

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

FIFTH SECTION

DECISION

Application no. 6618/07
Toni KOVAČ
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 15 May 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 comments submitted by the parties,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Toni Kovač, is a Slovenian national, who was born in 1959 and lives in Žužemberg. He is represented before the Court by Mr Z. Lipej, a lawyer practising in Medvode.

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 24 April 2003 the applicant instituted civil proceedings before the Ljubljana District Court seeking compensation for damages sustained at the workplace.

On 16 March 2004 a mediation procedure was ordered, which was unsuccessful since only one party agreed to the possibility of a settlement.

The first hearing scheduled for 6 January 2005 was postponed following a request by the applicant.

Between 10 March 2005 and 6 December 2005 the first-instance court held five hearings and appointed two experts.

On 1 February 2006 the first-instance court rendered a judgment rejecting the applicant's request.

On 24 January 2007 the Ljubljana Higher Court rejected the appeal. The judgment was served on the applicant's counsel on 22 March 2007.

B. Relevant domestic law

For relevant domestic law see decision *Repar v. Slovenia*, no. 40739/05, 12 October 2010).

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention about the excessive length of civil proceedings and under Article 13 of the Convention about the lack of an effective domestic remedy in that regard.

THE LAW

Further to the communication of the case under Rule 54 § 2 (b) of the Rules of Court, the Government argued that the applicant's right to a trial within a reasonable time had not been infringed and the application should be rejected as unsubstantiated. The applicant contested these arguments.

The Court recalls that the "reasonable" length of proceedings must be assessed in accordance with the circumstances of the case and the following criteria: the complexity of the case, the behaviour of the applicant and that of the competent 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).

The Court observes that the time to be taken in consideration in the present case started on 24 April 2003, the date when the domestic proceedings were instituted, and ended on 22 March 2007, the date when the second-instance court's judgment was served on the applicant. The

proceedings therefore lasted three years and eleven months at two levels of jurisdiction.

Having regard to all the material submitted to it and having regard to the Court's case-law on the subject (see for example *Repar v. Slovenia* (cited above), *Takeva v. Bulgaria,* no. 56023/00, 4 September 2006 and *Hornak v. Slovakia,* no. 43527/04, 24 November 2009, *Prešeren v. Slovenia*, no. 18817/06, 23 November 2010) the Court considers that in the instant case the length of the proceedings can still be considered reasonable.

The Court therefore finds that this part of the application is manifestly ill-founded and must be rejected under Article 35 § 4 of the Convention.

As to the complaint regarding the lack of effective remedies the Court recalls that Article 13 requires the State to provide an effective legal remedy to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief (see *Sürmeli v. Germany* [GC], no. 75529/01, § 98, 8 June 2006). Considering that the complaint about the excessive length of the proceedings is inadmissible as manifestly ill-founded, the Court finds that the applicant did not have an arguable claim that his right to an effective remedy within the meaning of Article 13 was violated. Therefore, this claim does not reveal any appearance of violation of this provision.

Accordingly, this complaint is manifestly ill-founded and must be declared inadmissible in the meaning of 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