CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 525/04
by Libuše KARBUSOVÁ
against the Czech Republic

The European Court of Human Rights (Second Section), sitting on 3 May 2005 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr I. CABRAL BARRETO,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 19 December 2003,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mrs Libuše Karbusová, is a Czech national who was born in 1954 and lives in Karlovy Vary.

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

i. Proceedings concerning the separation of the marital property

In August 1992 the applicant, having been divorced on 8 July 1992, lodged an action with the Karlovy Vary District Court *(okresní soud)* claiming the separation of the marital property.

On 6 October 1997 the District Court delivered a judgment which was quashed by the Plzeň Regional Court *(krajský soud)* on 20 November 1998.

On 30 September 1999 the District Court adopted its second judgment which, according to the applicant, was modified by the Regional Court on 27 November 2000. The Regional Court's decision became effective on 16 January 2001.

ii. Maintenance proceedings

The applicant obtained custody of a child born from the marriage. By a judgment of the District Court of 9 January 1995, upheld by the Regional Court on 30 June 1995, the applicant's former husband was ordered to pay a monthly maintenance of CZK 1,000 (EUR 33) in respect of the child, with effect from 1 August 1992. On 20 August 1997 the District Court increased the maintenance up to CZK 1,500 (EUR 50) per month, allowing the applicant's former husband to pay the outstanding maintenance for the past period in monthly instalments.

On 10 March 1999 the District Court, on the applicant's action of 30 September 1998, modified its previous judgment, increasing the monthly maintenance to CZK 3,850 (EUR 124) with effect from 1 August 1998. It allowed the applicant's former husband to pay the outstanding maintenance for the past period in monthly instalments.

On 25 March 1999 the Regional Court quashed the first-instance court's judgment and returned the case to the District Court which, on 24 November 2000, decided to increase the maintenance to CZK 4,000 (EUR 129) per month with effect from 1 September 1998, allowing the applicant's former husband to pay the outstanding maintenance for the past period in monthly instalments.

On 31 May 2001 the District Court complemented its judgment.

On 28 January 2002 the Regional Court upheld the first instance judgment to the extent that it concerned the payment of the maintenance for the period from 1 September to 30 November 2000. It further quashed the District Court's judgment to the extent that it concerned the maintenance due after 1 December 2000.

On 22 April 2003 the Rakovník District Court ordered execution of the Karlovy Vary District Court's judgment to the extent that it had been upheld by the Regional Court.

On 15 September 2003 the Karlovy Vary District Court delivered a new judgment in which it determined the applicant's former husband's obligation

to pay a monthly maintenance of CZK 4,000 in respect of the child with effect from 1 December 2000 without, however, allowing the defendant to pay the outstanding maintenance by monthly instalments.

On 13 April 2004, the Regional Court upheld the first-instance judgment in respect of the increase of the maintenance. It further ordered the defendant to pay, by 31 July 2004, the outstanding maintenance concerning the period from 1 December 2000 to 31 March 2004.

As the applicant's former husband did not comply with the aforesaid judgments, the applicant claimed, through the Plzeň Town Bailiff Office *(Exekutorský úřad)*, the enforcement of the sum owed by her former husband.

COMPLAINTS

1. The applicant complains under Article 6 § 1 of the Convention of the length and unfairness of the proceedings. She submits that the judgments delivered in the maintenance proceedings have remained unexecuted.

2. Invoking Article 14 of the Convention, she further complains that her child was discriminated against as a consequence of the lengthy maintenance proceedings.

THE LAW

1. The applicant complains that her right to a fair hearing within a reasonable time was violated in the above proceedings. She relies on Article 6 § 1 of the Convention the relevant part of which provides:

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

i. The Court first notes that the final decision in the proceedings concerning the separation of the marital property was taken by the Plzeň Regional Court on 27 November 2000 which became effective on 16 January 2001. As the application was introduced on 19 December 2003, the applicant failed to respect the six months' time-limit in respect of her complaints about these proceedings.

It follows that this part of the application is introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

ii. As regards the applicant's complaints relating to the maintenance proceedings, the Court considers that it cannot, on the basis of the case file, determine the admissibility of these complaints and that it is therefore

necessary, in accordance with Rule 54 § 2 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

2. The applicant also complains that her son was discriminated against as a consequence of the unreasonable length of the maintenance proceedings. She relied on Article 14 of the Convention which provides:

> "The enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

The Court has examined this complaint but finds, to the extent that such a complaint is substantiated and falls within its competence, that it does not disclose any appearance of a violation of the applicant's rights under the Convention.

It follows that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaints under Article 6 § 1 of the Convention relating to the maintenance proceedings;

Declares the remainder of the application inadmissible.

S. DOLLÉ
Registrar

J.-P. COSTA
President