applicants should use the remedies available in a manner which allows the competent domestic authority to redress the alleged violation of their right to a hearing within a reasonable time (see, among other authorities, *Šidlová v. Slovakia*, no. 50224/99, § 53, 26 September 2006, with further references). The remedies must be used in accordance with the formal requirements, as interpreted and applied by the domestic authorities. As regards proceedings before the Constitutional Court of the Slovak Republic in particular, plaintiffs have to expressly specify the wording of the decision which they seek to obtain. The Constitutional Court is bound by the relevant proposal (see, among other authorities, *Lubina v. Slovakia*, no. 77688/01, §§ 46 and 63, 19 September 2006).

81. The applicant in the present case complained to the Constitutional Court about the duration of the Bardejov District Court proceedings in case no. 4C 451/96. The Constitutional Court rejected the complaint as it was lodged after the District Court's decision of 30 May 2001 had become final on 28 January 2003. In so doing, the Constitutional Court relied on its established practice to entertain complaints about excessive length of proceedings only where the proceedings complained of were pending when the complaints were lodged (see, for instance, *Savka v. Slovakia* (dec.), no. 77936/01, 30 May 2006).

82. The Constitutional Court was not required to examine the proceedings concerning the applicant's appeal, his appeal on points of law or the proceedings on the outstanding claim registered under file no. 4C 52/03 as the applicant, who was represented by an advocate, had not sought a specific finding in that respect.

83. In these circumstances, the Court accepts the Government's objection.

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

b) Proceedings concerning the action of 13 July 1998 (Bardejov District Court file no. 4C 966/98)

85. The applicant alleged that the length of both the proceedings before the Bardejov District Court and the proceedings before the Constitutional Court regarding his complaint of 15 February 2002 had been excessive.

(i) Bardejov District Court proceedings no. 4C 966/98

86. The Government maintained that the applicant had lost his status as a victim as the just satisfaction which the Constitutional Court had awarded him in its judgment of 25 June 2003 was appropriate.

87. The applicant maintained, *inter alia*, that the amount of just satisfaction awarded to him by the Constitutional Court was insufficient.

88. The Court notes that in the above judgment the Constitutional Court expressly found that the Bardejov District Court had violated the applicant's right to a hearing within a reasonable time. It awarded him the equivalent of EUR 477 in just satisfaction and ordered the reimbursement of his costs. Whether this redress was adequate and sufficient having regard to Article 41 of the Convention falls to be determined in the light of the principles established under the Court's case-law (see *Scordino v. Italy* (no. 1) [GC], no. 36813/97, §§ 178-213, ECHR 2006-...; and *Cocchiarella*, cited above, §§ 69-98).

89. The amount of just satisfaction awarded by the Constitutional Court corresponds approximately to 16% of what the Court would generally award in a similar situation in a Slovakian case. Such a low amount must be considered insufficient (see *Scordino* (no. 1), cited above, §§ 205-06 and 214-15). The applicant can accordingly still claim to be a "victim" of a breach of the "reasonable-time" requirement.

90. The proceedings in issue started on 13 July 1998 and ended on 10 February 2005 with the Supreme Court's decision on the appeal on points of law. During that period the case was heard by courts at three levels of jurisdiction. However, since in his complaints to the Constitutional Court the applicant complained solely of unjustified delays in the proceedings before the Bardejov District Court, the Court can take into account only the relevant part of the proceedings, namely from 13 July 1998 to 25 February 2002 (proceedings on the applicant's action and processing of his appeal) and from 3 December 2002 to 27 December 2004 (period during which the District Court processed the applicant's appeal on points of law) with the exception of approximately two months during which procedural issues were examined by the Regional Court. The period to be taken into consideration thus lasted more than five years and six months. During that period the District Court examined the applicant's claim and, subsequently, it was involved in the procedure relating to his appeal on points of law prior to its submission to the Supreme Court.

91. 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.

