



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

THIRD SECTION

**CASE OF KRAJNC v. SLOVENIA**

*(Application no. 75616/01)*

JUDGMENT

STRASBOURG

29 June 2006

**FINAL**

***29/09/2006***

*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 Krajnc 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 C. BÎRSAN,  
Mr E. MYJER,  
Mr DAVID THÓR BJÖRGVINSSON,  
Mrs I. ZIEMELE, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 8 June 2006,

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

**PROCEDURE**

1. The case originated in an application (no. 75616/01) 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 Rudi Kranjc (“the applicant”), on 3 July 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 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 16 September 2003 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 1952 and lives in Celje.

*1. First set of proceedings*

6. On 5 September 1991 the applicant was injured in an accident at work. PUV, the applicant's employer, had taken out insurance with the insurance company ZT.

7. On 30 April 1992 the applicant instituted civil proceedings against PUV in the Celje Court of Associated Labour (*Sodišče združenega dela v Celju*) seeking damages in the amount of 980,000 tolar (approximately 4,000 euros) for the injuries sustained.

On 9 March 1993 the court upheld, in part, the applicant's claim.

8. The applicant appealed to the Court of Associated Labour (*Sodišče združenega dela Republike Slovenije*).

The judgment, upholding the applicant's appeal and remitting the case to the first-instance court for re-examination, was served on the applicant on 8 December 1993.

9. On 12 and 30 September 1994 the applicant lodged with the Celje Labour Court (*Delovno sodišče v Celju*), the renamed first-instance court, preliminary written submissions and/or adduced evidence.

Neither of the two hearings held on 15 September and 19 October 1994 was adjourned at the request of the applicant.

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 16 December 1994.

10. On 27 December 1994 the applicant appealed to the Higher Labour and Social Court (*Višje delovno in socialno sodišče*).

On 16 May 1997 the court allowed the applicant's appeal in part.

The judgment was served on the applicant on 1 September 1997.

11. On 29 September 1997 the applicant lodged an appeal on points of law with the Supreme Court (*Vrhovno sodišče*). PUV cross-appealed.

On 29 September 1997 the applicant also sought exemption from paying the court fees.

On 22 October 1997 the first-instance court rejected the applicant's request for exemption.

On 28 October 1997 the applicant appealed.

On 17 September 1999 the Higher Labour and Social Court dismissed the applicant's appeal and requested that he paid the court fees.

On 28 September 1999 the case was transferred to the Supreme Court to decide on the applicant's appeal on points of law.

On 7 December 1999 the Supreme Court dismissed the applicant's appeal and allowed PUV's appeal in part.

The judgment was served on the applicant on 4 January 2000.

## 2. *Second set of proceedings*

12. On 13 August 1992 the applicant was injured in an accident at work. PUV, the applicant's employer, had taken out insurance with the insurance company ZT.

13. On 12 December 1994 the applicant instituted civil proceedings against ZT and PUV in the Celje Basic Court, Celje Unit (*Temeljno sodišče v Celju, Enota v Celju*) seeking damages in the amount of 10,016,472 tolar (approximately 41,800 euros) for the injuries sustained.

On 1 January 1995 the Celje District Court (*Okrožno sodišče v Celju*) gained jurisdiction in the present case due to the reform of the Slovenian judicial system.

Between 9 March 1995 and 12 July 2001 the applicant made fifteen requests that a date be set for a hearing.

Between 16 October 1995 and 18 September 2001 he lodged fifteen preliminary written submissions and/or adduced evidence.

Of the seven hearings held between 25 October 1995 and 3 October 2001 none was adjourned at the request of the applicant.

On 25 September 1997 the judge presiding the case was appointed to the Celje Higher Court (*Višje sodišče v Celju*) and the case was transferred to a new judge.

During the proceedings the court appointed three medical experts.

The judgment, upholding the applicant's claim in part, was served on the applicant on 26 November 2001.

14. On 28 November 2001 the applicant appealed to the Celje Higher Court. ZT and PUV cross-appealed.

On 29 May 2003 the court allowed the applicant's appeal in part and dismissed ZT's and PUV's appeals.

