

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

FIFTH SECTION

DECISION

Application no. 15009/07
Kemija KAMARIĆ
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 23 March 2007,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Kemija Kamarić, is a Slovenian national who was born in 1959 and lives in Ljubljana. She was represented before the Court by Helsinški monitor Slovenije za človekove pravice, a human rights organisation. The Slovenian Government ("the Government") were represented by their Agent.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

A. The circumstances of the case

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

On 11 April 1997 the applicant instituted proceedings against her employer before the Ljubljana Labour and Social Court requesting the annulment of a decision on reassignment and the payment of the difference in salary after the reassignment.

On 23 May 1997 the first-instance judgment was delivered and her requests were rejected. She appealed.

On 4 November 2004 the Ljubljana Higher Labour and Social Court rejected the appeal. She lodged an appeal on points of law.

On 21 April 2005 the Supreme Court rejected her appeal. She lodged a constitutional complaint.

On 22 September 2006 the Constitutional Court rejected her complaint. The decision was served on the applicant on 28 September 2006.

B. Relevant domestic law

A description of the relevant domestic law can be found in the *Kešelj and 6 Others v. Slovenia* decision (nos. 20674/05, 20680/05, 28380/05, 28441/05, 38861/05, 39198/05 and 44915/05, 19 May 2009).

COMPLAINTS

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

The applicant also complained under Article 6 of the Convention about the arbitrariness of the domestic proceedings alleging that the domestic courts were biased and did not accept the evidence she tried to submit. She further complained under Article 14 and Article 1 of Protocol No.1 that she had been discriminated in court and at the workplace and was denied the difference in salary after the reassignment.

THE LAW

A. Complaints about the length of the proceedings under Article 6 of the Convention

The Court notes that, after the Government had been given notice of the application under Article 54 § 2(a) of the Rules of Court, the applicant received the State Attorney's Office's settlement proposal under section 25 of the 2006 Act acknowledging a violation of the right to a trial within a reasonable time and offering redress for non-pecuniary damage. It further notes that the applicant has since then been in a position to either negotiate a settlement with the State Attorney's Office or, if that were to be unsuccessful, lodge a "claim for just satisfaction" in accordance with the relevant provisions of the 2006 Act. The latter has been considered by the Court to constitute appropriate means of redressing a breach of the reasonable time requirement of Article 6 that has already occurred (see *Pohlen v Slovenia* (dec.), no. 28457/03, §§ 40-43, 3 June 2008, and *Kešelj and 6 others v. Slovenia,* cited above).

The Court reiterates Article 37 of the Convention, which in the relevant part reads as follows:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
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> ...
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> (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.
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> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

Having regard to the foregoing, the Court considers that it is no longer justified to continue with the examination of the application as far as it concerns the length of the proceedings; therefore, this part of the application should be struck out of the list of cases in accordance with Article 37 § 1 (c). In reaching this conclusion, the Court has taken into account its competence under Article 37 § 2 of the Convention to restore the case to its list of cases if it considers that the circumstances justify such a course.

B. Other complaints

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 complaints 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