



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

FOURTH SECTION

**CASE OF KLINIECKI v. POLAND**

*(Application no. 31387/96)*

JUDGMENT  
(Striking out)

STRASBOURG

21 December 2000



**In the case of Kliniecki v. Poland,**

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

Mr G. RESS, *President*,

Mr A. PASTOR RIDRUEJO,

Mr L. CAFLISCH,

Mr J. MAKARCZYK,

Mr V. BUTKEVYCH,

Mrs N. VAJIĆ,

Mr M. PELLONPÄÄ, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 12 December 2000,

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

**PROCEDURE**

1. The case originated in an application (no. 31387/96) 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 Czesław Kliniecki (“the applicant”), on 25 September 1994.

2. The Polish Government (“the Government”) were represented by their Agent, Mr Krzysztof Drzewicki, of the Ministry of Foreign Affairs.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the length of the criminal proceedings against him.

4. Following communication of the complaint to the Government and rejection of the remainder of the application by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 15 June 2000, having obtained the parties’ observations, the Court declared the application admissible.

5. On 17 November 2000 and on 29 November 2000 the Agent of the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

**THE FACTS**

6. On 26 July 1992 the applicant was arrested, on suspicion of fraud, at the request of the Racibórz District Prosecutor (*Prokurator Rejonowy*).

7. On 2 and 23 December 1992 the Racibórz District Prosecutor filed with the Katowice Regional Court (*Sąd Wojewódzki*) two bills of indictment

against the applicant. He was charged with, *inter alia*, an attempt to defraud a certain insurance company and with making false representations. The charges against the applicant also included two counts of conspiracy to defraud banks and one count of acting against the interests of the GEM company.

8. On 23 February 1993 the first hearing was held before the Katowice Regional Court. On 27 August 1993 the Katowice Regional Court convicted the applicant of one count of conspiracy to defraud a bank, and of acting against the interests of the GEM company, and sentenced him to eighteen months' imprisonment and a fine. It acquitted the applicant of the remaining charges. On the same day the applicant was released.

9. On unspecified dates the applicant and the prosecutor appealed against the judgment of 27 August 1993. On 17 March 1994 the Katowice Court of Appeal (*Sąd Apelacyjny*) quashed the part of the impugned judgment acquitting the applicant and remitted the case to the trial court.

10. On 23 February 1996 the Katowice Regional Court delivered a judgment. The court found the applicant guilty of an attempt to defraud the insurance company and of making false representations. The applicant was sentenced to eighteen months' imprisonment. At the same time, he was acquitted of the charge of conspiracy to defraud banks. The applicant appealed against that judgment but on 29 October 1996 the Katowice Court of Appeal dismissed his appeal.

11. On 20 December 1996 the applicant filed a cassation appeal with the Supreme Court (*Sąd Najwyższy*). On 17 June 1997 the Supreme Court allowed the applicant's appeal, quashed the Regional Court's judgment of 23 February 1996 and remitted the case to the trial court.

12. On 22 July 1998 the Katowice Regional Court delivered a judgment in which it acquitted the applicant.

13. On 16 November 1998 the prosecutor appealed against the judgment of 22 July 1998. The first hearing before the Katowice Court of Appeal was scheduled for 7 January 1999. The proceedings are still pending.

## THE LAW

14. On 17 November 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 Czesław Kliniecki the sum of PLN 10,000 (ten thousand) with a view to securing a friendly settlement of the application registered under no. 31387/96. 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 decision 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.

I declare at the same time that the offer of the above-mentioned amount has been made in connection with duration of the proceedings in the applicant's case before the organs of the judiciary and of the prosecuting authorities."

15. On 29 November 2000 the Court received the following declaration signed by the applicant:

"I note that the Government of the Republic of Poland are prepared to pay to me the sum of PLN 10,000 (ten thousand) covering both pecuniary and non-pecuniary damage as well as costs with a view to securing a friendly settlement of the application no. 31387/96 pending before the European Court of Human Rights. This payment will constitute the final resolution of the case."

16. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It 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).

17. 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 notified in writing on 21 December 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER  
Registrar

Georg RESS  
President