

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

FIRST SECTION

# CASE OF SARKOCY v. SLOVAKIA

*(Application no. 51334/21)*

JUDGMENT

STRASBOURG

20 July 2023

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



**In the case of Sarkocy 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 29 June 2023,

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

# PROCEDURE

1. The case originated in an application against Slovakia lodged by a Slovak national with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 12 October 2021.

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

# THE FACTS

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

4. The applicant complained of the excessive length of civil proceedings, held before two levels of jurisdiction, concerning his claim for protection against alleged defamatory statements by a now former judge of a first-instance court.

5. The proceedings started on 11 July 2014 when the claim was lodged. On 11 September 2018 the first-instance court rejected the claim on account of procedural deficiencies. That judgment was quashed on appeal on 30 November 2018 and the case was remitted for further proceedings. On 29 September 2020 the applicant withdrew his claim, submitting that the prolonged proceedings had lost their purpose and he wanted to avoid further trauma caused by the alleged defamation and had forgiven the defendant. On 23 October 2020 the first-instance court's decision to discontinue the proceedings became final and the proceedings ended.

6. The applicant lodged a constitutional complaint on 21 September 2020, following which the Constitutional Court examined the overall length of the impugned proceedings and found, in a decision of 15 April 2021, a violation of the reasonable time requirement on account of delays before the first-instance court. It did not grant the applicant any just satisfaction, considering that the finding of a violation offered appropriate redress because the proceedings had ended in the meantime on account of the applicant's withdrawal of the action (III. ÚS 100/2021).

# THE LAW

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

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

8. The Government considered that the applicant was no longer a "victim" of a violation since the Constitutional Court had acknowledged the violation and the proceedings had ended in the meantime. They found that the Constitutional Court had duly reasoned in line with the Court's case-law (they cited, for example, *Šedý v. Slovakia*, no. 72237/01, 19 December 2006) why it had not awarded any just satisfaction. They further submitted that the applicant had not suffered any significant disadvantage given that the proceedings had been discontinued following his withdrawal of the action only a few days after having lodged his constitutional complaint. Furthermore, they pointed out that the applicant is a claimant in 110 sets of judicial proceedings. Relying on the Court's findings in *Žirovnický v. the Czech Republic* ([Committee], nos. 10092/13 and 6 others, § 117, 8 February 2018), the Government concluded that such a fact necessarily influenced the applicant's perception of the damage caused by the unreasonable length of the proceedings, compared to people for whom lodging an action and participating in judicial proceedings was not a common part of their everyday lives.

9. The Court observes that, although the Constitutional Court found a violation of the applicant's right to a hearing without unjustified delay, it awarded no financial compensation in respect of non-pecuniary damage, stating that the finding of a violation was sufficient redress.

10. It remains to be assessed whether the above redress can be considered appropriate and sufficient under the circumstances of the present case (see, for example, *Jensen v. Denmark* (dec.), no. 48470/99, 20 March 2003). In that connection the Court reiterates that there is a strong but rebuttable presumption that excessively long proceedings will occasion non-pecuniary damage unless duly justified otherwise (*Šedý,* cited above, § 89).

11. The Court observes that the proceedings in question commenced on 11 July 2014 and ended on 23 October 2020. They thus lasted six years and some three months for two levels of jurisdiction.

12. The Court observes at the outset that during that period of more than six years the first-instance court had never decided on the merits and its decision to reject the claim on account of the procedural deficiencies was quashed by the appellate court. Moreover, in contrast with *Šedý* (cited above, §§ 90-92), the proceedings had not been substantially prolonged by the applicant. The impugned proceedings had suffered from delays before he lodged the constitutional complaint and decided to withdraw the action, and

those unreasonable delays cannot be attributed him. Therefore, the Court notes that at the time of lodging the constitutional complaint the applicant still had a keen interest in accelerating the proceedings and he cannot be blamed for subsequently taking advantage of his procedural rights by withdrawing the claim. Moreover, his reasons for the withdrawal appear logical and sound in the context of the civil proceedings concerning protection of personal rights and alleged defamation.

13. Thus, the redress obtained by the applicant at the domestic level cannot be considered sufficient under the circumstances and in the light of the Court's case-law (see *Šedý,* cited above, § 89). The applicant can accordingly still claim to be a "victim" of a breach of the "reasonable time" requirement. Neither can the Court agree with the Government that the disadvantage the applicant suffered is "non-significant", given that it was only the withdrawal of the action that effectively ended, after more than six years, the unreasonably lengthy proceedings.

14. 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 *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

15. In the leading case of *Obluk v. Slovakia,* no. 69484/01, 20 September 2006, the Court has already found a violation of Article 6 of the Convention given an excessive length of proceedings.

16. 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 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.

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

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. 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."

19. Regard being had to the documents in its possession and to its case-law (see, in particular, *Obluk,* cited above), the Court considers it reasonable to award the sum 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 civil proceedings;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount 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 amount 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 20 July 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Viktoriya Maradudina | Gilberto Felici |
| Acting Deputy Registrar | President |

# APPENDIX

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

| Application no.<br>Date of introduction | Applicant's name<br>Year of birth | Start of proceedings | End of proceedings | Total length<br>Levels of jurisdiction | Domestic court<br>File number<br>Domestic award (in euros) | Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1] |
|---|---|---|---|---|---|---|
| 51334/21<br>12/10/2021 | **Ján SARKOCY**<br>1953 | 11/07/2014 | 23/10/2020 | 6 years, 3 months and 13 days<br>2 levels of jurisdiction | Constitutional Court<br>III. ÚS 100/2021<br><br>0 | 2,300 |

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