



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

FOURTH SECTION

CASE OF R.D. v. POLAND

(Applications nos. 29692/96 and 34612/97)

JUDGMENT

STRASBOURG

18 December 2001

FINAL

18/03/2002

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of R.D. v. Poland,

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

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mr A. PASTOR RIDRUEJO,
Mr J. MAKARCZYK,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSKI, *judges*,
and Mr M. O'BOYLE, *Deputy Registrar*,

Having deliberated in private on 15 February 2001 and 4 December 2001,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in two applications (nos. 29692/96 and 34612/97) 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 R.D., on 31 August 1995 and 11 December 1996 respectively.

2. The applicant, who had been granted legal aid, was represented before the Court by Mrs M. Kostrzewska, a lawyer practising in Wałbrzych, Poland. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. The applicant complained, in particular, that on account of a refusal to grant him free legal assistance for the preparation of his cassation appeal, he could not defend himself effectively and had irrevocably lost an opportunity to have his case heard in cassation proceedings.

4. The applications were joined and declared partly admissible by the Commission on 22 October 1997. They were transmitted to the Court on 1 November 1999 in accordance with Article 5 § 3, second sentence, of Protocol No. 11 to the Convention, the Commission not having completed its examination of the case by that date.

5. The applications were allocated to the Fourth Section of the Court (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.

6. By a decision of 15 February 2001, the Chamber declared the applications admissible.

7. The applicant, but not the Government, filed observations on the merits (Rule 59 § 1). The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 2 *in fine*).

8. Subsequently, the applications were reassigned to the new Chamber, constituted within the new Fourth Section of the Court (Article 26 (b) of the Convention read together with Rule 25 § 1 of the Rules of Court).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. On 16 September 1994 the Wałbrzych District Prosecutor (*Prokurator Rejonowy*) charged the applicant with receiving a bribe and detained him on remand in view of the reasonable suspicion that he had committed the offence in question. On the same day the prosecutor confronted the applicant with his co-suspect who had offered him a bribe, and ordered a search of the applicant's home. On 28 September 1994, on an appeal filed by the applicant, the Wałbrzych Regional Court (*Sąd Wojewódzki*) quashed the detention order and released him under police supervision.

10. On 10 February 1995 the Wałbrzych District Prosecutor lodged a bill of indictment with the Wałbrzych Regional Court. The indictment comprised twelve counts charging seven co-defendants. Two of the applicant's co-defendants were indicted on charges of an attempt to traffic in women.

11. Subsequently, on an unknown date, the Wałbrzych Regional Court appointed a defence counsel for the applicant.

12. The trial ended on 15 April 1996. The applicant was convicted as charged and sentenced to one year's imprisonment suspended for two years and a fine. The Regional Court exempted the applicant from paying the costs of the proceedings and court fees at first instance. It ordered the State Treasury (*Skarb Państwa*) to cover the legal fees involved in his defence by the officially-appointed lawyer.

13. On 24 June 1996 the applicant's lawyer filed an appeal with the Wrocław Court of Appeal (*Sąd Apelacyjny*). The Regional Prosecutor lodged his appeal at about the same time. The applicant filed a memorandum and produced documents in support of his arguments on 27 September 1996.

14. Later, the Wrocław Court of Appeal appointed a new defence counsel to assist the applicant in the appellate proceedings.

15. On 10 October 1996 the Wrocław Court of Appeal heard the appeals. Both the applicant and his officially-appointed lawyer were present. The applicant asked the court to read out all the records of evidence heard from him during the first instance proceedings. The court declined to do so, pointing out that the appellate hearing was limited to the questions of fact and law which had been put forward by the parties in their appeals and oral pleadings. It found it unnecessary to read the voluminous records of the oral evidence taken from the applicant.

16. On the same day the Court of Appeal upheld the first-instance judgment. It levied on the applicant a court fee of 65.00 Polish zlotys [*approx. 130 FRF*] for examining his appeal and ordered him to pay 50.96 Polish zlotys [*approx. 100 FRF*] as the costs of the appellate proceedings. The court ordered that the costs involved in the applicant's defence in the appeal proceedings be borne by the State Treasury.

