



**ACT ON THE PROTECTION OF THE RIGHT TO A
TRIAL WITHOUT UNDUE DELAY OF THE
REPUBLIC OF SLOVENIA**

Ministry of Justice of the Republic of Slovenia

21 AUGUST 2006

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ACT ON THE PROTECTION OF THE RIGHT TO A TRIAL WITHOUT UNDUE DELAY¹ (ZVPSBNO)²

Chapter 1 General provisions

Purpose and scope of the Act

Article 1

- (1) The purpose of this Act shall be to protect the right to a trial without undue delay.
- (2) This Act shall regulate performance of matters of court management within the jurisdiction of the courts and matters of the justice administration falling within the jurisdiction of the Ministry responsible for justice which are related to the protection of the right to a trial without undue delay, judicial protection of this right and just satisfaction in cases of its violation.

Right to trial without undue delay

Article 2

A party to court proceedings, a participant under the statute regulating non-contentious procedure³ and an injured party in the criminal proceedings⁴ (hereinafter referred to as: party)

¹ The title of this Act in Slovene language is: "Zakon o varstvu pravice do sojenja brez nepotrebnega odlašanja". The Act was published in the Official Gazette of the Republic of Slovenia, No. 49/2006 of 12 May 2006.

² "ZVPSBNO" is an official acronym of this Act in Slovene language.

³ See Article 19 of the Non-Contentious Procedure Act of 1986 (Official Gazette of the SRS, Nos. 30/86, 20/88 - correction, Official Gazette of the RS, Nos. 87/2002 and 131/2003 - Decision of the Constitutional Court).

⁴ See especially Article 319, paragraph 2 and Articles 100-111 of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia, No. 8/2006 - Officially Consolidated Text No. 3).

shall have the right to have his rights, duties and any charges brought against him to be decided upon by the court without undue delay⁵.

Legal remedies

Article 3

Legal remedies to protect the right to a trial without undue delay under this Act shall be as follows:

1. appeal with a motion to expedite the hearing of the case (hereinafter: supervisory appeal);
2. motion to set a deadline (hereinafter: motion for a deadline);
3. claim for just satisfaction.

Criteria for decision-making

Article 4

When deciding on the legal remedies under this Act, circumstances of particular case shall be taken into account, namely its complexity in terms of facts and law, actions of parties to proceedings, in particular as regards the use of procedural rights and fulfilment of obligations in proceedings, of the compliance with the rules on the set order of resolving cases, statutory deadlines for fixing preliminary hearings or drawing court decisions, the manner in which a case was heard before a supervisory appeal or motion for a deadline were filed, the nature and type of a case and its importance for a party.

Chapter 2

Supervisory appeal and motion for a deadline

Supervisory appeal

Article 5

(1) If a party considers that the court unduly protracts with the decision-making, he may file a supervisory appeal in writing before the court hearing the case; the decision thereon is taken by the lady president or president of the court⁶ (hereinafter: president of the court).

(2) For the needs of decision-making concerning the protection of the right to a trial without undue delay, the supervisory appeal shall contain the following elements:

– personal name⁷ or company name or any other name of the party, its address of permanent or temporary residence or registered office;

⁵ Provision on "shall have the right to have his rights, duties and any charges brought against him to be decided upon by the court without undue delay" represents a "transfer" of provision of Article 23, paragraph 1 of the Constitution of the Republic of Slovenia (Official Gazette of the RS, Nos. 33/1991-I, 42/1997, 66/2000, 24/2003, 69/2004 and 68/2006).

⁶ The original text in Slovene language uses first the term for the president of the court of female gender "predsednica" and afterwards the term for the president of the court of male gender "predsednik".

⁷ Personal name is composed of a name and a surname of a natural person (see Article 3, paragraphs 1 and 2 of the Personal Name Act, Official Gazette of the RS, No. 20/2006).

- personal name or company name or any other name of the representative or legal representative⁸ and its permanent or temporary residence or registered office;
- indication of the court hearing the case;
- reference number of the case or date of filing the case in the court;
- indication of circumstances or other data concerning the case, which demonstrate that the court unduly protracts with the decision-making;
- hand-written signature of the party, representative or attorney.

