



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

FOURTH SECTION

CASE OF CWYL v. POLAND

(Application no. 49920/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

9 December 2003

FINAL

09/03/2004

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

In the case of Cwyl 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. BORRERO BORRERO, *judges*,

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

Having deliberated in private on 18 November 2003,

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

PROCEDURE

1. The case originated in an application (no. 49920/99) 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 two Polish nationals, Józef Cwyl and Dariusz Cwyl ("the applicants"), on 25 January 1999.

2. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. The applicants complained, *inter alia*, under Article 6 § 1 of the Convention about the length of a set of civil proceedings.

4. By a decision of 24 June 2003 the Court declared the application admissible.

5. On 3 September 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 9 September and on 3 November 2003 the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicants were born in 1936 and 1958 respectively and live in Brwinów, Poland.

7. On 11 May 1989 the applicants filed with the Pruszków District Court (*Sąd Rejonowy*) an action in which they claimed the payment by an

enterprise Z.R.B. run by a local State authority of the agreed price for their transportation services.

8. On 5 November 1990 the court awarded them the amount claimed. The defendant's representative lodged an appeal.

9. On 27 March 1991 the Warsaw Regional Court (*Sąd Wojewódzki*) quashed the District Court's judgment and remitted the case for re-examination.

10. On 5 June 1991 the District Court summoned the Brwinów commune's board (*zarząd miasta i gminy*), the self-governmental successor of the local State authority that had run enterprise Z.R.B., to take part in the proceedings as the defendant.

11. On 2 August 1999 the court gave judgment. It awarded the applicants the amount claimed by them. They appealed.

12. On 7 April 2000 the Warsaw Regional Court dismissed their appeal.

THE LAW

13. On 3 November 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 PLN 25,000 to Mr Mr Józef Cwyl and Dariusz Cwyl. 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 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 16 September 2003 the Court had received the following declaration signed by the applicants:

“We note that the Government of Poland are prepared to pay us the sum of PLN 25,000 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.

We accept the proposal and waive any further claims against Poland in respect of the facts of this application. We 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 we have reached.

We 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 9 December 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELEN-PASSOS
Deputy Registrar

Nicolas BRATZA
President