CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

FINAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 59218/00
by Věra RADIMSKÁ
against the Czech Republic

The European Court of Human Rights (Second Section), sitting on 23 November 2004 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr I. CABRAL BARRETO,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 26 May 2000,

Having regard to the partial decision of 15 October 2002,

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, Mrs Věra Radimská, was a Czech national who was born in 1920 and lived in Brno. She was represented before the Court by Mr J. Slezák, a lawyer practising in Brno. By a letter of 16 February 2003

the applicant's lawyer informed the Court that the applicant had died on 1 April 2002 and that Mr M. Radimský was her legal successor. The respondent Government were represented by their Agent, Mr V. A. Schorm.

A. The circumstances of the case

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

On 24 March 1992 the applicant requested the Ministry of Finance under the Extra-judicial Rehabilitation Act for financial compensation for the property which had been confiscated from her father and subsequently destroyed by the former communist regime. Without waiting for the expiration of the six-month period during which the Ministry of Finance was supposed to decide on the matter of compensation, the applicant lodged an action for compensation on 31 March 1992 against the State, represented by the Ministry of Finance, with the Brno Municipal Court *(městský soud)*.

On 9 July 1992 the Ministry of Finance filed their observations on the applicant's action.

On 21 January 1993 the Brno Municipal Court declared itself incompetent for territorial reasons and transferred the case to the Prague 1 District Court *(obvodní soud)* on 11 March 1993.

On 27 September 1993 the Municipal Court, upon the District Court's request, heard the applicant after it had adjourned, upon her request or due to her absence, hearings scheduled for 15 June, 13 August and 7 September 1993.

On 11 April 1994 the District Court, upon the applicant's request of 27 October 1993, stayed the proceedings pending the outcome of three other related restitution proceedings lodged with the Municipal Court. The District Court's decision took effect on 24 May 1994.

On 20 May 1997 the District Court decided to continue the proceedings despite the fact that the restitution proceedings before the Municipal Court had not yet been closed. The court held that, for the time being, the outcome of those proceedings was not important for its decision on the matter of financial compensation.

Upon the applicant's appeal of 11 July 1997 and after having received the Ministry of Finance's observations of 25 July 1997, the Prague Municipal Court upheld the District Court's decision on 22 August 1997.

After the District Court had adjourned at the applicant's request a hearing foreseen for 12 November 1997, it held another hearing on 3 December 1997, at which the applicant again requested that the proceedings be stayed. Furthermore, the District Court requested her to supplement her action, which she did on 29 December 1997 and 5 February 1998.

On 30 March 1998 the District Court discontinued the proceedings because of the applicant's failure to specify the amounts which she claimed by way of compensation in respect of each property, as requested on 3 December 1997.

Upon the applicant's appeal of 16 April 1998 and after having received the applicant's substantiation of her appeal of 24 April 1998 and the Ministry of Finance's observations of 26 May 1998, the Prague Municipal Court upheld the first-instance decision on 28 August 1998. On 13 October 1998 the Municipal Court's decision took effect.

On 6 May 1999 the Supreme Court *(Nejvyšší soud)* rejected the applicant's appeal on points of law *(dovolání)* of 16 November 1998 since only decisions on the merits could be reviewed by it.

On 9 December 1999 the Constitutional Court *(Ústavní soud)* dismissed the applicant's constitutional appeal *(ústavní stížnost)* of 11 December 1998. On 14 December 1999 this decision was served on the applicant.

COMPLAINT

The applicant complains under Article 6 § 1 of the Convention that the length of the proceedings was incompatible with the "reasonable time" requirement.

THE LAW

The applicant complains that the length of the proceedings was excessive. She invokes Article 6 § 1 of the Convention which, in so far as relevant, provides:

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

The Government first submit that the applicant did not exhaust all domestic remedies available to her.

The Court recalls that it has previously held that there was no effective remedy under Czech law to complain about the length of civil proceedings (*Hartman v. Czech Republic*, no. 53341/99, § 55-69, ECHR 2003-VIII). It sees no reason for distinguishing the present case from that of Hartman and dismisses, therefore, the Government's objection.

The Government further submit that the proceedings in question were not of fundamental importance for the applicant, especially since her right to claim compensation still exists despite the Prague Municipal Court's decision of 28 August 1998.

The Government state that the subject-matter of the proceedings was linked to three other sets of restitution proceedings before the Brno Municipal Court and that the length of the proceedings at issue can be attributed in part to the applicant's conduct. They observe in this connection that she twice requested an adjournment of hearings before the Brno Municipal Court and requested an adjournment of another hearing before the District Court. Moreover, she and her lawyer failed to attend two hearings without any excuse and the applicant requested an extension of the time-limit for supplementing her action. She eventually supplemented it on 5 February 1998. The Government further state that the proceedings were stayed upon the applicant's request and that the applicant appealed twice against the first-instance decisions.

As to the conduct of the authorities, the Government state that the District Court decided to proceed with the case and thus accelerated the conduct of the proceedings despite the applicant's objections.

The applicant submits that the District Court could have dealt separately with part of her claims in order to accelerate the proceedings. She maintains that her age and state of health should be taken into account when assessing her conduct.

The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (*Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

The period to be taken into consideration began on 31 March 1992, when the applicant lodged her action with the Brno Municipal Court and ended on 14 December 1999, when the Constitutional Court's decision was served on her. The proceedings thus lasted seven years and eight months before four instances, including a period of three years and three months from 24 May 1994 to 22 August 1997 during which they were stayed.

The Court observes that the case was not particularly complex and did not involve an issue of urgent, irremediable or vital importance for the applicant.

As regards the applicant's conduct, the Court notes that she contributed to the length of the proceedings as a result of her requests for the adjournment of hearings or on account of her absence at hearings between 15 June and 7 September 1993 in the Brno Municipal Court and on 12 November 1997 in the District Court. Although these adjournments may have been caused by the applicant's age or ill-health, it is nevertheless the case that the State cannot be held responsible for the consequential delays.

The Court notes also that the proceedings were further prolonged by the extension of the time-limit for supplementing the applicant's action. Finally, the proceedings were stayed, upon the applicant's request, between

24 May 1994 and 22 August 1997. The applicant's unwillingness to accelerate the proceedings can be seen from her appeal against the District Court's decision of 20 May 1997 to proceed with the case.

As to the conduct of the authorities, the Court observes that there was a delay of approximately six months between 9 July 1992, when the Ministry of Finance submitted their observations, and 21 January 1993, when the Brno Municipal Court declared itself incompetent. There was a further period of delay of about six months between the applicant's request of 27 October 1993 for a stay of proceedings and the District Court's decision of 11 April 1994. Nevertheless, it can be concluded that the proceedings otherwise progressed at a normal pace.

Having regard to the particular circumstances of the case and taking into account the overall duration of the proceedings, the Court finds that the "reasonable time" requirement laid down in Article 6 § 1 of the Convention was complied with in the present case.

It follows that the remainder of the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 35 § 4. Accordingly, the application of Article 29 § 3 of the Convention to the case should also be discontinued.

For these reasons, the Court unanimously

Declares the remainder of the application inadmissible.

S. DOLLÉ
Registrar

J.-P. COSTA
President