17. On 12 October 1996 the applicant lodged a notice of cassation appeal with the Wrocław Court of Appeal and asked it to serve on him the written reasons for its judgment. He also asked the Court of Appeal to appoint a new lawyer to assist him in the preparation of his cassation appeal. The relevant part of the application read:

"The appeal proceedings were of a fictitious nature ... [which was shown] by the time foreseen by the Court of Appeal for dealing with [my] appeal. [That] court foresaw only 15 minutes ... The appellate hearing was to start at 9.00 a.m. and the next case was to be heard at 9.15 a.m. ... In addition, as I learnt on 11 October this year, the Court of Appeal had replaced my previous defence counsel by someone else ... who – probably – did not know the case. ...

Article 464 § 2 of the Code of Criminal Procedure stipulates that a cassation appeal must be filed and signed by an advocate. Since the Court of Appeal deprived me of my [previous] officially-appointed lawyer, it should appoint another counsel for me. I therefore ask the court to appoint me such a lawyer and order him to file a cassation appeal on my behalf, in particular on the grounds mentioned in my pleading of 14 June 1996 and on other grounds – such as breaches of the law committed by the Court of Appeal – which I will later specify in my own separate cassation appeal. ..."

18. On 9 December 1996 the written reasons for the judgment of the Wrocław Court of Appeal were served on the applicant. On that date the time-limit of thirty days for lodging a cassation appeal began to run (see also paragraph 32 below).

19. On 23 December 1996 the Court of Appeal dismissed the applicant's request for free legal assistance in cassation proceedings. The court considered that the applicant had failed to prove that he could not afford such assistance. The relevant decision read:

"In his application, received at the Court of Appeal's registry on 15 October 1996, the applicant asked this Court to appoint a lawyer to assist him in filing a cassation appeal against the judgment of the Wrocław Court of Appeal of 10 October 1996.

The circumstances on which the applicant relies cannot be considered as a basis for a finding that his family and financial situation, and his income, make it impossible for him to pay costs involved in appointing a lawyer of his own choice in order to have a cassation appeal filed. That [view] is based on the post previously held by the applicant and the income that he received from his employment.

Instruction: this decision – refusing an application for appointing a lawyer to assist in filing a cassation appeal – cannot be appealed against.”

That decision was served on the applicant on 31 December 1996.

The time-limit for lodging a cassation appeal expired on 9 January 1997.

20. In the meantime, on 3 January 1997, despite the court’s instruction to the contrary, the applicant had appealed to the Supreme Court (*Sąd Najwyższy*) against the refusal to grant him legal assistance. He lodged the appeal through the Wrocław Court of Appeal.

21. By an order made on 15 January 1997, the President of the Court of Appeal refused to proceed with the appeal because it was inadmissible in law. The applicant appealed to the Supreme Court, which, on 28 February 1997, upheld the contested order.

II. RELEVANT DOMESTIC LAW AND PRACTICE

22. At the relevant time provisions of the Law of 19 April 1969 – Code of Criminal Procedure (*Kodeks postępowania karnego*) (“the Code”) applied to proceedings before criminal courts. The Code is no longer in force. It was repealed and replaced by the Law of 6 June 1997 (commonly referred to as the “New Code of Criminal Procedure”), which entered into force on 1 September 1998.

A. Legal assistance

23. Under Article 69 of the Code, an accused who had proved that he could not afford legal assistance (i.e. that the costs of such assistance “would entail a substantial reduction in his and his family’s standard of living”) might ask the trial court to appoint him a defence counsel.

24. Article 71 of the Code laid down the principle known as “compulsory assistance of an advocate” (*przymus adwokacki*). That Article provided, in so far as relevant:

“An accused must have a defence counsel [of his own choice or officially appointed] when a regional court is competent to deal with his case as a court of first instance. The counsel must take part in the main hearing; he must also take part in any appellate hearing if the president of the court or the court itself has found this necessary.”

