

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

FIFTH SECTION

CASE OF PAŠIĆ v. SLOVENIA

(Application no. 41060/07)

JUDGMENT

STRASBOURG

18 April 2013

FINAL

18/07/2013

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.



In the case of Pašić v. Slovenia,

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

Mark Villiger, *President,*
Angelika Nußberger,
Boštjan M. Zupančič,
Ganna Yudkivska,
André Potocki,
Paul Lemmens,
Aleš Pejchal, *judges,*
and Claudia Westerdiek, *Section Registrar,*

Having deliberated in private on 19 March 2013,

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

PROCEDURE

1. The case originated in an application (no. 41060/07) 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 Hasan Pašić ("the applicant"), on 3 September 2007.

2. 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. He also complained under Article 13 of the Convention of the lack of an effective domestic remedy in this respect.

4. On 14 March 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1955 and lives in Velenje.

6. On 10 August 2001 the applicant instituted proceedings against the insurance company Zavarovalnica Triglav before the Celje District Court seeking compensation for damage sustained at the workplace.

7. Between 18 March 2002 and 3 June 2002 the first-instance court held two hearings and appointed one expert.

8. At the last hearing the court rendered a judgment upholding the applicant's claim in part. Both parties appealed.

9. On 8 November 2002 the first-instance court referred the case to the Celje Higher Court.

10. On 4 December 2003 the Celje Higher Court returned the case-file since the appeal of the defendant had not been served on the applicant. The case was again referred to the appeal court on 3 March 2004.

11. On 4 May 2005 the Celje Higher Court delivered a judgment remitting the case in part for re-examination. The appeal court found that the amount of compensation had been erroneously calculated.

12. On 7 September 2005 the Celje District Court held an opening hearing. Since the applicant lodged a preliminary submission only two days before the scheduled hearing the court adjourned the main hearing to 17 October 2005.

13. On 17 October 2005 the court held the second hearing and delivered its judgment. The defendant appealed.

14. On 1 February 2006 the applicant lodged a request for the corrigendum of the judgment. The judgment was corrected on 10 February 2006.

15. On 25 January 2007 the Celje Higher Court rejected the appeal. The judgment was served on the parties on 5 March 2007.

II. RELEVANT DOMESTIC LAW

16. For relevant domestic law see *Nezirović v. Slovenia* ((dec.) no. 16400/06, 25 November 2008).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

17. 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 ..."

18. The applicant further complained that the remedies available for excessively long 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

19. The Court 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 (see *Maksimovič v. Slovenia,* no. 28662/05, §§ 21–24, 22 June 2010). It must therefore be declared admissible.

B. Merits

20. The period to be taken into consideration began on 10 August 2001, the day the applicant instituted proceedings before the Celje District Court, and ended on 5 March 2007, the day the Celje Higher Court's judgment of was served on the applicant. It therefore lasted five years and seven 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, *Ribič v. Slovenia*, no. 20965/03, §§ 28-33, 19 October 2010; *Pažon v. Slovenia*, no. 17337/02, §§ 16-18, 6 April 2006; *Cvetrežnik v. Slovenia*, no. 75653/01, §§ 16-18, 30 March 2006), and in particular the delays at the appeal stage (see paragraphs 9-11 above) and the fact that there were no significant delays attributable to the applicant, 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.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

23. 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 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.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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."

25. 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

1. *Declares* by a majority the application admissible;

2. *Holds* by six votes to one that there has been a violation of Article 6 § 1 and Article 13 of the Convention.

Done in English, and notified in writing on 18 April 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek	Mark Villiger
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Pejchal is annexed to this judgment.

M.V.
C.W.

DISSENTING OPINION OF JUDGE PEJCHAL

I disagree with the majority's finding of a violation of the applicant's right to a fair trial within "a reasonable time" for the reasons given already in my separate opinion in the case *Podbelšek Bračič v. Slovenia*, no. 42224/04