



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

FOURTH SECTION

**CASE OF KOMANICKÝ v. SLOVAKIA (No. 4)**

*(Application no. 70494/01)*

JUDGMENT

STRASBOURG

22 July 2008

**FINAL**

***22/10/2008***

*This judgment may be subject to editorial revision.*



**In the case of Komanický v. Slovakia (No. 4),**

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

Lech Garlicki, *President*,

Giovanni Bonello,

Ljiljana Mijović,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä,

Mihai Poalelungi, *judges*,

and Fatoş Aracı, *Deputy Registrar*,

Having deliberated in private on 1 July 2008,

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

**PROCEDURE**

1. The case originated in an application (no. 70494/01) 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 Slovak national, Mr Ioan Kornelij Komanický (“the applicant”), on 22 April 2001.

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

3. On 12 January 2006 and 29 August 2007 the President of the Chamber decided to give notice of the application to the Government Applying Article 29 § 3 of the Convention, it was decided to rule on the admissibility and merits of the application at the same time.

**THE FACTS****THE CIRCUMSTANCES OF THE CASE**

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

*1. Proceedings relating to the termination of the applicant's contract of employment*

*1.1 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.

*1.2.1 Execution proceedings of 1998 (Bardejov District Court files no. E 182/98 and no. 3 Er 210/06, Prešov District Court file no. 572/99)*

**a) Applications of 25 May 1998 and 12 January 2006**

8. On 25 May 1998 the applicant filed an application with the Bardejov District Court claiming enforcement of the District Court's judgment of 16 January 1991 by which his dismissal of 1988 had been declared unlawful and the payment of his costs had been ordered to the defendant. The application was registered under file no. 182/98.

9. On 22 April 1999 the District Court invited the applicant to specify his claim. The applicant replied on 7 May 1999.

10. On 13 December 2005 the District Court admitted that the file had been misplaced and ordered its reconstruction.

11. On 12 January 2006 the applicant filed an application for the District Court's judgment of 16 January 1991 to be enforced by an executions officer in accordance with new legislation enacted with effect from

1 September 2005. That application was registered under file no. 3 Er 210/06.

12. On 20 March 2006 the District Court transmitted the file to the executions officer. In doing so it concluded its proceedings under file no. 182/98 as under the new legislation the enforcement of judicial decisions was entrusted exclusively to executions officers.

13. On 19 July 2006 the District Court dismissed both parties' objections to the execution.

14. The executions officer enforced the compensation for costs of the proceedings which had been awarded to the applicant in the judgment in issue. On 19 October 2006 the executions officer informed the applicant that the enforcement was thereby concluded. The applicant was invited to indicate to which bank account the sum in issue should be transferred.

15. In November 2006 the applicant objected that the execution had not been completed. He expressed the view that under the judgment in issue the defendant should be obliged to offer him a job.

16. On 22 November 2006 the executions officer transferred the sum enforced (the equivalent of approximately EUR 20), in accordance with the applicant's request, to the bank account of the Orthodox Church Parish in Bardejov.

17. On 20 December 2006 the District Court informed the executions officer that no objections to the execution could be examined once the execution was completed. The executions officer was asked to return to the court the authorisation to carry out the enforcement. He complied with the request on 21 December 2006.

#### **b) Application of 10 June 1998**

18. On 10 June 1998 the applicant submitted to the Bardejov District Court another application for enforcement of the same judgment of 16 January 1991. Until March 1999, the court did not consider the applicant's application as a request for enforcement and attached it to the original case file. After having reconsidered the position, the court registered it as an application for enforcement under file no. E 83/99.

19. On 22 April 1999 the Bardejov District Court transferred the file to the Prešov District Court for reasons of jurisdiction. The case was registered under file no. E 572/99.

20. On 13 December 2005 the applicant was advised that he should submit his enforcement claim to an executions office in accordance with new legislation enacted with effect from 1 September 2005.

