



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

FOURTH SECTION

CASE OF CIĄGADLAK v. POLAND

(Application no. 45288/99)

JUDGMENT

STRASBOURG

1 July 2003

FINAL

01/10/2003

*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 Ciągadlak 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 10 June 2003,

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

PROCEDURE

1. The case originated in an application (no. 45288/99) 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, Jan Ciągadlak ("the applicant"), on 4 May 1998.

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

3. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

4. On 4 December 2001 the Fourth Section 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.

THE FACTS

5. The applicant was born in 1929 and lives in Warsaw.

6. On 2 April 1992 the applicant filed with the Warsaw Regional Court (*sąd wojewódzki*) a petition in which he requested the annulment of a judgment delivered in 1947 in criminal proceedings against him, submitting that they had been of a political nature. He also claimed compensation.

7. On 10 February 1993 the court annulled that judgment. However, its decision did not relate to the compensation claim.

8. On 19 February 1993 the applicant filed another compensation claim.

9. Subsequently, he lodged several complaints concerning the inactivity of the court, but to no avail.

10. In her letters of 15 December 1993 and 29 June 1994, in reply to the applicant's complaints, a judge of the Regional Court informed the applicant that the delay in the examination of his compensation claim was caused by a large number of similar requests lodged with that court and the dearth of judges.

11. On 22 February 1995 the court held a hearing. A public prosecutor requested that the proceedings be stayed, submitting that a part of the Regional Court's decision of 10 February 1993 was invalid and required supplementation. Subsequently, the court stayed the proceedings.

12. The hearing scheduled for 22 March 1995 was adjourned at the applicant's request.

13. On 4 April 1995 the Regional Court asked the Office for the State Protection (*Urząd Ochrony Państwa*) to submit certain documents. The documents were submitted to the court on 27 March 1996.

14. On 4 July 1996 the proceedings were resumed.

15. The court adjourned the hearing scheduled for 23 January 1997, as the proceedings concerning the annulment of the criminal judgment against the applicant given in 1947 had not been completed.

16. On 19 June 2000 the Warsaw Regional Court gave judgment. It awarded the applicant PLN 7,500 in compensation. He did not lodge an appeal against that judgment.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

17. The applicant complained under Articles 3, 4, 5 and 13 of the Convention that the proceedings in his case had exceeded a reasonable time. He did not raise any specific complaints relating to the provisions relied on by him. However, the applicant made explicit reference to the 'reasonable time' requirement. For these reasons, the Court will examine the application under Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

18. The Government contested the applicant's argument.

A. Admissibility

19. 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 will therefore declare it admissible.

B. Merits

1. The Government's submissions

20. The Government were of the opinion that the applicant's case was a complex one. They submitted that the examination of that case had depended entirely on the outcome of the proceedings concerning the annulment of the applicant's conviction. The Government further pointed out that the case had related to facts that had taken place more than fifty years before its examination and the court had had to make an inquiry with the Office for the State Protection.

21. They were of the opinion that the applicant's conduct had not contributed to the prolongation of the proceedings.

22. The Government stated that the public authorities were partly responsible for the delay. They noted that a large number of claims similar to that of the applicant had been lodged with the Warsaw Regional Court and, although that fact should not exempt the Government from the obligation to ensure the speediness of proceedings, it should be nonetheless taken into consideration. The Government made reference to statistics, according to which the backlog of cases concerning compensation for wrongful convictions had been promptly tackled and the situation had been effectively remedied. Relying on the Court's judgment in the case of *Trickovic v. Slovenia* (no. 39914/98, 12 June 2001), they recalled that a Contracting State was exonerated from liability for a temporary backlog of court business if it took appropriate remedial action with the requisite promptness.

23. The Government observed that the Regional Court had attempted to accelerate the submission of the requested documents by the Office for the State Protection.

24. They were of the view that the examination of the applicant's case had not required special diligence, because after the annulment of his conviction he had received moral satisfaction and what had been at stake for him in the proceedings had been of a pecuniary nature solely.

25. The Government stated that the proceedings had begun on 19 February 1993 and ended on 19 June 2000.

2. *The applicant's submissions*

26. The applicant submitted that the proceedings had begun on 2 April 1992 and ended on 19 June 2000. He did not agree with the Government's contention that his case had been complex.

3. *The Court's assessment*

27. The period to be taken into consideration began only on 1 May 1993, when the recognition by Poland of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time (see, among other authorities, *Humen v. Poland* [GC], no. 26614/95, § 59, 15 October 1999, unreported).

The Court notes that the parties' submissions as to the starting date of the proceedings differ from each other. It observes that the applicant considered both procedures, the one concerning the annulment of his conviction and the one relating to compensation, as one. The Government regarded only the latter as relevant for the present application. Without prejudice to the issue as to whether the former procedure formed part of the proceedings concerning compensation, the Court notes that, in any event, there is no significant time lapse between the two dates under dispute and they both fall outside the Court's jurisdiction *ratione temporis*. It will therefore forbear from deciding on which of them the proceedings at issue commenced.

The parties agreed that the period under consideration ended on 19 June 2000. It thus lasted seven years, one month and nineteen days, within the Court's jurisdiction *ratione temporis*.

28. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

29. The Court considers that the case was not particularly difficult to determine (cf. *Halka and Others v. Poland*, no. 71891/01, § 34, 2 July 2002, unreported).

30. It accepts the Government's submission that the applicant did not contribute to the prolongation of the proceedings.

31. The Court does not find convincing the Government's contention that the authorities applied effective measures to cope with the influx of compensation claims similar to that of the applicant (see *Kurzac v. Poland*, no. 31382/96, § 34, 22 February 2001, unreported, and *Halka and Others*, cited above, § 37). It points out that despite the application of those measures the applicant's claim was dealt with for over seven years. In these

circumstances the Court cannot accept the Government's view that the remedial action taken by the authorities could absolve them from their liability for the delay in the examination of the applicant's case.

32. The Court notes that in the course of the proceedings the Regional Court held one hearing on the merits and at the second hearing it gave judgment. Apart from those two hearings practically no other action was taken.

33. Having regard to the specific nature of the applicant's claim and the fact that he could raise it only over forty years after his conviction, the Court does not agree with the Government's opinion that what was at stake for the applicant was of a merely pecuniary nature (see *Halka and Others*, cited above, § 37).

34. The foregoing considerations are sufficient to enable the Court to conclude that the applicant's case was not heard within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

35. 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

36. The applicant did not claim any particular sum in respect of pecuniary and non-pecuniary damage. He requested that the Court reach “a conclusion which would satisfy him both morally and materially”.

37. The Court is of the view that the applicant can reasonably be deemed to have suffered non-pecuniary damage on account of the length of the proceedings. Accordingly, the Court considers that, in the particular circumstances of the case and deciding on an equitable basis, the applicant should be awarded 6,000 euros.

B. Costs and expenses

38. The applicant did not seek to be reimbursed for any costs or expenses in connection with the proceedings before the Court.

C. Default interest

39. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank to which should be added three percentage points (see *Christine Goodwin v. the United Kingdom* [GC], no. 28957/95, § 124, to be published in ECHR 2002-VI).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *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, EUR 6,000 (six thousand euros) in respect of non-pecuniary damage to be converted into Polish zlotys at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 1 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President