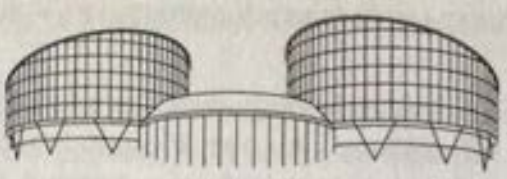

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Applications nos. 16857/11 and 32336/11
Milan ANDRÁŠIK against Slovakia
and František ČERMAN and others against Slovakia

The European Court of Human Rights (Third Section), sitting on 9 September 2014 as a Chamber composed of:

Josep Casadevall, *President,*
Alvina Gyulumyan,
Ján Šikuta,
Dragoljub Popović,
Luis López Guerra,
Johannes Silvis,
Valeriu Griţco, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above applications lodged on 1 March 2011 and 19 May 2011 respectively,

Having deliberated, decides as follows:

THE FACTS

1. A list of the applicants is set out in the appendix.

A. The circumstances of the case

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

1. Background to the case

3. Ms C., a student of medicine, was reported missing by her father on 12 July 1976. Prior to her disappearance she had been seen at a dance event in a youth club in Bratislava on 9 July 1976.

4. On 14 July 1976 a female body was found drowned in a river some 20 kilometres from Bratislava. As the circumstances indicated that the woman had been murdered, a criminal investigation was instituted. Ms C. was later identified as the victim.

5. On 21 September 1976 several young men from Piešťany were accused of murdering Ms C. After several months a decision was taken not to prosecute. The proceedings were stayed from 31 March 1977 to 15 June 1981.

6. On 16 June 1981 the applicants and one other person were accused of several offences in the context of the above.

7. The accused were later indicted and, on 22 September 1982, the Bratislava Regional Court convicted them of several criminal offences including the rape and subsequent murder of Ms C. Prison terms of between four and twenty-four years were imposed. On 25 April 1983 the Supreme Court of the Slovak Republic dismissed appeals that had been lodged by the public prosecutor and the applicants.

8. Between 1983 and 1989 the applicants unsuccessfully attempted to have the case re-opened by pointing out shortcomings in the proceedings that had led to their conviction.

9. On 19 October 1990, a complaint in the interest of the law having been lodged by the General Prosecutor of the Czech and Slovak Federal Republic, the Supreme Court of the Czech and Slovak Federal Republic quashed the applicants' convictions. The case was remitted to the Bratislava Regional Court for a fresh examination. The Federal Supreme Court held that the courts involved had failed to reliably establish all the relevant facts and to thoroughly examine the defence's arguments. The proceedings leading to the applicants' convictions were thus seriously flawed. Reference was made to more than twenty specific shortcomings. The trial court was ordered to take evidence and establish the relevant facts in accordance with the law.

2. New trial of the applicants

(a) First-instance proceedings

10. The Bratislava Regional Court started dealing with the case anew in 1991. In a judgment delivered on 20 January 2004 it convicted Mr Lachmann (the fifth applicant in application no. 32336/11), of aiding rape and the other five applicants of restricting personal freedom, rape and murder. In addition, Mr Andrášik and Mr Čerman were found guilty of violation of privacy. It imposed prison terms ranging between three and thirteen years on the applicants.

11. In its judgment the Regional Court listed the reasons for which the Supreme Court of the Czech and Slovak Federal Republic had quashed the original decision on the case. As the judges composing the chamber of the

Regional Court were not the same as those who had tried the accused initially, the whole proceedings had to be carried out anew. It noted that a part of the relevant evidence could no longer be gathered for objective reasons including the time which had lapsed since the offence was committed. Also, the criminal proceedings against the seventh accused had been stayed due to his ongoing mental disorder. His earlier statements could therefore not be used in the criminal proceedings against the applicants.

12. The Regional Court heard the applicants and examined statements they had made in the context of the original proceedings. It also heard more than sixty witnesses, including police investigators and prosecutors who had dealt with the case before, and four experts. With the parties' consent it read out statements from seventy-three witnesses that had been made in the period leading up to the applicants' new trial. Statements from three experts and five witnesses who had since died or were unable to attend were also read out. Opinions from experts in psychiatry, sexology, hydrobiology, judicial psychology and odorology were examined. Finally, reference was made to documentary evidence included in the file. In the judgment the description of the relevant facts as established on the basis of the above covered seventy pages.

