CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

DECISION

Application nos. 4497/03, 5177/03, 5584/03, 10880/03, 14191/03
ZAGOŽEN and SUHOVERŠNIK and 4 others
against Slovenia

The European Court of Human Rights (Third Section), sitting on 4 January 2008 as a Chamber composed of:

Corneliu Bîrsan, *President,*
Boštjan M. Zupančič,
Elisabet Fura-Sandström,
Egbert Myjer,
David Thór Björgvinsson,
Ineta Ziemele,
Isabelle Berro-Lefèvre, *judges,*
and Stanley Naismith, *Deputy Section Registrar,*

Having regard to the above applications,

Having regard to the written submissions of the parties,

Having regard to the friendly settlement offers and acceptances submitted by the parties,

Having deliberated, decides as follows:

THE FACTS

The applicants are Slovenian nationals who live in Slovenia. They were represented before the Court by the Verstovšek lawyers practising in Celje. The respondent Government ("the Government") were represented by their Agent, Mr Lucijan Bembič, State Attorney-General.

A. The circumstances of the case

The applicants were parties to civil proceedings which terminated before 1 January 2007. The relevant length of each of the proceedings is indicated in the attached table.

B. Relevant domestic law

The Act on the Protection of the Right to a Trial without undue Delay *(Zakon o varstvu pravice do sojenja brez nepotrebnega odlašanja*, Official Journal, No. 49/2006 – "the 2006 Act") became operational on 1 January 2007.

Section 25 lays down the following transitional rules in relation to the applications already pending before the Court:

Section 25 - Just satisfaction for damage sustained prior to implementation of this Act

> "(1) In cases where a violation of the right to a trial without undue delay has already ceased and the party had filed a claim for just satisfaction with the international court before the date of implementation of this Act, the State Attorney's Office shall offer the party a settlement on the amount of just satisfaction within four months after the date of receipt of the case referred by the international court for the settlement procedure. The party shall submit a settlement proposal to the State Attorney's Office within two months of the date of receipt of the proposal of the State Attorney's Office. The State Attorney's Office shall decide on the proposal as soon as possible and within a period of four months at the latest.....
>
> (2) If the proposal for settlement referred to in paragraph 1 of this section is not acceded to or the State Attorney's Office and the party fail to negotiate an agreement within four months after the date on which the party filed its proposal, the party may bring an action before the competent court under this Act. The party may bring an action within six months after receiving the State Attorney's Office reply that the party's proposal referred to in the previous paragraph was not acceded to, or after the expiry of the period fixed in the previous paragraph for the State Attorney's Office to decide to proceed with settlement. Irrespective of the type or amount of the claim, the provisions of the Civil Procedure Act concerning small claims shall apply in proceedings before a court."

COMPLAINTS

1. The applicants complained under Article 6 § 1 of the Convention about the excessive length of civil proceedings.

2. They also complained under Article 13 of the Convention that they did not have an effective domestic remedy in this regard.

THE LAW

On 20 February 2007 the respondent Government were given notice of the applications.

Subsequently, on 30 May 2007 and 12 June 2007, the State Attorney's Office sent settlement proposals to the applicants under section 25 of the 2006 Act (see "Relevant domestic law" above). In its proposals, the State Attorney's Office acknowledged the violation of the right to a trial within a reasonable time and offered to pay monetary compensation in respect of non-pecuniary damage and reimbursement of costs and expenses connected with the case to each applicant. The amount offered to the applicants by the State Attorney's Office depended on the individual circumstances of each case (see the attached table).

Further to the receipt of the applicants' replies, the Government informed the Court that the applicants had accepted the settlement proposals.

On 3, 11 and 26 October 2007 each of the applicants informed the Court, in writing, that the case had been settled at the domestic level and that they wished to withdraw their applications.

The Court recalls 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
>
> (a) the applicant does not intend to pursue his application; or
>
> (b) the matter has been resolved;
>
> ...
>
> 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.

The Court takes note that following the settlements reached between the parties the matter has been resolved at the domestic level and that the applicants do not wish to pursue their applications (Article 37 § 1 (a) and (b) of the Convention). It is satisfied that respect for human rights as defined in the Convention or its Protocols does not require the examination of the applications to be continued (Article 37 § 1 *in fine* of the Convention).

In these circumstances, the cases should be struck out of the list.

For these reasons, the Court unanimously

Decides to join the applications;

Decides to strike the applications out of its list of cases.

Stanley Naismith
Deputy Registrar

Corneliu Bîrsan
President

No.	Application No.	Name	Relevant period	Non-pecuniary damage	Costs and expenses	Total Settlement Figure
1	4497/03	Stanislav ZAGOŽEN Marta ZAGOŽEN Ivo ZAGOŽEN Saša SUHOVERŠNIK ZAGOŽEN	7 years, 5 months for 2 levels of jurisdiction	2.160€ 2.160€ 2.160€ 2.160€	542,78€	9.182,78€
2	5177/03	Dušan VUKOVIĆ	6 years, 11 months for 1 level of jurisdiction	3.740€	428,52€	4.168,52€
3	5584/03	Marija ZAVOLOVŠEK	6 years, 6 months for 3 levels of jurisdiction	540€	285,88€	825,88€
4	10880/03	Božo ŽUPNEK	3 years, 8 months for 1 level of jurisdiction	1.080€	282,92€	1.362,92€
5	14191/03	Klavdija FLORIJANČIČ	5 years, 11 months for 2 levels of jurisdiction	1.440€	419,38€	1.859,38€