(ii) Proceedings related to the constitutional complaint of 15 February 2002

92. The Constitutional Court decided the applicant's complaint of 15 February 2002 on 25 June 2003.

93. In the light of all the material in its possession, and in so far as the matter complained of is within its competence (see also *Bohucký v. Slovakia*, no. 16988/02, § 25, 23 October 2007), the Court finds that it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

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

c) Proceedings related to the applicant's action of 13 July 1998 concerning the validity of his employment (Bardejov District Court file no. 4C 968/98)

95. The Constitutional Court was prevented from examining the applicant's two complaints about the length of the proceedings as they had not been submitted in accordance with the applicable requirements (see paragraphs 45 and 47).

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

d) Proceedings concerning the action of 9 November 1998 (Bardejov District Court file no. 4C 1620/98)

97. As regards the action commenced on 9 November 1998, the final decision was given by the District Court on 19 March 2002. The relevant period thus lasted 3 years, 4 months and 9 days for one level of jurisdiction. As an appeal on points of law was excluded in the case and the use of an extraordinary appeal on points of law was within the discretionary power of the General Prosecutor, the Court will not consider in the context of the examination of the complaint about the length of the proceedings the applicant's subsequent motions.

98. The Court notes that the length of the proceedings in issue was mainly due to the applicant's conduct. In particular, on 21 May 1999 the District Court asked the applicant to provide better particulars of his claim. On 17 June 1999 and 27 January 2000 the applicant was summoned to an interview. On 29 July 1999 and 8 February 2000 the applicant informed the court that his state of health prevented him from attending and that that was likely to be the position for some time.

99. There is no indication in the documents before the Court that the length of the proceedings was excessive.

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

e) Proceedings concerning the action of 26 November 1998 (Bardejov District Court file no. 4C 1676/98)

101. Before the Constitutional Court the applicant only complained about the length of the proceedings related to the examination of his appeal on points of law against the Regional Court's decision not to grant his request for a judge to be required to stand down. The Supreme Court rejected the appeal on points of law as no such remedy was available in the case (see paragraph 71 above). Accordingly, those proceedings did not involve a "determination" of the applicant's "civil rights and obligations" within the meaning of Article 6 § 1 of the Convention (see *Nešťák v. Slovakia*, no. 65559/01, § 93, 27 February 2007).

102. To the extent that the applicant may be understood as complaining about the overall length of the proceedings in his action commenced on 26 November 1998, the Court notes that he failed to seek redress by means of a complaint under Article 127 of the Constitution filed in accordance with the applicable requirements.

103. It follows that this part of the application must be rejected partly as being incompatible *ratione materiae* with the provisions of the Convention and partly for non-exhaustion of domestic remedies in accordance with Article 35 §§ 1, 3 and 4 of the Convention.

2. Other complaints under Article 6 § 1

a) As regards proceedings concerning the action of 9 November 1998

104. As regards the proceedings concerning the action commenced on 9 November 1998 (Bardejov District Court file no. 4C 1620/98), the applicant complained that his right to a fair hearing by a tribunal had been infringed in that (i) the District Court had discontinued the proceedings on 19 March 2002, despite the fact that the applicant had furnished the requested further particulars of his claim and (ii) the Supreme Court had failed to decide his appeal on points of law and the Constitutional Court had dismissed his complaint on that point.

a) The Court notes that under Slovakian law neither an ordinary appeal nor an appeal on points of law was available against the District Court's decision of 19 March 2002 to discontinue the proceedings. In these circumstances, the applicant should have sought redress directly before the Constitutional Court pursuant to Article 127 of the Constitution (which entered into force with effect from 1 January 2002) for the infringement of which he now complains before the Court.

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

b) Considering that under Slovakian law no appeal on points of law lay against the District Court's decision of 19 March 2002 to discontinue the proceedings, the Court does not find that the Supreme Court's conduct (see paragraph 55 above) or the Constitutional Court's decision to dismiss the applicant's complaint in respect thereof (see paragraph 61 above) infringed the applicant's right under Article 6 § 1 of the Convention

105. 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) Alleged unfairness of the proceedings

106. The applicant further complained that the proceedings concerning his claims had been unfair and that the courts' decisions were arbitrary.

107. The Court reiterates that it has only limited power to examine complaints about errors of fact or law allegedly committed by national courts (for a recapitulation of the relevant case-law see, among other authorities, *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

108. In the light of all the material in its possession, and to the extent that domestic remedies have been exhausted, the Court finds no appearance of a violation of the applicant's right to a fair hearing.

