



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

FIFTH SECTION

DECISION

Application no. 27342/06
Drago ČAKARIČ
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 3 April 2012 as a Committee composed of:

Ann Power-Forde, *President*,

Boštjan M. Zupančič,

Angelika Nußberger, *judges*,

and Stephen Phillips, *Deputy Section Registrar*,

Having regard to the above application lodged on 6 June 2006,

Having regard to the comments submitted by the parties,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Drago Čakarič, is a Slovenian national who was born in 1962 and lives in Hrastnik. He is represented before the Court by Ms M. Končan Verstovšek, a lawyer practising in Celje. The Slovenian Government (“the Government”) are represented by their Agent, Mr. L. Bembič.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

On 31 August 2000 the applicant instituted proceedings before the Trbovlje District Court seeking payment for loss in wages.

On 25 September 2000 the case was transferred to the Ljubljana Labour and Social Court.

On 24 October 2003 a dispute over the competence of courts was instituted before the Supreme Court. The Supreme Court decided on the matter on 2 April 2004 and the case was transferred to the Ljubljana District Court.

Between 4 October 2004 and 8 March 2005 two hearings were held.

On 14 June 2005 the first-instance court issued an interim judgment, rejecting the payment of the loss in wages but instead granting the applicant a monthly premium to be determined after the decision becomes final. The applicant appealed.

On 7 June 2006 the Ljubljana Higher Court rejected the appeal.

On 17 July 2006 the applicant lodged an appeal on points of law.

On 2 March 2007 the applicant lodged a supervisory appeal under the 2006 Act.

On 17 April 2007 the President of the Supreme Court rejected the supervisory appeal on procedural grounds.

On 23 March 2009 the Supreme Court rejected the appeal on points of law.

On 25 May 2009 the proceedings on first-instance resumed and in October 2009 the proceedings were still pending.

B. Relevant domestic law

For relevant domestic law see decision *Lesjak v. Slovenia* (no. 33946/03, 21 July 2009).

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention about the excessive length of civil proceedings and under Article 13 of the Convention about the lack of an effective domestic remedy in that regard.

THE LAW

The Court observes that on 1 January 2007 when the new legislation providing remedies for the length of proceedings (the 2006 Act) entered into force, the proceedings were pending before the Supreme Court. The proceedings before the Supreme Court lasted for almost two years (from 17 April 2006 to 23 March 2009), during which time the proceedings before

the first-instance court were stayed. The proceedings at first instance resumed on 25 May 2009 and were still pending in October 2009.

The Court notes that unlike in the case of *Lesjak* (no. 33946/03, 21 October 2009) but similar to the case of *Špegelj v Slovenia* (no. 33675/03, (dec.), 7 September 2010) the proceedings before the first-instance court resumed in May 2009 and were still pending five months later. The applicant therefore had the opportunity to properly exhaust the acceleratory remedies in accordance with the procedural rules laid down in the 2006 Act (see *Nežirović v. Slovenia* (dec.), no. 16400/06, § 41, 25 November 2008), but he failed to do so. This part of the application should therefore be rejected under Article 35 § 1 of the Convention for non-exhaustion of domestic remedies.

As regards the proceedings before the Supreme Court, the Court notes that their length was absorbed by the length of the proceedings before the lower courts which were stayed while the case was pending before the Supreme Court. The conclusion reached above should therefore apply likewise to the proceedings before the Supreme Court. In any event, the Court notes that the Supreme Court proceedings, which lasted almost two years, cannot be considered as having been excessively lengthy (see *Tričković v. Slovenia*, no. 39914/98, 12 June 2001) and that this part of the complaint should also be rejected as manifestly ill-founded under Article 35 §§ 3 and 4 of the Convention.

As regards the complaint under Article 13, the Court has found that the 2006 Act did afford the applicant an effective remedy in respect of his complaint about the length of proceedings (see *Grzinčič v. Slovenia*, no. 26867/02, 3 May 2007). That finding is also valid in the context of his complaint under Article 13 of the Convention. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 § 3 of the Convention.

The application must therefore be rejected under Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Stephen Phillips
Deputy Registrar

Ann Power-Forde
President