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

THIRD SECTION

DECISION

Application no. 49103/09
Zuzana PETROVÁ and Ondrej VALO
against Slovakia

The European Court of Human Rights (Third Section), sitting on 5 November 2013 as a Chamber composed of:

Josep Casadevall, *President,*
Alvina Gyulumyan,
Ján Šikuta,
Luis López Guerra,
Kristina Pardalos,
Johannes Silvis,
Valeriu Griţco, *judges,*

and Santiago Quesada, *Section Registrar,*

Having regard to the above application lodged on 2 September 2009,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicants, Ms Zuzana Petrová and Mr Ondrej Valo, are Slovak nationals who were born in 1971 and 1967 respectively and live in Košice.

They were represented before the Court by Mr I. Šafranko, a lawyer practising in Svidník.

2. The Government of the Slovak Republic ("the Government") were represented by their Agent, Ms M. Pirošíková.

A. The circumstances of the case

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

1. Background

4. The applicants' grandmother owned a piece of land situated in a regional capital.

In the Land Registry that land is recorded on two separate Certificates of Ownership relating to a number of plots occupying a total surface area of 7,682 square metres.

The plots recorded in one of these Certificates are classified as arable land and garden whereas the land recorded in the other Certificate, having a surface area of 94 square metres, is classified as land in a built-up area.

5. This piece of land resembles a strip bordered on both sides by plots on which neighbours have their houses. According to the Government, this piece of land used to be on the outskirts of town but because of the growth of the town its built-up areas have reached this property.

6. In the 1950s or 1960s, when the land in question was *de facto* occupied by a socialist agricultural co-operative, three high-voltage pylons were erected on it, subject to the provisions of the 1957 Electrification Act (Law no. 79/57 Coll.). The pylons themselves cover some 2 square metres of the surface of the land in question, but the protective zone around them covers an area of 6,144 square metres.

7. The applicant's grandmother was neither invited to take part in nor informed of the administrative proceedings concerning the construction of the electricity main of which the pylons were a part. She did not receive any compensation. Nevertheless, no decision appears to have been taken depriving her of the title to the land.

8. From 1998 the applicants' grandmother, and later also the applicants, made a large number of applications to various courts, public bodies, members of parliament and other officials with a view to obtaining compensation in respect of the restrictions resulting from the erection and continued presence of the pylons on the land in question.

9. Meanwhile, in 2002 the applicants became the owners of the land by way of a gift from their grandmother, who then passed away in 2005.

10. As the owners, from 2005 the applicants became liable to pay real-estate tax on the land. In 2012 the amount of tax payable in respect of the land as a whole was 70.23 euros (EUR), of which EUR 8.07 related to the proportion of the surface taken up by the pylons.

As the owners, the applicants became liable to maintain the land so that the use of the adjacent plots was not hindered.

11. In the applicants' submission, with the installations on it, their land can neither be sold nor made use of for construction. Nevertheless, in 2012, the applicants sold the plot classified as being in a built-up area (see paragraph 4 above) to another individual.

12. As submitted by the Government, and acknowledged by the applicants, the remainder of the land can be used for farming, and it is used as a garden for growing fruit trees and vegetables.

2. Action

13. On 5 February 2003 the applicants brought and later amended an action eventually directed against the local electricity-distribution company and aimed at obtaining an amount of money in compensation for the use of the surface occupied by the pylons.

The defendant of the action is a joint-stock company and, as such, one of its statutory purposes is to generate profit. It has been submitted by the applicants, and not contested by the Government, that the defendant is owned by another company, of which the State owns 51% of the stock.

As to the substance, for each square metre occupied by the pylons, the applicants claimed the equivalent of approximately EUR 1.20 per year.

In support of their claim, the applicants relied, *inter alia*, on Articles 6 § 1 of the Convention and 1 of Protocol No. 1, arguing that while the impugned pylons served to make a profit for the defendant, the applicants not only had to endure the presence of the pylons but were also incurring costs related to the plot's maintenance.

14. The action was examined and dismissed at two levels of ordinary jurisdiction: by the Košice I District Court (*Okresný súd*) on 13 December 2007 and, following an appeal by the applicant, by the Košice Regional Court (*Krajský súd*) on 11 December 2008.

