



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

1959 · 50 · 2009

FIFTH SECTION

CASE OF PEŠKOVÁ v. THE CZECH REPUBLIC

(Application no. 22186/03)

JUDGMENT

STRASBOURG

26 November 2009

FINAL

26/02/2010

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 Pešková v. the Czech Republic,
The European Court of Human Rights (Fifth Section), sitting as
a Chamber composed of:
Peer Lorenzen, *President*,
Renate Jaeger,
Karel Jungwiert,
Rait Maruste,
Mark Villiger,
Isabelle Berro-Lefèvre,
Zdravka Kalaydjieva, *judges*,
and Claudia Westerdiek, *Section Registrar*,
Having deliberated in private on 3 November 2009,
Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 22186/03) against the Czech Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Czech national, Ms Eva Pešková (“the applicant”), on 14 July 2003.
2. The Czech Government (“the Government”) were represented by their Agent, Mr V.A. Schorm, of the Ministry of Justice.
3. The applicant alleged, inter alia, that she had been deprived of her property in violation of Article 1 of Protocol No. 1 to the Convention.
4. On 8 November 2005 the Court decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

I. Restitution proceedings

5. In 1979 the applicant purchased a one-third share in certain real estate in Neštěnice which had been donated to the State by the original owners

in 1966. The purchase price of 25,326 Czech korunas (CZK) (950 euros (EUR)¹) for the whole property was fixed by an expert in September 1978.

6. At the time the application was lodged the property was being used by the applicant's daughter and her family.

7. On 25 August 1992, after the entry into force of Act no. 229/1991 ("the Land Ownership Act"), a certain M. instituted restitution proceedings in the Benešov District Court (*okresní soud*) against five co-owners, including the applicant, seeking recovery of the property in issue by virtue of section 8 (1) of the Land Ownership Act. M. alleged that the acquisition of the property by the applicant and the other co-owners had been vitiated by a breach of the regulations in force at the time, that they had enjoyed an unlawful advantage, and that the price they had been required to pay had been lower than the real value of the property.

8. On 29 September 2000, after the case had been examined by the courts at three levels of jurisdiction between 1995 and 2000, the District Court ruled against the applicant and the other co-owners and transferred the title to the property to P., the daughter of the original plaintiff who had died in the meantime. In the course of the proceedings, several expert reports assessing the value of the disputed property at the time of its acquisition by the applicant had been produced at the request of the District Court: an expert report valuing the property at CZK 31,012 (EUR 1,165), an audit report by a company, S., fixing the price at CZK 29,889 (EUR 1,123) and an amendment to the audit report setting the price at CZK 69,347 (EUR 2,606). It emerged from this amendment that when valuing the property the earlier reports had been based on the correct price regulation but certain interpretative directives (*směrnice a pokyny*) issued by the Ministry of Finance had been disregarded. The court found on the one hand that the defendants had acquired the property at a lower price than that required by the law in force at the material time. On the other hand, the plaintiff had failed to establish that they had enjoyed an unlawful advantage when acquiring the property, in that the father of one of them was a member of the communist party.

9. On 11 April 2001 the Prague Regional Court (*krajský soud*) upheld the judgment of the first-instance court. It accepted the conclusions set out in the amendment to the audit report, as the reasons for the difference in prices had been satisfactorily explained. Thus, it considered a new audit, as suggested by the applicant, to be superfluous. The Regional Court's judgment became final on 8 August 2001.

10. On 24 September 2002 the Supreme Court (*Nejvyšší soud*), without holding a public hearing, dismissed the applicant's appeal on points of law (*dovolání*) of 20 August 2001, stating, *inter alia*, as follows:

¹ 1 EUR = 26.70 CZK

“The court of cassation finds well-founded [the applicant's] arguments challenging the legal conclusions of the audit report. ... There was no reason to apply ... the particular provision of section 12 (2) of the Price Regulations, which only concerned expropriation and was intended to protect persons from whom real estate was taken ...

Despite this interpretation ..., the court of cassation could not grant the applicant's request to quash as incorrect the judgment of the appellate court. Even if the wear and tear [to the property] had not been calculated at 70%, as applied by the amendment to the audit report, but at 80%, as applied in the previous expert reports, the price ... fixed under the Price Regulations would have been higher than the purchase price agreed between the parties ... The difference in the prices is thus not based on the subjective valuation of the expert or his interpretation of the Price Regulations, but also on the smaller surface area considered by the original expert ... [as well as] the wrong classification of the construction ... In these circumstances, the finding of the appellate court that the defendants had acquired the disputed property at a price lower than that established by the Price Regulations is correct ...”.