13. In its judgment the Regional Court found that, after having considered the available evidence in its entirety, there was no reason for it to depart from the conclusions reached in the original set of proceedings. In particular, it relied on the confessions of three of the applicants and the statement of an eyewitness that had been obtained during the initial investigation. With reference to statements by the lawyers of the accused made prior to the main hearing in the original proceedings, and after having heard the investigators and public prosecutors involved at the pre-trial stage, the Regional Court dismissed the applicants' argument that physical and psychological pressure had been used to elicit false confessions.

14. When addressing witness statements suggesting that the accused had been in a different place at the relevant time, the Regional Court concluded that they were not reliable. It noted that seven other witnesses had confirmed seeing two of the accused at the dance event on 9 July 1976.

15. The Regional Court considered it established that after she had left the dance event, at about 10.30 p.m., Ms C. had been forced to get into the Fiat car of one of the accused. She had then been brought against her will to a house without the knowledge of the owner. She had been forced to drink alcoholic beverages and to undress. The court further held that Ms C. had been tied up and that five of the accused had had sexual intercourse with her notwithstanding her attempts to resist. During the night of 9 July 1976, six of the accused had driven Ms C. to Kráľová pri Senci, where two of the applicants had drowned her in a pond under the supervision of the others. Subsequently three of the accused had dumped the body in a nearby river and it had been found downstream on 14 July 1976.

16. The judgment indicated that the above conclusions were based on confessions by three of the applicants and a witness statement against them assessed in the light of all the evidence obtained. When imposing the penalties, the Regional Court had taken into account the fact that the duration of the criminal proceedings had been excessive.

17. Both the public prosecutor and the applicants appealed.

(b) Appeal proceedings

18. In his appeal the public prosecutor argued that the sentences imposed were lenient.

19. In their appeals – which, including enclosures, comprised more than a thousand pages – the applicants challenged their conviction.

20. Mr F. Čerman and Mr P. Beďač thus submitted a forensic opinion which an expert had drawn up at their request on 25 June 2004. They argued that it cast doubts on the facts as they had been established by the Regional Court and proposed that the expert's evidence be heard. In particular, they argued that the expert's opinion undermined the first-instance court's conclusions as regards the identification of the body found on 14 July 1976 as Ms C. The expert also disagreed with the conclusions as to the alleged rape, the date and manner of death of the victim, and the subsequent disposal of the body.

21. They further submitted that they had learned from witness statements made in the course of the first-instance proceedings that extensive evidence concerning mainly the initial investigation in 1976 and 1977 had been archived by the Ministry of the Interior. Following the first-instance judgment, the applicants had discovered that the evidence comprised nine boxes containing statements from more than a hundred witnesses.

22. Those documents indicated that the evidence against the accused had been manipulated and that a number of relevant documents had not been included in the court file. Those documents included, for example, statements from two witnesses dated 23 August 1976 indicating that they had seen a young girl being spoken to by three men in a Volkswagen Beetle car, which she had subsequently got into, in the vicinity of the youth club concerned at approximately 10.30 p.m. on 9 July 1976. It also included a complaint by the lawyer of one of the accused indicating that his client's defence rights had been breached in that the lawyer had not been notified of the interrogation and remanding in custody of his client.

The appellants submitted for inclusion in the court file copies of several documents from the Ministry of the Interior archives on which they relied.

23. In their appeals the applicants also argued that further documents gathered by an investigation team from Prague had been stored in the archives of the Ministry of the Interior of the Czech Republic. Their examination by the courts was desirable with a view to establishing the facts

of the case. The appellants argued that their right to a fair hearing had been breached as the Regional Court had failed to give relevant and sufficient reasons for its judgment in view of the evidence available and the arguments before it.

24. On 4 December 2006 the Supreme Court dismissed the applicants' appeals. The judgment stated that the Supreme Court had examined the appeals of the public prosecutor and of the accused, along with the enclosures, and had heard the latter's counsels' final submissions, which had lasted several hours. The appeal court held that the principal points in issue were whether (i) the confessions of several applicants at the pre-trial stage had been lawfully obtained; (ii) the witness statements against the applicants were trustworthy; and (iii) there was a need to take further evidence and, in particular, to examine documents which related to the initial investigation and which were held in the Ministry of the Interior archives.

