



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

THIRD SECTION

**CASE OF MAKSIMOVIČ v. SLOVENIA (no. 2)**

*(Application no. 31675/05)*

JUDGMENT

STRASBOURG

1 February 2011

**FINAL**

*01/05/2011*

*This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.*



**In the case of Maksimovič v. Slovenia (no. 2),**

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

Josep Casadevall, *President*,

Elisabet Fura,

Corneliu Bîrsan,

Boštjan M. Zupančič,

Ineta Ziemeļe,

Luis López Guerra,

Ann Power, *judges*,

and Marialena Tsirli, *Deputy Section Registrar*,

Having deliberated in private on 11 January 2011,

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

## PROCEDURE

1. The case originated in an application (no. 31675/05) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovenian national, Mr Stojan Maksimovič (“the applicant”), on 18 August 2005.

2. The applicant was represented by Mr Z. Lipej, a lawyer practising in Medvode. The Slovenian Government (“the Government”) were represented by their Agent.

3. The applicant alleged under Article 6 § 1 of the Convention that the length of the proceedings before the domestic courts to which he was a party was excessive. In substance, he also complained about the lack of an effective domestic remedy in respect of the excessive length of the proceedings (Article 13 of the Convention).

4. On 20 February 2009 the Court decided to communicate the complaints concerning the length of the proceedings and the lack of remedies in that respect to the Government. Under the provisions of Article 29 § 1 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

## THE FACTS

5. The applicant was born in 1969 and lives in Kranj.

6. On 29 March 2002 the applicant instituted civil proceedings against the insurance company Zavarovalnica Triglav before the Ljubljana District

Court (*Okrožno sodišče v Ljubljani*) seeking damages for the injuries sustained in a car accident.

7. Between 30 May 2002 and 14 March 2003 the applicant lodged thirteen preliminary written submissions.

8. On 14 January 2003 the first hearing was held.

9. Between 11 February 2003 and 8 May 2003 three hearings were held.

10. On 12 May 2003 the applicant lodged a preliminary written submission.

11. Between 19 June 2003 and 18 December 2003 three more hearings were held. At the last of these three hearing the first-instance court appointed a road traffic expert and adjourned the case indefinitely.

12. On 7 October 2004 the applicant urged the court to set a date for a hearing.

13. On 15 February 2005 the expert submitted his opinion.

14. Between 10 March 2005 and 19 April 2005 the applicant lodged three preliminary written submissions.

15. Between 14 September 2005 and 23 November 2005 three hearings were held.

16. Between 13 March 2006 and 4 April 2006 the applicant lodged three preliminary written submissions.

17. On 29 January 2007 a hearing was held.

18. The applicant lodged preliminary written submissions on 12 and 20 February 2007.

19. At the last hearing, on 19 March 2007, the parties reached a settlement and the proceedings were concluded.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

20. The applicant complained about the excessive length of the proceedings. He relied on Article 6 § 1 of the Convention, which reads as follows:

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

21. In substance, the applicant further complained that the remedies available for excessive legal proceedings in Slovenia were ineffective. Article 13 of the Convention reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

### A. Admissibility

22. The Government pleaded non-exhaustion of domestic remedies.

23. The applicant contested that argument, claiming that the remedies available were not effective.

24. The Court notes that the present application is similar to the case of *Maksimovič v. Slovenia* (no. 28662/05, 22 June 2010). In that case the Court dismissed the Government's objection of non-exhaustion of domestic remedies because it found that the legal remedies at the applicant's disposal were ineffective (*ibid.*, §§ 21-24).

25. As regards the instant case, the Court finds that the Government have not submitted any convincing arguments which would require the Court to distinguish it from the above mentioned case.

26. The Court further notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. Nor is it inadmissible on any other grounds. It must therefore be declared admissible.

### B. Merits

#### 1. Article 6 § 1

27. The period to be taken into consideration began on 29 March 2002, the day the applicant instituted proceedings with the Ljubljana District Court, and ended on 19 March 2007, the day the parties reached a settlement. It therefore lasted nearly five years at one level of jurisdiction.

28. 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 following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

29. Having examined all the material submitted to it, and having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable-time” requirement.

30. There has accordingly been a breach of Article 6 § 1.

## 2. Article 13

31. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudła v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI). In view of its findings concerning the exhaustion of domestic remedies (see paragraphs 14-16 above) and having regard to the fact that the arguments put forward by the Government have already been rejected in the case of *Maksimovič v. Slovenia* (cited above, §§ 29-30), the Court finds that in the present case there has been a violation of Article 13 on account of the lack of a remedy under domestic law whereby the applicant could have obtained a ruling upholding his right to have his case heard within a reasonable time, as set forth in Article 6 § 1.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

### A. Damage

33. The applicant claimed 9,500 euros (EUR) in respect of non-pecuniary damage.

34. The Government contested the claim.

35. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 4,000 under that head.

### B. Costs and expenses

36. The applicant also claimed EUR 1,043.23 for the costs and expenses incurred in the proceedings before the Court.

37. The Government did not comment on the applicant's claim.

38. The Court notes that although the applicant was reminded by the Court of the requirements concerning just satisfaction claims set out in Rule 60 of the Rules of the Court, he had not itemised or explained his claims. The Court therefore makes no award under this head.

### C. Default interest

39. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

### FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 13 of the Convention;
4. *Holds*
  - (a) that the respondent State is to pay, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention EUR 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
  - (b) that 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 February 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli  
Deputy Registrar

Josep Casadevall  
President