



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

FOURTH SECTION

**CASE OF JANOWSKI v. POLAND (NO. 2)**

*(Application no. 49033/99)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

23 September 2003

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



**In the case of Janowski v. Poland (no. 2),**

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mr M. FISCHBACH,

Mr J. CASADEVALL,

Mr R. MARUSTE,

Mr L. GARLICKI,

Mrs E. FURA-SANDSTRÖM, *judges*,

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

Having deliberated in private on 2 September 2003,

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

**PROCEDURE**

1. The case originated in an application (no. 49033/99) 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, Mr Józef Michał Janowski ("the applicant"), on 5 March 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 26 February 2002, after obtaining the parties' observations, the Court declared the application admissible.

5. On 4 June 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 25 June 2003 the Government submitted a formal declaration accepting a friendly settlement of the case. The applicant's declaration was received on 20 June 2003.

**THE FACTS**

6. The applicant was born in 1937 and lives in Zduńska Wola, Poland.

7. In 1980 the applicant was convicted of "having organised an illegal demonstration and having made disrespectful remarks concerning the Polish Nation" and sentenced to one month's imprisonment. On 20 March 1996 the Supreme Court acquitted him of all charges.

8. On 17 May 1996 the applicant filed a request for compensation with the Warsaw Regional Court ( *Sąd Wojewódzki*) for his wrongful conviction and imprisonment.

9. On 28 January 1997 the applicant's lawyer requested the Regional Court to accelerate examination of the case. In reply, the Regional Court informed the applicant that, due to a large number of similar cases pending before the court, it could not set any approximate date for a hearing in the case.

10. On 19 June 2001 the applicant again requested the Regional Court to accelerate examination of his case. The Regional Court informed the applicant that the explanation given in its previous letter remained valid.

11. It appears that the proceedings are pending before the Warsaw Regional Court.

## THE LAW

12. The applicant complained under Article 6 § 1 of the Convention that his right to a "hearing within a reasonable time" had not been respected.

13. On 25 June 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 17,000 Polish zlotys to Mr Józef Michał Janowski. 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."

14. On 20 June 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 17,000 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."

15. 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).

16. Accordingly, the case should be struck out of the list.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *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 23 September 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE  
Registrar

Nicolas BRATZA  
President