25. The Supreme Court found no evidence demonstrating that the confessions of several of the accused and their statements against their co-accused had been elicited under pressure. It noted, among other things, that the accused parties concerned had admitted the offences in the presence of their defence counsels. The statements contained details which had been unknown to the investigators. One of the accused had maintained his statement at the main hearing before the trial court in the original proceedings, and he had withdrawn his appeal against the judgment leading to his conviction.

26. The witness statements against the accused in the original proceedings had been lawfully obtained. The Regional Court had correctly noted that certain modifications to the statements of those witnesses – to the advantage of the accused – were due to the lapse of time and pressure resulting from media coverage of the case. The file indicated that several witnesses had received anonymous threats pressurising them to abstain from making statements against the accused.

27. As to the statement by the eyewitness Ms B., in the course of the pre-trial investigation she had described in detail the individual involvement of the accused in the crime. The fact that she had later revoked her statements could not affect the position since she was convicted of having made false statements in that connection.

28. The Supreme Court held that the confessions of several of the accused and the evidence corroborating their statements had been obtained lawfully and found no reason to depart from the Regional Court's conclusion as to the applicants' guilt.

29. The Supreme Court considered it superfluous to take further evidence as requested by the applicants, including the hearing of witnesses whose statements had been archived by the Ministry of the Interior. The evidence available permitted the relevant facts to be reliably established. It

could not be affected by the gathering of additional evidence, which would unduly delay the proceedings.

30. Finally, the Supreme Court held that the first-instance court had erred in reducing the prison terms imposed with reference to the duration of the proceedings because the Constitutional Court had found a breach of the accused persons' rights and awarded them just satisfaction in that respect. The Supreme Court therefore increased the sentences imposed on three of the applicants, namely from 13 to 15 years for Mr Kocúr and Mr Andrášik, and from 10 to 12 years for Mr Dúbravický.

(c) Cassation proceedings

31. Mr Andrášik lodged an appeal on points of law. He argued that his conviction had resulted from errors of fact in that, among other things, the courts had failed to consider the evidence archived by the Ministry of the Interior and had disregarded the expert opinion of 2004.

32. The five other applicants filed a separate appeal on points of law. They contended that their defence rights had been disregarded and that their conviction had been based on evidence which had not been obtained lawfully. In particular, the applicants contended that the appeal court had disregarded extensive evidence which had been stored in the archives of the Ministry of the Interior, and which had not been included in the court file, as well as the forensic expert opinion submitted by them.

33. The applicants further argued that four of them had voluntarily undergone lie detector tests by a licensed U.S. polygraph examiner with thirty years' experience. All four tests had concluded that they had not lied when repeatedly replying that they had not raped and killed Ms C.

34. On 1 June 2009 the cassation chamber of the Supreme Court dismissed the applicants' appeals on points of law. It held that it lacked authority to deal with alleged errors of fact in proceedings at lower instances. The lower courts had duly addressed the argument that the confessions elicited from the accused had been false and the appeal court had explained why it was not necessary to take further evidence as requested by the accused. The polygraph tests could not be used as evidence in the proceedings.

35. Finally, the cassation chamber of the Supreme Court noted that the lower courts had committed errors in law to the advantage of the accused. Those errors could not be redressed in cassation proceedings because the prosecution had not filed an appeal on points of law.

3. Proceedings before the Constitutional Court

(a) Complaint about the length of proceedings

36. On 12 November 2003 the Constitutional Court found that the Bratislava Regional Court had breached the applicants' right to a hearing

within a reasonable time. It ordered the Regional Court to proceed with the case without delay and granted the equivalent of 9,958 euros (EUR) to each of the applicants.

(b) Complaint of 1 August 2007

37. On 1 August 2007 the applicants in application no. 32336/11 lodged a complaint against the Supreme Court's judgment of 4 December 2006. The Constitutional Court rejected it as premature on 24 September 2008. It referred to the fact that proceedings were still pending on the applicants' appeals on points of law.

(c) Complaint of 4 August 2009

38. On 4 August 2009 the applicants lodged a new complaint for which they submitted further reasons on 29 September 2009. They alleged that their rights under Articles 6 §§ 1 and 3 of the Convention, *inter alia*, had been breached in the proceedings before the Regional Court and on their appeal.

