



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

FOURTH SECTION

CASE OF MAJEWSKI AND OTHERS v. POLAND

(Application no. 64204/01)

JUDGMENT

STRASBOURG

8 November 2005

FINAL

08/02/2006

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 *Majewski and Others v. Poland*,

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr G. BONELLO,

Mr R. MARUSTE,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI,

Mr J. BORREGO BORREGO, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 11 October 2005,

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

PROCEDURE

1. The case originated in an application (no. 64204/01) 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 Polish nationals, Mr Włodzimierz Majewski ("the first applicant"), Mr Włodzimierz Strzelczyk ("the second applicant") and Mr Kazimierz Gniłka ("the third applicant"), on 15 September 2000

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

3. On 16 June 2003 the Court decided to communicate the application. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The first and the third applicants were born in 1946 and 1959 respectively, they both live in Bełchatów. The second applicant was born in 1952 and lives in Szczerców.

5. On 17 March 1989 the applicants filed with the Piotrków Trybunalski Regional Court (*Sąd Wojewódzki*) an action for payment against the Bełchatow Coal Mine in Rogowiec. On 17 November 1989 the Piotrków

Trybunalski Regional Court gave judgment. Both parties to the proceedings appealed.

6. On 7 March 1991 the Supreme Court (*Sąd Najwyższy*) quashed the contested judgment and remitted the case.

7. On 7 June 1993 an expert submitted his opinion to the court. The court held hearings on the following dates: 16 September 1993, 28 June 1994 and 28 July 1994.

8. On 11 August 1994 the Piotrków Trybunalski Regional Court gave judgment. Both parties to the proceedings appealed.

9. On 24 March 1995 the Łódź Court of Appeal quashed the contested judgment and referred the case to the lower instance for reconsideration.

10. On 22 February, 26 September, 5 November, 10 December 1996 and 3 June 1997 the Regional Court held hearings.

11. On 11 June 1997 the Piotrków Trybunalski Regional Court gave judgment. The applicants appealed.

12. On 17 December 1997 the Łódź Court of Appeal (*Sąd Apelacyjny*) amended the contested judgment and ordered the company B to pay a higher amount of compensation to the applicants. On 11 February 1999 the applicants lodged a cassation appeal against this judgment with the Supreme Court.

13. On 2 September 1999 the Supreme Court dismissed the applicants' cassation appeal as unsubstantiated. On 16 March 2000 the Supreme Court, at the defendant's lawyer's request, amended the judgment of 2 September 1999 and ordered the applicants to pay the cassation fees. The decision was served on the applicants on 20 March 2000.

THE LAW

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

14. The applicants 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..."

15. The Government contested that argument.

16. The period to be taken into consideration began only on 1 May 1993, when the recognition by Poland of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The Court notes that the proceedings were initiated on 17 March 1989 and

ended on 16 March 2000. They thus lasted 10 years, 11 months, 30 days of which 6 years, 10 months and 15 days falls within the Court's jurisdiction *ratione temporis*.

A. Admissibility

17. The Court notes 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

18. The applicants maintained that the case had not been complex. In conclusion they submitted that there had been a violation of Article 6 § 1.

19. The Government argued that the case had been complex. The authorities had shown due diligence in the proceedings. According to the Government, the applicants had contributed to the prolongation of the proceedings as they had appealed against the Regional Court's judgments.

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

20. 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 following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

21. The Court finds no reason to conclude that the applicants' exercise of their procedural rights was unreasonable or amounted to dilatory conduct. It is not, therefore persuaded by the Government's arguments that the applicants had substantially contributed to the length of the proceeding

22. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

23. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

24. There has accordingly been a breach of Article 6 § 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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

26. The applicants claimed 15 000 euros (EUR) in respect of non-pecuniary damage.

27. The Government contested the claim.

28. The Court considers that the applicants must have sustained non-pecuniary damage such as frustration and distress resulting from the protracted length of the proceedings. Ruling on an equitable basis, it awards each of the applicants EUR 3,000 under that head.

B. Costs and expenses

The applicants did not seek to be reimbursed under this head.

C. Default interest

29. 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 each of the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, to be converted into Polish zlotys at a rate applicable at the date of the settlement plus any tax that may be chargeable;

(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* unanimously the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 8 November 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President