CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 72932/01
by Mária SISÁKOVÁ and Regina MURANSKÁ
against Slovakia

The European Court of Human Rights (Fourth Section), sitting on 10 May 2005 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr G. BONELLO,
Mr K. TRAJA,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,
and Mr M. O'BOYLE, *Section Registrar,*

Having regard to the above application lodged on 1 June 2001,

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 formal declarations accepting a friendly settlement of the case.

Having deliberated, decides as follows:

THE FACTS

The applicants, Mrs Mária Sisáková and Mrs Regina Muranská, are Slovakian nationals, who were born in 1908 and 1920 respectively and live in Košice. They are represented before the Court by Mr V. Sisák, a lawyer practising in Košice. The respondent Government are represented by Mrs A. Poláčková, their agent.

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

1. The proceedings on the applicants' action

On 14 June 1993 the applicants lodged a civil action against the Košice Administration of Municipal Roads. They alleged that the defendant had been using land which they owned without good title, and claimed compensation.

On 21 September 1993, in summary proceedings, the Košice I District Court (*Okresný súd*) issued a payment order (*platobný rozkaz*) in the applicants' favour. The order was later automatically quashed by virtue of the defendant's protest (*odpor*).

The applicants later modified the action, directing it against the municipality of Košice as well, claimed compensation in a higher amount and also sought compensation for the use of other parcels of land. The applicants further requested a judicial ruling ordering the defendants to conclude a lease with them for the land in question. Subsequently, however, they withdrew the latter request.

In the meantime, two individuals who co-owned the land at issue joined the action. One of them later died. Her estate then had to be determined, and her heirs finally decided not to pursue the action in her stead.

Several procedural decisions were taken later and the action was extended against other defendants. The proceedings on the merits are still pending.

2. The first proceedings before the Constitutional Court

On 6 September 2001, on the applicants' petition (*podnet*) under Article 130 § 3 of the Constitution as then in force, the Constitutional Court (*Ústavný súd*) found that the District Court had violated the applicants' right under Article 48 § 2 of the Constitution to a hearing without unjustified delay. However, at that time, the Constitutional Court lacked jurisdiction to draw any legal consequences from the finding.

3. The second proceedings before the Constitutional Court

On 28 January 2003 the applicant seized the Constitutional Court with a complaint (*sťažnosť*) under Article 127 of the Constitution as in force from 1 January 2002. They maintained that, despite the Constitutional Court's finding (*nález*) of 6 September 2001, the proceedings had still not been concluded. They invited the Constitutional Court to find a continuing violation of their constitutional right to a hearing without unjustified delay and to order the District Court to proceed with their case speedily. They also claimed financial just satisfaction.

On 5 March 2003 the Constitutional Court declared the complaint admissible, but only as regards the period after its previous finding of 6 September 2001.

On 21 May 2003 the Constitutional Court found that, in the period then under consideration, there had been no violation of the applicants' constitutional right to a hearing without unjustified delay.

COMPLAINT

The applicants complained under Article 6 § 1 of the Convention that the length of their proceedings had been excessive.

THE LAW

On 14 March 2005 the Court received the following declaration from the applicants:

> "We, Mária Sisáková and Regina Muranská, note that the Government of the Slovak Republic are prepared to pay each of us the sum of 50,000 Slovakian korunas[1] with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be payable within three months from the date of notification of the decision taken by the Court, pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> We accept the proposal and waive any further claims against Slovakia in respect of the facts giving rise to this application. We declare that this constitutes a final resolution of the case..."

On 22 March 2005 the Court received the following declaration from the Agent of the Government:

> "I, Alena Poláčková, Agent of the Government of the Slovak Republic, declare that the Government of the Slovak Republic offer to pay 50,000 Slovakian korunas to each of the applicants, Mrs Mária Sisáková and Mrs Regina Muranská, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

[1] Approximately 1,290 euros

> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be payable within three months from the date of notification of the decision taken by the Court, pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case...”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President