

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

FIFTH SECTION

DECISION

Application no. 9844/07
Friderik SULCER and others
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 12 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 30 January 2007,

Having regard to the comments submitted by the parties,

Having deliberated, decides as follows:

THE FACTS

Friderik Sulcer is a Slovenian national, who was born in 1939 and lives in Kranj**.**

Nataša Sulcer Ješe is a Slovenian national, who was born in 1964 and lives in Kranj.

Boris Juvan is a Slovenian national who, was born in 1961 and lives in Kranj.

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 15 January 2004 the Jesenice Administrative Unit rejected the applicants' request for amendment and annulment of the decision of 9 November 1998 whereby their request for restitution of property was rejected. They appealed.

On 30 January 2004 the Ministry of the Environment and Spatial Planning rejected the appeal.

On 19 February 2004 they instituted an administrative dispute.

On 1 June 2005 the Administrative Court rendered a judgment rejecting the applicants' request. They appealed.

On 14 March 2007 the Supreme Court rejected the appeal.

B. Relevant domestic law

For relevant domestic law see *Blekić v. Slovenia* (no. 14610/02, 7 July 2009).

COMPLAINTS

The applicants complained under Articles 6 § 1 and 13 of the Convention about the undue length of proceedings and lack of an effective remedy in that regard.

They also complained under Article 3 of the Convention and Article 1 of Protocol No.1 that their property was confiscated to their ancestors by use of force, causing a great deal of fear and humiliation. Finally, they complained that the fact that the request for restitution was granted to the neighbours but not to them clearly indicates that they have been discriminated in the proceedings (Article 14), which were in any event, according to them, unfair and arbitrary (Article 6).

THE LAW

1. Complaints regarding the undue length of proceedings and lack of an effective remedy (Articles 6 and 13)

As to the proceedings before the administrative authorities the Court observes that even assuming the duration could be considered as

problematic, the applicant did not exhaust the available domestic remedies (see *Sirc v. Slovenia* (dec.), no. 44580/98, 16 May 2002) and thus the complaint regarding the undue length of proceedings must be in this part rejected under Article 35 § 4 of the Convention.

As to the proceedings before the domestic courts 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 *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 19 February 2004 and ended on 14 March 2007, the date of the Supreme Court's decision. The proceedings therefore lasted three years and one month at two levels of jurisdiction.

Having regard to all the material submitted to it and having regard to the Court's case-law on the subject (see *Repar v. Slovenia*, no. 40739/05, *Felcser v. Hungary,* no. 14093/06, 25 May 2010 and *Hornak v. Slovakia,* no. 43527/04, 24 November 2009) the Court considers that in the instant case the length of the proceedings was not excessive.

The Court therefore finds that the complaint regarding the undue length of proceedings before the domestic courts 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 before the lower administrative authorities the Court has already found that the General Administrative Procedure Act and the Administrative Disputes Act did provide the applicants with an effective remedy in respect of their complaint about the length of the proceedings before the lower administrative authorities (see *Sirc v. Slovenia,* cited above).

As to the proceedings before the domestic courts, 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.

2. Other complaints

The Court notes that the applicants did not lodge a constitutional complaint. These complaints must therefore be rejected for non-exhaustion of domestic remedies under Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Stephen Phillips Deputy Registrar	Ann Power-Forde President