



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

FOURTH SECTION

CASE OF DRAGAN v. POLAND

(Application no. 58780/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

15 July 2003

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

In the case of Dragan 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,

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 24 June 2003,

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

PROCEDURE

1. The case originated in an application (no. 58780/00) 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, Janusz Dragan ("the applicant"), on 19 February 1999.

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

3. The applicant alleged, in particular, that his right to a "hearing within a reasonable time" had not been respected.

4. On 14 January 2003 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 8 April 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 14 April 2003 the Government submitted a formal declaration accepting a friendly settlement of the case. The applicant's declaration was received on 15 May 2003.

THE FACTS

6. The applicant was born in 1940 and lives in Warsaw, Poland.

7. On 2 October 1984 the Warsaw District Court (*Sąd Rejonowy*) declared that the applicant should inherit his mother's estate. On an

unknown date in 1985 the applicant's step-father M.O. filed an application with the Warsaw District Court for division of their marital property.

8. On 9 June 1988 the court gave a decision. On 4 April 1989 the Warsaw Regional Court (*Sąd Wojewódzki*) dismissed the applicant's further appeal. On 15 November 1989, on an extraordinary appeal lodged by the General Prosecutor, the Supreme Court (*Sąd Najwyższy*) set aside both above decisions and remitted the case to the court of first instance.

9. On 8 June 1992 the court stayed the proceedings. They were later resumed on 4 November 1996.

10. Between 6 May 1998 and 15 November 2002 the trial court held nine hearings.

11. The proceedings are pending before the Warsaw District Court.

THE LAW

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

A. Admissibility

13. 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

14. On 14 April 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 16,000 Polish zlotys to Janusz Dragan. 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 judgment by the Court pursuant to the 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."

15. On 15 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 16,000 Polish 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.

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."

16. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). 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 of the Rules of Court).

17. 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 15 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President