109. 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

110. The Government admitted that unjustified delays had occurred in the Bardejov District Court proceedings no. 4C 966/98 concerning the applicant's action commenced on 13 July 1998. However, they alleged that the length of the proceedings was partly attributable to the applicant's conduct, in particular his failure to comply with the requests of the District Court.

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

112. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

113. Having examined all the material submitted to it the Court notes, in particular, that in the proceedings on the merits of the applicant's action the Bardejov District Court remained inactive for more than two years from 16 October 1999 to 10 December 2001 (see paragraph 38 above). Having regard to its case-law on the subject as well as the above-mentioned admission by the Government, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable-time" requirement.

114. As to the subsequent period during which the District Court had dealt with the applicant's appeal on points of law, the Court concurs with the Constitutional Court's finding of 5 February 2004 (see paragraph 40 above) that its length was not excessive.

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

II. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL NO. 4 AND OF ARTICLE 14 OF THE CONVENTION

116. The applicant complained that the courts had asked him to provide information about his whereabouts (see paragraphs 59 and 69 above). He relied on Article 2 § 1 of Protocol No. 4. He also complained that the Slovakian authorities dealing with his cases had discriminated against him, contrary to Article 14 of the Convention.

117. However, 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.

118. 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. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

119. The applicant complained that he had had no effective remedy at his disposal in respect of his above complaints. He 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."

120. The Court has held that a complaint under Article 127 of the Constitution, as worded since 1 January 2002, is, in principle, an effective remedy which applicants complaining about the unreasonable length of proceedings should use (see *Andrášik and Others v. Slovakia* (dec.), nos.

57984/00, 60237/00, 60242/00, 60679/00, 60680/00, 68563/01, 60226/00, 22 October 2002).

121. The Court further reiterates that the word “remedy” within the meaning of Article 13 does not mean a remedy which is bound to succeed, but simply an accessible remedy before an authority competent to examine the merits of a complaint (see, among other authorities, *Šidlová v. Slovakia*, no. 50224/99, § 77, 26 September 2006). In the light of this principle the Court finds that the fact that the redress obtained by the applicant from the Constitutional Court in respect of the length of the Bardejov District Court proceedings in case no. 4C 966/98 (see paragraph 89 above) was not sufficient for Convention purposes does not render the remedy under Article 127 of the Constitution in the circumstances of the present case incompatible with Article 13 of the Convention (see also *Solárová and Others v. Slovakia*, no. 77690/01, § 56, 5 December 2006, with further reference).

122. The Court has found above that the other complaints of the applicant under Articles 6 § 1 and 14 of the Convention and under Article 2 of Protocol No. 4 were inadmissible. In respect of those complaints the applicant therefore has no “arguable claim” for the purposes of Article 13 (see *Boyle and Rice v. the United Kingdom*, judgment of 27 April 1988, Series A no. 131, § 52).

123. 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.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

124. 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

125. The applicant claimed 200,000 Slovakian korunas (SKK) in respect of pecuniary damage and SKK 1,300,000 in respect of non-pecuniary damage.

126. The Government contested these claims.

127. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects that claim.

As regards the claim in respect of non-pecuniary damage, having regard to its case-law on the subject (see the recapitulation of the relevant

principles in *Scordino v. Italy (no. 1)*, judgment cited above, §§ 267-272), and taking into account that the applicant has already obtained a measure of just satisfaction under the Constitutional Court's judgment of 25 June 2003 (see paragraph 38 above), the Court awards him EUR 1,000.

B. Costs and expenses

128. The applicant stated that he was not in a position to indicate the exact amount of his costs and expenses. He left the matter to the Court's discretion.

129. The Government did not express an opinion on the matter.

130. Under the Court's case-law, an applicant is entitled to the reimbursement of 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 applicant, who was not represented by a lawyer, the sum of EUR 100 to cover his out-of-pocket expenses related to the proceedings before the Court.

C. Default interest

131. 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 complaint concerning the excessive length of the Bardejov District Court proceedings no. 4C 966/98 admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *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, the following amounts, to be converted into Slovakian korunas at the rate applicable at the date of settlement:
 - (i) EUR 1,000 (one thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 100 (one hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(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* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 17 June 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President