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

FOURTH SECTION

CASE OF KOBLAŃSKI v. POLAND

(Application no. 59445/00)

JUDGMENT

STRASBOURG

28 September 2004

FINAL

28/12/2004

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 Koblański 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 J. CASADEVALL,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI, *judges*,
and Mrs F. ELENS-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 7 September 2004,

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

PROCEDURE

1. The case originated in an application (no. 59445/00) 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 Stanisław Koblański ("the applicant"), on 29 November 1999.

2. The Polish Government ("the Government") were represented by their Agents, Mr K. Drzewicki and, subsequently, Ms S. Jaczewska and Mr J. Wołąsiewicz, of the Ministry of Foreign Affairs.

3. On 17 December 2002 the Court 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.

THE FACTS

4. The applicant was born in 1950 and lives in Wrocław, Poland.

1. Criminal proceedings against the applicant

5. On 30 May 1994 the Puławy District Prosecutor (*Prokurator Rejonowy*) detained the applicant on remand on suspicion of his having committed fraud.

6. The Puławy District Court (*Sąd Rejonowy*) upheld that decision on 10 June 1994.

7. Subsequently the applicant's detention was prolonged several times. He unsuccessfully appealed against those decisions.

8. On 3 January 1995 the Puławy District Court convicted the applicant of fraud.

9. On 28 April 1995 the Lublin Regional Court (*Sąd Wojewódzki*) quashed that judgment and remitted the case.

10. The applicant remained in detention throughout the subsequent proceedings.

11. On 1 September 1995 the Puławy District Court upheld its original judgment.

12. Following the applicant's further appeals, that conviction was eventually quashed by the Supreme Court (*Sąd Najwyższy*) on 25 April 1996.

2. Proceedings for compensation for wrongful conviction and unjustified detention

13. On 7 April 1997 the applicant filed an application for compensation for wrongful conviction and unjustified detention with the Lublin Regional Court.

14. On 16 February 1999 the Lublin Court of Appeal (*Sąd Apelacyjny*) referred the case to the Warsaw Regional Court.

15. The applicant repeatedly asked both courts to fix a date for a hearing. On March 2000 the Warsaw Regional Court informed the applicant that, due to the heavy case-load and a shortage of staff in the court, it was not possible to accelerate the proceedings.

16. The first hearing on the merits was held on 2 December 2002. The court then adjourned the proceedings *sine die*.

17. On 23 June 2003 the court held a hearing.

18. The proceedings are pending.

THE LAW

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

19. 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..."

20. The Government contested that argument.

21. The period to be taken into consideration began on 7 April 1997. At the date of the adoption of the present judgment, the proceedings are still pending. They have so far lasted 7 years and 3 months.

A. Admissibility

1. Article 6 § 1

22. The Court notes that the complaint under Article 6 § 1 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.

2. Article 5 § 1

23. The applicant complained under Article 5 § 1 of the Convention that his detention was not "lawful", as required under that provision.

Article 5 § 1, in its relevant part, reads:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;..."

24. However, pursuant to Article 35 § 1 of the Convention:

> "The Court may only deal with the matter ... within a period of six months from the date on which the final decision was taken."

25. The Court notes that the applicant's pre-trial detention lasted from 30 May 1994 to 3 January 1995 (when he was convicted for the first time) and from 28 April 1995 (when the first-instance judgment was quashed) to his second conviction on 1 September 1995. It considers that the six-month time-limit set down by Article 35 § 1 of the Convention began to run on that last date, being the end of the situation of which the applicant complains. However, the complaint was introduced on 29 November 1999, outside the term referred to in Article 35 § 1 of the Convention.

26. It follows that this part of the application is inadmissible for failure to respect the six-month rule referred to in Article 35 § 1 of the Convention and must be rejected pursuant to Article 35 § 4.

3. Article 5 § 5

27. The applicant further complained that he had been denied his right to compensation under Article 5 § 5 of the Convention, which reads as follows:

> "Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

28. However, the Court notes that the relevant proceedings are still pending before the Warsaw Regional Court and that, therefore, this complaint is premature.