The judgment was served on the applicant on 1 September 2003.

15. On 12 September 2003 the applicant lodged an appeal on points of law with the Supreme Court (*Vrhovno sodišče*) and requested the second-instance court to correct its judgment. ZT and PUV cross-appealed.

On 29 October 2003 the second-instance court corrected its judgment.

On 14 July 2005 the court dismissed the applicant's appeal, upheld ZT's and PUV's appeals in part and amended the first-instance court judgment.

The judgment was served on the applicant on 21 October 2005.

## 3. *Third set of proceedings*

16. On 7 June 2000 ZT instituted civil proceedings against the applicant in the Celje Local Court (*Okrajno sodišče v Celju*) seeking reimbursement of overpaid damages in the amount of 281,234 tolar (approximately 1,170 euros). ZP paid the damages to the applicant following the judgment the Higher Labour and Social Court's judgment of 16 May 1997 rendered in

the first set of proceedings. The damages were lowered by the Supreme Court's judgment of 7 December 1999.

Between 4 July 2000 and 19 November 2002 the applicant lodged three preliminary written submissions and/or adduced evidence.

Neither of the two hearings held on 2 and 18 December 2002 was adjourned at the request of the applicant.

The judgment, upholding the ZT's claim, was served on the applicant on 24 January 2003.

17. On 29 January 2003 the applicant appealed to the Celje Higher Court (*Višje sodišče v Celju*).

On 5 May 2004 the court allowed the applicant's appeal and remitted the case to the first-instance court for re-examination.

The judgment was served on the applicant on 18 June 2004.

18. On 21 June 2004 the applicant submitted written submissions.

The proceedings are still pending.

## THE LAW

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

19. 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..."

20. 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

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

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

23. 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.

24. 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.

25. 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*

26. The period to be taken into consideration with respect to the first set of the proceedings began on 28 June 1994, the day when the Convention entered into force with respect to Slovenia, and ended on 4 January 2000, the day the Supreme Court's decision was served on the applicant. It therefore lasted over five years and six months for three levels of jurisdiction.

The period to be taken into consideration with respect to the second set of the proceedings began on 12 December 1994, the day the applicant instituted proceedings in the Celje Basic Court, Celje Unit, and ended on 21 October 2005, the day the Supreme Court's judgment was served on the applicant. The relevant period has therefore lasted over ten years and ten months for three levels of jurisdiction.

The period to be taken into consideration with respect to the third set of the proceedings began on 7 June 2000, the day ZT instituted proceedings against the applicant in the Celje Local Court, and has not yet ended. The relevant period has therefore lasted over five years and ten months and three instances have been involved.

27. 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).

28. The Government conceded that the concern for the applicant's complete recovery from the accident and payment of damages for the injuries sustained was important for the applicant's well being. However,

they claimed that the applicant's conduct in the first set of proceedings, where he appealed against the first-instance court's decision not exempting him from paying the court fees, and in the second set of proceedings, where he lodged several written submissions and requests for an appointment of various medical experts, undoubtedly contributed to the length of both sets of proceedings.

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 second set of the proceedings was excessive and failed to meet the "reasonable-time" requirement, however, the overall length of the first and third set of the proceedings was not excessive.

There has accordingly been a breach of Article 6 § 1 with respect to the second set of the proceedings and no breach of Article 6 § 1 with respect to the first and third set of the proceedings.

## 2. Article 13

29. 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.

30. 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

31. 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

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

33. The Government contested the claim.



34. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 6,400 under that head.

### **B. Costs and expenses**

35. The applicant also claimed approximately EUR 1,810 for the costs and expenses incurred before the Court.

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

37. 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**

38. 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 with respect to the second set of the proceedings;
3. *Holds* that there has been no violation of Article 6 § 1 of the Convention with respect to the first and third sets of the proceedings;
4. *Holds* that there has been a violation of Article 13 of the Convention;
5. *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 6,400 (six thousand four hundred

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;

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 29 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER  
Registrar

John HEDIGAN  
President