Decision on supervisory appeal

Article 6

- (1) If the supervisory appeal is manifestly unfounded considering the timetable of resolving the case indicated in the supervisory appeal, the president of the court shall reject the appeal by way of a ruling⁹.
- (2) If the supervisory appeal does not contain all required elements referred to in Article 5, paragraph 2 of this Act, the president of the court shall dismiss it by way of a ruling. No appeal may be filed against this ruling.
- (3) If no ruling referred to in the paragraphs 1 or 2 of this Article is issued, the president of the court shall, within the framework of performing the court management competencies under the statute regulating the courts¹⁰, forthwith request the lady judge or judge or a chairwoman or chairman of a court panel (hereinafter: the judge) to whom the case has been assigned for resolving, that he submits a report indicating reasons for the duration of proceedings not later than in fifteen days of receiving the request of the president of the court or after obtaining the file, if necessary for drawing up the report. The report shall include the declaration in respect of criteria referred to in Article 4 of this Act and the opinion on the deadline in which the case may be resolved. The president of the court may also require the judge to submit the case file if he assesses that, in the light of allegations of the party indicated in supervisory appeal, its examination is necessary.
- (4) If the judge notifies the president of the court in writing that all relevant procedural acts shall be performed or a decision issued within the deadline not exceeding four months following the receipt of the supervisory appeal, the president of the court shall inform the party thereof and thus conclude the consideration of the supervisory appeal.
- (5) If the president of the court establishes that in view of the criteria referred to in Article 4 of this Act the court does not unduly delay the decision-making on the case, he shall reject the supervisory appeal by way of a ruling.

⁸ In Slovene language: pooblaščenec". This general term usually designates attorney (counsel).

⁹ In Slovene language: "sklep". In German legal terminology: "der Beschluss". The term ruling usually, but not always, means contextually a procedural decision - not deciding upon merits of the case.

¹⁰ Provision on the "framework of performing the court management competencies under the statute regulating the courts" is a reference to provision of Article 60, paragraph 3 of the Courts Act (Official Gazette of the RS, No. 100/2005 - Officially Consolidated Text No. 2) which states that in matters of court management a decision must be made on the right, obligation, or legal benefit of a person following the provisions of the General Administrative Procedure Act (Official Gazette of the RS, No. 24/2006 - Officially Consolidated text No. 2) that shall be *mutatis mutandis* applied in the decision-making procedure of presidents of courts. Therefore rules of general administrative procedure (not to be mistaken with judicial procedural legislation!) apply in cases of decision-making on filed supervisory appeals.

(6) If the president of the court has not informed the party in accordance with paragraph 4 of this Article and if, in view of criteria referred to in Article 4 of this Act, he establishes that the court is unduly delaying the decision-making of the case, he shall, subject to the state and nature of the case and by way of a ruling, order a deadline for performing certain procedural acts and he may also order that the case be resolved as a priority due to the circumstances of the case, particularly when the matter is urgent. If he orders that the appropriate procedural acts be performed by the judge, he also sets the deadline for their performance, which may not be shorter than fifteen days and not longer than six months, as well as the appropriate deadline for the judge to report on the acts performed.

(7) If the president of the court establishes that the undue delay in decision-making of the case is due to excessive workload or extended absence of the judge, he may order that the case be reassigned. He may also propose that the additional judge be assigned to the court or order other measures under the statute regulating the judicial service¹¹ be implemented.

(8) A judge may be assigned by the annual schedule of allocation to act in place of or together with the president of the court in performing the court management competencies for decision-making on the supervisory appeal.

Limitation on filing a supervisory appeal and motion for a deadline

Article 7

(1) If the president of the court acts in compliance with Article 6, paragraphs 4 or 6 of this Act, the party may not file a new supervisory appeal nor a motion for a deadline concerning the same case before the expiry of deadlines set in the notification or ruling of the president of the court. This provision shall not apply to cases where detention is proposed or ordered or where interim measure is proposed.

