

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

FIFTH SECTION

DECISION

Application no. 16022/06
Vinko TULJAK
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 6 March 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 7 March 2006,

Having regard to the Government's settlement proposal made to the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Vinko Tuljak, is a Slovenian national who was born in 1951 and lives in Artiče. He had no representative before the Court. 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 24 September 1996 the applicant instituted proceedings before the Ljubljana Labour and Social Court requesting the annulment of the decision

on the amount of pension issued by the Pension and Disability Insurance Institute of the Republic of Slovenia and the recalculation of the amount of pension.

On 6 December 2000 the first-instance judgment was delivered, rejecting the applicant's request. He appealed.

On 18 October 2003 the Ljubljana Higher Labour and Social Court rejected his appeal. The applicant lodged an appeal on points of law.

On 15 June 2004 the Supreme Court rejected the appeal on points of law. He lodged a constitutional complaint.

On 13 October 2005 the Constitutional Court rejected his complaint.

B. Relevant domestic law

A description of the relevant domestic law can be found in the *Kešelj and 6 Others v. Slovenia* decision (nos. 20674/05, 20680/05, 28380/05, 28441/05, 38861/05, 39198/05 and 44915/05, 19 May 2009).

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. In this connection, the applicant requested, in addition to non-pecuniary damage, also compensation for the pecuniary damage. He requested the Court to award him the difference in the amount of pension.

The applicant further complained under Article 6 of the Convention about the arbitrariness and unfairness of the domestic proceedings, claiming that the amount of his pension was calculated erroneously as it was based on the wrong legal provision and that as a consequence his rights under Article 14 and Article 1 of Protocol No. 1 of the Convention were violated.

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 under Article 54 § 2(a) of the Rules of Court, the applicant received the State Attorney's Office's settlement proposal under section 25

of the 2006 Act acknowledging a violation of the right to a trial within a reasonable time and offering redress for non-pecuniary damage. It further notes that the applicant has since then been in a position to either negotiate a settlement with the State Attorney's Office or, if that were to be unsuccessful, lodge a "claim for just satisfaction" in accordance with the relevant provisions of the 2006 Act. The latter has been considered by the Court to constitute appropriate means of redressing a breach of the reasonable time requirement of Article 6 that has already occurred (see *Pohlen v Slovenia* (dec.), no. 28457/03, §§ 40-43, 3 June 2008, and *Kešelj and 6 others v. Slovenia,* cited above).

The Court reiterates Article 37 of the Convention, which in the relevant part reads as follows:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
>
> ...
>
> (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.
>
> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

Having regard to the foregoing, the Court considers that it is no longer justified to continue with the examination of the application as far as it concerns the length of the proceedings and the lack of an effective remedy in that respect; therefore, this part of the application should be struck out of the list of cases in accordance with Article 37 § 1 (c). In reaching this conclusion, the Court has taken into account its competence under Article 37 § 2 of the Convention to restore the case to its list of cases if it considers that the circumstances justify such a course.

With regard to the applicant's request for compensation in respect of pecuniary damage, the Court considers that the losses claimed by the applicant have not been substantiated and that there is no causal link between the allegedly excessive length of the proceedings and the damage alleged. This complaint must accordingly be rejected as manifestly ill-founded under Article 35 §§ 3 (a) and 4 of the Convention.

B. Other complaints

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.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases with regard to the 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 in so far as the non-pecuniary damage is concerned;

Declares inadmissible the remainder of the application.

Stephen Phillips
Deputy Registrar

Ann Power-Forde
President