21. On 23 February 2006 the applicant informed the Prešov District Court that an executions officer had refused to deal with this request for the judgment in issue to be enforced.

22. On 27 March 2006 the Prešov District Court advised the applicant to seek redress with the Slovak Chamber of Executions Officers. The applicant

was informed that the amended law in force from 1 September 2005 required in similar cases an application for enforcement to be submitted to an executions officer within six months and the court concerned to be informed accordingly.

23. On 17 September 2007 the Prešov District Court discontinued the proceedings as the applicant had not complied with the above statutory requirement.

### *1.2.2 Constitutional proceedings*

#### **a) Complaint of 4 December 2005**

24. On 4 December 2005 the applicant complained about the length of the proceedings under file no. E 182/98 to the Constitutional Court.

25. On 13 July 2006 the Constitutional Court (Second Chamber) held that the Bardejov District Court had violated the applicant's right to have the case decided without undue delay in that it had remained entirely inactive for more than seven years.

26. The Constitutional Court decided not to award any just satisfaction to the applicant. It held that the applicant sought the enforcement of a judicial decision of a declaratory nature which did not, as such, impose any enforceable obligation on the defendant. In that respect his request had been devoid of any prospect of success from the very beginning.

27. As the applicant had failed to specify his claim for costs and expenses and since the lawyer whom the applicant had appointed to represent him had made no submission to the Constitutional Court, the latter decided not to make any award under that head.

#### **b) Complaint of 5 December 2005**

28. On 5 December 2005 the applicant complained about the length of the Prešov District Court proceedings under file no. E 572/99.

29. On 28 June 2006 the Constitutional Court (First Chamber) held that the Prešov District Court had not violated the applicant's right to a hearing within a reasonable time. The decision stated that the applicant had claimed the enforcement of a decision declaring his dismissal from a job unlawful. That decision was of a purely declaratory nature and it imposed no specific obligation on the defendant. In those circumstances the way in which the District Court had dealt with the request for enforcement could not affect the applicant's right to a hearing within a reasonable time.

#### **c) Complaint of 24 October 2006**

30. On 24 October 2006 the applicant complained that the Bardejov District Court had violated his right to a fair hearing in that in proceedings

under file no. 3 Er 210/06 it had failed to ensure respect for his right to work in accordance with the judgment of 16 January 1991.

31. On 15 March 2007 the Constitutional Court declared the complaint inadmissible as being manifestly ill-founded. As in the above decisions, it noted that under the judgment of 16 January 1991 the applicant had no enforceable right to obtain employment. In that connection the applicant should have initiated separate proceedings with a view to obliging the defendant to offer him a job.

*1.3.1 Proceedings concerning the applicant's action of 2 February 1996 (Bardejov District Court file no. 11C 129/96)*

32. On 2 February 1996 the applicant brought proceedings against the State, represented by the Bardejov District Office, before the Bardejov District Court. He claimed that (i) the court should declare that the decision of the Bardejov District Office of 2 September 1991 to put an end to his contract of employment formally had been arbitrary and (ii) that the authorities had discriminated against him in that respect.

33. On 27 July 2001 the District Court discontinued the proceedings holding that it was the subject matter of two other sets of proceedings which were still pending. The applicant appealed.

34. On 20 December 2002 the Prešov Regional Court upheld the District Court decision to discontinue the proceedings in respect of the first claim and quashed the decision in respect of the applicant's second claim concerning the alleged discrimination. The decision of the court of appeal became final on 21 February 2003.

35. On 28 February 2003 the applicant filed an appeal on points of law against the Regional Court's decision of 20 December 2002, alleging that it was erroneous.

36. On 28 April 2005 the Supreme Court rejected the applicant's appeal on points of law in respect of the Regional Court's decision to uphold the first-instance decision to discontinue the proceedings in respect of the first claim. The Supreme Court quashed the other part of the appeal decision and remitted the case to the Regional Court. The court of cassation held that the court of appeal should have either determined the issue or remitted the relevant part of the case at first instance or, if appropriate, transferred it to a different authority.

