



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

FOURTH SECTION

CASE OF SZYMAŃSKI v. POLAND

(Application no. 75929/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

21 October 2003

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

In the case of Szymański v. Poland,

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

Sir Nicolas BRATZA, *President*,
Mrs V. STRÁŽNICKÁ,
Mr M. FISCHBACH,
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 30 September 2003,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 75929/01) 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, Mr Marian Szymański ("the applicant"), on 31 May 2001.

2. The Polish Government ("the Government") were represented by their Agent, Ms S. Jaczewska, 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 21 March 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 20 August 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 26 August 2003 and on 27 August 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 1926 and lives in Poznań.

7. The facts of the case, as submitted by the applicant, may be summarised as follows.

8. On 10 September 1985 the applicant lodged a compensation claim with the Poznań Regional Court, claiming PLZ (old Polish zlotys) 1,530,000 from the military hunting association "P." for unpaid salary. Later on, he extended his claim to PLZ 4,138,729.

9. The court held a hearing on 2 December 1985.

10. By a decision of 16 January 1986, the court stayed the proceedings at the applicant's request, having regard to the fact that criminal proceedings had been instituted against him. The civil proceedings were resumed on an unspecified date in 1987.

11. The court held hearings on 9 September 1987, 3 December 1987, 7 January 1988 and 21 January 1988.

12. On an unspecified date in 1991 the court ordered an expert opinion.

13. Another expert opinion was ordered by virtue of a decision of 14 January 1995.

14. In a letter of 8 December 1997 the applicant requested the court to adjourn the hearing scheduled on 16 December 1997 due to his bad health.

15. In 1997 the applicant requested the court to order a further expert opinion and he paid an advance fee for it in January 1998. Apparently, the court failed to order the relevant opinion.

16. By a decision of 9 March 1998 the court stayed the proceedings as the applicant was ill. The proceedings were resumed on an unspecified date in 2001.

17. The court held hearings on 24 April and 23 August 2001.

18. By virtue of a court settlement concluded on an unspecified date, on 14 December 2001 the applicant received a partial compensation from the military hunting association.

19. By a decision of 18 December 2001 the Poznań Regional Court terminated the proceedings as the applicant had withdrawn his claim.

THE LAW

A. Admissibility

20. 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

21. The applicant complained under Article 6 § 1 of the Convention that the compensation proceedings exceeded a reasonable time.

22. On 27 August 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 13,000 zlotys to Marian Szymański. 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 judgement by the Court pursuant to the Article 39 of the 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.”

23. On 26 August 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 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 judgement.”

24. 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).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* 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 21 October 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President