39. In particular, they argued that their conviction had been based on evidence which had not been obtained lawfully. They also submitted that the Supreme Court had refused to examine a number of witness statements and a considerable amount of other evidence which the investigators had gathered – lawfully – between 14 July 1976 and 31 March 1977. Those documents had never been included in the court file despite their requests. The refusal to include those documents in the file and to examine them amounted to a serious breach of the applicants' defence rights as that evidence had been obtained a relatively short time after the murder of Ms C.

40. The applicants also complained that the ordinary courts had (i) disregarded the conclusions expressed in the Federal Supreme Court's judgment of 19 October 1990; (ii) failed to give relevant and sufficient reasons for their conclusions; and (iii) disregarded the circumstances under which the accused had been interrogated in the course of the initial investigation.

41. On 14 December 2010 the Constitutional Court dismissed the complaint. It held that the applicants, who had been assisted by lawyers, had not formally directed their complaint against the decision regarding their appeal on points of law. Their arguments concerning a breach of their rights as a result of errors of law allegedly committed by the cassation chamber of the Supreme Court therefore fell outside the purview of the Constitutional Court.

42. The Constitutional Court further held that it lacked authority to examine the proceedings before the Regional Court because the alleged shortcomings in them had been addressed subsequently by the Supreme Court upon appeal by the applicants. As to the appeal proceedings, the Constitutional Court held that in its judgment of 4 December 2006 the

Supreme Court had explained in an adequate and acceptable manner why it had not considered it necessary to examine the evidence archived by the Ministry of the Interior. The ordinary courts had reliably established the relevant facts, had duly addressed the substantial arguments of the defence, and had given relevant and sufficient reasons for their conclusions which the Constitutional Court had not considered arbitrary.

COMPLAINTS

43. The applicant in application no. 16857/11 complained, with reference to Article 6 §§ 1 and 3 (d) of the Convention, that the domestic courts had disregarded his rights of access to a court, his rights to a fair trial, to defend himself and to be presumed innocent. In particular, the criminal proceedings had not been adversarial, and the principle of equality of arms had been disregarded, with evidence obtained in the course of the preliminary investigation that had been instituted immediately after the crime having been excluded from the file. The excessive duration of the proceedings had, moreover, prevented certain relevant facts from being established. The courts had relied on evidence obtained in the course of an investigation which had not been conducted in an objective manner. As a result, the criminal charges had not been determined in a fair and objective manner.

44. The applicants in application no. 32336/11 complained that in the criminal proceedings against them the domestic courts had refused to examine relevant evidence including (i) witness statements which had been obtained after the crime had been committed; (ii) a complaint by the lawyer of one of the accused indicating that he had not been notified of his client's interrogation on 16 and 18 June 1981; and (iii) the opinion of an expert given in 2004. In their view, the courts had failed to reliably establish all the relevant facts – notwithstanding the order contained in the Federal Supreme Court's judgment of 19 October 1990 – and had decided arbitrarily.

They invoked Article 6 §§ 1, 2, 3 (b), (c) and (d) and Article 17 of the Convention.

THE LAW

1. Joinder of the applications

45. Given their common factual and legal background, the Court decides that the two applications should be joined pursuant to Rule 42 § 1 of the Rules of Court.

2. Scope of the case

46. The Court notes the particular features of the present case, namely that (i) the proceedings complained of concerned a serious crime committed in 1976; (ii) the applicants were accused in that context in 1981 and were convicted for the first time in 1983 by Slovak ordinary courts; (iii) their convictions were quashed in 1990 by the Supreme Court of the then Czech and Slovak Federal Republic on the grounds that the lower courts, when convicting the applicants, had failed to reliably establish all the relevant facts and to thoroughly examine the defence's arguments; (iv) subsequently the applicants were tried anew by Slovak ordinary courts between 1991 and 2009; and (v) the alleged breach of the applicants' constitutional and Convention rights in the proceedings leading to their new conviction was subjected to review by the Constitutional Court.