37. On 28 November 2005 the Regional Court quashed the relevant part of the District Court's decision of 27 July 2001 concerning the alleged discrimination against the applicant and remitted the case to the District Court.

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

### *1.3.2 Constitutional proceedings*

39. On 10 March 2003 the applicant complained to the Constitutional Court that in the proceedings leading to the decision of 20 December 2002 the Bardejov District Court and the Prešov Regional Court had violated his right to a fair hearing within a reasonable time. He also alleged a violation of his right to work.

40. On 4 June 2003 the Constitutional Court rejected the complaint. It based its decision on its established practice of examining 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 the proceedings complained of had ended with the Regional Court's decision, which had become final on 21 February 2003.

### *2.1 Execution proceedings of 1997*

41. On 5 December 1997 execution proceedings were instituted for enforcement of the Bardejov District Court's judgment of 15 March 1995, by which the applicant had been ordered to pay a debt to the Bardejov District Labour Office.

42. On 19 December 1997 the Bardejov District Court appointed an executions officer to enforce the judgment. In a letter of 2 January 1998, the executions officer informed the applicant about the execution proceedings.

43. On 23 January 1998 the applicant filed objections to the execution.

44. On 30 January 1998 the applicant paid the sum owed as well as the costs of the execution.

45. On 9 February 1998 the executions officer informed the District Court thereof and returned the authority to carry out the execution.

### *2.2 Constitutional proceedings*

46. On 21 February 2003 the applicant complained about undue delays in the above execution proceedings to the Constitutional Court. He stated that the Bardejov District Court had not yet decided on his objections to the execution submitted on 23 January 1998.

47. On 20 October 2003 the Constitutional Court rejected the applicant's complaint as having been lodged out of time. With reference to the relevant law, it held that the execution proceedings had ended with final effect on 9 February 1998, when the District Court had been notified of the applicant's compliance with his obligation. After that date, the District Court had not been authorised to take any further action in those proceedings. The applicant had thus failed to lodge his constitutional complaint within the statutory two-month time-limit, which had started running on 9 February 1998.

*3.1 Proceedings concerning the applicant's action for protection of his personal integrity of 1996 (Bardejov District Court file no. 4C 309/96)*

48. Since 1968 the applicant has lived in a block of flats owned by a co-operative. In 1996 the co-operative published a list of tenants who owed rent. The applicant's name was included in the list.

49. On 27 March 1996 the applicant sued the co-operative for defamation before the Bardejov District Court. He maintained that the publication of his name in the list of debtors had infringed his personal rights.

50. On 3 April 1996 the court invited the applicant to pay a court fee. On 29 April 1996 the defendant submitted comments on the action.

51. On 6 May 1996 the court discontinued the proceedings on the ground that the applicant had failed to pay the fee. The applicant appealed and requested to be exempted from this obligation.

52. On 10 October 1996 the District Court granted the applicant's request and quashed the decision to discontinue the proceedings.

53. The District Court held three hearings in October and November 1996.

54. On 2 December 1996 the District Court stayed the proceedings pending the outcome of different proceedings in which the co-operative sued the applicant for arrears of rent. The applicant appealed. The court of appeal upheld the first-instance decision on 26 March 1997.

55. Between April 1997 and February 2000 the District Court made eighteen requests for information about the state of the above proceedings against the applicant. On 14 April 1999 the District Court discontinued the proceedings concerning the co-operative's claim for arrears of rent. This decision became final on 17 March 2000.

56. In the meantime, on 20 February 2000, the applicant informed the District Court that he was ill and that he could not attend any hearings.

57. On 7 February 2003 the District Court decided to resume the proceedings in the applicant's action. The applicant appealed, alleging that this decision was superfluous. The Regional Court rejected the appeal on 27 June 2003.

58. The District Court summoned the applicant to a hearing scheduled for 20 October 2003. The applicant informed the court that he did not wish to attend.

