

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

FIRST SECTION

CASE OF ALVES v. PORTUGAL

(Application no. 79925/12)

JUDGMENT

STRASBOURG

30 April 2015

This judgment is final but it may be subject to editorial revision.



In the case of Alves v. Portugal,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Mirjana Lazarova Trajkovska, *President,*
Paulo Pinto de Albuquerque,
Ksenija Turković, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 7 April 2015,

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

PROCEDURE

1. The case originated in an application (no. 79925/12) against the Portuguese Republic 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, Ms Cretka Ivanic Alves ("the applicant"), on 4 December 2012.

2. The applicant was represented by Mrs P. Pamela Sá, a lawyer practicing in Braga. The Portuguese Government ("the Government") were represented by their Agent, Mrs M. F. da Graça Carvalho, Deputy-Attorney General.

3. On 4 March 2014 the application was communicated to the Portuguese Government.

4. The Slovenian Government, having been informed by the Registry of the right to intervene under Article 36 § 1 of the Convention and Rule 44 § 2 (a) of the Rules of the Court, did not avail themselves of this right.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1953, in Slovenia, and lives in Braga, Portugal.

6. On 22 November 2006 the applicant brought a liability action (*ação de responsabilidade civil*) in the Braga Court against F., a lawyer who had acted as her legal representative in previous proceedings, claiming damages for professional negligence.

7. On 12 December 2006 F. was notified of the action. On 25 January 2007 he lodged his submissions in reply (*contestação*) and requested the

intervention of his insurance company to which he had transferred his responsibility for the acts committed by him in his capacity as lawyer.

8. On 8 March 2007 the applicant lodged new submissions in reply (*réplica*).

9. By a Braga Court's decision of 11 July 2007 the intervention of the insurance company in the proceedings was accepted. The company was summoned on an unknown date. On 14 September 2007 it lodged its submissions, to which the applicant replied on 11 October 2007.

10. Between January and April 2008 the parties disputed the applicant's legal capacity to be a party to the proceedings (*capacidade judiciária*).

11. On 28 April 2008 the judge gave directions (*despacho saneador*) absolving F. of the proceedings (*absolvição do réu da instância*) on the grounds of the applicant's lack of legal capacity.

12. On an unknown date the applicant appealed against that decision to the Guimarães Court of Appeal (*Tribunal da Relação*). By a decision of 4 December 2008 the Court of Appeal considered that the applicant had legal capacity and ordered the re-analysis of the case at first instance. In February 2009, the proceedings were allocated to the Braga Court.

13. On 29 April 2009 the judge gave directions setting out the matters that had already been established and those that remained outstanding.

14. Between 28 May and 6 November 2009 the parties lodged, in total, three requests to which the judge promptly replied in less than one month.

15. On an unknown date the case was set down for hearing on 10 March 2010. The hearing was later adjourned to 15 June 2010. A second hearing took place on 7 October 2010.

16. On 29 October 2010 the Braga Court partially found in favour of the applicant.

17. The parties appealed against the decision to the Guimarães Court of Appeal, which dismissed the appeals on 20 October 2011.

18. The parties challenged the Court of Appeal's decision before the Supreme Court.

19. On 29 May 2012 the Supreme Court dismissed the appeals.

THE LAW

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

20. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in 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..."

21. The Government contested that argument.

22. The period to be taken into consideration began on 22 November 2006 and ended on 29 May 2012. It thus lasted five years and six months for three levels of jurisdiction.

A. Admissibility

23. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

24. The Court recalls 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).

25. The Court firstly reiterates that the proceedings lasted five years and six months for three levels of jurisdiction.

26. As to the complexity of the proceedings, the Court does not consider the subject matter of the proceedings especially complex, as the case concerned a claim for damages against a lawyer for professional negligence.

27. As to the applicant's conduct, the Court observes that she did not cause any delays.

28. With respect to the conduct of the national authorities, the Court recalls that a delay at some stage may be accepted if the overall duration of the proceedings cannot be deemed excessive (see, for example, *Pretto and Others v. Italy*, judgment of 8 December 1983, § 37, Series A no. 71). The Court considers that in the present case, taking into account the applicant's and other party's appeals and requests in the proceedings, it does not find any substantial period of inactivity for which the authorities could be held responsible. Furthermore, it notes that the domestic courts did not remain passive when faced with the parties' requests and appeals in the proceedings, having proceeded without any substantial delays. Consequently, the Court considers that the authorities showed due diligence in handling the applicant's case.

29. In the light of the above, and having regard to the overall length of the proceedings, the Court concludes that there has been no violation of the relevant time requirement under Article 6 § 1 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 30 April 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach Deputy Registrar	Mirjana Lazarova Trajkovska President