



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

FOURTH SECTION

CASE OF GÓRECKA v. POLAND

(Application no. 73009/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

23 September 2003

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

In the case of Górecka v. Poland,

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. 73009/01) 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, Janina Górecka ("the applicant"), on 24 May 2000.

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 civil proceedings.

4. 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).

5. On 11 February 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.

6. On 11 June and 8 July 2003 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. The applicant was born in 1957 and lives in Cracow, Poland.

8. On 21 October 1991 the applicant's husband filed a divorce petition with the Cracow Regional Court (*Sąd Wojewódzki*).

9. Subsequently, the court held hearings on 13 February and 7 May 1992.

10. On 20 July 1992 the trial court secured the applicant's maintenance claims. The applicant's husband appealed. On 23 November 1992 the Cracow Court of Appeal (*Sąd Apelacyjny*) dismissed his appeal.

11. The court held hearings on the following dates: 11 May, 22 June, 14 September 1993, 13 September and 4 November 1994.

12. On 12 April 1995 the trial court again secured the applicant's maintenance claims. The applicant's husband appealed. On 3 August 1995 the Cracow Court of Appeal dismissed his appeal.

13. Subsequently, the trial court held hearings on the following dates: 17 October 1995, 5 March, 11 June, 5 November 1996, 4 March and 26 June 1997.

14. On 8 July 1997 the court granted a divorce decree. The applicant appealed.

15. On 21 January 1998 the Cracow Court of Appeal dismissed the applicant's appeal.

16. On 5 February 1998 the applicant lodged a cassation appeal against the judgment. On 28 July 1999 the Supreme Court dismissed the appeal. The judgment was delivered to the applicant on 1 December 1999.

THE LAW

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

A. Admissibility

18. 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

19. 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 13,000 PLN to Ms Janina Górecka. 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.

In the event of failure to pay this sum within the said three-month 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.”

20. On 8 July 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 13,000 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.”

21. 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).

22. 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 23 September 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Nicolas BRATZA
President