



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

FOURTH SECTION

CASE OF KULIKOWSKI v. POLAND

(Application no. 18353/03)

JUDGMENT
(Revision)

STRASBOURG

21 December 2010

FINAL

21/03/2011

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Kulikowski v. Poland (request for revision of the judgment of 19 May 2009),

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä,

Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 30 November 2010,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 18353/03) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Polish national, Mr Adam Kulikowski, on 18 May 2001.

2. In a judgment delivered on 19 May 2009, the Court held that there had been a violation of Article 5 § 3 of the Convention on account of the unreasonable length of the applicant's detention and of Article 6 § 1 in conjunction with Article 6 § 3 (c) on account of denial of access to the Supreme Court. The Court also decided to award the applicant 3,000 euros (EUR) for non-pecuniary damage and EUR 1,150 for costs and expenses and dismissed the remainder of the claims for just satisfaction.

3. On 6 October 2009 the Government informed the Court that they had learned that the applicant had died on 4 March 2009. They accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

4. On 11 May 2010 the Court considered the request for revision and decided to give the applicant's representative three weeks in which to submit any observations. Those observations were received on 15 June 2010.

THE LAW

THE REQUEST FOR REVISION

5. The Government requested revision of the judgment of 19 May 2009, which they had been unable to execute because the applicant had died before the judgment had been adopted. Mr Marcin Kulikowski and Mr Tomasz Kulikowski were the heirs and should therefore receive the sums awarded to the deceased.

6. The applicant's representative supported the Government's request.

7. The Court considers that the judgment of 19 May 2009 should be revised pursuant to Rule 80 of the Rules of Court, the relevant parts of which provide:

“A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment.

...”

8. It accordingly decides to award the heirs jointly the amounts it previously awarded to the deceased applicant, namely EUR 3,000 for non-pecuniary damage and EUR 1,150 for costs and expenses.

9. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to revise its judgment of 20 October 2009 as regards the application of Article 41 of the Convention;

accordingly,

Holds

(a) that the respondent State is to pay jointly to the heirs of Mr Kulikowski, within three months, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, plus any tax which may be chargeable, and EUR 1,150 (one thousand one hundred and fifty euros) in respect of costs and expenses, plus any tax that may be chargeable to the applicant's heirs, to be converted into Polish zlotys at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 21 December 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President