(2) If a ruling was issued in accordance with Article 6, paragraphs 1 or 5 of this Act, the party may file a new supervisory appeal only after six months have elapsed from the receipt of the decision. This provision shall not apply to cases where detention is proposed or ordered or where interim measure is proposed.

Motion for a deadline

Article 8

(1) If, under Article 6, paragraphs 1 or 5 of this Act, the president of the court rejects the supervisory appeal or fails to answer to the party within two months or fails to send the notification referred to in Article 6, paragraph 4 of this Act within the said deadline or if appropriate procedural acts were not performed within deadlines set in the notification or ruling of the president of the court, the party may file the motion for a deadline grounded on Article 5, paragraph 1 of this Act at the court hearing the case.

¹¹ See the Judicial Service Act (Official Gazette of the RS, No. 41/2006 - Officially Consolidated Text No. 2).

(2) For the purposes of decision-making on the protection of the right to a trial without undue delay, the motion for a deadline shall contain the elements referred to in Article 5, paragraph 2 of this Act.

(3) The party may file the motion for a deadline in fifteen days after the receipt of the ruling or the expiry of deadlines set in paragraph one of this Article.

Competence for decision-making

Article 9

(1) The president of the higher court in the judicial area covering the local court, district court or other court of first instance, shall have the competence to decide on the motion for a deadline concerning the cases heard by the local court, district court or other court of first instance.

(2) The president of the Supreme Court of the Republic of Slovenia shall have the competence to decide on the motion for a deadline concerning cases heard by higher court or court having the status of higher court.

(3) The president of the Supreme Court of the Republic of Slovenia shall have the competence to decide on the motion for a deadline concerning cases heard by the Supreme Court of the Republic of Slovenia.

(4) Other judges may be assigned by the annual schedule of allocation to act in place of or together with the presidents of courts referred to in previous paragraphs for decision-making on motions for a deadline.

Referral of the motion for a deadline

Article 10

The president of the court hearing the case shall forthwith refer the motion for a deadline together with the case file and the supervisory appeal file to the president of the court competent to decide on the motion for a deadline.

Decision on the motion for a deadline

Article 11

(1) If the motion for a deadline is manifestly unfounded considering the timetable of the resolution of the case and the actions of the party, the president of the court shall reject it by way of a ruling.

(2) If the motion for a deadline does not contain all required elements referred to in Article 5, paragraph 2 of this Act or is filed after the expiry of time limit set in Article 8, paragraph 3 of this Act, the president of the court shall dismiss it by way of a ruling.

(3) If the president of the court establishes that, in view of the criteria referred to in Article 4 of this Act, the court does not unduly delay with the decision-making of the case, he shall reject the motion for a deadline by way of a ruling.

(4) If the president of the court establishes that, in view of the criteria referred to in Article 4 of this Act, the court unduly delays the decision-making of the case, he shall order, by way of a ruling, that the appropriate procedural acts be performed by the judge and shall also set the deadline for their performance, which may not be shorter than fifteen days and not longer than four months, as well as set the appropriate deadline for the judge to report on the acts performed. According to the circumstances of the case, particularly when the matter is urgent, the president of the court may also order that the case be resolved as a priority and propose to the president of the court referred to in Article 5, paragraph 1 of this Act to implement measures referred to in Article 6, paragraph 7 of this Act.

(5) The president of the court shall decide on the motion for a deadline within fifteen days following its receipt.

***Mutatis mutandis* application of provisions of civil procedure**

Article 12

For decision-making on the motion for a deadline, the provisions of the Civil Procedure Act¹² relating to the determination of deadline by the court and the ruling and the appeal against the ruling shall be applied *mutatis mutandis*, unless otherwise provided by this Act.

Exclusion of appeal

Article 13

No appeal is allowed against the ruling of the president of the court issued pursuant to Article 11 of this Act.

Competence of the Ministry responsible for justice

Article 14

(1) If the supervisory appeal is filed before the Ministry responsible for justice (hereinafter referred to as the Ministry), the Minister or lady Minister responsible for justice (hereinafter referred to as the Minister) shall refer it to the president of the court of competent jurisdiction to hear it in accordance with this Act and shall require to be informed on the findings and on the decision.