15. The courts applied section 22(2) of the 1957 Electrification Act, which was still in force by virtue of section 42(2) of the 1998 Energy Act (Law no. 70/1998 Coll.) and section 69(10) of the 2004 Energy Act (Law no. 656/2004 Coll.). Their reasons may be summarised as follows:

The 1957 Electrification Act authorised the construction of electricity mains, including the establishment of support points, such as the pylons on the applicants' land, on the real property of any party.

As a matter of principle, no compensation was envisaged. However, if the owners or users of the real property concerned were significantly encumbered in its use they could claim adequate one-off compensation.

A claim for such one-off compensation had to be filed within three months of the entry into use of the installation or else it would lapse.

The applicable legislation provided for an *ex lege* easement, which was a *sui generis* notion within public law. It was accordingly not possible to advance a compensation claim on the basis of private law. The easement in question was always to be governed by the legal rules applicable at the time of its creation. The subsequent legislation did not envisage any compensation other than the one-off compensation under the 1957 Electrification Act.

In support of this position, the courts also relied on a decision of the Constitutional Court (*Ústavný súd*) of 28 September 2005 (see paragraph 34 below).

In the applicants' case, at the relevant time no compensation had been claimed or, consequently, obtained. The claim of the applicants'

grandmother had thus lapsed, there had not been any legal basis for its renewal, and there was no basis for any new claim of the applicants' own.

The courts equally held that the right to a fair trial did not imply the right to a successful outcome in the proceedings; that the *ex lege* easement served the public interest and that it did not infringe on the applicants' property rights.

3. Constitutional complaint

16. On 9 March 2009 the applicants lodged a complaint with the Constitutional Court (*Ústavný súd*) under Article 127 of the Constitution (Constitutional Law no. 460/1992 Coll., as amended). They advanced similar arguments to those outlined above and alleged a violation of their rights under Article 1 of Protocol No. 1.

In addition, the applicants submitted that they accepted the public interest in having the installation and that the essential problem was the complete lack of any compensation, which they considered disproportionate. In particular, the ordinary courts had failed to respond to their argument that their grandmother could not have claimed any compensation at the time of the creation of the easement because she had *de facto* not been using it and compensation could only be claimed by someone who had been significantly encumbered in the use of their property.

The applicants further relied on the judgments (*nález*) of the Constitutional Court (*Ústavní soud*) of the Czech Republic – Slovakia having a similar legal tradition – in cases nos. Pl. ÚS 25/04, of 25 January 2005, and I. ÚS 137/03 of 18 November 2003. These judgments concerned, *inter alia*, the continued application of the compensation regime set up under the 1957 Electrification Act. In these judgments, an ideological distinction was observed between the "old law", that is to say, that of the "old (communist) regime" prior to November 1989, and the law applicable under the subsequent democratic constitution. This distinction reflected the political and economic changes that had taken place.

The quoted judgments recognised that, while there was a general continuity with the old law, there was a discontinuity in respect of the values of the old regime. The interpretation and application of the old rules had thus currently to take due account of the need for the protection of human rights and fundamental freedoms, including the protection of property. The latter consideration was all the more relevant when the beneficiary of an *ex lege* easement was making use of it in order to obtain economic gain. While the lawfulness of the creation of an *ex lege* easement as such was undisputed, where the applicable public-law legislation contained no provision for compensation in respect of expenses relating to the exercise of the easement, the relevant provisions of private law were to be used as an alternative. Such provisions provided for compensation in respect of running costs, which was to be agreed on by those concerned or

to be ordered by a court. A lack of compensation for such expenses would constitute unjust enrichment on the part of the beneficiary of the easement.

17. On 14 May 2009 the Constitutional Court declared the applicants' complaint inadmissible as being manifestly ill-founded. It reiterated its established case-law to the effect that a general court could not bear "secondary liability" for a violation of fundamental rights and freedoms of a substantive nature unless there had been a constitutionally relevant violation of the rules of procedure. However, no such procedural claim had been advanced and, in any event, no procedural issue had been established. The ordinary courts' judgments were supported by adequate reasoning and their conclusions as to the facts and law manifested no signs of arbitrariness or lack of justification.

B. Relevant domestic law and practice

*1. The Charter (*Listina základných práv s slobôd*)*

18. The Charter (Constitutional Law no. 23/1991 Coll.) was introduced into the legal order by way of a constitutional law which was enacted by the Federal Assembly of the Czech and Slovak Federal Republic on 9 January 1991 and which entered into force on 8 February 1991. The law remains in force in Slovakia today.