11. On 28 January 2003 the Constitutional Court (*Ústavní soud*) dismissed a constitutional appeal by the applicant (*ústavní stížnost*) in which she alleged, in particular, a violation of Articles 11 (right to property) and 36 § 1 (right to judicial protection) of the Charter of Fundamental Rights and Freedoms (*Listina základních práv a svobod*).

12. In December 2004 the applicant was reimbursed by the Ministry of Agriculture her share of the purchase price of the property, corresponding to CZK 6,493 (EUR 244). Moreover, the Ministry proposed the applicant and the other co-owners a sum of CZK 554,421 (EUR 20,833) in compensation for the costs reasonably incurred for the upkeep of the property. That sum was fixed by an expert and the applicant was ready to accept it. However, due to an objection by P., the new owner of the property, against whom the Ministry of Agriculture would have had a counterclaim, that sum was not paid out. In a letter of 4 November 2005, the Ministry of Justice advised the applicant to seek that compensation by means of a civil action against the Ministry. The applicant failed to do so however.

II. Inheritance proceedings

13. In an expert report produced for the purposes of inheritance proceedings after the applicant's father (one of the co-owners) had died on 23 November 2000, the disputed property was valued at CZK 1,779,580 (EUR 66,868). According to a resolution of the Prague 4 District Court of 28 August 2001, the one-third share left by the deceased was acquired by the applicant. The resolution became final on 13 October 2001.

III. Proceedings for damages

14. In a letter of 11 December 2006 the Ministry of Justice informed the applicant that it had found that her right to a determination of her civil claim within a reasonable time had been violated and that she had been awarded

CZK 67,500 (EUR 2,536) in non-pecuniary damages for the length of the restitution proceedings. In a letter of 20 February 2007 the applicant informed the Court that she did not wish to pursue her claim before the domestic courts.

II. RELEVANT DOMESTIC LAW AND PRACTICE

15. The relevant domestic law and practice in matter of restitution are set out in the Court's judgment *Zvolský and Zvolská v. the Czech Republic* (no. 46129/99, § 25, ECHR 2002-IX). The relevant domestic law and practice concerning remedies for excessive length of judicial proceedings are set out in the Court's decision in the case of *Vokurka v. the Czech Republic*, no. 40552/02 (dec.), §§ 11-24, 16 October 2007).

16. Under section 243a of the Code of Civil Procedure, the court of cassation decides on an appeal on points of law without holding a hearing. The court holds a hearing if it considers it appropriate or if it has to review evidence.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1

17. The applicant complained that she had been deprived of her possessions on the basis of a mere interpretative directive, not on the basis of a law or a price regulation. Relying on the same provision, she alleged that the purchase price reimbursed by the Ministry of Agriculture was not sufficient to enable the acquisition of an equivalent dwelling.

Article 1 of Protocol No. 1 reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

A. Admissibility

18. The Government argued that the arguments submitted by the applicant in her constitutional appeal had not been aimed at a challenge to the amount of the reimbursed purchase price, nor to the valuation of the costs reasonably incurred for the upkeep of the property, in respect of which the applicant could have been compensated under section 8(3) of the Land Ownership Act. While the purchase price had been reimbursed to the applicant by the Ministry of Agriculture, the former had failed to institute court proceedings against the latter in so far as the costs reasonably incurred for the upkeep of the property were concerned. The Government therefore proposed that this complaint be declared inadmissible for non-exhaustion of available domestic remedies.

19. The applicant contended that the possibility to seek the costs reasonably incurred for the upkeep of the property did not represent compensation for deprivation of property.

20. The Court reiterates that the rule of exhaustion of domestic remedies referred to in Article 35 § 1 of the Convention is based on the assumption that the domestic system provides an effective remedy in respect of the alleged breach. The burden of proof is on the Government claiming non-exhaustion to satisfy the Court that an effective remedy was available in theory and in practice at the relevant time, that is to say that the remedy was accessible, capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see *V. v. the United Kingdom* [GC], no. 24888/94, § 57, ECHR 1999-IX).

21. In the present case, the Court notes that under section 8(3) of the Land Ownership Act, the applicant could have been reimbursed the purchase price of the property and the costs reasonably incurred for its upkeep. This act, however, did not envisage the possibility of taking into account, for the purposes of compensation, the value of the property at the time of deprivation.

22. Given the rise of the real estate prices between 1979, when the applicant acquired the disputed property, and 2001, when she was relieved of it, the Court considers that the applicant did not have the opportunity to request adequate compensation for the disputed property. Should the applicant be required to claim an adequate amount, she would have to seek higher compensation than that guaranteed under the legislation in force at the material time (see *Dymáček and Dymáčková v. the Czech Republic* (dec.), No. 35098/03, 29 October 2003).