59. On 27 October 2003 the case was assigned to a different judge, as the judge originally involved felt biased due to the applicant's verbal attacks.

60. On 14 April 2004 the District Court dismissed the action. The court held that there was no indication that the publication of the applicant's name in the list of debtors was capable of infringing his right to personal integrity.

Moreover, it had been proven that the information about the applicant's debt was correct. The applicant appealed.

61. On 16 March 2005 the Prešov Regional Court upheld the District Court's judgment. The decision on the applicant's claim became final on 10 November 2005.

62. On 29 November 2005 the applicant filed an appeal on points of law.

63. On 19 January 2006 the applicant's file was sent to the Constitutional Court at the latter's request.

64. On 26 June 2007 the District Court appointed a lawyer to represent the applicant in the proceedings regarding his appeal on points of law.

65. No information is available about further developments in the case.

### *3.2 Constitutional proceedings*

#### **a) Complaint of 26 November 2002**

66. On 26 November 2002 the applicant complained to the Constitutional court about undue delays in the above proceedings before the Bardejov District Court.

67. On 7 May 2003 the Constitutional Court found that the Bardejov District Court had violated the applicant's right to have the case decided without undue delay.

68. The decision stated that the District Court had been inactive without any justification from 17 March 2000 until 26 November 2002 (the date of lodging the complaint to the Constitutional Court), that is, a total of two years and eight months. The applicant was partly responsible for that period in that, after he had informed the District Court of his inability to attend hearings on account of his illness on 20 February 2000, he had failed to inform the court when the period of that illness had come to an end.

69. The Constitutional Court therefore decided not to award any just satisfaction in respect of non-pecuniary damage to the applicant. It ordered the District Court to avoid further delays in the proceedings and to reimburse the applicant's costs.

#### **b) Complaint of 19 December 2005**

70. On 19 December 2005 complained about the excessive length of the above proceedings before the District Court and the Regional Court. He also complained that the change in judges had been contrary to his right to a hearing by a tribunal established by law and that the courts' decisions were arbitrary. Finally, the applicant alleged a violation of Article 8 of the Convention in that the courts had failed to protect his personal rights.

71. On 17 May 2006 the Constitutional Court declared the complaint inadmissible. It found no unjustified delays in the proceedings during the period subsequent to its above judgment on 7 May 2003. As regards the

complaint about the change of judges, the applicant should have first sought redress by means of an appeal on points of law. Since the applicant had filed an appeal on points of law against the Regional Court's judgment of 16 March 2005, the remaining complaints to the Constitutional Court were premature.

### *3.3 Proceedings related to the applicant's criminal complaint*

72. On 25 May 2004 the applicant filed a criminal complaint in respect of a fraud. He alleged that the case file in the proceedings concerning his above defamation action of 1996 contained documents with a forged signature.

73. On 3 July 2004 the District Directorate of the Police Corps in Bardejov found no ground for bringing criminal proceedings.

74. On 6 August 2004 a prosecutor of the District Prosecutor's Office in Bardejov dismissed the applicant's complaint against the above decision.

75. On 13 September 2004 the applicant lodged a complaint to the Constitutional Court alleging a violation of Articles 6 and 8 of the Convention in respect of the above decisions of the District Directorate of the Police Corps and of the prosecutor.

76. On 8 December 2004 the Constitutional Court rejected the complaint for non-exhaustion of domestic remedies. It held that the applicant should have first sought redress before a public prosecutor at a higher level in accordance with the relevant provisions of the Public Prosecution Act 2001.

77. On 28 March 2006 the applicant complained before the Constitutional Court that his rights under Article 6 of the Convention had been violated in that the Regional Prosecutor's Office in Prešov had failed to take appropriate action in his case.

78. As the complaint did not comply with the formal requirements, on 2 May 2006 the Constitutional Court asked the advocate appointed by the applicant to submit further information. In the absence of any reply from the advocate, on 7 July 2006 the Constitutional Court, rejected the complaint as falling short of the statutory requirements.

