

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

FIFTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 44117/06
by Martin and Gizela VEČERNIK
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 22 February 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 26 September 2006,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Martin Večernik and Ms Gizela Večernik, are Slovenian nationals who were born in 1949 and 1950 respectively and live in Maribor. They were represented before the Court by Mr B. Verstovšek, a lawyer practising in Celje. 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.

In 1985 the applicants entered into a contract with K.A.

On 25 July 1988 the applicants instituted civil proceedings against K.A. in the Maribor Basic Court (*Temeljno sodišče v Mariboru*) seeking damages for breach of contract.

On 28 June 1994 the Convention entered into force with respect to Slovenia.

On 29 October 1996 the renamed Maribor District Court (*Okrožno sodišče v Mariboru*) upheld the applicants' claim in part. All parties appealed.

Further to two remittals of the case by the Maribor Higher Court, the Maribor District Court dismissed the applicants' claim on 25 March 2005. The applicants appealed.

On 13 December 2005 the Maribor Higher Court dismissed the applicants' appeal. This decision was served on the applicants on 9 January 2006.

On 6 February 2006 the applicants, represented by a lawyer, lodged an appeal on points of law with the Supreme Court (*Vrhovno sodišče*), which was rejected on 18 April 2007 as the value of the claim fell below the statutory threshold.

COMPLAINTS

The applicants 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

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 the applicants availed themselves of an appeal on points of law, which was rejected by the Supreme Court on procedural grounds as the claim was below the statutory threshold.

Accordingly, the final domestic decision to be taken into account for the purposes of calculating the six-month period within the meaning of Article 35 § 1 of the Convention is the Maribor Higher Court decision of 13 December 2005, which was served on the applicants on 9 January 2006 (see *mutatis mutandis Ribič v. Slovenia*, no. 20965/03, § 27, 19 October 2010; *Rezgui v. France* (dec.), no. 49859/99, ECHR 2000-XI).

The applicants lodged their application on 26 September 2006, which is more that six months after the date of the final decision.

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

For these reasons, the Court unanimously

Declares the application inadmissible.

Stephen Phillips Deputy Registrar	Ganna Yudkivska President