23. The Court therefore considers that the opportunity to initiate proceedings under section 8(3) of the Land Ownership Act did not represent an effective remedy in the instant case. However, in the event that a violation of the applicant's rights is found, the applicant's failure to seek compensation in respect of the costs reasonably incurred for the upkeep

of the property (see § 12 above) would have to be taken into consideration under Article 41 of the Convention (see, *mutatis mutandis*, *Velikovi and Others v. Bulgaria*, nos. 43278/98, 45437/99, 48014/99, 48380/99, 51362/99, 53367/99, 60036/00, 73465/01 and 194/02, § 227, 15 March 2007).

24. In view of the above, the Government's objection must be dismissed.

25. The Court considers that the applicant's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and finds no other ground to declare it inadmissible. It must therefore be declared admissible.

B. Merits

1. The parties' observations

26. The applicant argued that she had been deprived of her possessions on the basis of a mere interpretative directive, which had been applied when the amendment to the audit report had been produced, not on the basis of a law or a price regulation. The price regulation then in force significantly increased the valuation of the real estate but set out that the price established was the maximum price. According to the applicant, where the Land Ownership Act referred to the price established according to the price regulations then in force, it should have been interpreted as referring to the usual price, not to the maximum established according to the price regulations.

27. The Government maintained that the applicant had been deprived of her possessions on the basis of the Land Ownership Act and the interpretative directives applied when the amendment to the audit report had been drawn up had merely been used as an instruction on the methodology for the valuation of the property.

2. The Court's assessment

28. In the present case the Court finds, and it is not disputed by the parties, that the applicant suffered an interference with her right of property which amounted to a “deprivation” of possessions within the meaning of the second sentence of the first paragraph of Article 1 of Protocol No. 1. The Court must therefore examine the justification for that interference in the light of the requirements of Article 1 of Protocol No. 1.

29. It reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful: the second sentence of the first paragraph authorises a deprivation of possessions only “subject to the conditions provided for by law” and the second paragraph

recognises that the States have the right to control the use of property by enforcing “laws”. Moreover, the rule of law, one of the fundamental principles of a democratic society, is inherent in all the Articles of the Convention (see *Pincová and Pinc v. the Czech Republic*, no. 36548/97, § 45, ECHR 2002-III).

30. The Court observes that the deprivation of the applicant's possessions was based on the Land Ownership Act, which made it possible for persons satisfying the relevant conditions to recover certain types of property and therefore authorised the dispossession of the persons in possession of the property concerned. The price regulation and interpretative directives were applied for the purpose of the valuation of the property. The Court finds that the requirement of lawfulness was met.

31. The Court must now ascertain whether this deprivation of possessions pursued a legitimate aim, that is whether there was a “public interest” within the meaning of the second rule set forth in Article 1 of Protocol No. 1. It considers in that connection that, because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to appreciate what is “in the public interest”. Under the system of protection established by the Convention, it is thus for the national authorities to make the initial assessment of the existence of a problem of public concern warranting measures of deprivation of property. They accordingly enjoy in this sphere a certain margin of appreciation, as in other areas to which the Convention guarantees extend (see *Pincová and Pinc*, cited above, § 47).

32. Furthermore, the notion of “public interest” is necessarily extensive. In particular, the decision to enact laws expropriating property will commonly involve consideration of political, economic and social issues. The Court, finding it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one, will respect the legislature's judgment as to what is “in the public interest” unless that judgment be manifestly without reasonable foundation (*ibid.*, § 48).

33. The Court notes that the aim pursued by the Land Ownership Act is to attenuate the effects of the infringements of property rights that occurred under the communist regime and understands why the Czech State should have considered it necessary to resolve this problem, which it considered damaging to its democratic regime. The general purpose of that Act is therefore “in the public interest” (see *Pincová and Pinc*, cited above, § 51).

34. The Court observes that any measure which interferes with the right to peaceful enjoyment of possessions must strike a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The concern to achieve this balance is reflected in the structure of Article 1 of Protocol No. 1 as a whole, including therefore the second sentence, which is to be

read in the light of the general principle enunciated in the first sentence. In particular, there must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised by any measure depriving a person of his possessions. Thus, the balance to be maintained between the demands of the general interest of the community and the requirements of fundamental rights is upset if the person concerned has had to bear a “disproportionate burden” (see *Pincová and Pinc*, cited above, §§ 52-53).

