



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

FOURTH SECTION

CASE OF MRÓZ v. POLAND

(Application no. 35192/97)

JUDGMENT
(Striking out)

STRASBOURG

9 December 2003

FINAL

04/03/2004

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Mróz 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 18 November 2003,

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

PROCEDURE

1. The case originated in an application (no. 35192/97) against the Republic of Poland lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Polish national, Mr Kazimierz Mróz (“the applicant”), on 3 January 1997.

2. 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 about the length of four sets of civil proceedings.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the Fourth Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

6. By a decision of 21 January 2003 the Court declared the application partly admissible.

THE FACTS

7. The applicant was born in 1943 and lives in Ostrów Wielkopolski, Poland.

1. Proceedings concerning payment order

8. On 21 August 1992 the applicant applied to the Poznań District Court (*Sąd Rejonowy*) for a payment order (*nakaz zapłaty*) against a certain Z.G. and his wife T.G.

9. On 3 November 1992 the Poznań District Court allowed the application and issued a payment order. Subsequently, the applicant obtained from the District Court a writ of execution (*klauzulę wykonalności*) necessary to start the enforcement of the payment order.

10. On 6 September 1993 the applicant requested the Bailiff of the Poznań District Court (*Komornik Rewiru V Sądu Rejonowego w Poznaniu*) to enforce the payment order.

11. Between 18 April and 13 June 1994 the enforcement proceedings were stayed by the Poznań Regional Court (*Sąd Wojewódzki*) at the request of Z.G.

12. On 23 September 1994 the bailiff announced an auction sale of a property owned by Z.G.

13. On 18 October 1994 the Poznań Regional Court again allowed a request submitted by Z.G. and stayed the enforcement proceedings. The applicant's appeal against that decision was dismissed by the Poznań Court of Appeal (*Sąd Apelacyjny*).

14. On an unspecified date in 1998 the enforcement proceedings were resumed. On 24 August 1998 the bailiff requested the applicant to pay a PLN 8,730 fee and PLN 1,000 for the valuation of a property belonging to Z.G.

15. On 1 September 1999 the bailiff stayed the enforcement proceedings because the applicant had not complied with the request of 24 August 1998.

16. On 14 December 1999, upon the applicant's appeal, the Poznań District Court upheld the impugned decision.

17. On 28 September 2001 the bailiff discontinued the enforcement proceedings.

2. Proceedings concerning annulment of writ of execution

18. On 13 January 1994 Z.G. filed with the Poznań Regional Court an application for annulment of the writ of execution obtained by the applicant in respect of the payment order issued on 3 November 1992 (see above).

19. On 18 April and 18 October 1994 the court applied interim measures and stayed enforcement proceedings against Z.G. based on the disputed writ of execution.

20. Subsequently, the court held hearings on 22 December 1994 and 25 January and 11 May 1995.

21. Between December 1995 and 10 March 1997 the court held seven hearings.

22. On 18 March 1997 the Poznań Regional Court gave judgment in which it annulled the writ of execution. The applicant appealed against it.

23. Two hearings scheduled in 1997 were adjourned. Subsequently, the court held hearings on 15 January and 11 March 1998.

24. On 8 April 1998 the court quashed the judgment of the first-instance court and dismissed the application for annulment of the writ of execution. The plaintiffs lodged with the Supreme Court (*Sąd Najwyższy*) a cassation appeal against that judgment.

25. On 5 January 2001 the Supreme Court quashed the contested judgment and remitted the case for re-examination.

26. On 8 May 2001 the Poznań Court of Appeal gave judgment.

27. It appears that the applicant did not lodge a cassation appeal against the judgment and it became final.

3. Proceedings for damages from a bank

28. On 4 December 1993 the applicant filed with the Ostrów Wielkopolski District Court an action in which he claimed from a certain bank damages for negligence in arranging a loan facility. The case was transmitted to the Kalisz Regional Court where it was registered under no. I C 480/93.

29. On 11 February 1994 the Kalisz Regional Court requested the applicant to specify his claim. On 11 February 1994 the applicant complied with this order.

30. On 13 May 1994, upon the applicant's request, the court exempted him from the court fees.

31. On 13 September 1994 the applicant filed with the Ostrów Wielkopolski District Court a request to issue an interim measure annulling the writ of execution obtained by the bank against him. On 16 February 1995 the court dismissed the applicant's request. The case was transmitted to the Kalisz Regional Court where it was registered under no. I C 428/94. Subsequently, the Kalisz Regional Court stayed the proceedings.

32. On 19 January 1995 the applicant filed with the Kalisz Regional Court an application to annul the writ of execution obtained by the bank.

33. On 10 March 1995 the court issued an interim measure by annulling the writ of execution. The bank appealed.

34. On 29 May 1995 the Łódź Court of Appeal dismissed the appeal.

35. On 7 June 1995 the Kalisz Regional Court held a hearing in the case no. I C 480/93. On the same day the court stayed the proceedings in this case.

36. On 17 September 1996 the Kalisz Regional Court resumed both sets of proceedings in the case. Subsequently, both cases were joined.

37. On 16 December 1996 the court stayed the proceedings. The applicant appealed.

38. On 7 December 1997 the Łódź Court of Appeal quashed the decision of 16 December 1996.

39. On 9 December 1997 the Kalisz Regional Court held hearing. On 19 December 1997 it gave judgment in which it rejected the applicant's claims. The applicant appealed against this decision.

40. On 16 March 1998 the Łódź Court of Appeal dismissed his appeal.

4. Proceedings for damages from R.P. and Tax Office

41. On 9 November 1995 the applicant lodged with the Ostrów Wielkopolski District Court an action in which he claimed from a certain R.P. and the Ostrów Wielkopolski Tax Office damages in the total amount of PLN 10,000.

42. On 9 February 1996 the court partially exempted the applicant from the court fees.

43. On 19 June 1996 and 10 April 1997 the Ostrów Wielkopolski District Court held hearings.

44. On 16 September 1997, upon the joint request of the parties, the court stayed the proceedings.

45. On 20 January 1999 the trial court held a hearing.

46. On 3 September 1999 the applicant challenged a judge. On 1 March 2000 the Ostrów Wielkopolski District Court dismissed it.

47. On 3 April 2000 the Ostrów Wielkopolski District Court resumed the proceedings.

48. On 21 July, 29 September and 18 October 2000 the trial court held hearings.

49. On 2 March 2001 the applicant extended his claim by requesting damages from five other persons. On 11 April 2001 the trial court rejected his extended claim as the applicant had not complied with the formal requirements for lodging such a claim.

50. It appears that the proceedings are pending.

THE LAW

51. The Court notes that the applicant has repeatedly failed to respond to its letters addressed to him on 29 January, 17 June and 12 August 2003.

52. Two registered letters sent to the applicant on 17 June and 12 August 2003 reminded him that, pursuant to Article 37 § 1 (a) of the Convention, the Court might at any stage of the proceedings decide to strike the case out of its list of cases if the circumstances of the case indicated that the applicant did not intend to pursue his application.

53. Having regard to the applicant's failure to communicate with the Court, the Court concludes that the applicant does not intend to pursue his application. The Court, bearing in mind the existence of a number of cases against Poland pending before it which raise similar issues to those considered in the present case, considers that respect for human rights as defined in the Convention and the protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine* of the Convention).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

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