(2) If the supervisory appeal does not contain all required elements referred to in Article 5, paragraph 2 of this Act, the Minister shall invite the party to supplement it in eight days. If the supervisory appeal is not supplemented within the said deadline, the Minister shall dismiss it by way of a ruling. No appeal is allowed against a ruling on dismissal.

¹² See Article 110, paragraph 1 and Article 366 of the Civil Procedure Act (Official Gazette of the RS, Nos. 36/2004 - Officially Consolidated Text No. 2, 69/2005 - Decision of the Constitutional Court, 90/2005 - Decision of the Constitutional Court and 43/2006 - Decision of the Constitutional Court).

(3) The Minister may require the president of the court to submit a report on all filed supervisory appeals or motions for a deadline and to transmit copies of notices and issued decisions served to parties. These documents may be requested in connection with cases where the supervisory appeal or motion for a deadline was filed not more than two years ago.

(4) The Ministry may use and process personal and other data and information from the documents referred to in paragraph three of this Article for the purpose of implementing or proposing measures or proceedings under the provisions of the statute regulating judicial service, particularly with regard to the assessment of judicial service, proceedings for establishing disciplinary responsibility of a judge, for the implementation or for proposing measures or proceedings based on other statutory powers or obligations of the Ministry, particularly for assessing the state prosecutor's service or proceedings for establishing disciplinary responsibility of a state prosecutor, for the purpose of statistical and scientific research or for the purpose of preparing draft statutes law and other regulations within the competence of the Ministry.

(5) When the intended use or processing of personal data referred to in paragraph three of this Article is accomplished, the Ministry shall archive them in accordance with the statute regulating archival material and archives; and they must be archived not later than five years after the receipt of such data.

Chapter 3 **Rights and procedure regarding just satisfaction**

Just satisfaction

Article 15

(1) If the supervisory appeal filed by the party was granted or if the motion for a deadline was filed, the party may claim just satisfaction under the present Act.

(2) Just satisfaction shall be provided by:

1. payment of monetary compensation for damage caused by a violation of the right to a trial without undue delay;
2. a written statement of the State Attorneys' Office that the party's right to a trial without undue delay was violated;
3. the publication of a judgement that the party's right to a trial without undue delay was violated.

Monetary compensation

Article 16

(1) Monetary compensation shall be payable for non-pecuniary damage caused by a violation of the right to a trial without undue delay. The strict liability for damage caused shall lie with the Republic of Slovenia.

(2) Monetary compensation for individual finally decided case shall be granted in the amount of 300 up to 5000 Euros.

(3) When deciding on the amount of compensation, the criteria referred to in Article 4 of this Act shall be taken into account, in particular the complexity of the case, actions of the State, actions of the party and the importance of the case for the party.

Written statement

Article 17

(1) Given the circumstances of the case, the State Attorneys' Office may, by agreement with the party under Article 19 of this Act and taking account of criteria referred to in Article 18, paragraph 1 of this Act, make a written statement without monetary compensation to the party as a compensation for non-pecuniary damage caused by the violation of the right to a trial without undue delay. In case the right to a trial without undue delay has been seriously violated and at the request of the party, the State Attorneys' Office may in addition to the monetary compensation also make a written statement.

(2) The written statement shall include data referred to in the Article 5, paragraph 2, subparagraphs 1, 2, 3 and 4 of this Act, an indication that a violation of the right to a trial without undue delay occurred and the duration of the undue delay.

(3) A written statement shall be made by the State Attorneys' Office within the concluded settlement referred to in Article 19 of the present Act. At the party's request, the written statement shall be published on the website of the State Attorneys' Office which shall cover the costs thereof. The written statement shall be made public for two months and thereupon archived within the website or deleted within fifteen days of the receipt of the request of the party or the majority of parties from the written statement.

