

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

FIRST SECTION

CASE OF SLOBODA v. SLOVAKIA

(Application no. 48848/20)

JUDGMENT

STRASBOURG

30 September 2021

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



In the case of Sloboda v. Slovakia,

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

Erik Wennerström, *President,*
Lorraine Schembri Orland,
Ioannis Ktistakis, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 9 September 2021,

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 26 October 2020.

2. The applicant, a Slovak national, was represented by Mr O. Urban, a lawyer practising in Bratislava.

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

THE FACTS

4. The applicant's details are set out in the appended table.

5. On 20 February 2015 the applicant challenged in proceedings no. 5 C 294/2015 an arbitration award by which he had been ordered to pay approximately 2,600 euros (EUR) to a private company ("the plaintiff").

6. On 6 December 2016 the first-instance court quashed the award and decided to continue the proceedings on the plaintiff's original action as lodged with the arbitration tribunal. That judgment became final on 28 December 2016 and the first-instance court decided on the costs of the proceedings by a separate decision which became final on 31 October 2017.

7. On 4 December 2017 the plaintiff informed the first-instance court of its intent to withdraw the original action.

8. Three years after the judgment of 6 December 2016, the first-instance court disjoined the plaintiff's action into a separate set of proceedings no. 5 C 1/2020 (on 7 January 2020), requested the applicant's consent to the withdrawal of the action by the plaintiff (on 22 January 2020) and discontinued the proceedings (on 25 February 2020). It decided not to award the applicant any reimbursement of the costs.

9. On 17 March 2020 the applicant appealed against the decision on the costs and was asked to pay a court fee. However, on 22 July 2020 the first-instance court decided that the applicant should not have been ordered to pay the fee.

10. The case file was transmitted to the appellate court on 11 February 2021. On 25 February 2021 the decision on the costs was overturned and the applicant was awarded their full reimbursement. That decision was transmitted back to the first-instance court on 24 March 2021, in order to be served on the applicant.

11. Meanwhile, on 27 July 2020, the applicant lodged a constitutional complaint, challenging the length of proceedings nos. 5 C 294/2015 and 5 C 1/2020. He argued that although the first-instance court had decided to continue the proceedings on the plaintiff's action with effect from 28 December 2016, three years had elapsed before the start of its examination, rendering the judicial protection ineffective.

12. The Constitutional Court dismissed the complaint as manifestly ill-founded. It found that despite the delays that had occurred between 4 December 2017 (withdrawal of the plaintiff's action) and 7 January 2020 (disjoining of the action), the constitutional complaint had only been lodged after both sets of proceedings had ended with final effect. While there were certain delays also in the part concerning the costs of proceedings no. 5 C 1/2020, they were not substantial.

THE LAW

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

13. The applicant complained that the length of the civil proceedings in question was incompatible with the "reasonable time" requirement and that the Constitutional Court's decision was in contrast with the Court's case-law. He relied on Article 6 § 1 of the Convention, which reads as follows:

Article 6 § 1

> "In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

14. The Government sought to distinguish the proceedings along the lines of the case file numbers and based on what they believed was the subject matter of each of them.

15. They submitted that the first set of the proceedings (no. 5 C 294/2015) had concerned the quashing of the arbitration award and had ended on 28 December 2016 and 31 October 2017, respectively, as for the substance and the costs. The applicant, having turned to the Constitutional Court only afterwards, at odds with the practice established by the latter, had failed to exhaust the domestic remedies in accordance with the procedural requirements. The Government further argued that the

application had been lodged outside of the six-month time-limit if calculated from 31 October 2017 (see paragraph 6 above).

16. They also submitted that the second set of the proceedings (no. 5 C 1/2020) had concerned the payment of approximately EUR 2,600. They submitted that the proceedings had started on 7 January 2020 when the plaintiff's action had been disjoined from the first set of proceedings and had been discontinued following the plaintiff's withdrawal of its action. The length could not have breached the applicant's right to a hearing within a reasonable time, given that what was at stake for him was of small significance due to the withdrawal of the action by the plaintiff. In addition, the Government asserted that the applicant had not challenged the part of the proceedings that had taken place before the appellate court and had therefore failed to exhaust domestic remedies.

