



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

FIRST SECTION

CASE OF ŽELINSKÝ AND MARČÁK v. SLOVAKIA

(Applications nos. 1921/24 and 6805/24)

JUDGMENT

STRASBOURG

22 October 2026

This judgment is final but it may be subject to editorial revision.

In the case of Želinský and Marčák v. Slovakia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Frédéric Krenc, *President*,

Davor Derenčinović,

Alain Chablais, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 1 October 2026,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The Slovak Government (“the Government”) were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The first applicant lodged his request for release from pre-trial detention with the Public Prosecution Service (“PPS”) on 20 February 2023. The PPS dismissed it and on 24 February 2023 transferred the case to the first-instance court that dismissed it on 1 March 2023. The decision was served on the first applicant on 13 March 2023. He lodged an appeal on 6 March and supplemented reasoning on 27 March 2023. The appellate court dismissed the appeal on 4 April 2023, and the decision was served on the applicant on 21 April 2023. On 18 July 2023 the Constitutional Court rejected the first applicant’s constitutional complaint lodged on 21 June 2023 for being manifestly ill-founded. The decision was served on the applicant’s lawyer on 5 September 2023 (I. ÚS 402/2023).

5. The second applicant lodged his request for release from pre-trial detention with the PPS on 13 July 2023. The PPS dismissed it and on 28 July 2023 transferred the case to the first-instance court that rejected it on 9 August 2023. The decision was served on the second applicant the next day. He lodged a reasoned appeal on 13 August 2023. The case file was transferred to the appellate court on 21 August 2023 and the latter decided on 28 August 2023. The decision was served on the applicant on 20 September 2023. On 11 October 2023 the Constitutional Court dismissed the second applicant’s complaint as manifestly ill-founded (II. ÚS 459/2023).

THE LAW

I. JOINDER OF THE APPLICATIONS

6. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

7. The applicants complained of the excessive length of judicial review of their requests to be released from pre-trial detention. While the first applicant complained of the length of the proceedings including before the Constitutional Court, the second applicant only complained of the length before the ordinary courts. They relied on Article 5 § 4 of the Convention.

8. Relying on the Constitutional Court's decisions the Government submitted that the complaints were manifestly ill-founded.

9. The period under consideration under Article 5 § 4 of the Convention begins with the lodging of the application with the domestic authorities and, in the absence of a public pronouncement of the decision, ends on the day the decision is communicated to the applicant or to his representative (see *Osváthová v. Slovakia*, no. 15684/05, § 71, 21 December 2010, with further references). Furthermore, when assessing the requirement of speediness, the specific circumstances of each individual case, such as the complexity of the proceedings, their conduct by the domestic authorities and by the applicant, must also be taken into account (see, for example, among many other authorities, *Mooren v. Germany* [GC], no. 11364/03, § 106, 9 July 2009).

10. As regards the first applicant, the Court notes that the ordinary courts at two levels had dealt with his request for release for the total duration of fifty-nine days (the appellate court's decision having been served on 21 April 2023) and the Constitutional Court had examined his constitutional complaint for two months and fifteen days (the final decision having been served on 5 September 2018). The Court further notes that it took the first applicant twenty-one days to submit reasoning for his appeal and that this delay is imputable to him. However, the Court also observes that the periods of thirteen and seventeen days which elapsed between the delivery of the decisions of the first-instance and appellate courts and their service on the first applicant were imputable to the domestic authorities. Moreover, it took the Constitutional Court more than one month to serve its decision on the applicant's lawyer (contrast *Krátky v. Slovakia* (dec.) [Committee], nos. 17086/19 and 58230/19, 25 March 2021). Nothing in the case file indicates that this delay could be attributed to the first applicant.

11. Similar considerations apply in respect of the second applicant's complaint. The period under examination starts on 13 July 2023 and ends on 20 September 2023, when the appellate court's decision was served on him.

The review of the second applicant's request thus lasted sixty-eight days before two levels of jurisdiction. In this regard, the Court also observes that it took the appellate court almost a month to serve the decision on the applicant and this delay appears to be entirely imputable to the latter court (see *Osváthová*, cited above, § 76).

12. Finally, nothing in the case files suggests that the applicants' detention cases were particularly complex (see *Michalák v. Slovakia*, no. 30157/03, § 195, 8 February 2011, and compare *Bartošová v. Slovakia* [Committee], no. 19735/22, § 18, 27 November 2025).

13. In the leading case of *Osváthová*, cited above, the Court already found a violation in respect of issues similar to those in the present case.

14. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level.

15. These complaints are therefore admissible and disclose a breach of Article 5 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

16. Regard being had to the documents in its possession and to its case-law (see, in particular, *Osváthová*, cited above), the Court finds it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 5 § 4 of the Convention concerning the excessive length of judicial review of the applicants' requests to be released from pre-trial detention;
4. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

ŽELINSKÝ AND MARČÁK v. SLOVAKIA JUDGMENT

Done in English, and notified in writing on 22 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Frédéric Krenc
President

ŽELINSKÝ AND MARČÁK v. SLOVAKIA JUDGMENT

APPENDIX

List of applications raising complaints under Article 5 § 4 of the Convention
(excessive length of judicial review of detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of lodging complaint or request for release	End of judicial review of detention	Total length Levels of jurisdiction	Domestic court File number Domestic award (in euros)	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses per application (in euros) ²
1.	1921/24 05/01/2024	Jakub ŽELINSKÝ 1995	Zuzana Pitoňáková Prešov	20/02/2023 21/06/2023	21/04/2023 05/09/2023	4 months and 14 days (1 month and 29 days before 2 levels of ordinary courts and 2 months and 15 days before the Constitutional Court) 3 levels of jurisdiction	Constitutional Court no. I. US 402/2023 0	1,200	250
2.	6805/24 27/02/2024	Ján MARČÁK 1993	Richard Bauer Košice	13/07/2023	20/09/2023	2 months 8 days 2 levels of jurisdiction	Constitutional Court no. II. US 459/2023 0	1,000	250

¹ Plus any tax that may be chargeable to the applicants.

² Plus any tax that may be chargeable to the applicants.