47. It is relevant in the context of the latter that the Czech and Slovak Federal Republic, to which Slovakia is one of the successor States, had recognised the right of individual application under Article 34 of the Convention on 18 March 1992. The Court therefore lacks jurisdiction *ratione temporis* to examine the part of the criminal proceedings which relates to the period preceding the above date. While confining itself to determining whether or not there has been a breach of the applicants' rights guaranteed under the Convention after the entry into force of the Convention in respect of the respondent State, it may, however, take into account facts prior to that date inasmuch as they can be considered to have created a situation extending beyond that date or may be relevant for the understanding of facts occurring after that date (see *Agrokompleks v. Ukraine*, no. 23465/03, §§ 101-102, 6 October 2011, with further reference; or *Dvořáček and Dvořáčková v. Slovakia*, no. 30754/04, §§ 48 and 77, 28 July 2009).

3. Applicants' complaints under Articles 6 and 17 of the Convention

48. The applicants alleged that the criminal proceedings against them fell short of the requirements of Article 6 of the Convention, which in its relevant parts reads:

> "1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing within a reasonable time by a[n] ... tribunal ...
>
> 2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
>
> 3. Everyone charged with a criminal offence has the following minimum rights:
>
> (...)
>
> (b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (...)."

49. In addition, the applicants in application no. 32336/11 alleged a violation of Article 17 of the Convention which reads:

"Nothing in [the] Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

(a) Regarding the complaints under Article 6 §§ 1 and 3 (d) of the Convention concerning the applicants' right to a fair hearing

50. The main thrust of the applicants' grievance concerned failure to respect their right to a fair hearing. In particular, they complained that the courts had refused to take into account evidence of relevance – which for the most part had been obtained shortly after the crime had been committed – that they had disregarded the principle of equality of arms and their right of defence, and that they had not reliably established all relevant facts and had decided arbitrarily. The Court considers it appropriate to address this part of the application under Article 6 §§ 1 and 3 (d) of the Convention.

(i) Recapitulation of the relevant principles

51. In accordance with Article 19 of the Convention it is the Court's task to ensure the observance of the commitments undertaken by the States Parties to the Convention. Given the subsidiary nature of the Convention system, it is not the Court's function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention.

As regards the guarantees under Article 6, the Court must ascertain whether, in the light of all the circumstances of the case, the proceedings afforded sufficient safeguards against arbitrariness. The admissibility of evidence is primarily a matter for regulation by national law and, as a rule, it is for the national courts to assess the evidence before them. The Court, for its part, must ascertain whether the proceedings as a whole, including the way in which evidence was taken, were fair (see *Ramanauskas v. Lithuania* [GC], no. 74420/01, § 52, ECHR 2008; *Taxquet v. Belgium* [GC], no. 926/05, § 93, ECHR 2010; and *Kononov v. Latvia* [GC], no. 36376/04, § 189, ECHR 2010).

52. Article 6 § 3 (d) of the Convention enshrines the principle that before an accused can be convicted, all evidence against him or her must normally be produced in his presence at a public hearing with a view to

adversarial argument. Exceptions to this principle are possible but must not infringe the rights of the defence. The guarantees in paragraph 3 (d) of Article 6 are specific aspects of the right to a fair hearing set forth in paragraph 1 of that provision which must be taken into account in any assessment of the fairness of proceedings. For this reason, the Court has considered it appropriate to examine the complaints under the two provisions taken together (see *Al-Khawaja and Tahery v. the United Kingdom* [GC], nos. 26766/05 and 22228/06, § 118, ECHR 2011, and *Štefančič v. Slovenia*, no. 18027/05, §§ 36-37, 25 October 2012). The term "witness" under Article 6 § 3 (d) must be given an autonomous interpretation and it may also be applied to documentary evidence (see *Mirilashvili v. Russia*, no. 6293/04, §§ 158-159, 11 December 2008).

53. Although it is not the Court's function to express an opinion on the relevance of the evidence produced, failure to justify a refusal to examine or call a witness can result in a limitation of defence rights which is incompatible with the guarantees of a fair trial (see *Popov v. Russia*, no. 26853/04, § 188, 13 July 2006, and *Topić v. Croatia*, no. 51355/10, §§ 40-42, 10 October 2013).

(ii) Application of those principles to the present case

54. The Court first notes that in the new trial of the applicants the ordinary courts were to remedy a number of shortcomings which the Federal Supreme Court had pointed out when quashing the decisions leading to their original conviction. However, the courts involved failed to comply with all the instructions ordered by the Federal Supreme Court. This was due, in part, to the fact that some of the evidence in issue could no longer be taken for objective reasons, such as the time elapsed or the death of the persons concerned (see paragraph 11 above).

