CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

CASE OF GUZICKA v. POLAND

(Application no. 55383/00)

JUDGMENT

STRASBOURG

13 July 2004

FINAL

13/10/2004

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 Guzicka v. Poland,

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

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mr J. CASADEVALL,
Mr R. MARUSTE,
Mr L. GARLICKI,
Mr S. PAVLOVSCHI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 22 June 2004,

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

PROCEDURE

1. The case originated in an application (no. 55383/00) 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, Ms Leokadia Guzicka ("the applicant"), on 24 May 1999.

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

3. On 17 December 2002 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.

THE FACTS

4. The applicant, Leokadia Guzicka, is a Polish national, who was born in 1949 and lives in Kąty Wrocławskie, Poland.

5. On 19 April 1994 the applicant brought a claim against her former employer, the "Perspektywa" Co-operative, to the Opole District Court (*Sąd Rejonowy*). She sought the annulment of the Co-operative Board's resolution depriving her of her membership of the co-operative, and reinstatement.

6. On 26 February 1997 the District Court found that it was not competent to deal with the claim and referred the case to the Opole Regional Court (*Sąd Wojewódzki*).

7. On 22 June 1998, following the applicant's complaint, the District Court sent the case-file to the Regional Court.

8. The first hearing was set down for 18 September 1998.

9. On 23 October, 23 November and 21 December 1998 the court held hearings.

10. On 29 January 1999 the court allowed the applicant's claim.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

11. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

12. The Government contested that argument.

13. The period to be taken into consideration began on 19 April 1994 and ended on 29 January 1999. It thus lasted 4 years and 9 months.

A. Admissibility

1. The Government's plea of inadmissibility on the ground of incompatibility ratione personae

14. The Government maintained that the applicant was no longer a "victim" of violation of Article 6 § 1 within the meaning of Article 34 of the Convention, since her claim had been allowed by the first-instance court. Accordingly, she had already obtained adequate redress for any disadvantages she had suffered because of the allegedly lengthy proceedings.

15. The applicant did not comment on this point.

2. The Court's assessment

16. The Court notes that the applicant's complaint concerned merely the length of the proceedings. She did not challenge their result. Thus, the fact that the applicant's claims were granted in their entirety has no bearing on the issue of the excessive length of proceedings in her case. A judgment favourable to the applicant is not sufficient to deprive her of her status as a "victim" under Article 34 of the Convention unless the national authorities

have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see *Brumărescu v. Romania* [GC], no. 28342/95, § 50, ECHR 1999-VII).

Accordingly, the Government's plea must be dismissed.

17. As to the substance of the complaint, the Court considers 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. It must therefore be declared admissible.

B. Merits

1. The applicant's submissions

18. The applicant submitted that on account of excessive length of the proceedings, she had remained unemployed for 4 years and 9 months and had suffered economical loss.

19. She maintained that she had not contributed to the length of the proceedings. She further submitted that the courts had failed to handle her case with due diligence. In that context, she pointed out that the District Court had remained inactive for 4 years and 2 months and had failed to refer her case to the competent court.

20. The applicant concluded that there had been a violation of Article 6 § 1.

2. The Government's submissions

21. The Government submitted that the case was not particularly complex.

22. They maintained that the domestic authorities showed due diligence in examining the case. They pointed out that there had been only one significant period of inactivity at the initial stage of the proceedings.

23. The Government further argued that it was the applicant who had significantly contributed to the length of the proceedings. She had lodged her claim with the court which had not had jurisdiction to examine her case. They also submitted that the applicant had not made any attempt to accelerate the proceedings.

24. Lastly, the Government maintained that in the instant case no special diligence was required of the Polish authorities and that the length of the proceedings had not affected the applicant's rights to a significant degree.

25. They invited the Court to find that there had been no violation of Article 6 § 1.

3. The Court's assessment

26. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII and *Humen v. Poland* [GC], no. 26614/95, 15 October 1999, § 60).

27. The Court considers that the case was not particularly difficult to determine.

28. As regards the applicant's conduct, the Court does not share the Government's view that she had significantly contributed to the prolongation of the trial. The mere fact that she had lodged her claim with the wrong court cannot justify the delay in the proceedings, especially as the authorities shortly established that mistake and nothing prevented them from referring the applicant's case to the competent court.

29. As regards the conduct of the authorities, the Court notes that there were two significant periods of total inactivity on the part of the District Court, amounting to 4 years and 2 months. The first period occurred between 19 April 1994 and 26 February 1997, and the second between 26 February 1997 and 22 June 1998. The Court considers that these delays are not explained satisfactorily in the Government's observations.

30. Moreover, the Court considers that what was at stake for the applicant in the proceedings in question was of crucial importance to her, taking into consideration that she sought reinstatement. The Court reiterates that an employee who considers that he or she has been wrongly suspended or dismissed by his employer has an important personal interest in securing a judicial decision on the lawfulness of that measure promptly, since employment disputes by their nature call for expeditious decision, in view of what is at stake for the person concerned, who through dismissal loses his means of subsistence (see, among other authorities, the Obermeier v. Austria judgment of 28 June 1990, Series A no. 179, pp. 23-24, § 72, and the Caleffi v. Italy judgment of 24 May 1991, Series A no. 206-B, p. 20, § 17). The Court cannot therefore accept the Government's view that special diligence was not necessary in the present case.

31. Consequently, the Court holds that the applicant's case was not heard within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

33. The applicant claimed 20,000 Polish zlotys (PLN) in respect of pecuniary and non-pecuniary damage.

34. The Government submitted that the applicant's claims were excessive.

35. The Court does not find any causal link between the violation found and the pecuniary damage alleged. It therefore sees no reason to make any award under the head of pecuniary damage. However, it considers that the applicant certainly suffered non-pecuniary damage, such as distress and frustration resulting from the excessive length of the proceedings. Accordingly, taking into account the circumstances of the case and making its assessment on an equitable basis, the Court awards the applicant 3500 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

36. The applicant did not seek to be reimbursed for any costs and expenses in connection with the proceedings before the Court.

C. Default interest

37. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 3,500 (three thousand five hundred euros) in respect of non-pecuniary damage plus any tax that may be chargeable to be converted into the national currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 13 July 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President