



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

THIRD SECTION

**CASE OF REPAS v. SLOVENIA**

*(Application no. 10288/02)*

JUDGMENT

STRASBOURG

6 April 2006

**FINAL**

*06/07/2006*

*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 Repas 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 D.T. BJÖRGVINSSON,  
Mrs I. ZIEMELE, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 16 March 2006,

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

**PROCEDURE**

1. The case originated in an application (no. 10288/02) 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 Milan Repas (“the applicant”), on 20 February 2002.

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 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 11 June 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 examine the merits of the application at the same time as its admissibility.

**THE FACTS**

5. The applicant was born in 1950 and lives in Žalec.

6. In 1987 the applicant was injured in a dispute with his former wife R.I. in which both sustained injuries.

7. On 9 February 1988 the applicant instituted civil proceedings against R. I. in the Celje Basic Court, Žalec Unit (*Temljeno sodišče v Celju, enota v Žalcu*) seeking damages for the injuries sustained. R. I. lodged a counter-claim.

Until 28 June 1994, when the Convention entered into force with respect to Slovenia, the court held three hearings and appointed three medical experts.

At the hearing held on 4 November 1994, the court decided to deliver a written judgment. The judgment, upholding both claims in part, was served on the applicant on 10 January 1995.

8. On 26 January 1995 the applicant appealed to the Celje Higher Court (*Višje sodišče v Celju*). R. I. cross-appealed.

On 4 April 1996 the court allowed both appeals and remitted the case to the first-instance court for re-examination

The decision was served on the applicant on 9 May 1996.

9. On 3 June 1996, further to the reform of the judicial system, the (renamed) Žalec Local Court declared lack of jurisdiction and reassigned the case to the (renamed) Celje District Court (*Okrožno sodišče v Celju*).

In the re-examination proceedings, the applicant made three requests that a date be set for a hearing between 6 January and 9 November 1998.

At the hearing held 18 January 1999, the court decided to deliver a written judgment. The judgment, upholding both claims in part, was served on the applicant on 20 April 1999.

10. On 30 April 1999 the applicant appealed to the Celje Higher Court. R. I. cross-appealed.

On 11 November 1999 the court allowed both appeals by amending the first-instance decision in part and remitting the case for re-examination in part.

The judgment was served on the applicant on 16 December 1999.

11. On 14 January 2000 R. I. lodged an appeal on points of law with the Supreme Court (*Vrhovno sodišče*) regarding the part of the judgment amending the first-instance court's judgment in favour of the applicant.

On 18 October 2001 the court allowed R. I.'s appeal in part and accordingly changed the Higher Court's judgment.

The Supreme Court's judgment was served on the applicant on 13 December 2001.

12. On 14 January 2002 the applicant filed pleadings regarding the remaining part of the case that was remitted to the first instance court.

On 19 March 2002 the parties reached a court settlement.

13. On 12 June 2002 the first-instance court ordered the applicant to pay court fees for the proceedings.

On 28 June 2002 the applicant lodged an appeal, which was rejected by the Celje Higher Court on 11 December 2002.

That decision was served on the applicant on 16 January 2003.

## THE LAW

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

14. 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...”

15. 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

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

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

18. 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. The Court recalls its findings in the *Lukenda* judgment that the violation of the right to a trial within a reasonable time is a systemic problem resulting from inadequate legislation and inefficiency in the administration of justice.

19. 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.

20. 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

21. The period to be taken into consideration began on 28 June 1994, the day when the Convention entered into force with respect to Slovenia, and ended on 16 January 2003, the day the Celje Higher Court's decision concerning the court fees was served on the applicant (see *Robins v. the United Kingdom*, judgment of 23 September 1997, *Reports of Judgments and Decisions* 1997-V, § 28; *Beer v. Austria*, no. 30428/96, § 13, 6 February 2001). It follows that, within the Court's jurisdiction *ratione temporis*, the proceedings in the applicant's case lasted more than eight years and six months and seven instances were involved.

However, in order to assess the reasonableness of the length of time in question, the Court will have regard to the stage reached in the proceedings on 28 June 1994 (see, among other authorities, *Humen v. Poland* [GC], no. 26614/95, § 59, 15 October 1999).

22. 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).

23. The Court notes that in the relevant period, seven court's decisions were given. However, the Court cannot disregard the fact that the overall length exceeded eight years only within the Court's jurisdiction *ratione temporis*, which is mainly due to the re-examination of the case. Moreover, while acknowledging that on most instances the case was dealt with swiftly, the Court nevertheless observes that after the case had been for the first time remitted to the first-instance court, it took the latter almost three years to deliver a judgment while only one hearing was held, which in itself presents a substantial delay in the proceedings.

24. 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.

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

### 2. Article 13

25. 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). It notes that the objections and arguments put forward by the Government have been rejected in earlier

cases (see *Lukenda*, cited above) and sees no reason to reach a different conclusion in the present case.

26. Accordingly, the Court considers 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

27. 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

28. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage.

29. The Government contested the claim.

30. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 1,000 under that head.

### B. Costs and expenses

31. The applicant also claimed approximately EUR 1,900 for the costs and expenses incurred before the Court.

32. The Government argued that the claim was too high.

33. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. The Court also notes that the applicant's lawyers, who also represented the applicant in *Lukenda* (cited above), lodged nearly 400 applications which, apart from the facts, are essentially the same as this one. Accordingly, in the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the applicant the sum of EUR 1,000 for the proceedings before the Court.

### C. Default interest

34. 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 the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,000 (one thousand euros) in respect of non-pecuniary damage and EUR 1,000 (one thousand euros) in respect of costs and expenses, plus any tax that may be chargeable;
  - (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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 6 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER  
Registrar

John HEDIGAN  
President