

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

FIFTH SECTION

DECISION

Application no. 37208/06
Marino POROPAT
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 26 June 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 16 August 2006,

Having regard to a friendly settlement reached between the parties,

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Marino Poropat, is a Slovenian national, who was born in 1951 and lives in Portorož. He was represented before the Court by Mr B. Gvozdić, a lawyer practising in Sežana.

The Slovenian Government ("the Government") were 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 5 August 2001 the applicant instituted civil proceedings against R.H. in the Piran Local Court seeking damages for the injuries allegedly sustained when R.H. physically attacked him.

Between 21 October 2004 and 8 June 2006 four hearings were held.

On 8 June 2006 the first-instance court rendered a judgment dismissing the applicant's claim. The applicant appealed

On 11 January 2007 the Higher Court dismissed the applicant's appeal.

On 5 April 2007 the applicant lodged a constitutional appeal. The Constitutional Court dismissed it on 10 December 2007.

B. Relevant domestic law

For the description of the relevant domestic law see the decision in the case of *Nezirović v. Slovenia* (no. 16400/06, 25 November 2008).

COMPLAINTS

The applicant complained under Article 6 of the Convention that the length of the proceedings before the domestic courts was excessive. In substance, he also complained under Article 13 of the Convention of the lack of an effective domestic remedy in respect of the excessive length of the proceedings.

He further complained about the unfairness of the proceedings, stating in particular that the courts relied only on the statement of D.K., a witness who was nominated in breach of procedural rules. He also complained under Article 13 of the Convention that the Constitutional Court declined to deal with his constitutional appeal and merely referred to section 55.b of the Constitutional Court Act, which had entered into force after his constitutional appeal had been lodged. He argued that this decision of the Constitutional Court had retroactively interfered with his rights.

THE LAW

A. Complaints about the length of the proceedings and the lack of an effective remedy in that respect under Articles 6 and 13 of the Convention

The Court notes that, after the Government had been given notice of the application, they informed the Court that they had reached a settlement with

the applicant as regards the violation of the right to a trial within a reasonable time. The applicant subsequently informed the Court that he wished to withdraw his complaints under Articles 6 and 13.

The Court takes note that following the settlement reached between the parties the matter has been resolved at the domestic level and that the applicant wishes to withdraw his application in the part concerning his complaints about the undue length of proceedings and the lack of an effective remedy in that respect. It is satisfied that respect for human rights as defined in the Convention or its Protocols does not require the examination of the application to be continued (Article 37 § 1 *in fine* of the Convention).

In view of the above, it is appropriate to strike the application as far as it concerns the above complaints out of the list in accordance with Article 37 § 1 (a) of the Convention.

B. Remaining complaints

As regard the applicant's complaint about the unfairness of the proceedings, the Court notes that the applicant essentially disagrees with the outcome of the proceedings. 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.

As to the applicant's complaint about the retroactive effect of the amendment of the Constitutional Court Act, the Court notes that the new provisions concerning the admissibility of the appeal were indeed to be applied to the cases already pending before the Constitutional Court. However, having regard to the case-law on the matter and to the special nature of the Constitutional Court's role, the Court considers that the way the new rules were applied to the applicant's case did not impair the very essence of his right to a court within the meaning of Article 6 § 1 (see, *mutatis mutandis, Brualla Gómez de la Torre v. Spain*, 19 December 1997, §§ 35-39, *Reports of Judgments and Decisions* 1997-VIII). This complaint is therefore also 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 under Articles 6 and 13 of the Convention;

Declares inadmissible the remainder of the application.

Stephen Phillips Deputy Registrar	Ann Power-Forde President