



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

FOURTH SECTION

CASE OF KLIMKIEWICZ v. POLAND

(Application no. 44537/05)

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 Klimkiewicz v. Poland (request for revision of the judgment of 28 April 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. 44537/05) 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 Kazimierz Klimkiewicz (“the applicant”), on 14 October 2005.

2. In a judgment delivered on 28 April 2009, the Court held that there had been a violation of Article 6 § 1 of the Convention on account of the excessive length of proceedings. The Court also decided to award the applicant 5,540 euros (EUR) for non-pecuniary damage.

3. On 6 October 2009 the Government informed the Court that the applicant's heirs had informed them that he had died on 29 September 2008. The Government 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 invite the applicant's heirs to submit their observations.

THE LAW

THE REQUEST FOR REVISION

5. The Government requested revision of the judgment of 28 April 2009, which they had been unable to execute because the applicant had died before the judgment had been adopted. Ms Wiesława Henryka Klimkiewicz

and Ms Agnieszka Janina Rokicka were his heirs and should therefore receive the sum awarded to the deceased. The Government submitted a copy of a judicial decision confirming their status as heirs of the deceased applicant, with each of them being entitled to a half of the applicant's estate.

6. The Court considers that the judgment of 28 April 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.

...”

7. It accordingly decides to share among the applicant's heirs, Mrs Wiesława Henryka Klimkiewicz and Ms Agnieszka Janina Rokicka, the amount it previously awarded to the deceased applicant, namely EUR 5,540 for non-pecuniary damage.

8. 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 28 April 2009 as regards the application of Article 41 of the Convention;

accordingly,

Holds

(a) that the respondent State is to pay to each of the heirs of Mr Kazimierz Klimkiewicz, within three months, EUR 2,770 (two thousand seven hundred and seventy euros) in respect of non-pecuniary damage, to be converted into Polish zlotys at the rate applicable at the date of settlement, plus any tax that may be chargeable;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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