



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

FOURTH SECTION

CASE OF KLEDZIK v. POLAND

(Application no. 75098/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

23 September 2003

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

In the case of Kledzik 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. 75098/01) 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, Ms Jadwiga Kledzik ("the applicant"), on 21 December 2000.

2. The applicant was represented by Mr Redelbach, a lawyer practising in Poznań, Poland. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the length of a set 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 and 20 June 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 1952 and lives in Piła, Poland.

8. On 28 September 1992 the applicant sued T.K and J.J. (“the defendants”) in the Poznań Regional Court (*Sąd Wojewódzki*), seeking a payment by bill of exchange.

9. On 10 March 1993 the trial court held the first hearing. Subsequently, the court held hearings on the following dates: 11 July 1994 and 14 February 1995.

10. In the meantime the applicant had complained to the President of the trial court about the length of the proceedings.

11. The court held hearings on the following dates: 16 November 1995, 20 June 1996, 3 February, 5 September and 16 October 1997.

12. On 29 October 1997 the court gave judgment. The defendants appealed.

13. On 21 April 1998 the Poznań Court of Appeal (*Sąd Apelacyjny*) dismissed the appeal.

14. On 22 October 1998 the applicant complained to the Minister of Justice about the slow conduct of the proceedings.

15. On 6 July 1998 the defendants lodged a cassation appeal against the judgment. In the meantime, the applicant had applied for enforcement of the judgment.

16. On 22 October 1998 the applicant complained to the President of the Poznań Regional Court about the delay in deciding her request for enforcement of the judgment.

17. On 28 April 1999 the Supreme Court gave judgment and remitted the case for re-examination.

18. On 19 August 1999 the Poznań Court of Appeal gave judgment and remitted the case for re-examination.

19. On 3 November 1999 the applicant requested the court to secure the claim.

20. On 25 January 2000 the applicant again complained to the Minister of Justice about the length of the proceedings.

21. On 17 February 2000 the Poznań Regional Court held a hearing.

22. On 28 April 2000 the court dismissed the applicant’s request to secure the claim. Subsequently, the trial court held hearings on the following dates: 1 June, 7 November 2000 and 9 January 2001.

23. It appears that the proceedings are still pending.

THE LAW

24. The applicant complained under Article 6 § 1 of the Convention about the unreasonable length of the proceedings. She further complained under Article 13 of the Convention that she had no domestic remedy to complain about the excessive length of the proceedings.

A. Admissibility

25. 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

26. 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 12,500 PLN to Ms Jadwiga Kledzik. 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.”

27. 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 12,500 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.”

28. 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).

29. 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