

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

FIFTH SECTION

DECISION

Application no. 20756/05
Metoda FILIPLIČ CUZNAR
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 3 June 2005,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Metoda Filiplič Cuznar, is a Slovenian national who was born in 1951 and lives in Ljubljana. She was represented before the Court by Mr R. Završek and Mr R. Koren, lawyers practising in Ljubljana.

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 23 June 1995 the applicant lodged a request for enforcement with the Ljubljana District Court seeking restitution of property forfeited to her late father after World War II.

On 18 November 1996 the court rejected her request. She appealed.

On 8 January 1997 the Ljubljana Higher Court upheld the appeal and remitted the case for re-examination.

On 3 February 1997 the Ljubljana District Court issued a decision on termination of proceedings and the case was subsequently examined in non-contentious proceedings.

On 30 May 2002 the Ljubljana District Court upheld the applicant's request in part awarding her compensation for the forfeited property. Both parties appealed.

On 16 April 2003 the Ljubljana Higher Court rejected the applicant's appeal and upheld the amount of compensation awarded by the first-instance court. She lodged an appeal on points of law.

On 11 March 2004 the Supreme Court rejected her appeal. She lodged a constitutional complaint.

On 10 December 2004 the Constitutional Court rejected her complaint. The decision was served on the applicant on 15 December 2004.

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 1 of Protocol No.1 and Article 14 of the Convention that her rights were breached as she did not get full compensation for the forfeited property and was discriminated by the provisions of the domestic law. She further complained about the arbitrariness of the domestic proceedings.

Having regard to all material in its possession and in so far as the matters complained of are within its competence, the Court considers that this part of the application does not disclose any appearance of a violation of the Convention. It follows that it is inadmissible under Article 35 § 3 (a) as manifestly ill-founded and must be rejected 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
Deputy Registrar

Ann Power-Forde
President