35. Consequently, the Court has held that the person deprived of his property must in principle obtain compensation “reasonably related to its value”, even though “legitimate objectives of 'public interest' may call for less than reimbursement of the full market value” (ibid.). It follows that the balance mentioned above is generally achieved where the compensation paid to the person whose property has been taken is reasonably related to its “market” value, as determined at the time of the expropriation.

36. In the present case, the applicant asserted that while she and other co-owners had invested more than CZK 1,000,000 (EUR 37,595) in the upkeep and reconstruction of the property, she had been reimbursed by the Ministry of Agriculture her share of the original 1979 purchase price. The Ministry had offered her and other co-owners another CZK 554,421 (EUR 20,844) in compensation for the costs reasonably incurred for the upkeep of the property (see paragraph 12 above). According to the applicant, such compensation was not sufficient to buy even a one-room flat. The disputed property was valued at about CZK 1,800,000 (EUR 67,672) for the needs of the inheritance proceedings in 2000 and the new owner put the house on the market for CZK 2,500,000 (EUR 93,989).

37. The Government asserted that the Land Ownership Act maintained a reasonably proportionate relationship between the means employed and the aim pursued, since it required, in addition to the illegal transfer of the property concerned to the State, a further element of illegality vitiating the transfer of the same property from the State to a natural person. At the same time, it entitled the latter to reimbursement of the purchase price and the costs reasonably incurred for the upkeep of the property. They further stated that the applicant had agreed with the amount offered by the Ministry of Agriculture in compensation of the costs reasonably incurred for the maintenance of the property. Therefore, and also taking into consideration the prices of building materials before 1990, the applicant's allegations that she and other co-owners had invested more than CZK 1,000,000 (EUR 37,595) in the disputed property did not appear to be convincing.

38. The Government further pointed out that that in 2000 the value of the property had been established within a different set of proceedings and according to different price regulations from those applied in the restitution proceedings.

39. Finally, the Government stressed that the disputed property had not been used by the applicant as her permanent residence. Accordingly, the burden to be borne by the applicant was not excessive and the balance between the demands of the general interest and the protection of the right to peaceful enjoyment of possessions was maintained.

40. The Court observes that the purchase price of the property in issue was initially fixed by the expert in 1978 at CZK 25,326 (EUR 952). In the course of the restitution proceedings, the newly appointed experts fixed the price at CZK 31,012 (EUR 1,166), then at CZK 29,889 (EUR 1,124) and finally at CZK 69,347 (EUR 2,607) (see paragraph 8 above). It is true that the Supreme Court's judgment of 24 September 2002 explained those differences and stressed that when producing the first two reports, the experts had wrongly classified the property and had taken into consideration only smaller surface area. Nonetheless, given those divergences, in particular the difference between the last two prices set by the same expert, the applicant could hardly be aware at the time of the purchase of the property that the purchase price was lower than that required by the law then in force.

41. The Court also observes that no unlawful advantage on the part of the applicant when acquiring the property was either established in the domestic proceedings, or alleged by the Government.

42. It can be, therefore, concluded that the applicant acquired the property in good faith and could not influence the purchase price.

43. The Court further notes that the original purchase price reimbursed to the applicant together with the proposed amount of compensation for costs reasonably incurred for the upkeep of the property cannot be regarded as reasonably related to the market value of the property established in 2000 in the context of inheritance proceedings. Even assuming that this expert report was based on price regulations different from those applied in restitution proceedings, the Government failed to show that it does not reasonably reflect the value of the property at the time when the applicant was dispossessed of it. Moreover, the applicant would have had to institute another set of court proceedings against the Ministry of Agriculture should she wish to obtain compensation in respect of the above-mentioned costs.

44. The Court notes that the property in issue did not constitute the applicant's permanent residence, however, it was used by her daughter and other members of her family.

45. The above suffices, in the Court's view, to conclude that the applicant has had to bear an individual and excessive burden which has upset the fair balance that should be maintained between the demands of the general interest on the one hand and protection of the right to the peaceful enjoyment of possessions on the other. There has therefore been a violation of Article 1 of Protocol No. 1.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF THE LENGTH OF THE RESTITUTION PROCEEDINGS

46. The applicant also complained that the length of the restitution proceedings had been in breach of the “reasonable time” requirement within the meaning of Article 6 § 1 of the Convention which provides, in so far as relevant:

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

47. The Government objected that the applicant could have resorted to the compensatory remedy provided for in Act no. 82/1998, as amended.

48. The Court reiterates that an applicant's status as a “victim” within the meaning of Article 34 of the Convention depends on whether the domestic authorities acknowledged, either expressly or in substance, the alleged infringement of the Convention and, if necessary, provided appropriate redress (see *Cocchiarella v. Italy* [GC], no. 64886/01, § 71, ECHR 2006-V).