79. On 19 July 2007 the Constitutional Court rejected a third complaint by the applicant. It concerned the refusal, by the Police Directorate in Bardejov and the Bardejov District Prosecutor's Office, to prosecute persons responsible for the inclusion of a fraudulent document in the file concerning the above action for defamation. The decision stated that the prosecuting authorities had duly considered the applicant's criminal complaint and had given sufficient reasons for their conclusion. The fact that they did not accept the applicant's argument that an offence had been committed did not amount to a violation of his right to a fair hearing.

## THE LAW

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

80. 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 enforcement requests of 25 May 1998, 10 June 1998 and 12 January 2006 (Bardejov District Court files no. E 182/98 and no. 3 Er 210/06 and Prešov District Court file no. E 572/99)**

81. The Government pointed out that in the judgment of 13 July 2006 the Constitutional Court had admitted that in proceedings no. E 182/98 the Bardejov District Court had violated the applicant’s right to a hearing within a reasonable time. They also drew the Court’s attention to the reasons for which the Constitutional Court decided not to award any just satisfaction to the applicant. As to the duration of the proceedings concerning the applicant’s requests for enforcement of 25 May 1998 and 10 June 1998, the applicant’s complaint was not manifestly ill-founded.

82. The applicant maintained that the length of the proceedings had been excessive and that he had not obtained appropriate redress from the Constitutional Court.

83. The Court notes that the Constitutional Court, on 13 July 2006, held that the Bardejov District Court had violated the applicant’s right to have the case decided without undue delay in that it had failed to deal with the applicant’s enforcement request of 25 May 1998 for more than seven years. The Constitutional Court decided not to award any just satisfaction to the applicant as he had sought the enforcement of a judicial decision of declaratory nature which did not, as such, impose any enforceable obligation on the defendant.

84. Having regard to its case-law (see *Becová v. Slovakia* (dec.), no. 23788/06, 18 September 2007, with further references), the Court considers that the applicant can still claim to be a victim, within the meaning of Article 34 of the Convention, as regards his complaint about the length of the proceedings covered by the Constitutional Court’s finding of 13 July 2006. In particular, since the Constitutional Court decided not to

award just satisfaction to the applicant, it cannot be said that the latter obtained sufficient redress at domestic level. The Court considers relevant in this connection the overall duration of the proceedings, the fact that the District Court had taken no action on the applicant's request and also the fact that the judgment to be enforced entitled the applicant to have his costs reimbursed by the defendant.

85. As regards the request for enforcement of 25 May 1998, it was pending before the District Court in Bardejov until 20 March 2006, when an executions officer was entrusted with the enforcement in accordance with the applicant's request of 12 January 2006 pursuant to new legislation enacted with effect from 1 September 2005. The execution of the relevant part of the judgment in issue ended on 21 December 2006 when the executions officer returned to the District Court the authorisation to carry out the enforcement. The relevant period therefore lasted eight years, six months and twenty-nine days.

86. As to the request for enforcement filed on 10 June 1998, the proceedings ended with the decision of the Prešov District Court of 17 September 2007. The relevant period therefore lasted nine years, three months and ten days.

87. The Court notes that this part of the application 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.

**b) Proceedings concerning the applicant's action of 2 February 1996 (Bardejov District Court file no. 11C 129/96)**

88. The Government argued 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.

89. The applicant disagreed.

90. 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).

91. The applicant in the present case complained to the Constitutional Court about the duration of the Bardejov District Court and the Prešov Regional Court proceedings. The Constitutional Court rejected the complaint as it had been lodged after the final effect of the decision in the proceedings complained of. In so doing, the Constitutional Court relied on its established practice of entertaining complaints about excessive length of proceedings only where the proceedings complained of were pending before the authority concerned when the complaints were lodged (see, for instance, *Savka v. Slovakia* (dec.), no. 77936/01, 30 May 2006).

92. The Constitutional Court was not required to examine the proceedings concerning the applicant's appeal on points of law as he had not sought a specific finding in that connection.

