



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

FOURTH SECTION

CASE OF MIKULSKA v. POLAND

(Application no. 8205/02)

JUDGMENT
(Friendly settlement)

STRASBOURG

29 July 2003

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

In the case of Mikulska 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 8 July 2003,

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

PROCEDURE

1. The case originated in an application (no. 8205/02) 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, Mrs Henryka Mikulska ("the applicant"), on 15 February 2002.

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

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

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. It also gave priority to application, pursuant to Rule 41 of the Rules of the Court.

5. On 16 May and 11 June 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1930 and lives in Brwinów, Poland.

7. On 3 February 1994 the applicant asked the Pruszków District Court (*Sąd Rejonowy w Pruszkowie*) to declare that he acquired property by prescription.

8. On 16 November 1994 the court held the first hearing.

9. In 1995 and 1996 the court held eight hearings at which it heard witnesses.

10. In 1997 the court scheduled five hearings. They were all adjourned either because the participants or witnesses were not properly notified about the hearings or they were absent for another reason.

11. From 20 February to 29 December 1998 the court listed seven hearings. Most of them were adjourned.

12. On 15 January 1999 the court ordered an inspection of the land register.

13. On 21 August 2000 the court, sitting *in camera*, called as participants four persons and stayed the proceedings.

14. It appears that the applicant appealed against this decision but her appeal was never examined.

15. On 2 March 2001 the court, sitting *in camera*, resumed the proceedings. It further established that one of the participants in the proceedings had died and stayed the proceedings again.

16. On 22 May 2001 the court, sitting *in camera*, resumed the proceedings and called two persons as participants.

17. The applicant submits that since December 1998 no hearings have been held and that the proceedings are pending before the Pruszków District Court.

THE LAW

18. The applicant complained under Article 6 § 1 of the Convention about the unreasonable length of the proceedings.

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 therefore declares it admissible.

B. Solution reached

20. 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 PLN 15,000 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."

21. On 11 June 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 PLN 15,000 to Mrs Henryka Mikulska. 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 Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case. In the event of failure to pay this sum within the said three-months period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

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

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

Michael O'BOYLE
Registrar

Nicolas BRATZA
President