



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

FOURTH SECTION

**CASE OF NIZIUK v. POLAND**

*(Application no. 64120/00)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

15 July 2003

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



**In the case of Niziuk 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. BORREGO BORREGO, *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. 64120/00) 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, Piotr Niziuk ("the applicant"), on 24 September 1999.

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

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

4. On 21 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 30 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 9 May 2003 the Government submitted a formal declaration accepting a friendly settlement of the case. The applicant's declaration was received on 14 May 2003.

**THE FACTS**

6. The applicant was born in 1973 and lives in Warsaw, Poland.

7. On 20 May 1992 the prosecution authorities lodged with the Warsaw District Court (*Sąd Rejonowy*) a bill of indictment against the applicant. He

was charged with causing a traffic accident occasioning death and serious bodily harm.

8. The District Court held hearings on 6 May and 27 May 1993. At the hearing held on 15 June 1993 the applicant was convicted as charged and sentenced to one year's imprisonment suspended for three years.

9. On 23 November 1993, upon the applicant's appeal, the Warsaw Regional Court (*Sąd Wojewódzki*) quashed the first instance judgment and remitted the case to the Piaseczno District Prosecutor (*Prokurator Rejonowy*), holding that a further investigation should be carried out.

10. On 1 October 1994 the Piaseczno District Prosecutor lodged a new bill of indictment with the Warsaw District Court. On 23 July 1997 the trial court remitted the case to the Piaseczno District Prosecutor, holding that the prosecution had not complied with the orders given by the Regional Court on 23 November 1993.

11. On 19 August 1997, upon the prosecutor's appeal, the Warsaw Regional Court quashed this decision and ordered the District Court to proceed with the case.

12. The court held hearings on 11 December 1997, 3 March, 17 April and 2 June 1998.

13. On 9 April 1999 the Warsaw District Court gave judgment and acquitted the applicant on all charges.

## THE LAW

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

### A. Admissibility

15. 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

16. On 9 May 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 15,000 zlotys to Piotr Niziuk. 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. “

17. On 14 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 15,000 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.

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.”

18. 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).

19. 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