93. The Court further notes that the applicant could have again sought redress before the Constitutional Court in respect of the relevant part of the proceedings after the Supreme Court had quashed the Regional Court's decision of 20 December 2002 and returned the case in part to courts at lower instances for a fresh determination.

94. 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.

**c) Execution proceedings of 1997**

95. The applicant complained that the length of the execution proceedings brought against him in 1997 had been excessive and, in particular, that the Bardejov District Court had failed to decide on his objections of 23 January 1998.

96. On 20 October 2003 the Constitutional Court held, with reference to the relevant law, that the execution proceedings had ended with final effect on 9 February 1998 when the District Court had been notified of the applicant's compliance with his obligation and had returned to the court the authority to enforce the sum owed by the applicant. The Court finds no reason for disagreeing with that conclusion.

97. In these circumstances, the overall duration of the execution proceedings in issue of approximately two months was not contrary to the "reasonable time" requirement laid down in Article 6 § 1.

98. 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.

**d) Proceedings concerning the applicant's action for protection of his personal integrity of 1996 ( Bardejov District Court file no. 4C 309/96)**

99. The Government pointed out that in the judgment of 7 May 2003 the Constitutional Court had acknowledged that the District Court had violated the applicant's right to a hearing within a reasonable time. The

Constitutional Court had ordered the District Court to avoid further delays in the proceedings and to reimburse the applicant's costs. In view of the applicant's conduct that decision provided appropriate redress to the applicant in the circumstances. The Government concluded that the applicant had lost the status of a victim within the meaning of Article 34 of the Convention.

100. The applicant disagreed.

101. The Court notes that at the time of the first judgment of the Constitutional Court the proceedings had lasted seven years and one month. During that period, the proceedings were stayed for three years and more than three months as a relevant issue was to be determined in a different set of proceedings.

102. The only delay imputable to the District Court was that identified by the Constitutional Court, namely from 17 March 2000 to 26 November 2002. The Court accepts that the applicant was partly responsible for this delay as he had informed the District Court on 20 February 2000 that his health prevented him from participating in the pending proceedings. However, the applicant failed to inform the District Court when that obstacle had ceased to exist. Such an action would have appeared appropriate for a further prolongation of the proceedings to be avoided.

103. The Court further notes that, apart from finding a violation of the applicant's right in issue, the Constitutional Court ordered the District Court to reimburse the applicant's costs and to avoid further delays in the proceedings. That order was complied with as, subsequently, the District Court determined the merits of the case within less than one year. The Court concurs with the conclusion which the Constitutional Court reached in its decision of 17 May 2006 according to which no unjustified delays occurred during the period following the constitutional judgment of 7 May 2003.

104. In view of the above, the Court accepts that the redress which the applicant obtained as a result of the Constitutional Court's judgment of 7 May 2003 was sufficient in the circumstances of the case. Accordingly, in respect of this part of the application the applicant can no longer claim to be a victim within the meaning of Article 34 of the Convention.

105. Finally, to the extent that the applicant may be understood to be complaining about the length of the proceedings concerning his appeal on points of law, he has not shown that he sought redress by means of a complaint under Article 127 of the Constitution.

106. It follows that this part of the application must be rejected under Article 35 §§ 1, 3 and 4 of the Convention partly as being manifestly ill-founded and partly for non-exhaustion of domestic remedies.

## *2. Other complaints under Article 6 § 1*

107. The applicant complained that (i) the police and public prosecutors had failed to take appropriate action on his criminal complaints concerning a fraud, (ii) the change of the Bardejov District Court judge dealing with his defamation action had been unlawful and (iii) the courts' decisions in his cases were arbitrary.

108. 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.

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**

109. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). The Court reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

110. 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).

