



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

THIRD SECTION

CASE OF ČOP v. SLOVENIA

(Application no. 6539/02)

JUDGMENT

STRASBOURG

7 December 2006

FINAL

07/03/2007

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 Čop 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 V. ZAGREBELSKY,

Mrs A. GYULUMYAN,

Mr E. MYJER,

Mrs I. ZIEMELE,

Mrs I. BERRO-LEFEVRE, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 16 November 2006,

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

PROCEDURE

1. The case originated in an application (no. 6539/02) 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 Anton Čop (“the applicant”), on 26 January 2002.

2. The applicant was represented by Mr J. Vrviščar, a lawyer practicing in Kamnik, Slovenia. 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 13 September 2005 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 1956 and lives in Kamnik.

6. On 12 October 1993 the applicant lodged an action for enforcement with the Ljubljana Basic Court (*Temeljno sodišče v Ljubljani*) against a company named Avtotehna (“AT”). He sought a collection of overdue

salaries as they were determined by a labour-court judgment of 16 October 1993.

On 10 December 1993 the court allowed the enforcement.

On 15 December 1993 the applicant appealed against this decision because the court failed to decide on cost and expenses of the proceedings.

At an undetermined time AT objected the enforcement and the court stayed the enforcement.

On 28 June 1994 the Convention took effect with respect to Slovenia.

On 1 January 1995 the Ljubljana Local Court (*Okrajno sodišče v Ljubljani*) gained jurisdiction in the present case due to the reform of the Slovenian judicial system.

On 12 February 1996 AT amended its objection and informed the court of the amount of debt the company estimated to have had towards the applicant.

On 11 February 1999 the applicant filed a request for supervision with the Ministry of Justice, because the court had not yet delivered a decision.

On 10 March 1999 the court referred AT to start contentious proceeding in order to challenge the enforcement order.

7. On 9 April 1999 AT instituted civil proceedings in the Ljubljana Local Court against the applicant, challenging the enforcement of the judgment of 16 October 1993.

On 2 November 2000 the court invited the applicant to reply to the claim, which he did on 11 December 2000.

On 15 October 2002 the applicant lodged a counter claim against AT.

On 9 November 2004 the court held the first hearing.

The hearing held on 14 December 2004 was adjourned in agreement with the parties, because the Pension and Invalidity Fund failed to provide the evidence the court had sought.

On 1 February 2005 the court held a hearing which the applicant did not attend. The court decided to terminate proceedings.

On 1 March 2005 the Court decided to reopen the proceedings in order to appoint a financial expert, as requested by AT.

The proceedings are still pending.

THE LAW

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

8. 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...”

9. In substance, the applicant further complained that the remedies available for excessive legal proceedings in Slovenia were ineffective. He relied on Article 13 of the Convention, which 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

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

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

12. The Court notes that the present application is similar to the cases of *Belinger* and *Lukenda* (see *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.

13. 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.

14. 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

15. 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

has not yet ended. The relevant period has therefore lasted over ten years and four months and two instances have been involved.

16. 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).

17. 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

18. 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 *Kudla 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.

19. 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

20. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

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* that there is no call to award the applicant just satisfaction.

Done in English, and notified in writing on 7 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

John HEDIGAN
President