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

FIRST SECTION

DECISION

Application no. 12862/22
Zuzana PAPAJOVÁ and Zuzana PAPAJOVÁ
against Slovakia

The European Court of Human Rights (First Section), sitting on 20 November 2025 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. 12862/22) 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 21 February 2022 by two Slovak nationals, Ms Zuzana Papajová (born 1966) and Ms Zuzana Papajová (born 1987) ("the applicants"), who live in Východná and were represented by Mr M. Para, a lawyer practising in Bratislava;

the decision to give notice of the complaints under Article 6 § 1 and Article 13 of the Convention and Article 1 of Protocol No. 1 to the Government of the Slovak Republic ("the Government"), represented by their Agent, Ms M. Bálintová, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the response given by the Specialised Criminal Court ("the SCC") to requests by the first applicant, who is the mother of the second applicant, and by the second applicant herself for the restoration of an amount of money that had been seized on 6 March 2017 in a search of a house in which they lived along with the partner of the second applicant (A.).

2. The search and seizure took place in the context of criminal proceedings against A. and his brother (B.) for drug-related offences with organised-crime background. A. and B. were subsequently convicted, with confiscation of all of their assets (*prepadnutie majetku*) being one of their sanctions, including the money at stake in the present case. Ultimately, however, that conviction was quashed (along with any sanction) and they are presently facing a retrial.

3. Against this background, a claim that part of the seized money belonged the applicants was made for the first time by A. on 3 April 2018 in a letter to the investigator by A. A similar claim was made by the first applicant on 7 June 2018 and was responded to on 15 June 2018 by the investigator, who stated that the amount allegedly belonging to her was linked to an offence under investigation and therefore had to remain part of the case file. All this took place at the pre-trial stage of the proceedings and no further remedies were pursued.

4. Once A. and B. had been indicted, the applicants made similar requests to the SCC, supporting them by pay slips, solemn declarations and other documentation, arguing that the seized amounts constituted their savings and that they had had nothing to do with the offences under investigation. In letters of 4 January, 11 July, 6 September and 15 November 2019, the SCC, acting in its capacity as trial court, informed the applicants that it would deal with the matter of all the retained items at the main hearing after the taking of evidence, which at that time was ongoing.

5. On 14 October 2021 the Constitutional Court rejected subsequent complaints submitted by the applicants challenging the above-mentioned response of the SCC. The Constitutional Court noted, *inter alia*, that the seizure of the money allegedly belonging to the applicants constituted a preventive and interim measure which was imposed in instances where the sentence of confiscation of all of the accused person's assets came into question. The SCC took the preliminary view that the money in issue belonged to the accused. It therefore could not be immediately restored to the applicants under Article 97 of the Code of Criminal Procedure ("the CCP"). Any sentence of confiscation of all of an accused's assets was by law to be followed by bankruptcy proceedings concerning those assets and the applicants were free to assert their ownership claims in such proceedings.

6. Relying on Article 6 § 1 and Article 13 of the Convention and Article 1 of Protocol No. 1, the applicants alleged that the seizure of the money had been arbitrary, as had been the authorities' response to their requests for its restoration.

THE COURT'S ASSESSMENT

A. Complaints under Article 1 of Protocol No. 1, taken alone and in conjunction with Article 13 of the Convention

7. The search and seizure took place on 6 March 2017 and was aimed at finding any illicit substances, objects, documents, data and financial means linked to A. and B. in relation to the suspected offences. The first applicant, a co-owner of the house, and A. were present. The money in question was cash, which was seized along with other money and objects. The Court notes that the record of the search contains no mention of any objections or statements concerning the ownership of the seized money or other items.

8. Moreover, a claim that part of the seized money belonged the applicants was not made until 3 April 2018 (by A.) and 7 June 2018 (by the first applicant), with the response specified at paragraph 3 above.

9. During the trial of A. and B., the SCC informed the applicants that it would deal with their request for restoration of the money allegedly belonging to them later. As explained by the Constitutional Court, this reflected the preliminary view of the SCC that the money in question belonged to the accused (see paragraph 5 above). The Court observes that the subsequent course of the proceedings, which are ongoing, has produced no elements strengthening the applicants' claim that the money in question belonged to them.

10. In sum, in so far as the applicants claim before the Court that the seized money belongs to them, such claim has never been recognised and remains to be determined in judicial proceedings. It is accordingly open to doubt that such claim amounts to a "possession" within the meaning of Article 1 of Protocol No. 1 (for a summary of the existing case-law and its application, see, for example, *Kopecký v. Slovakia* [GC], no. 44912/98, §§ 36-60, ECHR 2004-IX). At any rate, the proceedings against A. and B., for the purposes of which the seized money has been retained, are ongoing, following a decision by the Supreme Court of 28 February 2024 on appeals on points of law lodged by A. and B. In addition to the opportunities of asserting their claim prior to the decision of 28 February 2024 (see paragraphs 14 to 19 below), it is still open to the applicants to have the existence of their possessions judicially examined and recognised in the proceedings against A. and B. In these circumstances, the Court finds the applicants' complaint made in reliance on Article 1 of Protocol No. 1, taken alone and in conjunction with Article 13 of the Convention, to be premature.