Publication of the judgement

Article 18

(1) If the party claims payment of monetary compensation for just satisfaction by bringing an action before the competent court referred to in Article 20 of this Act, the court may, having regard to all circumstances of the case and criteria referred to in Article 4 of this Act, in particular the actions of the party in proceedings, and upon the assessment that just satisfaction for non-pecuniary damage might be afforded merely by establishing a violation of the right, the court may exceptionally decide not to grant monetary compensation but only to set out in the judgment that a violation of the right was established. In this case the court shall also decide, at the request of the party, to publish the judgement.

(2) In case of a serious violation of the right to a trial without undue delay and at the request of the party, the court may in addition to monetary compensation also order the publication of a judgement.

(3) The judgement published shall only contain the following personal or other data of the party: personal name or company or any other name of the plaintiff, his permanent, temporary

or other residence and registered office, as well as date of birth if indicated by the party in the action brought under Article 22 of the present Act.

(4) The court in respect of which the judgement established the undue delay in trying the party's case shall publish the final judgement at its website and cover the costs thereof. The judgement shall be made public for two months and thereupon archived within the website or deleted within fifteen days of the receipt of the request of the party or the majority of parties from the judgement.

Proceedings before the State Attorneys' Office

Article 19

(1) Proceedings to enforce a claim for just satisfaction, provided that the condition referred to in Article 15, paragraph 1 of this Act is met, shall be instituted by a party by way of a motion for settlement filed with the State Attorneys' Office with a view to reaching an agreement on type or amount of just satisfaction. The party may file such motion within nine months of the final resolution of the case. The State Attorneys' Office shall pronounce itself on the motion of the party not later than in three months if it establishes that the just satisfaction claim is substantiated. Until the expiry of the abovementioned period, the party may not assert claim for monetary compensation for just satisfaction by bringing an action before the competent court.

(2) If, in accordance with paragraph one of this Article, the agreement has been reached with the party, the State Attorneys' Office shall conclude an out of court settlement with the party.

Proceedings in a court and special territorial jurisdiction

Article 20

(1) If no agreement under Article 19 of this Act is reached upon the motion for settlement, or the State Attorneys' Office and the party fail to negotiate an agreement within three months of the date of filing the motion, the party may bring an action for damages.

(2) Action for damages against the Republic of Slovenia shall be brought not later than eighteen months of the final resolution of the party's case.

(3) Territorial jurisdiction for decision-making on an action for damages under this Act shall lie with the local court in whose district the plaintiff is a permanent or temporary resident or has registered office.

(4) Notwithstanding paragraph three of this Article, the jurisdiction for decision-making on an action for damages, which would under the provisions of this Act be conferred to the Local Court of Ljubljana, shall lie with the Local Court of Kranj, and the jurisdiction to adjudicate an action for damages, which would under the provisions of this Act be conferred to the Local Court of Maribor, shall lie with the Local Court of Celje.

(5) The for decision-making on an action for damages under this Act, which was brought by a party not permanently or temporary residing or having registered office in the Republic of Slovenia, shall lie with the Local Court of Kranj.

(6) 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.

(7) Revision shall be excluded for disputes on damage under this Act.

Seeking pecuniary damage

Article 21

(1) Action for pecuniary damage caused by a violation of the right to a trial without undue delay may be brought by the party within eighteen months of the final ruling of the court on the party's case in accordance with the provisions of the Obligations Code¹³ concerning pecuniary damage.

(2) When deciding on pecuniary damage, the court shall take account of the provisions of the Obligations Act and the criteria referred to in Article 4 and Article 16, paragraph 3 of the present Act. The strict liability for damage caused shall lie with the Republic of Slovenia.

Payment of monetary compensation

Article 22

(1) The State Attorneys' Office shall pay monetary compensation on the basis of concluded settlement referred to in Article 19, paragraph 2 of this Act and all appropriate costs incurred by the party in connection therewith.

(2) The State Attorneys' Office shall pay monetary compensation and the party's costs of the proceedings on the basis of a final court decision, which established the violation of the right to a trial without undue delay in the proceedings under Article 20 or Article 21 of the present Act.

Provision of funds

Article 23

Funds referred to in Article 22 of this Act shall be earmarked in the Budget of the Republic of Slovenia within the framework of the financial plan of the State Attorneys' Office.

