CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 27102/02
by Valentin MEŽAN
against Slovenia

The European Court of Human Rights (Third Section), sitting on 30 September 2004 as a Chamber composed of:

Mr G. RESS, *President*,
Mr I. CABRAL BARRETO,
Mr L. CAFLISCH,
Mr R. TÜRMEN,
Mr J. HEDIGAN,
Mr K. TRAJA,
Mrs A. GYULUMYAN, *judges*,
and Mr M. VILLIGER, *Deputy Section Registrar*,

Having regard to the above application lodged on 29 June 2002,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Valentin Mežan, is a Slovenian national who was born in 1936 and lives in Radovljica.

A. The circumstances of the case

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

The applicant was a farmer whose agricultural land had been expropriated by the State Authority for Streets ("SAS") in 1989, when it started to build the motorway. In exchange, the applicant received another plot of land. The applicant and the investor concluded an exchange agreement. During the works on the motorway some other plots of the applicant's land were damaged by the investor.

On 6 July 1992 the applicant instituted compensation proceedings at the Kranj Basic Court, Radovljica Unit *(Temeljno sodišče v Kranju, Enota v Radovljici)* against the SAS, claiming damages in the amount of 2,487,490 SIT.

On 19 May 1993 the court appointed an expert whose duty was to examine the damaged plots of land and evaluate the damage sustained.

On 14 July 1993 the expert informed the court that due to too much work she would not be able to prepare the expert opinion.

On 9 August 1993 the court appointed a new expert.

On 28 September 1994 the court decided on the expert's costs.

On 12 August 1994 an expert opinion was drawn up.

On 10 October 1994 the applicant appealed to the Ljubljana Higher Court *(Višje sodišče v Ljubljani)* against the decision of 28 September 1994.

On 30 December 1994 the court corrected its decision of 28 September 1994 and re-evaluated the expert's costs.

On 27 February 1996 the Higher Court rejected the applicant's appeal against the decision of 28 September 1994.

In the meantime, further to the reorganisation of the judicial system in Slovenia on 1 January 1995, the Kranj District Court (*Okrožno sodišče v Kranju)* obtained jurisdiction in the present case.

On 7 June 1999 the Kranj District Court partly upheld the applicant's claim for damages in the amount of 1,510,268 SIT and rejected the remainder.

On 17 September 1999 the applicant lodged an appeal against that part of decision rejecting his claim.

On 11 October 2000, the second-instance court upheld his appeal and the case was remitted to the first-instance court for re-examination. The applicant's claim in the amount of 124,799 SIT became final, since the defendant acknowledged the claim to this amount.

On 27 April 2001 the applicant filed fresh pleadings.

Hearings were held on 28 May, 10 and 18 September 2001. The parties agreed that a new expert should be appointed.

On 7 November 2001 the court appointed an expert whose duty was to amend the previously prepared expert opinions and re-evaluate the damages.

On 3 December 2001 the applicant filed his submissions.

On 18 September 2003 the Kranj District Court partly upheld the applicant's claim in the amount of 1,881,954 SIT and rejected the remainder.

On 15 December 2003 the applicant lodged an appeal with the Ljubljana Higher Court against that part of the decision rejecting his claim. The proceedings are still pending before that court.

On 14 April 2004 the applicant lodged an initiative for review of constitutionality and legality with the Constitutional Court.

COMPLAINTS

1. Invoking Article 6 of the Convention, the applicant complained about the length of the indemnity proceedings. Under Article 13 he also claimed that no effective remedies were available to him before the domestic courts.

2. The applicant also complained under Articles 6 § 1 and 17 of the Convention about the unfairness of the proceedings, since the land had been taken unlawfully and the State did not want to award him fair compensation. The applicant further complained about the inefficiency of the domestic judicial and legal system.

THE LAW

1. Under Articles 6 § 1 and 13 of the Convention the applicant complained that the proceedings before the domestic judicial authorities lasted too long and that he had no domestic remedies at his disposal.

Article 6 provides as far as relevant:

"In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

Article 13 reads:

" Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity. "

The Court considers that it cannot determine the admissibility of the complaints. It is therefore necessary, in accordance with Rule 54 § 3 (b) of the Rules of Court, to give notice of these complaints to the respondent Government.

2. The applicant also complained under Articles 6 § 1 and 17 of the Convention about the unfairness of the compensation proceedings.

However, the Court notes that the proceedings are still pending before the Ljubljana Higher Court. This part of the application is premature. The applicant has not, therefore, exhausted domestic remedies as required by Article 35 § 1 of the Convention.

This part of application should therefore be rejected under Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaint concerning the length of the indemnity proceedings;

Declares the remainder of the application inadmissible.

Mark VILLIGER
Deputy Registrar

Georg RESS
President