11. Accordingly, this part of the application must be rejected under Article 35 §§ 1 and 4 of the Convention.

B. Complaints under Article 6 of the Convention taken alone and in conjunction with Article 13

12. The essence of the applicants' complaint is that the SCC had arbitrarily refused to restore to them the money they considered theirs and that, in doing so, it had ignored their arguments. Other than questions of a fourth-instance nature, this raises the question of the applicants' access to a court with a view to asserting their civil rights and obligations.

13. The Government objected to the admissibility of the complaint, arguing that the applicants had failed to exhaust domestic remedies available to them in several aspects.

14. The Court notes that Article 45 of the CCP bestows upon those whose object, financial amount or another asset may, should or has been forfeited in criminal proceedings the procedural status of third party (*zúčastnená osoba*). In their observations before the Court, the applicants themselves argued that the authorities had been bound to but had failed to accord them that status in the criminal proceedings against A. and B.

15. As concerns the pre-trial stage, the status of third parties would have given the applicants the right, under Article 210 of the CCP, to seek a review of the actions of the police by the Public Prosecution Service ("the PPS") and, ultimately, a review of the actions of the PPS by the Constitutional Court (see, *mutatis mutandis*, *Ribár v. Slovakia*, no. 56545/21, §§ 37, 39, 79 and 80, 12 December 2024). Irrespective of whether the applicants were or were not to be treated by the authorities as third parties by operation of law, the applicants never relied on the above entitlement and took no action in relation to the reply by the investigator of 15 June 2018 (see paragraph 3 above).

16. Therefore, even assuming that the applicants' complaints before the Court extended to the pre-trial stage of the proceedings, the domestic remedies were not exhausted in relation to their respective part.

17. Turning to the subsequent stages of the proceedings, following the indictment of A. and B., the legal framework for handling the applicants' claims fell under the authority of the courts which had the power to either (i) restore the money claimed by the applicants directly, under Article 97 of the CCP, if their title to it was beyond doubt, or (ii) decide on the retained items in the final judgment on the merits, if the applicants' claims were not free from doubt. In that regard, again, the applicants' status of a third party gave them extensive procedural rights, including to comment on all the facts and evidence, to take part in the main hearing, to make proposals, to adduce evidence and to avail themselves of relevant remedies. The last-mentioned entitlement ultimately and specifically gave a third party concerned the right of appeal against a ruling on the confiscation of all of the convict's assets (Article 307 § 1 (d) of the CCP).

18. It was open to the applicants in the present case to make use of these entitlements, in particular in relation to (i) the proceedings leading up to the final judgment convicting A. and B. (7 July 2021), (ii) the ruling concerning the confiscation of all of A.'s and B.'s assets (including the money allegedly belonging to the applicants), and (iii) the retrial of A. and B., which is ongoing following the decision of 28 February 2024 (see paragraph 10 above). Depending on the outcome of any such remedy, it would have been open to the applicants to assert their rights further by way of an individual complaint to the Constitutional Court under Article 127 of the Constitution (see *SLOVDAN, spol. s r.o. v. Slovakia* (dec.), no. 46341/17, § 29, 12 October 2021, with further references).

19. As to the period between the conviction of A. and B. and their re-trial, in other words, while the sentence of confiscation of their assets (including the money allegedly belonging to the applicants) was still valid, it was further open to the applicants to assert their property claims in the bankruptcy proceedings concerning the assets of A. and B., which were opened on 30 January and 14 February 2023 respectively. As explained by the Government, this included any claim that a particular item did not actually belong to the bankruptcy estate but to a third party. If such claim was not acknowledged by the bankruptcy trustee, it could be asserted in a court (Article 78 of the Bankruptcy Code). Irrespective of the fact that the bankruptcy proceedings were ultimately rendered moot by the quashing of the convictions of A. and B. and their retrial, the applicants took no action with a view to asserting their property rights in them. As in relation to the other remedies (see the previous paragraph), depending on their outcome, it would further have been open to the applicants to assert their rights before the Constitutional Court.

20. In sum, the Government's objection must be upheld and the applicants' complaint under Article 6 § 1 of the Convention be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies. In view of that findings, the complaint attached to it under Article 13 of the Convention is manifestly ill-founded (see, for example, *Hajili v. Azerbaijan*, no. 27329/19, § 51, 1 April 2025) 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 11 December 2025.

Liv Tigerstedt Deputy Registrar	Davor Derenčinović President