17. The Court reiterates that Article 6 § 1 of the Convention requires that all stages of legal proceedings concerning the determination of civil rights and obligations, not excluding stages subsequent to a judgment on the merits, be resolved within a reasonable time, and that this also includes in principle the stage of proceedings concerning costs (see *Robins v. the United Kingdom*, no. 22410/93, §§ 28-29, ECHR 1997-V, and *Macková v. Slovakia*, no. 51543/99/98, § 55, 29 March 2005).

18. The Government argued that the two sets of proceedings were separate from each other, the first (no. 5 C 294/2015) having ended with final effect on 31 October 2017 at the latest and the second (no. 5 C 1/2020) having started on 7 January 2020. While the proceedings were formally conducted under two different case file numbers, the Court notes that by the judgment of 6 December 2016 issued in proceedings no. 5 C 294/2015, the first-instance court quashed the arbitration award and decided to continue examining the plaintiff's original action (disjoined to proceedings no. 5 C 1/2020 as of 7 January 2020). The subject matter of proceedings no. 5 C 294/2015 had thus not been examined by the first-instance court's judgment since the plaintiff's original action was pending until 25 February 2021 (including during the period of inactivity between 31 October 2017 and 7 January 2020), when the appellate court decided on the costs of the proceedings. Although the plaintiff had sought to withdraw its action on 7 December 2017, the applicant had no knowledge of this before 22 January 2020, which kept him in a state of legal uncertainty.

19. The Government further argued that the applicant had failed to exhaust domestic remedies vis-à-vis the appellate court's conduct. The Court observes that the applicant lodged his constitutional complaint against the first-instance court while the proceedings were pending and while the case file was still with the first-instance court which was dealing with procedural issues connected to the court fees and parties' observations; there was thus no point to direct the complaint against the appellate court. It was only later that the case file was transmitted to the appellate court for the determination of the applicant's appeal. Therefore, the applicant could not

have been expected to lodge a fresh constitutional complaint or to extend his former complaint in order to challenge the appellate court's conduct. In his constitutional complaint, the applicant noted both case file numbers and complained specifically that the first-instance court had failed to act after it had quashed the arbitration award with the final effect (as of 28 December 2016). It follows that the applicant lodged his constitutional complaint in accordance with the applicable procedural rules and established practice, so as to allow the Constitutional Court to examine the overall length of the proceedings as of 28 December 2016 (see, *a contrario*, *Obluk v. Slovakia,* no. 69484/01, § 62, 20 September 2006). Accordingly, the Government's preliminary objections must be rejected.

20. The Court therefore finds that the period under its examination started on 28 December 2016 and ended recently, at an unknown date, when the appellate court's decision on the costs of the proceedings was served on the applicant, after having been transmitted to the first-instance court on 24 March 2021 (see paragraph 10 *in fine*) (see, *mutatis mutandis*, *Čičmanec v. Slovakia*, no. 65302/11, §§ 46-50, 28 June 2016). The proceedings consequently lasted over four years before two levels of jurisdiction.

21. 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).

22. In the leading case of *Obluk* (cited above), the Court already found a violation in respect of issues similar to those in the present case.

23. 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.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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."

26. Regard being had to the documents in its possession and to its case-law (see, in particular, *Obluk v. Slovakia,* cited above), the Court

considers it reasonable to award the applicant 1,600 euros (EUR) in respect of non-pecuniary damage, and 250 euros (EUR) in respect of costs of legal representation incurred in the proceedings before the Court, plus any tax that may be chargeable to him.

27. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

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, EUR 1,600 (one thousand and six hundred euros) in respect of non-pecuniary damage and EUR 250 (two hundred and fifty euros) in respect of costs of legal representation incurred in the proceedings before the Court, plus any tax that may be chargeable to him;
   (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 30 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Erik Wennerström
Acting Deputy Registrar	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]
48848/20 26/10/2020	**Martin SLOBODA** 1982	Ondrej Urban Bratislava	28/12/2016	after 24/03/2021	over 4 years 2 levels of jurisdiction	Constitutional Court IV. US 449/2020 0	1,600	250

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