



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

FOURTH SECTION

CASE OF SEDEK v. POLAND

(Application no. 67165/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

6 May 2003

This judgment is final but it may be subject to editorial revision.

In the case of Sędek v. Poland,

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

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSKI,
Mr L. GARLICKI,
Mr J. BORRERO BORRERO, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 8 April 2003,

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

PROCEDURE

1. The case originated in an application (no. 67165/01) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Janina Sędek ("the applicant"), on 5 May 2000.

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

3. The applicant complained under Article 6 § 1 of the Convention about the length of a set of civil proceedings.

4. On 14 May 2002 the Court decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

5. On 24 January 2003, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 11 and 21 February 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1946 and lives in Reszel, Poland.

7. The facts of the case, as submitted by the parties, may be summarised as follows.

8. On 12 July 1994 the applicant filed with the Warsaw District Court (*sąd rejonowy*) an action in which she sought a declaration that she had inherited the property of her late aunt.

9. The court held hearings on 25 October and 24 November 1994.

10. On 24 September 1996 it refused the applicant's request for exemption from courts fees.

11. On 11 May 1999 the court held a hearing. It decided to contact the Office of Foreign Litigation in the United States and enquire whether one of the relatives of the deceased summoned to participate in the proceedings had received the summons. The court stayed the proceedings.

12. On 12 April 2000 it appointed a guardian *ad litem* for that relative.

13. On 19 May 2000 the court resumed the proceedings.

14. The court held hearings on 18 July and 16 November 2000, as well as on 20 March 2002.

15. The proceedings are still pending.

THE LAW

16. The applicant complained under Article 6 § 1 of the Convention that the proceedings in her case had exceeded a reasonable time.

A. Admissibility

17. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. The Court therefore declares the case admissible.

B. Solution reached

18. On 21 February 2003 the Court received the following declaration from the Government:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Poland offer to pay 17,000 zlotys to Janina Sędek. This sum is to cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months from the date of delivery of the decision by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. This payment will constitute the final resolution of the case."

19. On 11 February 2003 the Court had already received the following declaration signed by the applicant:

"I note that the Government of Poland are prepared to pay me the sum of 17,000 zlotys covering pecuniary and non-pecuniary damage and costs with a view to

securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

I accept the proposal and waive any further claims against Poland in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and I have reached.”

20. The Court takes note of the agreement reached between the parties. 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 and 4 of the Rules of Court).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Decides* to strike the case out of the list.

Done in English, and notified in writing on 6 May 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Nicolas BRATZA
President