19. The relevant part of Article 11 provides:

> "1. Everyone has the right to own property. Each owner's property right shall have the same content and enjoy the same protection. [The right of] inheritance is guaranteed.
>
> 2. The law shall designate the property necessary for securing the needs of society as a whole, the development of the national economy, and public welfare, which may be owned exclusively by the State, a municipality, or by designated legal persons; the law may also provide that certain items of property may be owned exclusively by citizens or legal persons with their headquarters in the Czech and Slovak Federal Republic.
>
> 3. Ownership entails obligations. It may not be misused to the detriment of the rights of others or in conflict with legally protected public interests. It may not be exercised so as to cause harm to health, nature, or the environment beyond the limits laid down by law.
>
> 4. Expropriation or some other mandatory limitation upon property rights is permitted in the public interest, on the basis of law, and for compensation."

2. The Constitution

20. The relevant part of Article 20 provides:

> "1. Everyone shall have the right to own property. The property rights of all owners shall be uniformly construed and equally protected by law. The right of inheritance is guaranteed.
>
> ...

4. Expropriation or restrictions to the right of property may be imposed only to the extent necessary and in the public interest, in accordance with the law and for adequate compensation."

3. Civil Code (Law no. 40/1964 Coll., as amended)

21. Article 3 § 1:

"The exercise of rights and fulfilment of duties under civil law must not interfere with the rights or legally protected interests of others without a lawful ground and may not be *contra bonos mores*."

22. Article 123:

"The owner shall be entitled, within the limits prescribed by law, to hold the object of his ownership, to use it, to benefit from its fruits and proceeds and to make dispositions in respect of it."

23. Article 124:

"All owners shall have the same rights and duties and shall be granted the same legal protection."

24. Article 128:

"1. The owner of a thing must endure the use of his thing [by another person] in a state of emergency or in a pressing public interest, for the necessary time, to the necessary extent, and in return for compensation, if the purpose cannot be achieved otherwise.

2. In the public interest, ... the ownership of [a thing] may be restricted if the purpose cannot be achieved otherwise, provided that the expropriation or restriction has a basis in law, and only for that purpose and for compensation."

25. Article 151n et seq. provides basic rules in relation to easements:

"1. Easements shall constitute a restriction on the owner of real property for the benefit of someone else, so that the owner must endure, refrain from doing or do something. The rights constituting an easement shall be linked to and originate from the ownership of particular real property or be linked to and belong to a particular person.

2. Easements linked to and originating from the ownership of real property shall pass to the acquirer together with the acquisition of the ownership of the property.

3. Unless the participants agree otherwise, the person who is entitled to use somebody else's thing on the basis of a right constituting an easement must bear an adequate share of the costs of its maintenance and repair; however, if the thing is co-used by its owner, the owner must bear these costs in proportion to the extent of the joint use."

26. The relevant part of Article 151o § 1 provides:

"Easements can arise on the basis of a written contract, on the basis of a will, in connection with the outcome of inheritance proceedings, on the basis of an approved agreement among the heirs, on the basis of a decision by the competent authority, or by operation of law."

4. Energy laws

27. Under section 22(1) of the 1957 Electrification Act, an enterprise active in the energy sector was entitled: (a) to build and operate electrical installations on other persons' real property to the extent permitted under the building permit, to erect support pylons, to connect the plots by conductors and to establish the electricity main on them; (b) to access the real property directly concerned for the purposes of the construction, operation, maintenance, and modification or removal of the main; and (c) to remove or prune trees obstructing the main.

28. Subject to section 22(2), the exercise of the entitlements pursuant to section 22(1) was subject to no compensation. However, if the owners or users of real property not belonging to the (socialist) State were significantly encumbered in the use of the property because of the establishment of the main, they could a claim with the construction authority for the company concerned to pay them adequate one-off compensation. The claim was to be submitted within three months of the entry of the installation into permanent use on the pain of expiry.

29. The 1957 Electrification Act was abolished and replaced on 1 July 1998 by the 1998 Energy Act, which in turn was abolished and replaced as of 1 January 2005 by the 2004 Energy Act, which in its turn was eventually abolished and replaced on 1 September 2012 by the 2012 Energy Act (Law no. 251/2012 Coll.).

