



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

FIRST SECTION

CASE OF WÓJCIK v. POLAND

(Application no. 26757/95)

JUDGMENT

STRASBOURG

23 May 2000

In the case of Wojcik v. Poland,

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

Mrs E. PALM, *President*,

Mr L. FERRARI BRAVO,

Mr J. MAKARCZYK,

Mr R. TÜRMEŃ,

Mr B. ZUPANČIČ,

Mr T. PANȚȚRU,

Mr R. MARUSTE, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 16 May 2000,

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

PROCEDURE

1. The case originated in an application (no. 26757/95) against the Republic of Poland lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Mr Robert Wójcik ("the applicant").

2. The case was referred to the Court by the European Commission of Human Rights on 4 December 1998, within the three-month period laid down by former Articles 32 § 1 and 47 of the Convention. The Commission's request referred to former Articles 44 and 48 and to the declaration whereby Poland recognised the compulsory jurisdiction of the Court (former Article 46). The object of the request was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 5 §§ 3 and 4 and Article 6 § 1 of the Convention.

3. On 14 January 1999 the panel of the Grand Chamber determined that the case should be decided by one of the Sections (Rule 100 § 1 of the Rules of Court). It was thereupon assigned to the First Section.

4. On 11 March 1999 the applicant requested to be granted legal aid and on 16 March 1999 relevant documents were sent to him. Subsequently, the letters sent to the applicant on 5 May 1999 and 10 May 1999 remained unanswered.

THE FACTS

5. On 5 February 1993 the Kraków District Prosecutor remanded the applicant in custody on charges of assault, gang rape and aggravated theft.

6. On 29 September 1993 the Kraków District Public Prosecutor transmitted the bill of indictment against the applicant and two other accused to the Kraków Regional Court. The applicant was charged with assault, rape, aggravated theft and uttering threats.

7. On 14 March 1994 the applicant requested to be released and on 16 March 1994 the Kraków Regional Court dismissed his request. Subsequently, on 1 December 1994 the same court again refused to release the applicant, and on 20 December 1994 the Kraków Court of Appeal upheld this decision.

8. On 8 March 1995 the Kraków Regional Court again refused the applicant's request for release. Following the applicant's appeal, on 23 March 1995 the Kraków Court of Appeal upheld the contested decision.

9. On 28 April 1995 the Kraków Regional Court convicted the applicant of assault, rape, aggravated theft and uttering threats, and sentenced him to five years and six months' imprisonment. On 29 November 1995 the Kraków Court of Appeal upheld the judgment, which, consequently, became final.

PROCEEDINGS BEFORE THE COMMISSION

10. The applicant lodged his application with the Commission on 28 November 1994, alleging a violation of Article 5 § 3 of the Convention on account of the length of his pre-trial detention. He further complained under Article 5 § 4 of the Convention that the proceedings concerning review of the lawfulness of his detention on remand were not adversarial, and under Article 6 § 1 of the Convention that the criminal proceedings against him had exceeded a reasonable time.

11. The Commission declared the application partly admissible on 7 July 1997. In its report of 8 September 1998 (former Article 31 of the Convention) it expressed the unanimous opinion that there had been a violation of Article 5 § 3 of the Convention on account of the length of pre-trial detention and that there had been a violation of Article 5 § 4 of the Convention in that the proceedings concerning the review of lawfulness of the applicant's detention were not adversarial. The Commission further expressed, by 19 votes to 13, the opinion that there had been no violation of Article 6 § 1 of the Convention as regards the length of criminal proceedings.

THE LAW

12. The Court notes that the applicant has repeatedly failed to respond to its letters addressed to him. On 13 September 1999 a registered letter was sent to the applicant, by which he was reminded that, pursuant to Article 37 § 1 (a) of the Convention, the Court might at any stage of the proceedings decide to strike the case out of its list of cases if the circumstances of the case indicated that the applicant did not intend to pursue his application.

13. Article 37 § 1 of the Convention, insofar as relevant, provides 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;...”

14. Having regard to the applicant’s failure to communicate with the Court, the Court finds that the applicant does not intend to pursue his application within the meaning of the above-quoted Article.

15. The Court, bearing in mind the existence of a number of cases against Poland pending before it which raise similar issues to those considered in the present case, considers that respect for human rights as defined in the Convention and the protocols thereto does not require it to continue the examination of the application (Article 37 § 1 (c) of the Convention).

16. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;

Done in English, and notified in writing on 23 May 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Elisabeth PALM
President