29. It follows that this part of the application is inadmissible for non-exhaustion of domestic remedies within the meaning of Article 35 § 1 of the Convention and must be rejected pursuant to Article 35 § 4.

B. Merits

1. The applicant's submissions

30. The applicant maintained that he had not contributed to the prolongation of the trial and had taken all possible steps to accelerate it.

31. As to the conduct of the domestic authorities, he submitted that they had not shown due diligence when dealing with his case and that they had been fully responsible for the slow conduct of the proceedings.

32. The applicant stressed that the trial was of crucial importance to him as it was meant to compensate him for his suffering and loss of health and good reputation caused by his unjustified detention and conviction.

2. The Government's submissions

33. The Government considered that, in principle, cases concerning compensation for wrongful conviction were very complex. However, they maintained that they could not assess the complexity of the applicant's case, since the proceedings had been at a very early stage.

34. With respect to the applicant's conduct, the Government acknowledged that he had not contributed to the prolongation of the proceedings.

35. As regards the conduct of the domestic authorities the Government maintained that they had showed due diligence. They reiterated the arguments adduced by them in previous cases raising issues similar to the one in the present case (see *Kurzac v. Poland*, no. 31382/96, §§ 25-28 22 February 2001; *Hałka and Others v. Poland*, no. 71891/01, §§ 29-31, 2 July 2002). The Government submitted that the delays in the proceedings had been caused solely by organisational problems in both courts. They had

been overburdened with claims for compensation lodged under the Law of 23 February 1991 on the annulment of convictions whereby persons were persecuted for their activities aimed at achieving independence for Poland. The courts, facing an ever increasing workload, had decided to give priority to this category of applications, especially those lodged by living victims of repression. The Government submitted that the applicant's case did not belong to this group and its examination had had to be postponed. Moreover, the Government asserted that the authorities had taken steps to remedy the situation, increasing the number of judicial and administrative posts. These measures had resulted in a reduction of the backlog.

36. Referring to what was at stake for the applicant, the Government expressed opinion that the prolongation of the proceedings had not significantly affected his rights.

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

3. The Court's assessment

38. 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).

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

40. As regards the applicant's conduct, the Court finds that he did not contribute to the prolongation of the trial.

41. As regards the conduct of the authorities, the Court notes that there were two significant periods when the applicant case lay dormant, which amounted to over 5 years and 7 months. The first period occurred in the proceedings before the Lublin Regional Court, between 7 April 1997 and 16 February 1999, and the second between 16 February 1999 and 2 December 2002, after the case had been referred to the Warsaw Regional Court. The Court accepts the Government's argument that both courts had to deal with the increased workload and that the authorities had taken certain steps to remedy the situation. It recalls that it has recognised those factors in its previous cases in which the Government relied on similar arguments (see *Kurzac v. Poland*, cited above, §§ 33-34; *Hałka and Others v. Poland*, cited above, §§ 36-37). The Court considers, however, that the remedial measures applied by the authorities were ineffective and that they did not accelerate the proceedings in the applicant's case. It reiterates that it is for the Contracting States to organise their legal systems in such a way that their

courts can guarantee to everyone the right to a final decision within a reasonable time in the determination of his civil rights and obligations (see, among other authorities, *Frydlender v. France*, cited above, § 45). The Court observes, therefore, that the Government have not supplied any convincing explanation for the overall length of the trial. It considers that the remedial action relied on by the Government cannot exonerate the authorities from their responsibility for the total delay in the proceedings.

42. Furthermore, the Court considers that what was at stake for the applicant in the proceedings in question was of significant importance to him, since they related to compensation for his wrongful conviction and unjustified detention. The Court cannot therefore accept the Government's view that special diligence was not necessary in the present case.

43. 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

44. 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

45. The applicant claimed 690,000 Polish zlotys (PLN) in respect of both pecuniary and non-pecuniary damage.

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

47. 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 5,000 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

48. The applicants did not seek to be reimbursed for any costs or expenses in connection with the proceedings before the Court.

C. Default interest

49. 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 complaint concerning the length of the proceedings admissible and the remainder of the application inadmissible;

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 5,000 (five thousand 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 28 September 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELENS-PASSOS
Deputy Registrar

Nicolas BRATZA
President