

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

FIRST SECTION

CASE OF ADAMČO v. SLOVAKIA

(Application no. 25436/21)

JUDGMENT

STRASBOURG

9 February 2023

This judgment is final but it may be subject to editorial revision.



In the case of Adamčo v. Slovakia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Gilberto Felici*, President*,
Alena Poláčková,
Raffaele Sabato*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 19 January 2023,

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

PROCEDURE

1. The case originated in an application against Slovakia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 6 May 2021.

2. The applicant, a Slovak national, was represented by Mr M. Kuzma, a lawyer practising in Košice.

3. The Slovak Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of the excessive length of criminal proceedings pending against him before the Košice I District Court ("the District Court").

6. On 16 April 2013 the applicant and two other men were indicted for murder before the District Court.

7. Following the applicant's appeal against the District Court's decision dated 24 June 2014, on 11 March 2015 the Košice Regional Court ("the Regional Court") quashed the decision and remitted the case back to the District Court.

8. On 12 November 2015 the District Court disjoined the applicant's case to separate proceedings.

9. Following the applicant's appeal against the District Court's decision dated 22 June 2016, on 31 January 2018 the Regional Court quashed the decision and again sent the case back to the District Court.

10. On 26 November 2018 the applicant lodged a constitutional complaint about the length of the proceedings before the District Court.

11. On 27 June 2019 the Constitutional Court dismissed the complaint as manifestly ill-founded, finding that at the time of its decision the proceedings before the District Court had lasted three years and two months and thus were not excessively long (II. ÚS 166/2019).

12. The applicant turned again to the Constitutional Court on 12 September 2019 and complained about the length of the same proceedings before the District Court.

13. On 3 November 2020 the Constitutional Court dismissed his complaint as manifestly ill-founded. It considered the following periods before the District Court as relevant:

- 16 April 2013 (the date when the indictment was lodged) until 24 June 2014 (the date when it delivered its first judgment);
- 11 March 2015 (the date when the Regional Court remitted the case to it following the applicant's appeal) until 22 June 2016 (the date when it delivered its second judgment); and
- 31 January 2018 (the date when the Regional Court remitted the case to it for the second time following the applicant's appeal) until 3 November 2020 (date of the decision of the Constitutional Court).

14. The Constitutional Court recognised that there had been some delays in the proceedings before the District Court. However, their length of more than five years had not been considered excessive given the specific circumstances. It took into account the factual and legal complexity of the case and the fact that the case was being examined already by a third judge since the two preceding judges had been assigned to a higher court. The Constitutional Court also pointed out that the hearings scheduled for 26 March, 10 September and 22 October 2020 had to be adjourned due to the Covid-19 sanitary measures. Furthermore, it noted that the applicant had already been serving a life sentence and the legal uncertainty in respect of a sentence related to this crime had to be assessed in this context. Lastly, the Constitutional Court called upon the District Court to act with caution and proceed without delay, reiterating that the applicant could file a new constitutional appeal should the delays persist (I. ÚS 504/2020). The Constitutional Court's decision was served on the applicant's lawyer on 22 December 2020.

15. On 3 November 2022 the District Court ruled that it lacked jurisdiction and that the case was to be transferred to the Special Criminal Court.

THE LAW

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

16. The applicant complained that the length of the criminal proceedings in question had been incompatible with the "reasonable time" requirement. He relied on Article 6 § 1 of the Convention.

17. The Government relied extensively on the Constitutional Court's conclusions, arguing that the complaint was manifestly ill-founded. It added that the adjournment of the hearings scheduled for 28 January and 22 April 2021 resulted from the pandemic measures applicable at the time, and that the applicant's lawyer had also requested adjournment of these hearings, as well as those of 10 September and 22 October 2020. Furthermore, the Government pointed out that in order to avoid further delays, in autumn 2020 the District Court had adopted measures to discontinue assigning new cases temporarily to the judge in charge of the applicant's case.

18. The applicant maintained that the length of the criminal proceedings had been excessive. He challenged the argument about the complexity of the case, arguing that the robustness of the case file stemmed from the conduct of the District Court. The applicant pointed out that on two occasions the Regional Court had had to quash its decision and had sent the case back and, ultimately, in November 2022 the District Court had ordered the transfer of the case to the Special Criminal Court. He also noted that he had no longer been serving life sentence but an extraordinary sentence of twenty-four years' imprisonment on account of the relevant criminal proceedings having been reopened. Therefore, the Government's argument of diminished legal uncertainty of what was at stake in his case could not be accepted.

19. 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, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). It also notes that it is for the Contracting States to organise their legal systems in such a way that their courts can guarantee to everyone the right to a final decision within a reasonable time in the determination of his or her civil rights and obligations (see *Lupeni Greek Catholic Parish and Others v. Romania*, no. 76943/11, § 142, 29 November 2016).

20. The proceedings at hand were pending before the District Court, that is at one level of jurisdiction, from 16 April 2013 until 24 June 2014, from 11 March 2015 until 22 June 2016 and from 31 January 2018 until 3 November 2022 (see paragraphs 13 and 15 above), which fact has not been in dispute between the parties. Since 3 November 2022 the case has been pending at first instance before the Special Criminal Court.

21. The Court accepts, on the one hand, that the present case has been of a certain complexity due to the extensiveness of the case file and that five hearings were adjourned owing to the Covid-19 sanitary crisis, which could have had an adverse effect on the length of the proceedings. On the other hand, the Court notes that the Regional Court twice quashed the District Court's decisions and that the last judge in charge of the case at the District

Court was already the third assigned to the case. While the District Court had allegedly taken some measures to limit the chronically excessive caseload of the acting judge in autumn 2020 (see paragraph 17 above), it does not appear that those measures had any acceleratory effect in the instant case, given that it remained pending before the District Court until its transfer to the Special Criminal Court in November 2022. Therefore, taking into account the overall length of the proceedings of more than seven years before one instance, the Court is not convinced that in the present case the arguments produced by the Government can absolve the State from its responsibility for the lengthy proceedings.

22. As for the conduct of the applicant, the Court has not discerned from the case file any indication that he contributed to any major delays except for several requests for adjournment of a hearing during the Covid-19 pandemic, which in most cases were also adjourned because of the applicable Covid-19 sanitary measures. The Court further notes that even taking into account that the applicant had been serving life sentence at the time of the decision of the Constitutional Court, such argument is of limited value in the context of the overall length of the impugned criminal proceedings.

23. In the leading case of *Pavlík v. Slovakia* (no. 74827/01, 30 April 2007), the Court has already found a violation of Article 6 of the Convention given an excessive length of the proceedings.

24. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings before one level of jurisdiction at the national level. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

25. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. 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."

27. Regard being had to the documents in its possession and to its case-law (see, in particular, *Pavlík*, cited above), the Court finds it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 6 § 1 of the Convention concerning the excessive length of criminal proceedings;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts indicated in the appended table;
   (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.

Done in English, and notified in writing on 9 February 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Gilberto Felici
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (excessive length of criminal proceedings)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Domestic court File number Domestic award (in euros)	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
25436/21 06/05/2021	**Branislav ADAMČO** 1978	Milan Kuzma Košice	16/04/2013 11/03/2015 31/01/2018	24/06/2014 22/06/2016 03/11/2022 (pending now before the Special Criminal Court)	More than 7 years and 2 months 1 level of jurisdiction	Constitutional Court I. US 504/2020 0	5,200	250

[1] Plus any tax that may be chargeable to the applicant.
[2] Plus any tax that may be chargeable to the applicant.