25. Under Article 75 § 1 of the Code, the official appointment of a lawyer was valid as long as the proceedings lasted and, subject to explicit exceptions, an officially-appointed lawyer was also obliged to act on behalf

of his client after the judgment became final. However, according to domestic practice which started after 1 January 1996 (the date on which a new cassation appeals procedure was introduced into the system of criminal justice), a lawyer had again to be officially appointed in cassation proceedings.

B. Exemption from paying court fees and costs in criminal proceedings

26. The conditions for exempting an accused from paying costs and fees involved in criminal proceedings, as well as from paying fees due for legal assistance, were laid down in Article 556 of the Code. That provision, in its relevant part, read:

“The court may – either in full or in part – exempt an accused or [private or auxiliary] prosecutor (*oskarżyciel prywatny lub posiłkowy*) from [an obligation] to pay back to the State Treasury costs of proceedings or to pay ... fees due for legal representation by an officially-appointed lawyer if there are grounds to consider that, given the family and financial situation and the income of the person concerned, the payment thereof would entail a disproportionate burden on him.”

C. Costs of legal representation at the material time

27. Legal fees of advocates were set out in the Ordinance of the Minister of Justice of 4 June 1992 on Legal fees in proceedings before judicial authorities (*Rozporządzenie Ministra Sprawiedliwości w sprawie opłat za czynności adwokackie w postępowaniu przed organami wymiaru sprawiedliwości*). That ordinance was subsequently repealed; under a new ordinance, only minimum legal fees are stipulated and costs of legal representation are in principle determined freely in a contract between an advocate and a client.

28. Paragraph 20 (1) of the 1992 Ordinance determined legal fees for defence in a criminal case before a regional court, a court of appeal and the Supreme Court at from 200 to 600 Polish zlotys (PLN) for each instance. Legal fees for the preparation of a cassation appeal were determined at from 50 to 300 PLN (paragraph 20 (1)).

29. Regardless of whether a person was represented by a court-appointed lawyer or by a lawyer of his own choice, legal fees involved in his defence were estimated under the rules set out in the 1992 Ordinance.

D. Cassation appeal

30. As from 1 January 1996, i.e. the date on which the relevant provisions of the Law of 29 June 1995 on Amendments to the Code of Criminal Procedure and Other Criminal Statutes entered into force, a party

to criminal proceedings might lodge a cassation appeal with the Supreme Court against any final decision of an appellate court which had terminated criminal proceedings.

31. Article 463a § 1 of the Code provided, in so far as relevant:

“A cassation appeal may be lodged only on the grounds referred to in Article 388 [these included a number of procedural irregularities, such as, for instance, incorrect composition of the trial court; lack of legal assistance in cases where such assistance was compulsory; breach of the rules governing jurisdiction in criminal matters; trying a person *in absentia* in cases where his presence was obligatory and thus depriving him of an opportunity to defend himself, etc.] or on the ground of another flagrant breach of law provided that the judicial decision in question was affected as a result of such a breach. No cassation appeal may be directed against the severity of the penalty imposed (*niewspółmierności kary*).”

32. Article 464 of the Code stipulated:

“1. Parties to criminal proceedings shall be entitled to lodge a cassation appeal.

2. A cassation appeal, which has been lodged by a party other than a prosecutor, shall be filed and signed by an advocate.

3. Notice of a cassation appeal must be lodged with the court that has given the [relevant] decision within seven days from the date on which such decision was pronounced. The appeal itself must be lodged within thirty days from the date on which the decision, together with the reasons therefor, was served on the party concerned.”

Paragraph 2 of Article 464 was later incorporated into Article 526 § 2 of the New Code of Criminal Procedure, which in similar terms lays down the principle of “compulsory assistance of an advocate” in cassation proceedings.

33. Article 467 § 2 of the Code provided that the court which had given the decision appealed against was competent to decide whether the formal requirements for a cassation appeal had been complied with. If an accused’s appeal was not filed and signed by an advocate, it had to be rejected on formal grounds. If such an appeal complied with the formal requirements, the case was referred to the Supreme Court.

