

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

FIFTH SECTION

CASE OF GOBEC v. SLOVENIA

(Application no. 28275/06)

JUDGMENT

STRASBOURG

26 April 2012

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



In the case of Gobec v. Slovenia,

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

Ann Power-Forde, *President,*
Boštjan M. Zupančič,
Angelika Nußberger, *judges,*
and Stephen Phillips, *Deputy Section Registrar,*

Having deliberated in private on 3 April 2012,

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

PROCEDURE

1. The case originated in an application (no. 28275/06) 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 Srečko Gobec ("the applicant"), on 8 June 2006.

2. The applicant was represented by Mr D. Mikša, a lawyer practising in Celje. The Slovenian Government ("the Government") were represented by their Agent.

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 26 October 2010 the application was communicated to the Government. In accordance with Protocol No. 14, the application was assigned to a committee of three Judges. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1963 and lives in Rogaška Slatina.

6. On 28 April 1997 the applicant instituted civil proceedings before the Celje District Court seeking compensation for damage sustained at the workplace.

7. 20 August 2002 the first-instance issued a decision on costs. The defendant appealed.

8. On 5 February 2003 the Celje Higher Court upheld the appeal.

9. On 4 May 2004 the Celje District Court delivered an interim judgment deliberating on the responsibility and reserving the determination on the amount of compensation and costs for the final judgment. The defendant appealed.

10. On 11 May 2006 the Celje Higher Court upheld the first-instance judgment.

11. On 22 March 2007 the first-instance court delivered a judgment, which was served on the applicant on 6 July 2007.

II. RELEVANT DOMESTIC LAW

12. For relevant domestic law see the judgment *Maksimovič v. Slovenia* (no. 28662/05, 22 June 2010).

THE LAW

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

13. 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..."

14. 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

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

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

17. The Court notes that the present application is similar to the case of *Maksimovič v. Slovenia* (see paragraph 12 above). In that case 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 (ibid., §§ 21–24).

18. 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 the above-mentioned case.

19. 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

20. The period to be taken into consideration began on 28 April 1997, the day the applicant instituted proceedings with the Celje District Court, and ended on 6 July 2007, the day the first-instance court's judgment of 22 March 2007 was served on the applicant. It therefore lasted ten years and two months at two levels of jurisdiction.

21. 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).

22. Having examined all the material submitted to it, and having regard to its case-law on the subject (see, for example, *Hriberšek v. Slovenia*, no. 36054/02, §§ 16-18, 27 April 2006), the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable-time" requirement.

23. There has accordingly been a breach of Article 6 § 1.

2. Article 13

24. 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). In view of its findings concerning the exhaustion of domestic remedies (see paragraphs 17–18 above) and having regard to the fact that the arguments put forward by the Government have already been rejected in the case *Maksimovič v. Slovenia* (cited above, §§ 29–30), the Court finds 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

25. 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

26. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

27. The Government contested the claim.

28. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 8,000 under that head.

B. Costs and expenses

29. The applicant also claimed EUR 660 for the costs and expenses incurred in the proceedings before the Court. This claim was supported by itemised list of expenses similar to the lists normally submitted to the courts in domestic proceedings.

30. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. 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, who was represented by a lawyer, the full sum claimed under this head, namely EUR 660.

C. Default interest

31. 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;

3. *Holds* that there has been a violation of Article 13 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay within three months, the following amounts:
      (i) EUR 8,000 (eight thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 660 (six hundred sixty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (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;

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

Done in English, and notified in writing on 26 April 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips Deputy Registrar	Ann Power-Forde President