### *1. As regards the request for enforcement of 25 May 1998*

111. Having examined all the material submitted to it the Court notes, in particular, that in the proceedings concerning the request for enforcement of 25 May 1998 the Bardejov District Court remained inactive for more than seven years (see paragraph 25 above). Having regard to its case-law on the subject as well as the above-mentioned admission by the Government (see paragraph 81 above), the Court considers that in the instant case the length of the proceedings concerning the applicant's request of 25 May 1998 was excessive and failed to meet the "reasonable time" requirement.

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

### *2. As regards the request for enforcement of 10 June 1998*

112. The Court notes that in his application of 10 June 1998 the applicant asked the Bardejov District Court to enforce the same decision as

in his request of 25 May 1998, namely the Bardejov District Court's judgment of 16 January 1991. There is no indication that the proceedings concerning this request (which ended with the Prešov District Court's decision of 17 September 2007) concerned any different issue from that which the domestic courts were required to determine in the Bardejov District Court proceedings related to the applicant's request of 25 May 1998.

113. In these circumstances, and having regard to its above conclusion as regards the length of the proceedings concerning the request of 25 May 1998 (see paragraph 111 above), the Court does not consider it necessary to separately examine whether the length of the proceedings which the applicant had initiated on 10 June 1998 was contrary to the reasonable time requirement laid down in Article 6 § 1 of the Convention.

## II. ALLEGED VIOLATION OF ARTICLES 8 AND 14 OF THE CONVENTION

114. The applicant complained about the dismissal of his defamation action of 1996. He relied on Article 8 of the Convention. He also complained that the Slovakian authorities dealing with his cases had discriminated against him, contrary to Article 14 of the Convention.

115. 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.

116. 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

117. 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.”

118. 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).

119. 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 proceedings related to his enforcement request of 25 May 1998 (see paragraphs 83 and 84 above) was not sufficient for Convention purposes and that, in a separate set of proceedings, the Constitutional Court dismissed the applicant’s complaint about the length of the proceedings concerning his enforcement request of 10 June 1998 related to the same subject matter (see paragraph 29 above) 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).

120. The Court has found above that the applicant’s other complaints under Articles 6 § 1, 8 and 14 of the Convention 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).

121. 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

122. 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**

123. As regards the proceedings related to his applications for enforcement of the Bardejov District Court’s judgment of 16 January 1991, the applicant claimed non-pecuniary damage the amount of which he left to be determined by the Court in accordance with its practice. He further claimed 6 million Slovak korunas (SKK) in respect of non-pecuniary damage resulting from the alleged violation of his rights in the other sets of proceedings.

124. The Government left the matter to the Court's discretion as regards the enforcement proceedings concerning the applications for enforcement of 1998. They contested the remaining claims of the applicant.

125. The Court considers that the applicant must have sustained non-pecuniary damage as a result of the protracted duration of the proceedings related to his application for enforcement of 25 May 1998. Ruling on an equitable basis, it awards him EUR 6,000 under that head.

### **B. Costs and expenses**

126. The applicant also claimed SKK 20,000 for the costs and expenses incurred before the Constitutional Court in the proceedings leading to the decisions of 28 June and 13 July 2006 (paragraphs 25-27 and 29 above). He also claimed a lump sum in respect of his other expenses, such as postage and costs of photocopying, the amount of which he left for the Court to determine.

127. The Government contested the claim related to the proceedings leading to the Constitutional Court's decision of 13 July 2006. As for the remainder of the applicant's claims, they left the matter to the Court's discretion.

128. According to 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 are reasonable as to quantum.

129. In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 100 for the proceedings before it.

### **C. Default interest**

130. 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 proceedings related to the applications for enforcement of 25 May and 10 June 1998 admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention as regards the proceedings concerning the application for enforcement of 25 May 1998;
3. *Holds* that a separate examination of the complaint about the length of the proceedings concerning the application for enforcement of 10 June 1998 is not called for;
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 the following amounts, to be converted into Slovakian korunas at the rate applicable at the date of settlement:
    - (i) EUR 6,000 (six 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 July 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı  
Deputy Registrar

Lech Garlicki  
President