CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIFTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 6516/03
by Pavel KOLEČKÁŘ
against the Czech Republic

The European Court of Human Rights (Fifth Section), sitting on 4 January 2008 as a Chamber composed of:

Peer Lorenzen, *President,*
Snejana Botoucharova,
Karel Jungwiert,
Rait Maruste,
Javier Borrego Borrego,
Renate Jaeger,
Mark Villiger, *judges,*

and Claudia Westerdiek, *Section Registrar*,

Having regard to the above application lodged on 14 February 2003,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Pavel Kolečkář, is a Czech national who was born in 1961 and lives in Rousínov. The Czech Government ("the Government") were represented by their Agent, Mr V.A. Schorm, from the Ministry of Justice.

A. The circumstances of the case

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

On 2 November 1990 the applicant lodged an action for damages against the State, represented by the Ministry of Justice, with the Prague 2 District Court (*obvodní soud*), seeking payment of the sum of 90,760 CZK (3,387[1] EUR). The court transferred the case to the Vyškov District Court (*okresní soud*).

On 2 August 1996 the Brno Regional Court (*krajský soud*) decided to disqualify all the judges of the District Court and, at the same time, referred the case to the Brno Municipal Court (*městský soud*).

It appears that the proceedings are still pending.

B. Relevant domestic law and practice

The relevant domestic law and practice concerning remedies for the allegedly excessive length of judicial proceedings are set out in the Court's decision in the case of *Vokurka v. Czech Republic*, no. 40552/02 (dec.), §§ 11-24, 16 October 2007).

COMPLAINT

The applicant complained under Article 6 § 1 of the Convention about the length of the proceedings.

THE LAW

The applicant's complaint relates to the length of the proceedings, which began on 2 November 1990 and are still pending.

The Court observes that the period to be taken into consideration only began on 18 March 1992, when the recognition by the Czech and Slovak Federal Republic, to which the Czech Republic is one of the successor States, of the right of individual petition took effect.

The applicant argued that the length of the proceedings had been incompatible with the "reasonable time" requirement under Article 6 § 1 of the Convention which reads as follows:

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

[1] 1 EUR = 26.90 CZK

The Government noted that the applicant could have resorted to the compensatory remedy provided for by Act no. 82/1998. The applicant did not wish to use this remedy.

The Court has already examined that remedy for the purposes of Article 35 § 1 of the Convention and found it effective in respect of certain complaints about the length of judicial proceedings in the Czech Republic. In particular, it considered that the remedy was capable of providing adequate redress for any breach of the reasonable time requirement that has already occurred (see *Vokurka v. Czech Republic,* cited above, §§ 58-65).

However, the applicant despite having been informed by the Court of the possibility of using this remedy maintained that he should not be required to exhaust such a remedy. It thus appears that he has chosen not to avail himself of this remedy.

The Court therefore considers that the applicant has not exhausted domestic remedies within the meaning of Article 35 § 1 of the Convention. The application must therefore by declared inadmissible according to Article 35 §§ 4 of the Convention.

In view of the above, it is appropriate to discontinue the application of Article 29 § 3 of the Convention and to reject the application.

For these reasons, the Court unanimously

Declares the application inadmissible.

Claudia Westerdiek
Registrar

Peer Lorenzen
President