Pursuant to paragraphs 3 and 4 of Article 467 of the Code, a single judge or, if the President of the Supreme Court so ordered, a panel of three judges sitting as the Supreme Court, decided on the admissibility of a cassation appeal. If the Supreme Court found that the appeal was inadmissible, it made a decision “not taking cognisance of the merits of the appeal” (*postanowienie o pozostawieniu kasacji bez rozpoznania*).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 READ IN CONJUNCTION WITH ARTICLE 6 § 3 (c) OF THE CONVENTION

34. The applicant complained that the Wrocław Court of Appeal's refusal to grant him legal assistance in connection with the preparation of a cassation appeal – a refusal given regardless of the fact that such assistance was compulsory – had infringed his right to defend himself and resulted in his irrevocably losing an opportunity to institute cassation proceedings. He alleged a breach of Article 6 § 1 read in conjunction with Article 6 § 3 (c) of the Convention, which read, in so far as relevant:

“1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ...by [a] ... tribunal ...

...

3. Everyone charged with a criminal offence has the following minimum rights:

...

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

...”

A. The parties' arguments

1. The applicant

35. The applicant maintained that already at the beginning of the trial he had presented documentary evidence in support of his application for free legal assistance. On that basis the Regional Court and, subsequently, the Court of Appeal had appointed a lawyer for him.

As his case had proceeded, his financial situation had not changed for the better but for the worse. When he had asked for legal assistance in cassation proceedings, his salary had amounted to a mere 569.90 Polish zlotys per month. That had been less than the average salary in the public sector and less than the income he had received at the end of the first instance proceedings when the Regional Court had fully exempted him from paying the court fees, the costs of the proceedings and the costs of legal representation.

36. In that connection, the applicant also stressed that both the Regional Court and the Court of Appeal had had no doubts whatsoever that he had not been able to afford the costs of legal assistance in the proceedings before them. In view of that, instead of ordering him to cover those costs, they had decided that the sums in question be borne by the State Treasury, under Article 556 of the Code of Criminal Procedure. That Article laid down strict conditions for obtaining such an exemption; it could be granted only to a person for whom the costs of legal assistance would entail a disproportionate financial burden.

37. Furthermore, the applicant considered that the refusal to grant him free legal assistance had not pursued the “interests of justice” within the meaning of Article 6 § 3 (c).

In his submission, the Court of Appeal had not given any explanation why the refusal to grant him such assistance had been justified by those interests. The court had not determined his family situation and his income. It had not mentioned the concrete circumstances on which it had concluded that he could bear costs of legal assistance involved in the preparation of a cassation appeal.

38. What was more, the applicant added, the relevant decision had been given after a very substantial delay. He had made the application for legal assistance on 15 October 1996 but it had taken the Court of Appeal more than two months to deal with it. The relevant decision had been made as late as 23 December 1996 and served on him on 31 December 1996. That had left him without any reasonable chance to find a lawyer of his choice and to have a cassation appeal filed by 9 January 1997, when the time-limit for lodging the appeal had expired.

39. In conclusion, the applicant asked the Court to find a violation of Article 6 §§ 1 and 3 (c), pointing out that the refusal to grant him further free legal assistance in cassation proceedings not only had affected his defence rights in a manner contrary to the requirements of a “fair trial” but had also made it impossible for him to have his case heard by a cassation court.

2. The Government

40. The Government disagreed. They considered that the authorities had fulfilled their Convention obligation because they had granted the applicant free legal assistance in the first-instance and appeal proceedings, pursuant to Article 71 of the Code of Criminal Procedure of 1969.

It was true, the Government admitted, that the applicant’s application for further legal assistance in cassation proceedings had been rejected. That had, however, been the result of his failure to prove that he had satisfied the conditions laid down in Article 69 of the Code of Criminal Procedure, namely that he would not be able to afford the costs of legal assistance of his own choice.

41. In that regard, the Government also pointed out that the Wrocław Court of Appeal had made its decision in accordance with the law. In assessing the relevant evidence, it had not gone beyond the margin of appreciation left to the domestic courts in such matters.