49. Bearing in mind that the Ministry of Justice acknowledged the unreasonable length of the restitution proceedings in awarding the applicant non-pecuniary damages on this ground, the Court considers that the first condition laid down in its case-law has been satisfied.

50. As regards the second condition, that is appropriate redress from the authorities for the wrong suffered, the Court must determine whether the sum awarded can be considered sufficient to make good the alleged damage and breach (see *Dubjaková v. Slovakia* (dec.), no. 67299/01, 19 October 2004).

51. In the light of the material in the case file and having regard to the particular circumstances of the case, the Court considers that the sum awarded to the applicant in respect of non-pecuniary damage she might have sustained in the restitution proceedings can be considered sufficient and appropriate redress for the violation suffered. The Court thus considers that the decision of the Ministry of Justice was consistent with the Court's case-law. It therefore concludes that the applicant can no longer claim to be a “victim” within the meaning of Article 34 of the Convention of the alleged violation of her right to a hearing within a reasonable time.

52. It follows that this part of the application must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF UNFAIRNESS OF THE RESTITUTION PROCEEDINGS

53. The applicant complained that the Supreme Court, having found errors in the amendment to the audit report, had reached its own legal conclusions without holding a public hearing which the parties and experts could have attended. She also alleged that, although the amendment to the audit report had increased the purchase price by 230%, the national courts had not accepted her suggestion that a new expert opinion be drawn up. The relevant part of Article 6 § 1 of the Convention reads as follows:

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

54. The Court reiterates that, according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

55. In the present case the Court observes that the Supreme Court limited itself to reassessment of evidence that had been reviewed by the lower courts earlier in the proceedings, on the basis of which it held that the applicant and the other co-owners had acquired the disputed property at a price lower than that established by the Price Regulations. It partly endorsed the conclusions of the lower courts and stated sufficient reasons why it had refrained from quashing the previous judgments.

56. The Court further notes that in the judgment of 11 April 2001 the Prague Regional Court addressed the differences in the valuation of the disputed property and had found that the amendment to the audit report explained them sufficiently. That court also responded to the applicant's request to order another expert report but held that such a report would have been superfluous. In its judgment of 24 September 2002 the Supreme Court again addressed the issue of valuation and reached the same conclusion as the lower courts.

57. The Court thus considers that the domestic courts stated sufficient reasons for their conclusions and did not omit to respond to the applicant's request.

58. In the light of these considerations the Court finds that the applicant was not deprived of a fair hearing within the meaning of Article 6 § 1 of the Convention.

59. 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

60. 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

61. In respect of pecuniary damage the applicant claimed CZK 1,779,580 (EUR 66,904), which sum represented the value of the property fixed by an expert report in 2000.

62. The Government stated that as of the date on which the ultimate decision in the restitution proceedings had become final, the applicant had been a one-third owner of the disputed property. The subsequent decision in the inheritance proceedings that had granted the one-third share left by the applicant's father to the applicant had not taken into consideration the outcome of the restitution proceedings.

63. They also submitted that the applicant had been reimbursed her share of the purchase price and that the domestic legislation had allowed her to seek reimbursement of the costs reasonably incurred for the upkeep of the property, which she had failed to do.

64. The Court considers that it is not required to decide whether or not the applicant became the owner of the one-third share of the property left by her father according to the Czech legislation. For the purposes of Article 41 of the Convention, it will consider the situation which would have existed should the interference with the applicant's property rights not have occurred. Accordingly, it will consider the applicant a two-thirds owner of the disputed property.

65. The Court must however accept the Government's argument that the applicant was reimbursed a part of the purchase price and that she could have sought reimbursement of the costs reasonably incurred for the upkeep of the property at domestic level.

66. Accordingly, ruling on an equitable basis and in the light of its case-law, the Court considers it appropriate to award the applicant EUR 30,000 for pecuniary damage.

B. Costs and expenses

67. The applicant claimed CZK 12,957 (EUR 487) as translation fees and submitted an invoice to that end.

68. The Government submitted that it was not clear which translation the invoice covered and considered a sum of EUR 200 to be sufficient.

69. 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.

70. In the present case, regard being had to the information in its possession and the above criteria as well as to the fact that the application has been partly declared inadmissible, the Court considers it reasonable to award the sum of EUR 240 covering costs of the proceedings.

C. Default interest

71. 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 applicant's property rights admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to 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 Czech korunas at the rate applicable on the date of settlement:
 - (i) EUR 30,000 (thirty thousand euros), plus any tax that may be chargeable, in respect of pecuniary damage;
 - (ii) EUR 240 (two hundred and forty euros) in respect of the 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 26 November 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President