



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

FOURTH SECTION

CASE OF KRZYSZTOF PIENIAŻEK v. POLAND

(Application no. 57465/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

28 October 2003

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

In the case of Krzysztof Pieniążek 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 J. CASADEVALL,

Mr R. MARUSTE,

Mr L. GARLICKI,

Mrs E. FURA-SANDSTRÖM, *judges*,

and Mrs F. ELENS-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 7 October 2003,

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

PROCEDURE

1. The case originated in an application (no. 57465/00) 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 Krzysztof Pieniążek (“the applicant”), on 17 June 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 21 January 2003 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings 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 30 May 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 27 June 2003 the Government submitted a formal declaration accepting a friendly settlement of the case. The applicant's declaration was received on 29 August 2003.

THE FACTS

6. The applicant, Krzysztof Pieniążek, is a Polish national, who was born in 1960 and lives in Gdynia, Poland.

7. On 3 July 1989 the applicant and his wife obtained a divorce decree. On 14 July 1989 the applicant filed with the Elk District Court (*Sąd Rejonowy*) a petition for division of the matrimonial property. On 8 September 1989 the case was transferred to the Gdynia District Court.

8. On 14 April 1992 the court gave a preliminary decision (*postanowienie wstępne*). Before 1 May 1993 the court held nine hearings and heard evidence from several witnesses. The court also obtained evidence from two experts.

9. On 14 June and 28 June 1993 the court held hearings. On 5 July 1993 the Gdynia District Court delivered another preliminary decision. It was upheld on 6 October 1993 by the Gdańsk Regional Court.

10. On 21 July 1993, in reply to the applicant's complaint about the excessive length of the proceedings, the President of the Gdańsk Regional Court (*Sąd Wojewódzki*), informed him that the delay was caused by the process of obtaining evidence. The trial court held further hearings on 29 April, 20 May, 10 and 28 June 1994.

11. On 8 July 1994 the court ordered that expert evidence be obtained. Between 6 February and 15 December 1997 the court held eight hearings. In 1998 the trial court held six hearings.

12. On 12 October 1998 the Gdynia District Court gave a decision. It was served on the applicant on 19 March 1999. The applicant lodged an appeal against that decision on 1 April 1999. On 28 October 1999 the Gdańsk Regional Court granted the applicant a total exemption from the court fees due for lodging an appeal.

13. On 12 December 2000, 23 February and 29 March 2001 the Regional Court held hearings. On 12 April 2001 the Gdańsk Regional Court delivered a final decision. The applicant's subsequent cassation appeal against that decision was rejected as being inadmissible in law.

THE LAW

14. The applicant complained under Article 6 § 1 of the Convention that the proceedings in his case had exceeded a reasonable time.

A. Admissibility

15. 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

16. On 27 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 14,000 zlotys to Mr Krzysztof Pieniążek. 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.”

17. On 29 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 14,000 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 judgment.”

18. 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).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the remainder of 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 28 October 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELEN-PASSOS
Deputy Registrar

Nicolas BRATZA
President