



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

CASE OF MIKULSKI v. POLAND

(Application no. 27914/95)

JUDGMENT

STRASBOURG

6 June 2000

In the case of Piotr MIKULSKI v. Poland,

The European Court of Human Rights, sitting as a Grand Chamber composed of the following judges:

Mr L. WILDHABER, *President*,

Mrs E. PALM,

Mr J.-P. COSTA,

Mr A. PASTOR RIDRUEJO,

Mr G. BONELLO,

Mr J. MAKARCZYK,

Mr P. KÜRIS,

Mr R. TÜRMESEN,

Mrs F. TULKENS,

Mrs V. STRÁŽNICKÁ,

Mr P. LORENZEN,

Mr M. FISCHBACH,

Mrs H.S. GREVE,

Mr A.B. BAKA,

Mr R. MARUSTE,

Mrs S. BOTOUCHAROVA,

Mr M. UGREKHELIDZE,

and Mr P. J. MAHONEY, *Deputy Registrar*,

Delivers the following judgment, which was adopted on 31 May 2000:

PROCEDURE

1. The case was referred to the Court in accordance with the provisions applicable prior to the entry into force of Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”)¹ by the European Commission of Human Rights (“the Commission”) on 28 October 1999 and by the Polish Government (“the Government”) on 22 December 1999 (Article 5 § 4 of Protocol No. 11 and former Articles 47 and 48 of the Convention).

2. The case originated in an application (no. 27914/95) against the Republic of Poland lodged with the European Commission of Human Rights under former Article 25 of the Convention by a Polish national, Mr Piotr Mikulski (“the applicant”), on 14 November 1994.

3. The applicant alleged, in particular, the excessive length of his detention on remand, the length of the criminal proceedings against him and the lack of an effective domestic remedy to complain about the length of

Notes by the Registry

¹. Protocol No. 11 came into force on 1 November 1998.

criminal proceedings. The applicant invoked Articles 5 § 3, 6 § 1 and Article 13 read in conjunction with Article 6 § 1 of the Convention.

4. The Commission declared the application partly admissible on 19 January 1998. In its report of 10 September 1999 (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 an excessive length of the applicant's detention, by 17 votes to 10 that there had been no violation of Article 6 § 1 of the Convention as regards the length of the criminal proceedings, and, by 17 votes to 10, that there had been a violation of Article 13 of the Convention in view of an absence of a remedy which would enable the applicant to have the substance of his complaint about the length of criminal proceedings examined by a competent national authority.

5. The applicant was represented before the Court by Mr Wojciech Hermeliński, a lawyer practising in Warsaw, Poland. The Polish Government were represented before the Court by their Agent, Mr Krzysztof Drzewicki.

6. On 6 December 1999 the panel of the Grand Chamber determined that the case should be decided by the Grand Chamber (Rule 100 § 1 of the Rules of Court).

7. On 24 March and 7 April 1999 the Agent of the Government and the representative of applicant, respectively, submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

8. On 7 September 1993 the Warsaw-Praga Północ District Prosecutor instituted criminal proceedings against the applicant on charges of aggravated assault and robbery. On 8 November 1993 the Praga-Północ District Prosecutor remanded the applicant in custody.

9. On 10 June 1994 the prosecuting authorities submitted the bill of indictment to the Warsaw Regional Court.

10. On 11 August 1994 the Warsaw Regional Court dismissed the applicant's request for release of 9 August 1994. On 22 September 1994 the Warsaw Court of Appeal dismissed the applicant's appeal against this decision.

11. On 22 February 1995 the applicant again requested his release. By a decision of 9 March 1995 the Warsaw Regional Court refused to release him.

12. On 20 April 1995 and on 22 May 1995 the applicant again requested to be released. On 13 July 1995 the Warsaw Regional Court dismissed these requests.

13. On 28 July 1995 a first hearing in the applicant's criminal case was held before the Warsaw Regional Court.

14. On 24 August 1995 the Warsaw Court of Appeal upheld the decision of 13 July 1995, considering that the reasons for the applicant's continued detention had not ceased to exist.

15. On 5 October 1995 the applicant requested his release from custody. On 9 October 1995 the Warsaw Regional Court refused to order his release.

16. On 9 October 1995 the applicant again requested to be released. On 19 October 1995 the Warsaw Regional Court refused to grant his request.

17. On 5 December 1995 the Warsaw Regional Court pronounced a judgment in the applicant's case.

18. On 23 April 1996 the Warsaw Court of Appeal partly amended the judgment of the first-instance court, and upheld the judgment in its part concerning the sentence.

19. On 6 February 1997 the Supreme Court dismissed the applicant's cassation appeal.

THE LAW

20. On 24 March 2000 the Court received the following declaration from the Government:

“I declare that the Government of the Republic of Poland offer to pay to Mr Piotr Mikulski the sum of 20,000 (twenty thousand) PLN with a view to securing a friendly settlement of the application registered under No. 27914/95. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable after signing the declarations by the parties concerned, however not later than after the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.”

21. On 3 April 2000 the Court received from the applicant the following declaration:

“I note that the Government of the Republic of Poland are prepared to pay to me the sum of 20,000 PLN covering both pecuniary and non-pecuniary damage as well as costs with a view to securing a friendly settlement of the application No. 27914/95 pending before the European Court of Human Rights. This payment will constitute the final resolution of the case.”

22. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). Having regard to its terms, the Court is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English and French, and notified in writing on 6 June 2000,
pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Luzius WILDHABER
President

Paul J. MAHONEY
Deputy Registrar