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. 12605/02
by Ivo PATTA
against the Czech Republic

The European Court of Human Rights (Second Section), sitting on 14 September 2004 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr L. LOUCAIDES,
Mr C. BÎRSAN,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mrs W. THOMASSEN,
Mrs A. MULARONI, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 8 March 2002,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Ivo Patta, is a Czech national, who was born in 1948 and lives in Praha 10. He is represented before the Court by Mr V. Vlk, a lawyer practising in Praha 8.

A. The circumstances of the case

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

The applicant's grandmother owned a house and plot of land in Městec Králové, which the State seized in 1960 and returned to her in 1969. On 15 October 1970 she signed an agreement to sell the property to the Městec Králové Centre for Agricultural Apprenticeship *(Střední odborné učiliště zemědělské),* a State institute, and was paid 123,233.35 CZK. Subsequently, part of the property was transferred to the Consumer Cooperative *(spotřební družstvo)* and the Městec Králové Municipality.

I. *Proceedings for the restitution of the property under the Land Ownership Act No. 229/1991*

On 10 October 1991 the applicant requested the owners of the property under the Land Ownership Act No. 229/1991 to return the property to him, arguing that his grandmother had signed the sale agreement under duress and conspicuously disadvantageous conditions. Upon their refusal, on 4 December 1992 he requested the Nymburk Land Office *(pozemkový úřad)* to restore the property to him.

On 31 January 1995 the Land Office dismissed the applicant's request, stating that, while it was uncertain whether his grandmother had acted under duress, she had not sold the property under conspicuously disadvantageous conditions.

On 29 September 1995 the Prague Municipal Court *(městský soud)*, upon the applicant's appeal, quashed the Land Office's decision and returned the case to it for further establishment of the facts.

On 21 February 1996 the Land Office again dismiss the applicant's request for the restitution of the property as it was not proved that his grandmother had concluded the sale agreement under conspicuously disadvantageous conditions.

On 16 May 1997 the Municipal Court upheld the Land Office's decision.

On 9 June 1998 the Constitutional Court granted the applicant's constitutional appeal, in which he had complained that he had not been duly invited to the hearing before the Municipal Court, and that the latter had decided in his absence. The Constitutional Court quashed the Municipal Court's judgment.

On 2 February 1999 the Municipal Court again upheld the Land Office's decision.

On 29 August 2001 the Constitutional Court dismissed the applicant's request of 27 July 2001 to replace the judge rapporteur because of alleged partiality.

On 18 September 2001 the Constitutional Court dismissed the applicant's constitutional appeal of 14 June 1999 against the Municipal Court's judgment and the Land Office's decision as manifestly ill-founded.

II. *Proceedings for the restitution of the property under the Extra-judicial Rehabilitation Act No. 87/1991*

On 10 October 1991 the applicant requested the Centre for Agricultural Apprenticeship to return the property to him, pursuant to the Extra-judicial Rehabilitation Act No. 87/1991. After its refusal, he requested the Nymburk District Court *(okresní soud)* on 16 March 1992 to restore the property to him. On 24 March 1992 the District Court invited the applicant to remedy shortcomings in his submissions, which he did on 7 April 1992.

On 18 September 1992 the District Court held a hearing.

On 15 July 1996 the applicant informed the District Court, upon its inquiry of 4 July 1996, that he insisted on the continuation of these proceedings despite his simultaneous request for restitution under the Land Ownership Act before the Land Office.

On 29 July 1997 the District Court discontinued the proceedings, finding that it lacked competence to deal with the case.

On 6 November 1997 the Prague Municipal Court *(krajský soud)*, upon the applicant's appeal of 19 August 1997, quashed the District Court's decision and remitted the case to it for further consideration.

On 6 January 1999 the District Court informed the applicant that the proceedings had been stayed on 4 December 1998.

On 23 May 2002 the District Court ordered a hearing on 23 July 2002.

On 28 March 2003 the District Court again discontinued the proceedings for lack of competence and referred the case to the Ministry of Agriculture.

On 19 August 2003 the Municipal Court upheld this decision.

On 25 February 2004 the Supreme Court dismissed the applicant's appeal on points of law, holding that the conclusions of the lower courts had been in accordance with domestic law.

COMPLAINTS

1. In respect of the proceedings for restitution of property pursuant to the Land Ownership Act No. 229/1991, the applicant complains under Article 6 § 1 of the Convention that the length of the proceedings was excessive and, under Article 1 of Protocol No. 1, that he was deprived of his possessions because his grandmother had been coerced into signing the sale agreement.

2. In respect of the proceedings for restitution of the property pursuant to the Extra-judicial Rehabilitation Act No. 87/1991, the applicant complains under Article 6 § 1 of the Convention that the length of the proceedings was excessive.

THE LAW

1. The applicant complains under Article 6 § 1 of the Convention about the length of the restitution proceedings under the Land Ownership Act, which commenced on 4 December 1992 and ended on 18 September 2001 and, under Article 1 of Protocol No. 1, about a deprivation of property, allegedly due to the coercion of his grandmother.

The Court considers that it cannot, on the basis of the file, determine the admissibility of the complaint concerning the length of the restitution proceedings under the Land Ownership Act, and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of Court, to give notice of it to the respondent Government.

Insofar as the applicant complains about the circumstances of the sale of the property by his grandmother in 1970, which took place prior to 18 March 1992, this complaint must be rejected as being incompatible *ratione temporis* with the Convention within the meaning of Article 35 § 3 of the Convention. Accordingly, the complaint under Article 1 of Protocol No. 1 must be rejected in accordance with Article 35 § 4 of the Convention.

2. The applicant also complains under Article 6 § 1 of the Convention about the length of the restitution proceedings pursuant to the Extra-judicial Rehabilitation Act, which commenced on 16 March 1992. It seems that the proceedings are still pending.

The Court considers that it cannot, on the basis of the file, determine the admissibility of this complaint and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of Court, to give notice of it to the respondent Government.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaint concerning the length of the proceedings for restitution of property under the Land Ownership and Extra-judicial Rehabilitation Acts;

Declares the remainder of the application inadmissible.

S. DOLLÉ
Registrar

J.-P. COSTA
President