

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

FIFTH SECTION

DECISION

Application no. 17171/06
Žiga MLINARIČ
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 3 April 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 April 2006,
Having regard to the comments submitted by the Government,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Žiga Mlinarič, is a Slovenian national who was born in 1997 and lives in Buče. 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 11 February 2003 the applicant instituted civil proceedings before the Celje District Court seeking compensation of damages incurred in a car accident.

On 21 February 2003 the first-instance court issued a decision exempting the applicant from paying court fees.

On 4 September 2003 the first hearing was held and on 25 September 2003 the court appointed an expert.

On 1 July 2004 and 13 September 2004 two more hearings were held.

On 23 September 2004 after the last hearing, the first-instance court rendered a judgment. The applicant appealed.

On 12 January 2006 the Celje Higher Court upheld his appeal in part and remitted the case for re-examination.

On 1 June 2006 the first-instance court rendered a judgment, which was served on the applicant on 19 June 2006.

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 notification of the case under Rule 54 § 2 (a) of the Rules of Court, the Government informed the Court that the State Attorney's Office had refused to apply section 25 to the present case, stating that the applicant's right to a trial within a reasonable time had not been infringed. As a result, no settlement proposal was submitted to the applicant. The applicant was requested to submit comments, which he never did.

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 11 February 2003, the date when the domestic proceedings were instituted, and ended on 1 June 2006, the date when the first-instance judgment was served on the applicant. The proceedings

therefore lasted three years and five months for two levels of jurisdiction and four instances.

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) 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