



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

FOURTH SECTION

CASE OF PAWLINKOWSKA v. POLAND

(Application no. 45957/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

8 July 2003

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

In the case of Pawlinkowska v. Poland,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mrs E. PALM,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSKI,

Mr L. GARLICKI, *judges*,

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

Having deliberated in private on 17 June 2003,

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

PROCEDURE

1. The case originated in an application (no. 45957/99) 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, Krystyna Pawlinkowska ("the applicant"), on 5 October 1998.

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

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

4. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. On 3 July 2001 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.

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).

7. On 16 December 2002 and on 16 May 2003 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

8. The applicant was born in 1927 and lives in Skarżysko-Kamienna, Poland.

9. In 1984 the applicant's father died. On 4 October 1985 W.S. ("the petitioner") filed an application for distribution of the estate of the deceased with the Starachowice District Court (*Sąd Rejonowy*). The applicant was a party to the proceedings.

10. From 23 November 1987 to 15 March 1988 the proceedings were stayed due to the death of one of the parties. Later, the petitioner instituted administrative proceedings and requested that title to the applicant's father real property be declared null and void. As a result, on 27 November 1991 the court stayed the proceedings. On 12 February 1992 they were resumed.

11. In the course of the proceedings the court held a number of hearings and obtained thirteen expert reports. On 24 October 1994 it gave a decision. The petitioner appealed.

12. On 14 June 1995 the Kielce Regional Court (*Sąd Wojewódzki*) set aside the first-instance decision and remitted the case to the District Court.

13. Subsequently, the trial court held hearings on the following dates: 16 January, 2 and 30 April 1996. On 31 October 1996 the court stayed the proceedings. The applicant appealed. On 21 December 1996 the court quashed the contested decision.

14. The court held hearings on the following dates: 27 May, 16 September, 1 December 1997 and 16 January 1998.

15. On 17 February 1998 the court stayed the proceedings, considering that the determination of the case depended on the outcome of the other civil proceedings. The applicant appealed. On 29 May 1998 the Kielce Regional Court upheld the decision of the District Court.

16. On 4 August 1998 the applicant requested that the proceedings be resumed. On 20 October 2000 the court refused the applicant's request as the petitioner had failed to secure an advance payment for an expert report.

17. It appears that the proceedings are still stayed and, therefore, pending.

THE LAW

18. The applicant complained under Article 6 § 1 of the Convention about the unreasonable length of the proceedings. She further complained under Article 6 § 1 of the Convention that the relevant courts were not impartial.

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. Solution reached

20. On 16 December 2003 the Court received the following declaration signed by the respondent Government:

“I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Poland offer to pay 10,000 PLN to Ms Krystyna Pawlinkowska. 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 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

21. On 16 May 2003 the Court received the following declaration signed by the applicant:

“I note that the Government of Poland are prepared to pay me the sum of 10,000 PLN 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.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court’s judgment.”

22. 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).

23. 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;
3. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 8 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President