



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

FOURTH SECTION

CASE OF JEZNACH v. POLAND

(Application no. 27580/95)

JUDGMENT

STRASBOURG

14 December 2000

This judgment is subject to editorial revision before its reproduction in final form.

In the case of Jeznach v. Poland,

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

Mr A. PASTOR RIDRUEJO, *President*,

Mr L. CAFLISCH,

Mr J. MAKARCZYK,

Mr V. BUTKEVYCH,

Mr J. HEDIGAN,

Mr M. PELLONPÄÄ,

Mrs S. BOTOCHAROVA, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 21 November 2000,

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

PROCEDURE

1. The case originated in an application (no. 27580/95) 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 Marian Jeznach (“the applicant”), on 2 May 1995.

2. The application was declared partly admissible by the Commission on 19 January 1998 and transmitted to the Court on 28 October 1999 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 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 3 and Article 5 § 1 of the Convention.

3. On 17 November 1999 the applicant requested to be granted legal aid.

4. On 6 December 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 Fourth Section (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court.

5. On 21 January 2000 the documents concerning the applicant’s request for legal aid were sent to him. Subsequently, the Polish Bar Association was requested to assist the applicant in finding a lawyer who would represent him in the proceedings before the Court.

6. By letters of 8 and 10 February 2000 the applicant expressed dissatisfaction with various decisions concerning both procedural aspects of the case and its substance, taken by the Convention organs.

7. By a letter of 27 March 2000 the applicant was requested to clarify whether he wished to pursue his case.

8. On 21 March 2000 the Government filed observations of the merits of the case (Rule 59 § 1).

9. By letters of 6 April and 19 May 2000 the applicant informed the Court that he wished to pursue his case.

10. By a letter of 22 May 2000 the applicant informed the Court that he was no longer interested in pursuing his case. In reply, he was requested, by a letter of 16 June 2000, to state clearly whether he intended to pursue his case. The applicant was also 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 its circumstances indicated that the applicant did not intend to pursue his application.

11. By a letter of 29 June 2000 the applicant withdrew his statement of 22 May 2000.

12. By a letter of 12 September 2000 the applicant informed the Court that he had lost interest in the case and that he did not wish that the proceedings be pursued.

THE FACTS

13. In 1981 a monument commemorating approximately fourteen thousand Polish officers taken prisoners of war in 1939 and killed by the Soviet authorities in 1940, was erected by a citizens' committee on the Warsaw-Powązki military cemetery. The applicant actively participated in its creation and financing. Shortly afterwards, the communist secret police removed the monument from the cemetery. The applicant undertook various measures to have the monument placed at the cemetery, to no avail. In 1990 another monument was erected at the cemetery.

14. On 31 August 1994 the applicant caused a violent altercation at the office of the manager of the cemetery, demanding that the original monument be restored to him. Immediately afterwards he was arrested on suspicion of causing public disturbance and danger to human life and limb. He was then taken to Warsaw-Mokotów prison. On 1 September 1994 the Warsaw-Wola District Prosecutor remanded the applicant in custody until 30 September 1994 on suspicion of attempted manslaughter and unauthorised possession of weapons.

15. On 20 September 1994 the Warsaw-Wola District Prosecutor discontinued the criminal proceedings against the applicant, considering that

he could not be held criminally responsible on psychiatric grounds. The prosecutor further decided to maintain the applicant in detention until a final judicial decision as to his committal to a psychiatric hospital was given.

16. On 24 November 1994 the Warsaw-Wola District Prosecutor filed a request with the Warsaw Regional Court to have the applicant committed to a psychiatric hospital. On the same day the Warsaw Regional Prosecutor upheld the decision to discontinue the criminal proceedings against the applicant in view of his mental condition.

17. On 26 February 1996 the Warsaw Regional Court dismissed the prosecutor's request that the applicant be placed in psychiatric internment.

PROCEEDINGS BEFORE THE COMMISSION

18. The applicant lodged his application with the Commission on 2 May 1995, alleging, in particular, that in view of his advanced age and bad health he should not have been detained; that the treatment which he received in prison had caused him serious suffering, that his health had severely deteriorated as a result, and that his detention was unjustified.

19. 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, by 16 votes to 13, an opinion that there had been no violation of Article 3 of the Convention, and, by 22 votes to 6, that there had been no violation of Article 5 § 1 of the Convention in respect of the applicant's detention from 31 August to 20 September 1994. The Commission further expressed, by 19 votes to 9, an opinion that there had been a violation of Article 5 § 1 (e) of the Convention in respect of the applicant's detention from 21 September to 25 November 1994.

THE LAW

20. The Court notes that the applicant has repeatedly changed his view as to whether he wished to pursue his case before the Court. By a letter of 16 June 2000 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.

21. The Court further observes that ultimately the applicant, in his letter of 12 September 2000, reiterated that he no longer intended to pursue his case.

22. 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;...”

23. In these circumstances, the Court is satisfied 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).

24. Accordingly, the case should be struck out of the list in accordance with Article 37 § 1 (a) of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English and notified in writing on 14 December 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Antonio PASTOR RIDRUEJO
President