



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

FOURTH SECTION

CASE OF CEZARY SOBCZUK v. POLAND

(Application no. 51799/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

25 May 2004

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

In the case of Sobczuk v. Poland,

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

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSKI,
Mr L. GARLICKI,
Mr J. BORRERO BORRERO, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,
Having deliberated in private on 4 May 2004,
Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 51799/99) 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 a Polish national, Mr Cezary Sobczuk ("the applicant"), on 12 February 1999.

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

3. The applicant complained under Article 6 § 1 of the Convention about the length of a set of criminal proceedings against him and under Article 5 § 3 of the Convention about the length of his detention on remand.

4. On 23 September 2003, after obtaining the parties' observations, the application was declared admissible.

5. On 24 February 2004, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement. On 9 March 2004 and on 19 March 2004 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1970 and lives in Biala Podlaska.

7. On 21 April 1993 the applicant was taken into custody on suspicion of forgery.

8. On 19 August 1993 he was released on bail.

9. On 31 December 1993 the bill of indictment was submitted to the Lublin Regional Court (*sąd wojewódzki*).

10. The court held hearings on 19 August and 6 September 1994. The applicant did not attend them.

11. On 6 September 1994 the court ordered the detention on remand of the applicant. It made a reference to his hiding and obstructing the proceedings. The court adjourned the examination of the case. In October and November 1994 the police searched for the applicant.

12. On 15 November 1995 the court stayed the proceedings due to the absence of the applicant. On 26 October 1995 it resumed the examination of the case in so far as it concerned the other accused persons.

13. On 16 January 1995 the applicant was apprehended in Belarus. On 1 June 1995 a Belarusian court convicted him of theft and sentenced him to four years' imprisonment in a labour camp.

14. On 9 January 1996 the Belarusian authorities handed over the applicant to the Polish authorities and it was agreed that he would serve the remaining part of his sentence in Poland.

15. On 17 January 1996 the Lublin Regional Court resumed the proceedings against the applicant and scheduled a hearing for 15 February 1996. However, the hearing was adjourned on the grounds of the sickness of one of his co-accused.

16. On 13 February 1996 the court ordered the applicant's psychiatric examination, considering that his experiences in Belarus could have affected his mental health.

17. On 28 October 1996 the Warsaw Regional Court ordered the execution of the remaining part of the sentence ordered by the Belarusian court in a Polish prison.

18. On 4 April 1997 the Lublin Regional Court held a hearing. On 22 April 1997 it adjourned the examination of charges against another accused person, S.M., to a separate set of proceedings.

19. On 29 April 1997 the applicant lodged a request for release. On 6 May 1997 the court refused that request, pointing out that since 1994 the proceedings could not be conducted because of the applicant's failure to attend hearings and his commission of an offence abroad.

20. On 10 June 1997, in a decision refusing another such request, the court observed that since 9 January 1996 the applicant had not been detained on remand, but had been serving the sentence of the Belarusian court.

21. The hearing scheduled for 4 June 1997 was adjourned. It was held on 25 August 1997.

22. On 11 September 1997 the court refused the applicant's further request for release. It referred to the severity of the punishment faced by him and the necessity to ensure the proper conduct of the proceedings.

23. On 6 October and 13 November 1997 the court held hearings.

24. On 17 January 1998 the applicant finished serving the sentence imposed in Belarus.

25. On 27 January 1998 the court decided to continue his detention until 30 June 1998. It relied on the severity of the punishment faced by the applicant and the necessity to ensure the proper conduct of the proceedings. The court made reference to the instances of obstructing the proceedings by the applicant.

26. On 18 February 1998 it held a hearing, at which it ordered the examination of a witness by another court.

27. On 23 June 1998 the court refused the applicant's request for release and prolonged his detention until 31 October 1998. It invoked the grounds on which it had relied in the decision of 27 January 1998.

28. On 14 July 1998 the court refused another such request. It made a reference to the previous decisions concerning the detention and the grounds therefore. The court pointed out that there were no guarantees that the applicant would not obstruct the proceedings, if released.

29. On 30 October 1998 it prolonged the applicant's detention until 30 January 1999. The court considered that the evidence collected in the course of the proceedings showed that the charges laid against the applicant were sufficiently justified and that the necessity to ensure the proper course of the proceedings called for further detention.

30. On 11 December 1998, in reply to the applicant's complaints, the President of the Regional Court pointed out that the prolongation of the proceedings was caused by the amount of evidence contained in the case file and the fact that a certain witness had to be heard by a different court.

31. The hearing scheduled for 6 January 1999 was adjourned because of the sickness of one of the co-accused.

32. On 12 January 1999 the court prolonged the applicant's detention on remand until 31 March 1999. It noted that the hearing scheduled for January 1999 had had to be adjourned and that the proceedings could last beyond the date mentioned in the decision of 30 October 1998. The court ordered, at the applicant's request, his medical examination. It further requested the preparation of a report on the situation of the applicant's family. The report was submitted on 2 February 1999.

33. On 4 February 1999 the court refused another request for release, based on the applicant's state of health and the alleged necessity to take care of his father. It observed that the applicant was under constant psychiatric care and his father was being looked after by the applicant's mother.

34. The hearing scheduled for 3 March 1999 was adjourned due to the sickness of one of the co-accused.

35. On 31 March 1999 the court held a hearing. It ordered the applicant's release and his supervision by the police.

36. The court held further hearings on 5 and 27 May 1999.

37. On 31 August it refused the applicant's petition to have his passport returned.

38. The court held hearings on 5 April and 9 August, as well as on 3, 6 and 9 November 2000. On 15 November 2000 it gave judgment. The court convicted the applicant of several counts of forgery and the purchase of a stolen car. It sentenced him to two years' imprisonment suspended for three years and imposed a fine. The judgment concerned also 5 other accused persons.

39. One of the co-accused and the prosecutor lodged appeals against the judgment.

40. The first hearing scheduled by the appellate court did not take place because of a mistake made during the dispatch of summonses.

41. The hearing scheduled for 11 September 2001 was adjourned because of the absence of one of the accused's counsel.

42. On 27 November 2001 the Lublin Court of Appeal (*sąd apelacyjny*) gave judgment. It amended certain parts of the first-instance court's judgment.

THE LAW

43. On 9 March 2004 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 PLN 15,000¹ 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."

44. On 19 March 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 15,000 to Cezary Sobczuk. 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

¹ The equivalent of approximately 3 180 euros

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”

45. 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).

46. 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 25 May 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Nicolas BRATZA
President