



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

THIRD SECTION

CASE OF ŽAGAR v. SLOVENIA

(Application no. 75684/01)

JUDGMENT

STRASBOURG

9 March 2006

FINAL

09/06/2006

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Žagar v. Slovenia,

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

Mr J. HEDIGAN, *President*,
Mr B.M. ZUPANČIČ,
Mrs M. TSATSA-NIKOLOVSKA,
Mr V. ZAGREBELSKY,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON,
Mrs I. ZIEMELE, *judges*,

and V. BERGER, *Section Registrar*,

Having deliberated in private on 14 February 2006,

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

PROCEDURE

1. The case originated in an application (no. 75684/01) 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, Mrs Nevenka Žagar (“the applicant”), on 2 November 2000.

2. The applicant was represented by the Verstovšek lawyers. The Slovenian Government (“the Government”) were represented by their Agent, Mr L. Bembič, State Attorney-General.

3. The applicant alleged under Article 6 § 1 of the Convention that the length of the proceedings before the domestic courts to which she was a party was excessive. In substance, she 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 7 May 2004 the Court decided to communicate the complaints concerning the length of the proceedings and the lack of remedies in that respect to the Government. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

THE FACTS

5. The applicant was born in 1951 and lives in Velenje.

6. On 7 August 1994 the applicant was injured in a traffic accident. The perpetrator of the accident had taken out insurance with the insurance company ZT.

7. On 16 November 1995 the applicant instituted civil proceedings against ZT in the Celje District Court (*Okrožno sodišče v Celju*) seeking damages in the amount of 2,610,359 Slovenian tolars (approximately 10,880 euros) for the injuries sustained.

8. Between 21 October 1996 and 22 May 1998 the applicant lodged four preliminary written submissions and/or adduced evidence. She also modified her claim on three occasions.

9. On 26 April 1996 she made a request that a date be set for a hearing.

10. Before the first hearing, the judge was promoted and the case was reassigned to another judge.

11. Of the two hearings held on 17 April 1997 and 26 May 1998 none was adjourned at the request of the applicant.

12. During the proceedings the court appointed a medical expert.

13. At the last hearing the court decided to deliver a written judgment. The judgment, upholding the applicant's claim in part, was served on the applicant on 2 September 1998.

14. On 15 September 1998 the applicant appealed to the Celje Higher Court (*Višje sodišče v Celju*). ZT cross-appealed.

15. On 16 June 1999 the court dismissed both appeals concerning non-pecuniary damage, but allowed ZT's appeal concerning pecuniary damage and remitted the case in this part to the first-instance court for re-examination.

16. The judgment was served on the applicant on 8 September 1999.

17. On 28 September 1999 the applicant lodged an appeal on points of law with the Supreme Court (*Vrhovno sodišče*). ZT cross-appealed.

18. On 6 July 2000 the court dismissed both appeals.

The judgment was served on the applicant on 19 September 2000.

19. In the meantime, in the re-examination proceedings, the applicant on 9 September 1999 and then on 13 November 2000 lodged preliminary written submissions. She also partly withdrew her claim.

20. At the hearing held on 28 November 2000, the Celje District Court decided to deliver a written judgment. The judgment, upholding the applicant's claim, was served on the applicant on 20 December 2000.

THE LAW

ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

21. The applicant complained about the excessive length of the proceedings. She 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...”

22. 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

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

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

25. The Court notes that the present application is similar to the cases of *Belinger* and *Lukenda* (*Belinger v. Slovenia* (dec.), no. 42320/98, 2 October 2001, and *Lukenda v. Slovenia*, no. 23032/02, 6 October 2005). In those cases 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.

26. 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 its established case-law.

27. 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

28. The period to be taken into consideration began on 16 November 1995 the day the applicant instituted proceedings with the Celje District

Court, and ended on 20 December 2000, the day the Celje District Court's judgment of 28 November 2000 was served on the applicant. It therefore lasted about five years and one month for four levels of jurisdiction.

29. 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).

30. 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 not excessive and did not fail to meet the "reasonable time" requirement.

31. There has accordingly been no breach of Article 6 § 1.

2. Article 13

32. Having regard to its decision on Article 6 § 1, the Court considers that it is not necessary to examine the case under Article 13 since its requirements are less strict than, and are here absorbed by those of Article 6 § 1 (see *G.C. v. The United Kingdom*, no. 43373/98, § 53, 19 December 2001).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 6 § 1 of the Convention;
3. *Holds* that it is not necessary to examine the merits of the applicant's complaint under Article 13 of the Convention.

Done in English, and notified in writing on 9 March 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

John HEDIGAN
President