Exception with regard to entities of public law

Article 24

In respect of the protection of the right to a trial without undue delay, the state bodies, bodies of self-governing local communities, public enterprises, public funds and public agencies acting as parties to proceedings may not be afforded just satisfaction by way of payment of monetary compensation for damage caused¹⁴ by a violation of the right to a trial without

¹³ See the Obligations Code (Official Gazette of the RS, Nos. 83/2001, 32/2004 - Authentic Interpretation of Article 195 and 28/2006 - Decision of the Constitutional Court).

¹⁴ See Article 16 of this Act.

undue delay or by way of compensation for pecuniary damage¹⁵ for their benefit or for the benefit of the Republic of Slovenia under this Act or under any other Act.

Chapter 4

Transitional and final provisions

Just satisfaction for damages suffered before the date of application of this Act

Article 25

(1) In case a violation of the right to a trial without undue delay has ceased already and the party had made a claim for just satisfaction in the international court before the date of application of this Act, the State Attorneys' Office shall offer the party a settlement on the amount of just satisfaction within four months of 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 Attorneys' Office within two months of the date of receipt of the proposal of the State Attorneys' Office. The State Attorneys' Office shall decide on the proposal as soon as possible and not later than in four months. Provisions of Article 16 and 17 of this Act shall apply in respect of the amount and the determination of just satisfaction and in respect of criteria to establish a violation of the right to a trial without undue delay; provisions of Article 19 of this Act shall apply in respect of proceedings.

(2) If the proposal for settlement referred to in paragraph 1 of this Article is not acceded to or the State Attorneys' Office and the party fail to negotiate an agreement within four months of the date of filing the proposal by the party, the latter may bring an action before the competent court under this Act. The party may bring an action within six months after receiving the State Attorneys' Office reply stating that the party's proposal referred to in previous paragraph was not acceded to, or after the expiry of the time limit set out in the previous paragraph for the State Attorneys' Office to decide to conclude the 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.

Amendment in other Act

Article 26

(1) On 1 January 2007, Article 72 of the Courts Act (Official Gazette of the RS, No. 100/05 – Officially Consolidated Text No. 2) shall cease to apply.

(2) Article 73, paragraph 1 of the Courts Act (Official Gazette of the RS, No. 100/05 – Officially Consolidated Text No. 2) shall be amended as follows:

"In case of supervisory appeal and motion for a deadline in accordance with the statute regulating the protection of the right to a trial without undue delay, the president of the court of higher instance may, on his own initiative or on the proposal from the Ministry competent for justice, order that work of the court regarding the subject of the party's complaint be inspected and the findings of the inspection reported to the Minister in writing if the

¹⁵ See Article 21 of this Act.

inspection is carried out on the proposal of the Minister responsible for justice, or a copy of the report submitted to the president of the court if the inspection is proposed by the president of the court of higher instance. The Minister and the president of the court where the inspection was carried out may use data or assessments from the report to implement or propose measures or proceedings under the provisions of the statute regulating judicial service, particularly with regard to the assessment of judicial service, proceeding for establishing disciplinary responsibility of a judge, for the implementation or for proposing measures or procedures based on other legislative powers or obligations of the Ministry responsible for justice, particularly for assessing the state prosecutor's service or proceedings for establishing disciplinary responsibility of a state prosecutor."

(3) The amendment of Article 73, paragraph 1 of the Courts Act shall apply as from 1 January 2007, until that time the current provision of Article 73 of the Courts Act shall continue to apply.

Transitional provision on payment of income tax

Article 27

Pending the amendment of the act regulating the income tax, no income tax is payable on monetary compensation for non-pecuniary damage paid in accordance with the provisions of this Act.

Entry into force and application of this Act

Article 28

This Act shall enter into force on the fifteenth day¹⁶ following its publication in the Official Gazette of the Republic of Slovenia, and shall be applied from 1 January 2007.

No. 700-01/06-91/1
Ljubljana, 26 April 2006
EPA 819-IV

President of the National Assembly of
the Republic of Slovenia
France Cukjati, dr. med.

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