Under all the Acts, however, entitlements in respect of other persons' real property, and limitations on the use of it, which had been established previously remained intact.

30. Section 10 of the 2004 Energy Act, as applicable at the relevant time, provides for a number of safeguards and guarantees to the owners of real property affected by industrial activities in the energy sector, including:

- rules on elimination and limitation to the minimum possible of any interference, restrictions, expenses and losses on the part of the owners due to activities of holders of licences to carry out business in the energy sector;
- regulation of access to the real property affected;
- regulation of measures to be taken and compensation for expenses incurred in connection with such measures in respect of vegetation undermining the security or reliability of the operation of energy facilities;
- rules on one-off compensation payable to the owners if they are restricted in the ordinary use of their real property; and
- rules on one-off compensation for the creation of an easement *in rem* on the property concerned, such easement consisting of the duties and restrictions imposed under section 10 of the 2004 Energy Act.

31. Similar provisions to those referred to in the precedent paragraph are contained in the 2012 Energy Act. The easements in question are to be registered with the Land Registry and the licence holder is to inform the

owner of the real property concerned of the registration in writing (section 11(10) and (12) of the 2012 Energy Act).

5. Judicial practice

32. By way of an action in the Prešov District Court (case no. 9C 207/00), an individual sued a municipality and a public-transport company of that municipality for compensation in connection with electrical installations situated on his real property and used by the defendants in operating the public transport system. For unclear reasons the applicants were third parties to the proceedings.

33. In the context of those proceedings, the Court of Appeal challenged before the Constitutional Court the constitutionality of section 42(2) of the 1957 Electrification Act, applicable by virtue of section 69(10) of the 2004 Energy Act, which had replaced the 1998 Energy Act.

34. On 28 September 2005 the Constitutional Court dismissed the challenge (case no. PL. ÚS 28/05) holding that the impugned statutory provisions merely concerned the continued existence of *ex lege* easements and provided for no new possibility to claim compensation. Providing for new compensation claims would amount to enabling new restitution claims, which the lawmaker was free under the Constitution to choose not to do.

COMPLAINTS

35. The applicants complained under Article 6 § 1 of the Convention that their action had been arbitrarily dismissed, although a violation of human rights had been found in the Czech Republic on comparable facts.

36. The applicants also complained under Article 1 of Protocol No. 1 that they had to endure a situation where a commercial electricity-distribution company was using their land free of charge, and in which the State was complicit; that they had to pay taxes and incur expenses in connection with the ownership and maintenance of that land; and that the State had failed to enact any legislation allowing their grandmother or themselves to obtain any compensation, all of which the applicants considered disproportionate.

THE LAW

A. Article 1 of Protocol No. 1

37. The applicants alleged a violation of Article 1 of Protocol No. 1, which provides as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

1. Parties' arguments

38. In reply, the Government objected that the easement over the applicants' property had been created long before 18 March 1992, when the Convention entered into force in respect of Slovakia. In their submission, therefore, the relevant part of the application was incompatible *ratione temporis* with the provisions of the Convention.

The Government pointed out that the applicants had only acquired the title to the property in question in 2002. Prior to that time the property had belonged to their grandmother, and any complaints now brought by the applicants about any alleged violation of her Convention rights were incompatible *ratione personae* with the provisions of the Convention

Moreover, the Government submitted, the Convention did not contain any guarantee of a right, as such, to compensation for grievances suffered before the entry into force of the Convention in respect of the country concerned.

39. In addition, the Government submitted that at the time when the applicants acquired the title to the property, the easement over it had already existed. There had accordingly been no later diminishment of the value or deterioration of the condition of their property.

According to the Government, the applicants could not have had any legitimate expectation of seeing a change to the then existing statutory framework, which framework did not envisage any compensation for limitations on the use of property in a situation similar to that of the applicants, other than the one-off compensation. In so far as the applicants were claiming any other compensation, their claim had no basis in law.

Nevertheless, the existing framework contained various guarantees and limitations with a view to reducing to the minimum any negative impact on the owners of the property concerned.

40. As to the actual use of the land in question, the Government pointed out that nothing prevented the use of it for the purpose envisaged in its registration at the Land Registry, that is to say, for farming, and that the applicants were in fact using it for that purpose. In so far as they might have incurred any damage or expense in connection with the operation of the facilities in question, the applicants could have sought compensation but had not.

