

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

FIFTH SECTION

DECISION

Application no. 36597/06
Goran SOBOTA
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 30 August 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 1 September 2006,
Having regard to the written submissions of the parties,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Goran Sobota, is a Slovenian national who was born in 1969 and lives in Velenje. He was represented before the Court by Ms M. Končan Verstovšek, a lawyer practising in Celje. The Slovenian Government ("the Government") were represented by their Agent, Ms A. Vran, State Attorney.

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

On 28 September 1998 the applicant instituted proceedings against V. before the Celje District Court seeking damages sustained in an accident at work.

Between 25 October 2001 and 11 March 2003 three hearings were held.

At the hearing held on 11 March 2003 the court delivered a judgment, upholding the applicant's claim in part. Both parties appealed.

On 9 February 2006 the Celje Higher Court allowed the appeals in part and remitted the question of costs of proceedings for re-examination.

On 28 September 2006 the Celje District Court gave a decision on costs of proceedings. The applicant appealed.

On 30 August 2007 the Celje Higher Court upheld the applicant's appeal in part and modified accordingly the first-instance decision. This decision was served on the applicant on 11 September 2007.

B. Relevant domestic law

A description of relevant domestic law can be found in the *Nezirović v. Slovenia* decision (no. 16400/06, 25 November 2008, §§ 13–21).

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

On 17 February 2009 the respondent Government were informed of the present application under Article 54 § 2(a) of the Rules of Court.

In reply, the Government submitted that the applicant failed to exhaust domestic remedies as the proceedings were finally resolved after 1 January 2007, the date on which the 2006 Act was implemented.

The applicant contested that view. He submitted that the proceedings lasted for more than seven years prior to 1 January 2007 and were partly finally resolved on 9 February 2006, when the court decided on his main claim. Only the part of the proceedings concerning costs continued after 1 January 2007. The applicant also submitted that the remedies available were not effective.

The Court reiterates at the outset that the rule of exhaustion of domestic remedies referred to in Article 35 of the Convention obliges those seeking to bring their case against the State before an international judicial organ to use first the remedies provided by the national legal system.

In this connection, the Court observes that on 9 February 2006 the Higher Court remitted the case for re-examination as far as the costs of proceedings were concerned. The Court further observes that the costs

proceedings were subsequently conducted under the same proceedings number and were dealt with by the same court and by the same judge as the merits of the main claim. Thus, the costs proceedings cannot be regarded as an autonomous set of proceedings (see, *mutatis mutandis, Mamič v. Slovenia (no. 2)*, no. 75778/01, §§ 27-29, ECHR 2006-X (extracts). In the view of the foregoing, the Court considers that the proceedings in the present case were finally resolved on 30 August 2007, the date the second-instance court delivered its final decision on costs of proceedings.

It remains for the Court to determine whether the applicant had the opportunity to properly exhaust acceleratory remedies in order to be able to claim compensation for the violation of the reasonable time requirement after the final resolution of the proceedings (see *Nezirović v. Slovenia*, cited above, § 41). In this connection, the Court notes that, following the implementation of the 2006 Act, the proceedings continued for approximately eight months before the second-instance court and that the applicant therefore had enough time to make a constructive attempt to exhaust the acceleratory remedy, and by doing so fulfil the conditions for lodging a just satisfaction claim (ibid.). However, the applicant did not make such an attempt nor did he provide a convincing explanation for his failure to do so. This part of the application must therefore be rejected for non-exhaustion of domestic remedies pursuant to Article 35 § 1 of the Convention.

Having regard to the foregoing, the applicant's complaint under Article 13 that the remedies at his disposal for excessively lengthy proceedings were ineffective must be declared manifestly ill-founded under Article 35 § 3 (a) of the Convention (see *Nezirović*, cited above, § 43).

The application must therefore be rejected under Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Stephen Phillips
Deputy Registrar

Ganna Yudkivska
President