



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

FOURTH SECTION

CASE OF WITCZAK v. POLAND

(Application no. 47404/99)

JUDGMENT
(Strike out)

STRASBOURG

6 May 2003

FINAL

06/08/2003

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 Witzak v. Poland,

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

Sir Nicolas BRATZA, *President*,

Mrs E. PALM,

Mrs V. STRÁŽNICKÁ,

Mr M. FISCHBACH,

Mr J. CASADEVALL,

Mr R. MARUSTE,

Mr L. GARLICKI, *judges*

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 8 April 2003,

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

PROCEDURE

1. The case originated in an application (no. 47404/99) 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, Mr Mirosław Witzak ("the applicant"), on 11 November 1998.

2. The applicant, who had been granted legal aid, was represented by Mr R. Fijałkowski, a lawyer practising in Radom. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki of the Ministry of Foreign Affairs.

3. The applicant alleged that the civil proceedings in his case exceeded a reasonable time and that he did not have an effective remedy to complain about the excessive length of the proceedings.

4. The application was 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.

5. By a decision of 23 October 2001 the Court declared the application admissible.

6. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section (Rule 52 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1947 and lives in Radom.

8. In 1977 the applicant, while serving a prison sentence, was injured in an occupational accident. He lodged a compensation claim with the Warsaw Regional Court against the State Treasury. By the Warsaw Regional Court's judgment of 11 June 1980 the applicant was awarded a monthly pension of 500 (old) PLN, payable from 1 February 1978, and a lump sum of 12,000 PLN as compensation.

9. On 21 November 1991 the applicant lodged an action with the Warsaw Regional Court claiming that his pension be increased. On an unspecified later date the Warsaw Regional Court transferred his case to the Lublin Regional Court, considering that it had jurisdiction to entertain the case. Hearings in the case were held before the Lublin Regional Court on 8 February 1993, 5 April, 21 November and 20 December 1994.

10. By a judgment of 30 December 1994 the Lublin Regional Court ruled in favour of the applicant and ordered that a compensation of 107,000,000 (old) PLN be paid to him, as well as 1,629,650 (old) PLN as monthly pension, from 1 September 1995. The defendant State Treasury, represented by the Warsaw Detention Centre, lodged an appeal against this judgment. As a result, on 31 May 1995 the Lublin Court of Appeal quashed the judgment under appeal and ordered the case to be reconsidered.

11. Subsequently, a number of hearings were held before the Lublin Regional Court and expert reports as to the applicant's health were ordered and considered by the court.

12. On 10 May 2000 the Lublin Regional Court gave a judgment dismissing the applicant's claim in its entirety. The applicant appealed.

13. On 28 September 2000 the Lublin Court of Appeal held a hearing. By a judgment of 11 October 2000 the court partially altered the judgement of the Lublin Regional Court increasing the applicant's monthly pension to 280 PLN and awarding him compensation of 4179 PLN. On 5 December 2000 the applicant lodged a cassation appeal with the Supreme Court.

14. The proceedings before the Supreme Court are apparently pending.

THE LAW

15. The Court notes that the applicant has repeatedly failed to respond to its letters addressed to him on 1 August, 18 October 2002 and 6 January 2003.

16. On 6 February 2003 a further registered letter was sent to the applicant reminding him 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.

17. Having regard to the applicant's failure to communicate with the Court, the Court concludes that the applicant does not intend to pursue his application. The Court, bearing in mind the existence of a number of cases against Poland pending before it which raise similar issues to those considered in the present case, considers 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 *in fine* of the Convention).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *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