



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

THIRD SECTION

**CASE OF BELINGER v. SLOVENIA**

*(Application no. 42320/98)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

13 June 2002

This judgment is final. It may be subject to editorial revision.



**In the case of Belinger v. Slovenia,**

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

Mr G. RESS, *President*,  
Mr I. CABRAL BARRETO,  
Mr L. CAFLISCH,  
Mr R. TÜRMEŇ,  
Mr B. ZUPANČIČ,  
Mrs M. TSATSA-NIKOLOVSKA,  
Mr K. TRAJA, *judges*,  
and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 23 May 2002,

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

**PROCEDURE**

1. The case originated in an application (no. 42320/98) against the Republic of Slovenia lodged on 18 January 1995 with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Slovenian nationals, Ms Ivanka and Mr Franc Belinger (“the applicants”). The application was registered on 21 July 1998.

2. The Slovenian Government (“the Government”) were represented by their Agent, Mr L. Bembič, State Attorney-General, and Ms V. Slivnik Marc, State Attorney.

3. The applicants complained under Article 6 § 1 of the Convention about the length of civil proceedings.

4. On 1 November 1998 the case was transferred to the Court by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. Subsequently, the President of the Court, acting under Rule 52 § 1 of the Rules of Court, assigned the case to the First Section.

5. On 2 March 1999 the Court decided to communicate the application to the respondent Government. On 2 October 2001, having obtained the parties' observations, the Court declared the application admissible.

6. On 15 October 2001 the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention on the basis of a proposed payment of 3,700 euros by the Government to the applicants.

7. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Third Section.

8. On 24 December 2001 and on 5 April 2002 the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

9. The applicants are Slovenian nationals resident in Murska Sobota. The first applicant, Mrs Ivanka Belinger, was born in 1952 and is in receipt of an invalidity pension. She is the wife of the second applicant, Mr Franc Belinger, who was born in 1942 and is a sales representative.

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

On 21 January 1991 the Murska Sobota General Hospital (*Splošna bolnica Murska Sobota*) compensated the first applicant for non-pecuniary damage relating to an operation she had had in February 1990. She suffered from various illnesses and had also had surgery before 1990.

On 13 September 1991 the applicants brought civil proceedings against the hospital. The first applicant claimed compensation for the deterioration in her health and for loss of income which, in her view, were due to the operation. She also sought a monthly allowance. The second applicant claimed damages on the ground that he had had to stop working in order to take care of the first applicant and that he had been traumatised by the latter's invalidity.

The first hearing was held on 26 March 1993. The Murska Sobota Basic Court (*Temeljno sodišče*) made an order for the opinion of an expert to be obtained from the Ljubljana Institute for Forensic Medicine. The surgical, neurosurgical and gynaecological opinion was prepared on 31 May 1993.

On 12 December 1993 the Basic Court held a second hearing. On 21 December 1993 the Basic Court held another hearing. It heard both parties and ordered a second expert opinion to be obtained from the Commission for Expert Opinions of the Ljubljana Faculty of Medicine within thirty days.

In 1994 the first applicant added a further head of claim to her action, seeking damages for the suffering resulting from her disfigurement.

In 1994 the applicants also lodged several complaints about the length of the proceedings with the Ministry of Justice, the Murska Sobota Basic Court, the Supreme Court, the Petitions Commission of the National Assembly, the Ministry of Health and the Commission for Expert Opinions.

On 27 January 1994 the Ministry of Justice informed the applicants that it considered their complaint unsubstantiated as their case was complex and required thorough analysis by medical experts.

On 9 and 14 June and 6 July 1994 the President of the Murska Sobota Basic Court informed the applicants that the delays in obtaining the second expert opinion were due to the complexity of the case and the heavy workload of the experts and had been made worse by the applicants' decision to amend their claims.

The second expert opinion was issued on 20 October 1994, but certain points remained unclear. Therefore an additional expert opinion was requested. The final opinion was drafted on 5 January 1995 and submitted to the first-instance court on 13 January 1995.

On 13 December 1995 the District Court (*Okrožno sodišče*) [its new style further to the reform of 1995] held another hearing.

On 1 April 1996 the District Court delivered a judgment upholding part of the applicants' claims. Both the applicants and the defendant hospital appealed.

On 21 January 1997 the Maribor Higher Court (*Višje sodišče*) allowed the applicants' appeal. It quashed the relevant part of the judgment and remitted the case to the District Court for a new decision. The Higher Court further upheld, with minor amendments, the part of the District Court's judgment which had been challenged by the defendant hospital.

On 29 October 1997, in the course of a hearing before the District Court, the first applicant further amended her claim to include compensation for a shortfall in her pension.

At a hearing on 19 June 1998 the proceedings were adjourned. The District Court held a further hearing on 26 February 1999. Another expert opinion allegedly requested by the applicants was prepared on 29 November 1999.

On 12 July 2000 the District Court delivered judgment. It awarded compensation to the first applicant for the suffering resulting from her disfigurement and compensation to the second applicant for loss of income. The applicants' other claims were dismissed as unsubstantiated. Both the applicants and the defendant hospital appealed. The proceedings are pending before the Maribor Higher Court.

## THE LAW

11. On 16 January 2002 the Court received the following declaration signed by the applicants:

“We note that the Government of Slovenia are prepared to pay us the sum of 3,700 euros covering pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of the above-mentioned application pending before the European Court of Human Rights.

We accept the proposal and waive any further claims against Slovenia in respect of the facts of this application. We declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and the applicants have reached.

We further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment."

12. On 5 April 2002 the Court received the following declaration from the Government:

"I declare that, with a view to a friendly settlement of the above-mentioned case, the Government of Slovenia offer to pay 3,700 euros to Ivanka & Franc Belinger. This sum is to cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months from the date of delivery of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention."

13. The Court takes formal note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

14. Accordingly, the case should be struck out of the list.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 13 June 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER  
Registrar

Georg RESS  
President