

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

FIFTH SECTION

DECISION

Application no. 1453/07
Olga DOBROVNIK
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 6 March 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 30 December 2006,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Olga Dobrovnik, is a Slovenian national who was born in 1952 and lives in Ravne na Koroškem. She was represented before the Court by Ms L. Jančič, a member of a Civil Association (*Civilno združenje za nadzor nad insitucijami*).

The Slovenian Government ("the Government") were represented by their Agent.

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

On 10 May 1994 the applicant instituted civil proceedings with the Ljubljana Higher Court against PTT (the Post of Slovenia) seeking

compensation for damages incurred to her property during excavation for laying of telephone lines.

On 28 June 1994 the Convention took effect with respect to Slovenia.

On 7 November 2005 the first-instance court issued a judgment. The applicant was not satisfied with the amount of compensation awarded and she lodged an appeal.

On 4 October 2006 Ljubljana Higher Court dismissed the applicant's appeal.

Subsequently, the applicant lodged an appeal on points of law with the Supreme Court and a constitutional appeal with the Constitutional Court, which were both dismissed on procedural grounds.

The last decision was served on the applicant on 23 May 2008.

THE LAW

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

The Court notes that, after the Government had been given notice of the application, they informed the Court that they had reached a settlement with the applicant as regards the violation of the right to a trial within a reasonable time. The applicant subsequently informed the Court that she wished to withdraw this complaint.

The Court takes note that following the settlement reached between the parties the matter has been resolved at the domestic level and that the applicant wishes to withdraw her application in the part concerning her complaint about the undue length of proceedings. It is satisfied that respect for human rights as defined in the Convention or its Protocols does not require the examination of the application to be continued (Article 37 § 1 *in fine* of the Convention).

In view of the above, it is appropriate to strike the application as far as it concerns the length of the proceedings out of the list in accordance with Article 37 § 1 (a) of the Convention.

Moreover, the applicant complained under Article 13 of the Convention that she did not have an effective domestic remedy in respect of the length of proceedings.

In this connection, the Court recalls its findings from previous cases where it found that the Act on the Protection of the Right to a Trial without undue Delay ("the 2006 Act") did afford the applicants effective remedy in respect of their complaints about the length of proceedings (see, for example, *Pohlen v. Slovenia,* (dec.), no. 28457/03, §§ 36-44). It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

Finally, the applicant complained under Article 6 about the unfairness of the impugned proceedings. Since the applicant failed to properly avail herself of the domestic remedies, it follows that this complaint should be rejected as inadmissible for non-exhaustion of domestic remedies pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases with regard to the complaint about the length of the proceedings under Article 6 of the Convention;

Declares inadmissible the remainder of the application.

Stephen Phillips	Ann Power-Forde
Deputy Registrar	President