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

FIRST SECTION

DECISION

Application no. 34232/22
Dušan KOVÁČIK
against Slovakia

The European Court of Human Rights (First Section), sitting on 15 January 2026 as a Committee composed of:

Davor Derenčinović*, President*,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 34232/22) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 6 July 2022 by a Slovak national, Mr Dušan Kováčik ("the applicant"), who was born in 1962 and lives in Skalka nad Váhom, and was represented by Mr E. Magál, a lawyer practising in Nové Mesto nad Váhom;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicant is a former Chief Prosecutor of the Office of Special Prosecutions ("the OSP"), which formed a part of the Public Prosecution Service ("the PPS") in charge of prosecuting corruption, organised crime and other serious offences.

2. The application arises from proceedings concerning charges brought against the applicant on the basis of a suspicion that, in his previous capacity as Chief Prosecutor of the OSP, he had himself accepted a bribe in return for exercising his influence on the prosecution of certain third parties in their favour.

3. In particular, the application concerns a course of action taken by another prosecutor of the OSP in that he filed a bill of indictment (on 14 September 2021) against the applicant in this matter with the Specialised

Criminal Court, before the Prosecutor General ("the PG") had determined the applicant's request that the PG exercise his discretionary powers under Article 363 of the Code of Criminal Procedure to review and to declare void the charges against the applicant and some further associated decisions taken at the pre-trial stage of the proceedings in respect of the applicant.

4. As the applicant was informed by the PG in a letter of 22 September 2021, as a result of the filing of the indictment, the discretionary powers of the PG in the matter had ceased to apply and jurisdiction to deal with the case rested entirely with the Specialised Criminal Court.

5. The applicant complained that the prosecutor's course of action had been arbitrary, had deprived him of the possibility of having his request determined by the PG and had thereby violated his rights under Article 6 § 1 (access to a court) and Article 13 of the Convention.

THE COURT'S ASSESSMENT

6. The applicant argued that by filing an indictment against him with a court, the OSP had deprived him of the possibility of having recourse to an extraordinary remedy determined by the PG in relation to the charges against him.

7. In so far as he relied on Article 6 § 1 of the Convention, that provision guarantees the applicant the right, in the determination of any criminal charge against him, to a hearing by a tribunal. In this way the Article embodies the "right to a court", of which the right of access constitutes only one aspect. To this are added the guarantees laid down by Article 6 § 1 as regards both the organisation and composition of the court and the conduct of the proceedings. In sum, the whole makes up the right to a fair hearing (see *Golder v. the United Kingdom*, 21 February 1975, § 36, Series A no. 18).

8. In the constitutional system of the respondent State, the principles mentioned above correlate with the provisions of Article 50 § 1 of the Constitution (Constitutional law no. 460/1992 Coll., as amended), pursuant to which only a court of law has the power to decide on guilt and punishment for criminal offences.

9. It is true that the PPS, of which the PG is a part, has a special constitutional status in Slovakia and provides various procedural guarantees (see *Maslák v. Slovakia (no. 2)*, no. 38321/17, §§ 77 and 167, 31 March 2022). However, it is plainly not a tribunal for the purposes of Article 6 § 1 of the Convention.

10. Furthermore, in so far as the applicant relied on Article 13 of the Convention, the Court reiterates that it is a *lex generalis* in relation to Article 6 § 1 of the Convention. In other words, the requirements of Article 13 are less strict than, and are here absorbed by, those of Article 6. As a rule, Article 13 is not applicable where the alleged violation of the Convention has

taken place in the context of judicial proceedings. The only exceptions to this principle have been the Article 13 complaints relating to a breach of the "reasonable time" requirement (see *Menesheva v. Russia*, no. 59261/00, § 105, ECHR 2006-III, with further references).

11. On the facts, the filing of the indictment against the applicant by the OSP precisely provided him with access to a court, in particular the Specialised Criminal Court, the jurisdiction of which to deal with any factual or legal aspect of the accusations against the applicant has not been contested by the parties in any way. At the same time, there is no indication that the absence of involvement of the PG in the case by means of his discretionary powers under Article 363 of the Code of Criminal Procedure should have in any way prejudiced the fairness of the trial as a whole (see *Imbrioscia v. Switzerland*, 24 November 1993, § 36, Series A no. 275, with further references).

12. The reasoning above is consonant with the reasoning of the Constitutional Court in its decision of 27 April 2022 to reject as manifestly ill-founded the applicant's constitutional complaint in the present case. In particular, the court held that the legal provisions governing the PG's discretionary powers under Article 363 of the Code of Criminal Procedure envisaged a situation in which a request for the exercise of that power remained unanswered on its merits, without attaching any sanction to it. A person whose request for the exercise of the PG's discretionary powers remained undetermined as a result of an indictment being filed was not deprived of legal protection, the responsibility for providing such protection merely being shifted to the judiciary, before which such protection was available at several instances.

13. The Court, for its part, notes that, while a potential lack of coordination between the OSP and the PG might have implications in relation to the internal functioning of the PPS, the bringing of a case to a court of law may normally not impede an applicant's right of access to a court under Article 6 § 1 the Convention.

14. Moreover, and in any event, the question of whether or not proceedings satisfy the requirements of Article 6 § 1 of the Convention can only be determined by examining them as a whole, that is, once they have been concluded (see, for example, *Dimech v. Malta*, no. 34373/13, § 43, 2 April 2015, and the case-law cited therein; *Kuráková v. Slovakia* (dec.), no. 37895/97, 1 February 2001; and, for illustrative purposes, *Kaliňák and Fico v. Slovakia* [Committee], nos. 40734/22 and 40803/22, § 13, 28 February 2023). In the present case, the applicant has made no complaints in relation to the further course and outcome, if any, of the proceedings against him.

15. Accordingly, the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 5 February 2026.

Liv Tigerstedt Deputy Registrar	Davor Derenčinović President