

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

FIFTH SECTION

DECISION

Application no. 40758/05
Mirsad ALDŽIĆ
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 2 November 2005,

Having regard to the Government's settlement proposal made to the applicant,

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Mirsad Aldžić, is a national of Bosnia and Herzegovina who was born in 1965 and lives in Ljubljana. The Slovenian Government ("the Government") were represented by their Agent.

A. The circumstances of the case

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

1. First set of proceedings

On 27 March 2000 the applicant instituted a labour dispute before the Ljubljana Labour and Social Court against his former employer seeking the payment of benefits.

On 24 September 2003 the first-instance court rendered a judgment. An appeal was lodged.

On 19 November 2004 the Ljubljana Higher labour and Social Court decided on the appeal.

On 1 March 2005 the applicant instituted proceedings seeking enforcement of the judgment.

On 16 April 2005 the writ of execution was issued. Subsequently, bankruptcy proceedings were initiated against the applicant's former employer.

2. Second set of proceedings

On 27 October 2000 the applicant instituted civil proceedings before the Ljubljana District Court seeking compensation for damages sustained in an accident at the workplace.

On 9 April 2002 a hearing was held and the first-instance court appointed two experts.

In 2005 the proceedings were stayed due to the bankruptcy proceedings instituted against the applicant's former employer.

On 26 May 2006 the Ljubljana District Court issued a decision on termination of proceedings following a settlement reached between the parties.

THE LAW

B. Relevant domestic law

A description of the relevant domestic law can be found in the *Kešelj and 6 Others v. Slovenia* decision (nos. 20674/05, 20680/05, 28380/05, 28441/05, 38861/05, 39198/05 and 44915/05, 19 May 2009).

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention about the excessive length of proceedings.

THE LAW

The Court notes that, after the Government had been given notice of the application under Article 54 § 2(a) of the Rules of Court, the applicant received the State Attorney's Office's settlement proposal under section 25 of the Act on the Protection of the Right to a Trial without undue Delay ("the 2006 Act") acknowledging a violation of the right to a trial within a reasonable time and offering redress for non-pecuniary damage. It further notes that the applicant has since then been in a position to either negotiate a settlement with the State Attorney's Office or, if that were to be unsuccessful, lodge a "claim for just satisfaction" in accordance with the relevant provisions of the 2006 Act. The latter has been considered by the Court to constitute appropriate means of redressing a breach of the reasonable time requirement of Article 6 that has already occurred (see *Pohlen v Slovenia* (dec.), no. 28457/03, §§ 40-43, 3 June 2008, and *Kešelj and 6 others v. Slovenia,* cited above).

The Court reiterates Article 37 of the Convention, which in the relevant part reads as follows:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
>
> ...
>
> (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.
>
> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

Having regard to the foregoing, the Court considers that it is no longer justified to continue with the examination of the application and it should be struck out of the list of cases in accordance with Article 37 § 1 (c). In reaching this conclusion, the Court has taken into account its competence under Article 37 § 2 of the Convention to restore the case to its list of cases if it considers that the circumstances justify such a course.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Stephen Phillips	Ann Power-Forde
Deputy registrar	President