

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

FIFTH SECTION

DECISION

Application no. 37392/06
Miran JAMNIKAR
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 10 July 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 8 September 2006,
Having regard to the comments submitted by the parties,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Miran Jamnikar, is a Slovenian national, who was born in 1979 and lives in Slovenjske Konjice. He is represented before the Court by Mr B. Verstovšek, a lawyer practising in Celje.

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

A. The circumstances of the case

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

On 9 January 2001 the applicant instituted proceedings before the Celje District Court seeking compensation for damages sustained in a car accident.

Between 1 April 2004 and 30 November 2006 the first-instance court held four hearings and appointed two experts.

On 18 January 2007 the first-instance court issued a judgment upholding the applicants request in part. The applicant appealed.

On 3 June 2007 the Celje Higher Court upheld the appeal in part and remitted the case for re-examination. The court also amended the first-instance judgment and in that part the judgment became final. The applicant lodged an appeal on points of law against this part of the judgment.

On 11 September 2008 the Supreme Court rejected the appeal on points of law and the proceedings resumed on first-instance.

On 20 October 2008 the applicant lodged a supervisory appeal under the Act on the Protection of the Right to a Trial without undue Delay ("the 2006 Act").

On 24 October 2008 the president of the Celje District Court informed the applicant that a hearing in the case was being scheduled for 27 November 2008. With this notification the applicant's supervisory appeal was considered to be granted.

On 27 November 2008 the first-instance court held a hearing and rendered a judgment. The applicant appealed against the decision on costs.

On 18 June 2009 the second-instance court rejected the applicant's appeal. The decision was served on the applicant's representative on 30 June 2009.

On 4 May 2010, after lodging a compensation claim under the 2006 Act, the applicant reached a settlement with the State Attorney's Office and was subsequently paid EUR 540 for non-pecuniary damage, sustained as a result of the undue length of proceedings.

B. Relevant domestic law

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

COMPLAINTS

The applicant complained under Articles 6 and 13 of the Convention about the undue length of proceedings and lack of an effective remedy in that regard.

THE LAW

At first the Government argued non-exhaustion of domestic remedies. In their additional observations, however, they argued that the application should be struck out of the Court's list of cases since the applicant received compensation for non-pecuniary damage.

The applicant argued that the domestic remedies under the 2006 Act were ineffective, in particular he submitted that the just satisfaction claim was ineffective, since the domestic courts did not award sufficient compensation. The applicant requested the Court to award the applicant the difference in the amount of non-pecuniary damages, taking into account the sums usually awarded by the Court in comparable cases.

The Court notes that following the termination of the domestic proceedings the applicant lodged a claim for just satisfaction under section 15 of the 2006 Act. Subsequently, he signed a settlement agreement and received EUR 540 for non-pecuniary damage, sustained as a result of the undue length of proceedings.

The Court further notes that in the case of *Zajc and 4 Others v. Slovenia* (no. 13992/03, 6 May 2008, §§ 38-40 and *Januš v. Slovenia*, no. 3088/03) it found comparable sums in respect of non-pecuniary damage reasonable.

Since the applicant signed the settlement proposal, whereby the Government acknowledged the violation of the right to a trial within a reasonable time, and received sufficient compensation, the Court finds that the applicant can no longer claim to be a victim, within the meaning of Article 34 of the Convention, of a violation of his Convention rights regarding the undue length of proceedings.

Secondly, as regards the Article 13 complaint the Court notes that the 2006 Act provides in section 20 that if no settlement is reached between the parties the party may lodge an action for damages within eighteen months from the resolution of the case. The Court notes that the applicant did not submit any relevant argument as to why this remedy should be considered ineffective. This complaint must therefore be rejected as manifestly ill-founded.

It follows that the application must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Stephen Phillips
Deputy Registrar

Ann Power-Forde
President