CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIFTH SECTION

FINAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 32232/04
by Josef BOHÁČ
against the Czech Republic

The European Court of Human Rights (Fifth Section), sitting on 4 January 2008 as a Chamber composed of:

Peer Lorenzen, *President,*
Snejana Botoucharova,
Karel Jungwiert,
Rait Maruste,
Javier Borrego Borrego,
Renate Jaeger,
Mark Villiger, *judges,*

and Claudia Westerdiek, *Section Registrar*,

Having regard to the above application lodged on 31 August 2004,

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 partial decision of 21 March 2006,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Josef Boháč, is a Czech national who was born in 1926 and lives in Ústí Nad Labem. The Czech Government ("the Government") were represented by their Agent, Mr V.A. Schorm, from the Ministry of Justice.

A. The circumstances of the case

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

i. Proceedings against T.N.

According to the Government, on 4 March 1993 the applicant sued a certain T.N. in the Ústí nad Labem District Court (*okresní soud*).

On 21 September 2004 the District Court granted the applicant's action ordering T.N. to pay CZK 7,500 (EUR 263) to the applicant.

According to the applicant, as T.N. had not paid the sum at issue, he requested the District Court, in April 2005, to execute the judgment. Apparently, the execution proceedings have not yet been terminated.

ii. Proceedings against B.K.

In his application form, the applicant submitted that in 1996, he had brought an action for damages against a certain B.K.

The Government denied that such an action had been filed.

In his observations in reply, the applicant said that he had filed a criminal complaint against B.K. at the Ústí nad Labem Town Police Office (*Policie – město*) which subsequently instituted criminal proceedings against B.K.'s accomplice.

B. Relevant domestic law and practice

The relevant domestic law and practice concerning remedies for the excessive length of judicial proceedings are stated in the Court's decision in the case of *Vokurka v. Czech Republic*, no. 40552/02 (dec.), §§ 11-24, 16 October 2007).

COMPLAINT

The applicant complained about the length of the aforesaid proceedings. He invoked in substance Article 6 § 1 of the Convention.

THE LAW

The applicant complained that the length of the two sets of proceedings had been excessive and was thus in violation of the "reasonable time" requirement 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 ... hearing within a reasonable time by [a] ... tribunal."

The Government noted that the applicant could have resorted to the compensatory remedy provided for by Act no. 82/1998. The applicant did not wish to use this remedy.

The Court has already examined that remedy for the purposes of Article 35 § 1 of the Convention and found it effective in respect of certain complaints about the length of judicial proceedings in the Czech Republic. In particular, it considered that the remedy was capable of providing adequate redress for any breach of the reasonable time requirement that has already occurred (see *Vokurka v. Czech Republic,* cited above, §§ 58-65).

However, the applicant despite having been informed by the Court of the possibility of using this remedy did not specify that he would exhaust such a remedy. It thus appears that he has chosen not to avail himself of this remedy.

The Court, even assuming that the civil head of Article 6 § 1 applies to both sets of proceedings, considers therefore that the applicant has not exhausted domestic remedies within the meaning of Article 35 § 1 of the Convention. His complaint must therefore be declared inadmissible according to Article 35 §§ 4 of the Convention.

In view of the above, it is appropriate to discontinue the application of Article 29 § 3 of the Convention and to reject the remainder of the application.

For these reasons, the Court unanimously

Declares the remainder of the application inadmissible.

Claudia Westerdiek
Registrar

Peer Lorenzen
President