41. In sum, according to the Government, the contested restrictions clearly had a legal basis, were in the public interest, and were proportionate.

42. The applicants rejoined by conceding that the easement over their property served a public interest but objecting that there had been no compensation whatsoever paid to them or their grandmother in respect of it.

As to the extent of their loss, the applicants emphasised that it concerned the entire protective zone around the electrical facilities in question, as opposed to only the surface area they actually occupied (see paragraphs 6 and 10 above).

The essence of the applicants' complaint was not the lack of compensation for "secondary" losses such as damage or expense due to the operation of the electrical facilities, but rather the lack of compensation in respect of their "primary" loss consisting of the impossibility of having full use of their land, notably for construction purposes. In this connection, the applicants emphasised that, as things stood, no use of the land for construction purposes would ever be possible, unlike in the case of the properties of their neighbours.

Both the applicants' grandmother and, as a result of her legacy after her death, the applicants themselves had long pursued legislative change that would allow for such – even partial – compensation.

In contrast to their situation, which involved a number of restrictions, the electricity company was profiting from the easement without having to pay any compensation, and the situation was not counterbalanced by any benefit on the part of the applicants, which was clearly unfair.

The easement placed a lasting limitation on the use of the applicants' land and, while it was true that it had been created prior to the entry into force of the Convention in respect of Slovakia, it had continued to exist afterwards, rendering Slovakia liable for the interference with the applicants' property rights resulting from it.

The property title of their grandmother and of the applicants themselves had never been taken away or disputed, and thus the present case did not concern restitution of property; nor were they trying to obtain retroactive compensation for wrongs suffered earlier than the period of the statute of limitation.

2. The Court's assessment

43. The Court would point out at the outset that its task is not to review the relevant domestic law and practice *in abstracto*, but rather to determine, at the current stage of the proceedings, whether the case satisfies the requirements of admissibly under Article 35 of the Convention (see, *mutatis mutandis*, *Fruni v. Slovakia*, no. 8014/07, § 133, 21 June 2011, with further references).

44. From this perspective, the Court observes that the electrical installations in question were put in place before the entry into force of the Convention in respect of Slovakia; that the right to compensation for damage or wrongs caused prior to the entry into force of the Convention with respect to the Contracting Party concerned is not, as such, guaranteed by the Convention or its Protocols; and that until the gift of 2002 the owner of the property in question was the applicants' grandmother.

Any complaint in respect of the creation of the easement, the lack of compensation for its creation, any other event having occurred prior to 18 March 1992, and any loss suffered by the applicants' grandmother is thus not compatible with the provisions of the Convention *ratione personae*, *temporis* or *materiae*.

45. As to the applicants themselves, they became directly affected by the easement over the property in question in 2002. At that time, the easement had long been in place and there is no indication that thereafter any more restrictions were placed on the applicants' use of the property, or that their situation deteriorated in any way.

Therefore, and in view of the situation of the applicants' property as a whole, the Court considers that the present complaint falls to be examined under the second paragraph of Article 1 of Protocol No. 1, which allows for the Contracting States to control the use of property in accordance with the general interest.

46. For any such control of the use of property to comply with the requirements of Article 1 of Protocol No. 1, it must first and foremost be lawful, and must furthermore pursue a legitimate aim.

In this regard the Court observes that, in the present case, there has been no dispute between the parties about the fulfilment of these two criteria, that the legal basis for the contested easement was undoubtedly the energy laws of 1957, 1998, 2004 and 2012, and the aim of supplying the population with electricity was both in the general interest and legitimate.

47. The Court reiterates, however, that not only must an interference with the right of property pursue, on the facts as well as in principle, a "legitimate aim" in the "general interest", but there must also be a reasonable relation of proportionality between the means employed and the aim sought to be realised by any measures applied by the State, including measures designed to control the use of the individual's property. That requirement is expressed by the notion of a "fair balance" that must be

struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.

The concern to achieve this balance is reflected in the structure of Article 1 of Protocol No. 1 as a whole. In each case involving an alleged violation of that Article the Court must therefore ascertain whether by reason of the State's interference the person concerned had to bear a disproportionate and excessive burden.

