CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

## FOURTH SECTION

## DECISION

Application no. 66075/01
by Marianna BEKIARISOVÁ
against Slovakia

The European Court of Human Rights (Fourth Section), sitting on 3 May 2005 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr M. PELLONPÄÄ,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI,
Mr J. BORREGO BORREGO,
Mr J. ŠIKUTA, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 29 January 2001,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together.

Having regard to the formal declarations accepting a friendly settlement of the case.

Having deliberated, decides as follows:

## THE FACTS

The applicant, Mrs Marianna Bekiarisová, is a Slovakian national who was born in 1972 and lives in Trebišov. She was represented before the Court by Mr J. Füzer, a lawyer practising in Trebišov.

The respondent Government were represented by their Agent, Ms A. Poláčková.

The facts of the case, as submitted by the parties, may be summarised as follows.

On 4 January 1993 the applicant sought a divorce from her husband and a determination of parental rights in respect of their daughter after the divorce.

On 27 October 1993 the Trebišov District Court granted a divorce to the applicant and her husband. It further gave the custody of the child to the applicant and ordered the father to pay maintenance. The defendant appealed and the file was submitted to the Košice Regional Court on 14 January 1994.

On 9 June 1994 the appellate court quashed the first instance decision relating to parental rights and maintenance.

On 28 December 1994 the Košice Regional Court found that the Trebišov District Court judges should be excluded from dealing with the case and transferred it to the Michalovce District Court. The file was transmitted to the latter court on 17 February 1995.

The Michalovce District Court held the first hearing on 6 February 1997.

On 4 August 1997, after having held several hearings, the Michalovce District Court granted the custody of the child to the father. On 18 September 1997 the applicant appealed. The file was submitted to the appellate court on 30 October 1997.

On 21 October 1997 the Constitutional Court found, upon a petition filed by the applicant, that the District Court in Michalovce had violated her right to a hearing without unjustified delay. The finding stated, *inter alia*, that the District Court had remained inactive between 17 February 1995 and 27 January 1997.

On 29 September 1998 the Košice Regional Court quashed the District Court's judgment of 4 August 1997. The decision stated that the District Court had failed to take evidence as earlier instructed by the appellate court. The file was returned to the District Court on 14 December 1998.

A hearing was held before the District Court on 4 June 1999. The applicant could not attend three subsequent hearings scheduled in 1999. The defendant or his representative was also prevented from attending two of these hearings.

Further hearings were held on 17 March 2000 and on 14 April 2000. On 7 August 2000 the Michalovce District Court appointed an expert with a view to establishing the links between the child and her parents. The expert opinion was submitted on 28 December 2000. On 19 March 2001 the expert submitted further information at the court's request.

On 15 May 2001 the Michalovce District Court delivered a judgment in which it approved of the parents' agreement according to which the child would be in the father's custody. This decision became final on 25 July 2001.

## COMPLAINT

The applicant complained under Article 6 § 1 of the Convention about the length of the proceedings concerning her parental rights.

## THE LAW

On 30 March 2005 the Court received the following declaration signed by the Agent of the Government:

> "I, Alena Poláčková, Agent of the Government of the Slovak Republic, declare that the Government of the Slovak Republic offer to pay 5,200 (five thousand two hundred) euros to Mrs Marianna Bekiarisová with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Slovakian korunas at the rate applicable on the date of payment and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case."

On 30 March 2005 the Court received the following declaration signed by the applicant:

> "I, Marianna Bekiarisová, note that the Government of the Slovak Republic are prepared to pay me the sum of 5,200 (five thousand two hundred) euros with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Slovakian korunas at the rate applicable on the date of payment and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> I accept the proposal and waive any further claims against Slovakia in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case."

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights

as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

*Decides* to discontinue the application of Article 29 § 3 of the Convention and to strike the application out of its list of cases.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President