55. However, in the proceedings under consideration, the domestic courts carried out the trial anew and the Court therefore considers that the above failure alone does not constitute a breach of the applicants' right to a fair hearing, the satisfactory delivery of which must be determined by having regard to the proceedings as a whole.

56. The applicants also argued that the Slovak courts had failed to include in the case file and to examine extensive documentary evidence stored in the archives of the Ministry of the Interior. Those documents concerned, in the main, the initial investigation which had been carried out in 1976-77, and the applicants argued that they contained evidence casting doubt on the conclusions reached by the trial court (paragraphs 21-22). Similarly, the applicants pointed to the courts' refusal to examine the opinion which an expert had drawn up at their request in 2004 and which contradicted earlier conclusions pertaining to the facts of the case (paragraph 20).

57. The Court notes that the applicants were able to submit that argument to the court of appeal – including the expert opinion and copies of some of the documents on which they relied – with a view to proving their relevance for determination of the charges against them (paragraph 22). The judgment of the appeal court indicates that, having taken account of all the documents submitted, it held examination of such further evidence to be superfluous (paragraphs 24 and 29). The cassation chamber of the Supreme Court and the Constitutional Court found that conclusion did not contradict the applicants' rights, for reasons that they set out in their decisions (paragraphs 34 and 42).

58. As it is not its role to assess the relevance of evidence, and since the domestic courts indicated – after due consideration of the applicants' arguments – the reasons for their refusal to examine additional evidence and to call further witnesses, the Court cannot accept the argument that such refusal resulted in a restriction of the applicants' defence rights with disregard for the guarantees of a fair trial.

59. The Court further notes that the domestic courts, in reaching their finding that the applicants were guilty, relied mainly on the fact that several of them had admitted – in the presence of their lawyers – commiting the offence and had described their and their co-accuseds' involvement in it. One of the accused had also reaffirmed his statement before the trial court. The confessional statements contained facts which were unknown to the investigators, and they were corroborated by other evidence including the statement of an eyewitness. The courts further explained why they did not accept the argument that the statements in issue had been elicited under pressure.

60. In the light of the documents before it, the Court therefore considers that the applicants had the benefit of adversarial proceedings, were able, at various stages of those proceedings, to adduce arguments which they considered relevant to their case, and had the opportunity of challenging the arguments and evidence before the courts. In their decisions, both the trial court and the court of appeal explained in a comprehensive manner which facts they considered established, and for what reason, why they refused to accept the applicants' arguments, and why they considered the gathering of further evidence superfluous. Neither the cassation chamber of the Supreme Court nor the Constitutional Court found a breach of the applicants' rights in that context. The domestic courts' conclusions, which – given the subsidiary nature of its role – the Court lacks authority to review as a further instance do not appear arbitrary.

61. In these circumstances, there is no indication that the proceedings taken as a whole fell short of the requirements of a fair hearing within the meaning of Articles 6 §§ 1 and 3 (d) of the Convention.

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

(b) Regarding the applicants' remaining complaints

63. The Court has examined the remaining complaints of the applicants under Articles 6 and 17 (see paragraphs 43-44 above). However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

64. It follows that this part of the application is likewise manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court by a majority

Decides to join the applications;

Declares the applications inadmissible.

Marialena Tsirli
Deputy Registrar

Josep Casadevall
President

APPENDIX

Application no. 16857/11

Mr Milan Andrášik, a Slovak national who was born in 1951, lives in Nitra and was represented by Mr K. Klíma, a lawyer practising in Prague, Czech Republic.

Application no. 32336/11

1. Mr Pavel Beďač, a Slovak national who was born in 1954 and lives in Nitra.
2. Mr František Čerman, a Slovak national who was born in 1950 and lives in Bratislava.
3. Mr Stanislav Dúbravický, a Slovak national who was born in 1954 and lives in Nitra.
4. Mr Miloš Kocúr, a Slovak national who was born in 1954 and lives in Nitra.
5. Mr Juraj Lachmann, a Slovak national who was born in 1953 and lives in Nitra.

The applicants in application no. 321336/11 were represented by Mr A. Böhm, a lawyer practising in Bratislava.