In assessing compliance with Article 1 of Protocol No. 1, the Court must make an overall examination of the various interests in issue, bearing in mind that the Convention is intended to safeguard rights that are "practical and effective". It must look behind appearances and investigate the realities of the situation complained of, although the existence of procedural and other safeguards may be of a certain relevance (for a summary of the applicable principles see, for example, *Hutten-Czapska v. Poland* [GC], no. 35014/97, §§ 167-8, ECHR 2006-VIII, with further references).

48. Turing to the specific circumstances of the present case, the Court finds it of relevance that at the time of the acquisition by the applicants of the property in question it was already encumbered by the contested easement, and that the applicants were undoubtedly aware of the existence of the easement and the legal regime in respect of it (see paragraphs 8 and 42 above), but they nevertheless decided of their own free will to accept the gift and thereby to become the owners of the property (see *Łącz v. Poland* (dec.), no. 22665/02, 23 June 2009).

49. The Court further observes that, in the applicants' own submission, the main issue in the present case appears to be the lack of compensation in respect of the restrictions on the use of their land stemming from the contested easement, in particular, in that it was not possible to use the land for construction purposes.

50. In this connection, the Court also observes that, in their own submission, it was the applicants' hope to see the applicable laws change so as to allow for such compensation. However, the Court has found no elements in favour of a conclusion that such a hope amounted to a legitimate expectation on the part of the applicants in terms of its case-law (see, for example, *Kopecký v. Slovakia* [GC], no. 44912/98, §§ 35 and 45-52, ECHR 2004-IX, with further references).

51. Furthermore, the Court observes that the Convention cannot be interpreted as guaranteeing the right to use real property for construction purposes as such, that the possibility of using the land in question for another purpose, in particular for gardening and agriculture, was eventually acknowledged by the parties, and that the presence of the electrical installations and their protective zone on the applicants' land is no impediment to such use. This aspect of the present case distinguishes it from cases such as *Hutten-Czapska* (cited above) and *Urbárska Obec Trenčianske Biskupice v. Slovakia* (no. 74258/01, 27 November 2007),

where the applicants were completely prevented from making use of their property.

52. Moreover, the Court observes that under the applicable legislation the owner of the electrical installations on the applicants' land is under a duty to reduce any interference with the applicants' use of their property to a minimum and that, should the presence and operation of the installations result in any damage or expense to the applicants, they would have a direct claim for compensation. However, on the facts of the present case, such losses appear not to have been sustained and the question is therefore of no direct relevance for the applicants' Convention claim.

53. As to the spatial extent of the limitations on the applicants' use of their land, and the applicants' specific argument that it concerns not only the surface directly occupied by the pylons but rather the entire protective zone around the pylons and the electric main (see paragraphs 6 and 42 above), with implications for the amount of real-estate tax payable for a property subject to such restrictions (see paragraph 10 above), the Court observes first of all that the surface area taken up by the pylons themselves is rather insignificant (see paragraph 6 above) and – as noted above – the presence of the pylons and of their protective zone is no impediment to the use of the land as a garden or for agricultural purposes. While the real-estate tax and the possible extra expenses incurred by the applicants as a result of the presence or operation of the electrical installations on their property may in general be accepted as relevant factors in determining whether a fair balance has been struck between the general interest of the community and the applicants' rights under Article 1 of Protocol No. 1, of themselves they are not decisive for determination of the point in issue (see *Urbárska Obec Trenčianske Biskupice*, cited above, § 145). In any event, there is no indication that the legal regime in respect of the applicants' property and the easement over it entails actual financial losses for the applicants or otherwise constitutes a disproportionate and excessive burden for them (for contrast and comparison see *Hutten-Czapska*, cited above, § 223-225).

54. In sum, in view of the above considerations, within the parameters of admissibility under Article 35 of the Convention and in so far as the matters complained of have been substantiated, the Court has found no indication that in the specific circumstances of the applicants' case the presence and operation of the electric installations on their property is incompatible with their right to the peaceful enjoyment of their possessions.

It follows that this part of the application must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Remainder of the application

55. The applicants also alleged that the outcome of the proceedings in their action had been arbitrary and as such had violated their right to a "fair" hearing under Article 6 § 1 of the Convention.

56. However, in the light of all the material in its possession, and in so far as the matters complained of have been substantiated and are within its competence, the Court finds that they do not disclose any appearance of a violation of the applicants' rights protected under Article 6 § 1 of the Convention. It follows that the remainder of 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.

Santiago Quesada
Registrar

Josep Casadevall
President