42. The Government further stressed that the refusal in question had not at all prevented the applicant from lodging a cassation appeal because he could have appointed a lawyer of his choice and have had such an appeal “filed and signed by an advocate”, as required under Polish law. The fact that the applicant had not seized upon that opportunity could not, in their view, be held against the national authorities

To conclude, the Government invited the Court to find that there had been no violation of Article 6 § 1 read in conjunction with Article 6 § 3 (c).

B. The Court’s assessment

1. General principles

43. The Court reiterates that the right of an accused to free legal assistance, laid down in Article 6 § 3 (c) of the Convention, is one of the elements inherent in the notion of fair trial.

That provision attaches two conditions to this right. The first is lack of “sufficient means to pay for legal assistance”, the second is that “the interests of justice” must require that such assistance be given free (see, among many other authorities, the *Pham Hoang v. France* judgment of 25 September 1992, Series A no. 243 p. 23, § 39).

44. While the manner in which Article 6 is to be applied to courts of appeal or of cassation depends on the special features of the proceedings in question, there can be no doubt that a State which does institute such courts is required to ensure that persons amenable to the law shall enjoy before them the fundamental guarantees of fair trial contained in that Article, including the right to free legal assistance.

In discharging that obligation, the State must, moreover, display diligence so as to secure to those persons the genuine and effective enjoyment of the rights guaranteed under Article 6 (see, for instance, the *Vacher v. France* judgment of 17 December 1996, *Reports of Judgments and Decisions* 1996-VI, pp. 2148-49, §§ 24 and 28).

2. Application of those principles to the instant case

(i) “Sufficient means to pay for legal assistance”

45. The Court must first determine whether the applicant, who had been exempted from costs of legal assistance throughout the proceedings at first instance and before the Court of Appeal, should, given his financial means,

have obtained further free assistance for the preparation of a cassation appeal.

In resolving that issue, the Court cannot substitute itself for the Polish courts in order to evaluate the applicant's financial situation at the material time but must review whether those courts, when exercising their power of appreciation in respect of the assessment of evidence, acted in accordance with Article 6 § 1 (see, *mutatis mutandis*, *Kreuz v. Poland* no. 28249/95, § 64, ECHR 2001-VI).

46. In that connection, the Court notes that in its judgment of 10 October 1996 the Wrocław Court of Appeal held that the applicant be exempted from costs involved in legal assistance. That finding implies that that court had a sufficient basis to consider that bearing those costs would constitute a "disproportionate burden" for the applicant, within the meaning of Article 556 of the Code (see paragraphs 16 and 26-29 above).

Some two and a half months later, on 23 December 1996, the same court refused to grant the applicant further free legal assistance in connection with his intended cassation appeal (see paragraph 19 above). In the light of the material adduced by the parties, it does not appear that the applicant's financial situation had in the meantime improved. Nor does it emerge from the relevant decision on what concrete circumstances the Court of Appeal based its opinion that the applicant could afford such costs in cassation proceedings, despite the fact that he had recently been exempted from costs of his legal representation at first instance and on appeal (see paragraphs 12, 16 and 19 above).

Against that background, the Court finds that in the present case there were reasonable grounds to consider that the applicant's financial means were limited. Hence, there were strong indications that he did not have "sufficient means to pay for legal assistance" within the meaning of Article 6 § 3 (c).

(ii) *The requirement of the "interests of justice"*

47. It remains for the Court to ascertain whether, having regard to the particular circumstances of the case and the criteria emerging from its case-law, the "interests of justice" required that the applicant be granted such assistance.

48. In previous cases before it, the Court has set out the applicable criteria.

It has, for instance, held that the nature of the charges against the applicant, the need to develop appropriate arguments on complicated legal issues or the complexity of the cassation procedure may, from the point of view of the interests of justice, necessitate that he be granted free legal assistance (see the *Pham Hoang* judgment cited above, *ibid.* § 40 *in fine*; and the *Twalib v. Greece* judgment of 9 June 1998, *Reports* 1998-IV, pp. 1430-31, §§ 52-53).

