

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

FIRST SECTION

CASE OF ŠIRO v. SLOVAKIA

(Application no. 7907/22)

JUDGMENT

STRASBOURG

14 November 2024

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



In the case of Širo v. Slovakia,

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

Krzysztof Wojtyczek*, President*,
Lətif Hüseynov,
Erik Wennerström*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 17 October 2024,

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") by a national of Slovakia, Mr Jaroslav Širo ("the applicant"), on 2 February 2022.

2. The applicant was represented by I. Pádej, a lawyer practising in Považská Bystrica.

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 bankruptcy proceedings which had been opened by the Žilina District Court on 14 August 2012 over his assets as sole proprietor - the legal form through which the applicant conducted his business activities.

6. As follows from the case file, during 2013 the bankruptcy administrator initiated several sets of civil proceedings, with the purpose of recovering money which according to him belonged to the bankruptcy assets but had been unlawfully transferred to the applicant's daughter. Since the outcome of these disputes had a direct impact on the final amount of the bankruptcy assets, they had to be resolved with final effect before the bankruptcy proceedings could be closed. In five instances the domestic courts dismissed the administrator's actions, one case was discontinued and another one has been pending on appeal on points of law. By a letter of 21 November 2023, the applicant's lawyer informed the Court that in 2022 the bankruptcy administrator had lodged yet another civil action against the applicant's daughter, which remains pending.

7. Furthermore, in 2020 the Constitutional Court found excessive delays in one set of the civil proceedings initiated by the administrator (III. ÚS 183/2020). It held, *inter alia*, that the delays were partly attributable to the

administrator on account of repeated occurrences of flaws in his submissions that needed to be corrected.

8. On 5 October 2021 the Constitutional Court dismissed the applicant's constitutional complaint about the length of the bankruptcy proceedings before the Žilina District Court as manifestly ill-founded (IV. ÚS 489/2021). It held that the bankruptcy proceedings had been prolonged by the numerous civil disputes the administrator had had to initiate and the bankruptcy court had duly discharged its oversight duties. Therefore, the length of the proceedings could not be considered excessive.

9. The bankruptcy proceedings are still pending.

THE LAW

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

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

11. The Government submitted that the applicant lacked victim status. It transpires from the application form that the applicant has lodged it as a natural person. However, it is the applicant as a business entity that is party to the bankruptcy proceedings and thus directly affected by their alleged excessive length. They argued that his complaint is therefore incompatible *ratione personae* with the Convention.

12. In his observations the applicant did not specifically comment on that submission.

13. The Court observes that according to the relevant domestic law, sole proprietorship is a type of venture, where the sole proprietor owns and runs the business in his own name and has full liability for all debts. Therefore, no clear-cut legal distinction between the business entity and the natural person running it can be made. The applicant therefore has a direct personal interest in the subject matter of the complaint which relates to the conduct of the administrator and the bankruptcy court (see, *mutatis mutandis*, *G.J. v. Luxembourg*, no. 21156/93, §§ 23-24, 26 October 2000; *a contrario, Vesela and Loyka v. Slovakia* (dec.), no. 54811/00, 13 December 2005). The Court thus dismisses the Government's objection about the applicant's lack of victim status.

14. The Government further submitted that the application is manifestly ill-founded. Due to the numerous civil disputes which must be resolved before bankruptcy proceedings can be closed, the overall length of the proceedings cannot be regarded as excessive.

15. The applicant reiterated his previous submissions and emphasized that most of the civil actions lodged by the administrator were dismissed.

16. The proceedings have lasted more than twelve years before one level of jurisdiction. The Court accepts that the existence of protracted civil litigations such as those pursued by the bankruptcy administrator in the present case may influence the overall length of the bankruptcy proceedings. It, however, notes that the administrator was unsuccessful in the majority of those disputes (see paragraph 6 above), which may indicate his ineffective conduct. Moreover, at least in one case he himself had contributed to the excessive length of the civil proceedings (see paragraph 7 above) and by extension to the length of the bankruptcy proceedings. Moreover, the Constitutional Court's decision does not mention a single measure used by the bankruptcy court to accelerate the bankruptcy proceedings (see paragraph 8 above).

17. 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).

18. In the leading case of *Obluk v. Slovakia* (no. 69484/01, 20 September 2006), the Court already found a violation in respect of issues similar to those in the present case.

19. 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.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

21. 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 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 civil 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 14 November 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Krzysztof Wojtyczek President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (excessive length of civil 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 non-pecuniary damage per applicant (in euros) [1]	Amount awarded for costs and expenses per application (in euros)[2]
7907/22 02/02/2022	**Jaroslav ŠIRO** 1955	Ivan Pádej Považská Bystrica	14/08/2012	pending	More than 12 years, 1 month and 6 days 1 level of jurisdiction	Constitutional Court: IV. ÚS 489/2021 0	8,200	250

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