



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

THIRD SECTION

CASE OF ANTOLIČ v. SLOVENIA

(Application no. 71476/01)

JUDGMENT

STRASBOURG

1 June 2006

FINAL

01/09/2006

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 Antolič v. Slovenia,

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

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

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 11 May 2006,

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

PROCEDURE

1. The case originated in an application (no. 71476/01) 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, Mr Dragutin Antolič (“the applicant”), on 23 March 2001.

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

3. The applicant alleged, *inter alia*, that the length of the proceedings before the domestic courts to which he was a party was excessive (Article 6 § 1 of the Convention).

4. On 22 May 2003 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings 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 1942 and lives in Naklo.

6. On 12 August 1993 the applicant was dismissed by his employer MC due to economic reasons.

On 17 September 1993 the MC’s Complaints Commission rejected his complaint concerning the dismissal.

7. On 15 October 1993 the applicant instituted proceedings against MC in the Ljubljana Court of Associated Labour (*Sodišče združenega dela v*

Ljubljani) seeking the annulment of the MC's first and second instance decisions concerning his dismissal.

On 28 June 1994 the Convention entered into force with respect to Slovenia.

According to the information supplied by the Government, five hearings were held between 23 September 1994 and 29 November 1995. The hearing held on 15 March 1995 was adjourned due to the absence of parties and the court subsequently decided to suspend the proceedings. At the request of the applicant, the proceedings continued after 17 July 1995.

At the last hearing, the (renamed) Ljubljana Labour and Social Court (*Delovno in socialno sodišče v Ljubljani*) decided to deliver a written judgment. The judgment, rejecting the applicant's claim, was served on the applicant on 22 December 1995.

8. On 28 December 1995 the applicant appealed to the Higher Labour and Social Court (*Višje delovno in socialno sodišče*).

On 26 June 1996 and 11 March 1997 the applicant urged the court to decide on his appeal.

On 25 September 1997 the court dismissed the applicant's appeal.

The judgment was served on the applicant on 14 October 1997.

9. On 14 November 1997 the applicant lodged an appeal on points of law with the Supreme Court (*Vrhovno sodišče*).

On 24 February 1998 the court dismissed the applicant's appeal.

The judgment was served on the applicant on 16 March 1998.

10. On 13 May 1998 the applicant lodged a constitutional appeal.

On 3 June 1998 the Constitutional Court (*Ustavno sodišče*) requested the applicant to supplement his appeal, which he did on 16 June and 23 December 1998.

On 11 September 2000 the Constitutional Court dismissed the applicant's appeal. The decision was served on the applicant on 29 September 2000.

THE LAW

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

11. 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...”

A. Admissibility

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

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

14. 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.

15. 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.

16. 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

17. 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 29 September 2000, the day the Constitutional Court's decision was served on the applicant. It therefore lasted about six years and three months for four levels of jurisdiction.

18. 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, and).

19. The Court acknowledges the importance of the issue that was at stake, namely a dismissal of the applicant from his work, and reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

20. As regards the conduct of the applicant, the Court observes that the delay of four months resulting from the suspension of the first-instance proceedings could be attributed to the applicant. In respect of the proceedings before the Constitutional Court, the Court further notes that the applicant's supplementing of the constitutional appeal could have contributed to the length of these proceedings.

21. As to the conduct of the judicial authorities, the Court notes that some delays occurred in the proceedings before the Higher Labour and Social Court and the Constitutional Court, where the proceedings lasted about one year and nine months and two years and five months respectively.

Despite certain delays in the proceedings, the Court however cannot disregard the fact that the case was heard by the courts at four levels of jurisdiction in only six years and three months, whereas four months' delay could be imputed to the applicant (see paragraph 20). The Court notes that in the first-instance proceedings, the hearings were held at regular intervals and the judgment was delivered in one year and six months, after the Convention had entered into force, including the period of the suspension of the proceedings. The Supreme Court decided on the applicant's appeal on points of law in only four months. Taking the proceedings as a whole, the Court therefore considers that the authorities displayed due diligence in handling the applicant's case.

22. In view of the foregoing, and having regard to the overall length of the proceedings, 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.

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

FOR THESE REASONS, THE COURT

1. *Declares* unanimously the application admissible;
2. *Holds* unanimously that there has been no violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 1 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

John HEDIGAN
President