49. There is, however, a primary, indispensable requirement of the “interests of justice” that must be satisfied in each case. That is the requirement of a fair procedure before courts, which, among other things, imposes on the State authorities an obligation to offer an accused a realistic chance to defend himself throughout the entire trial. In the context of cassation proceedings, that means that the authorities must give an accused the opportunity of putting his case in the cassation court in a concrete and effective way (see the *Vacher v. France* judgment cited above, *ibid.* § 30).

50. In that regard, the Court notes that Polish law did not (and still does not) give a convicted appellant the choice between appointing a lawyer or preparing his cassation appeal himself. A defendant had to be assisted by an advocate in the preparation of a cassation appeal, an appeal filed by himself being rejected (see paragraphs 32-33 above).

The applicant could, accordingly, have obtained access to the cassation court only through a lawyer – either one of his choice or one appointed by the relevant court under Article 69 of the Code. He should moreover have had his appeal filed within 30 days after the Court of Appeal’s judgment had been served on him (see paragraphs 23 and 32 above).

51. The Wrocław Court of Appeal could not have been unaware of those legal prerequisites. It was, therefore, incumbent on that court to handle the applicant’s application for legal assistance in a way that would have enabled him to prepare his cassation appeal properly and to put his case before the Supreme Court.

However, not only did the Court of Appeal refuse to grant the applicant such further free assistance but it also communicated its refusal to him eight working days before the expiry of the time-limit for the submission of his cassation appeal (see paragraphs 18-19).

In the Court’s view, the shortness of the time left to the applicant for appointing a lawyer of his choice and for preparing the intended cassation appeal did not give him a realistic opportunity of having his case brought to and defended in the cassation court in a “concrete and effective way”.

52. There has, accordingly, been a breach of Article 6 § 1 read in conjunction with Article 6 § 3 (c) of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

53. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

54. Under the head of pecuniary damage, the applicant sought PLN 50,000. That sum comprised, *inter alia*, loss of his professional career prospects caused by the fact that his conviction resulted in his being dismissed from the civil service and loss of expected salaries.

The applicant also asked the Court to award him PLN 50,000 for non-pecuniary damage sustained on account of the fact that he had not been given an adequate chance to prove his innocence in cassation proceedings, as well as for harm to his reputation and psychological harm resulting from a violation of his Convention rights.

55. The Government did not address the issue of just satisfaction.

56. The Court's conclusion, on the evidence before it, is that the applicant failed to show that the pecuniary damage pleaded was actually caused by the refusal to grant him legal assistance for the preparation of his intended cassation appeal. Consequently, there is no justification for making any award to him under that head.

57. The Court accepts, however, that the applicant has suffered non-pecuniary damage, such as distress and frustration resulting from the impossibility of defending himself effectively in cassation proceedings. Making its assessment on an equitable basis, the Court awards the applicant PLN 10,000 under this head.

B. Costs and expenses

58. The applicant, who received legal aid from the Council of Europe in connection with the presentation of his case, sought reimbursement of PLN 5,000 for costs and expenses incurred at domestic level and in the proceedings before the Court.

59. The Government did not comment.

60. Applying the criteria laid down in its case law (see, for instance, *Kudła v. Poland* [GC], no. 30210/96, § 168, ECHR 2000-XI) and making its assessment on an equitable basis, the Court allows the applicant's claim in full, together with any value-added tax that may be chargeable, less 579.31 Euro received by way of legal aid from the Council of Europe.

C. Default interest

61. According to the information available to the Court, the statutory rate of interest applicable in Poland at the date of adoption of the present judgment is 30% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 read in conjunction with Article 6 § 3 (c) of the Convention;
2. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts:
 - (i) 10,000 (ten thousand) Polish zlotys in respect of non-pecuniary damage;
 - (ii) 5,000 (five thousand) Polish zlotys in respect of costs and expenses, together with any value-added tax that may be chargeable, less 579.31 Euro to be converted into Polish zlotys at the rate applicable at the date of delivery of this judgment;
 - (b) that simple interest at an annual rate of 30% shall be payable from the expiry of the above-mentioned three months until settlement;
3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 18 December 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Sir Nicolas BRATZA
President