

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

FIFTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 3656/07
by Marija NOVAK
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 3 November 2011 as a Committee composed of:

Ganna Yudkivska, *President,*
Boštjan M. Zupančič,
Angelika Nußberger, *judges,*

and Stephen Phillips, *Deputy Section Registrar,*

Having regard to the above application lodged on 19 December 2006,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Marija Novak, is a Slovenian national who was born in 1944 and lives in Ljubljana. She was represented before the Court by Ms M. Verstovšek, a lawyer practising in Ljubljana. The Slovenian Government ("the Government") were represented by their Agent.

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

On 21 April 1999 the applicant instituted civil proceedings at the Labour and Social Court. On 9 November 2004 the court delivered the judgment. The applicant appealed to the Higher Labour and Social Court, which on

22 September 2005 returned the case to the first-instance court for re-examination. On 14 March 2006 the first-instance court delivered its judgment. From the copy of the notice of reception submitted by the Government it follows that the judgment was served on the applicant on 1 June 2006.

On 30 May 2000 the applicant instituted another set of proceedings at the Labour and Social Court. The court delivered its judgment on 14 December 2004, in which it rejected her complaints. The applicant appealed to the Higher Labour and Social Court, which on 14 December 2004 upheld the judgment of the first-instance court. The applicant lodged an appeal to the Supreme Court, which on 5 December 2006 quashed the judgments of the first- and second-instance courts and returned the case to the first-instance court for re-examination. Since then the case has been pending before the first instance court. On 1 January 2007 the Act on the Protection of the Right to a Trial without Undue Delay *(Zakon o varstvu pravice do sojenja brez nepotrebnega odlašanja*, Official Gazette, No. 49/2006 – "the 2006 Act") became operational, providing the new remedies with respect to unreasonably long proceedings.

COMPLAINTS

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

THE LAW

With respect to the first set of proceedings, which the applicant instituted on 21 April 1999 at the Labour and Social Court, and with respect to which the Court gave notice of the application to the Government, the Court reiterates at the outset that, according to Article 35 § 1 of the Convention, it may only deal with an individual application lodged with it after all domestic remedies have been exhausted, according to generally recognised rules of international law, and within six months of the date on which the final decision has been taken.

In this connection, the Court notes that from the copy of the notice of reception submitted by the Government it follows that the final decision was served on the applicant on 1 June 2006. The Court further notes that the

applicant lodged the present application on 19 December 2006, which is more than six months after the date of the final decision.

It follows that this part of the application has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

With respect to the second set of proceedings, which the applicant instituted on 30 May 2000 at the Labour and Social Court, the Court observes that the 2006 Act became operational on 1 January 2007. It further recalls that in *Grzinčič v. Slovenia* (no. 26867/02, § 110, 3 May 2007) the Court was satisfied that the aggregate of remedies provided by the 2006 Act in cases of excessively long proceedings pending at first and second instance was effective and that the applicants were required to use these remedies. The Court further observes that the applicant has not availed herself of these remedies.

It follows that the applicant's complaints under Article 6 § 1 of the Convention concerning the second set of proceedings must be declared inadmissible under Article 35 § 1 of the Convention due to non-exhaustion of domestic remedies and rejected in accordance with Article 35 § 4 of the Convention.

With respect to the applicant's complaint under Article 13 of the Convention concerning the second set of proceedings, the Court has already found that the 2006 Act does afford the applicant effective remedies in respect of her complaint about the length of the second set of proceedings. That finding is also valid in the context of the applicant's complaint under Article 13 of the Convention. It follows that this complaint is manifestly ill-founded and must therefore 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

Ganna Yudkivska
President