



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

FOURTH SECTION

CASE OF DZIERŻANOWSKI v. POLAND

(Application no. 2983/02)

JUDGMENT

STRASBOURG

27 June 2006

FINAL

27/09/2006

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 Dzierżanowski 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 K. TRAJA,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Ms L. MIJOVIĆ, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 8 June 2006,

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

PROCEDURE

1. The case originated in an application (no. 2983/02) 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 Bogdan Dzierżanowski (“the applicant”), on 19 December 2001.

2. The Polish Government (“the Government”) were represented by their Agent, Mr J. Wołosiewicz of the Ministry of Foreign Affairs

3. On 24 August 2005 the President of the Fourth Section decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

4. The applicant was born in 1966 and lives in Białystok, Poland.

5. On 22 December 1992 the applicant was involved in a car accident as a result of which one person died. Subsequently, the prosecution service opened an investigation in the case.

6. On 31 March 1993 the prosecution service discontinued the investigation. Subsequently, an auxiliary prosecutor appealed and the investigation was resumed.

7. On 25 June 1993 the applicant was charged with manslaughter. It appears that the applicant had by then left the country and was not notified of the decision.

8. On 30 June 1993 the applicant was indicted before the Białystok District Court.

9. On 11 February 1994 the trial court decided to stay the proceedings on the grounds that the applicant's address could not be established as he had left the country.

10. On 29 March 1996 the District Court issued an arrest warrant against the applicant. On 2 July 1996 the applicant was arrested by the police while crossing the Polish border.

11. On 8 August 1996 the trial court resumed the proceedings and held a hearing. Subsequently, the District Court held hearings on 19 September and 10 December 1996 and 11 February and 25 June 1997.

12. In 1998 the court held hearings on 18 February, 19 April, 1 September and 8 October.

13. On 12 October 1998 the Białystok District Court gave judgment. The trial court acquitted the applicant.

14. On 16 February 1999 the Białystok Regional Court (*Sąd Okręgowy*) examined the appeal lodged by the auxiliary prosecutor. The appellate court quashed the judgment and remitted the case.

15. On 26 November 1999 the Białystok District Court held a hearing. In 2000 the trial court held one hearing on 28 January and ordered that an expert opinion be prepared.

16. On 10 May 2001 the next hearing was held. At the hearing on 8 June 2001 the applicant pleaded guilty. On the same day the Białystok District Court found the applicant guilty and sentenced him to a suspended prison sentence. The judgment is final.

THE LAW

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

17. 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 ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

18. The Government contested that argument.

19. The period to be taken into consideration began on 25 June 1993 and ended on 8 June 2001. It thus lasted almost 8 years for two levels of jurisdiction.

A. Admissibility

20. 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

21. 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 applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II and *Humen v. Poland* [GC], no. 26614/95, § 60, 15 October 1999).

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 *Pélissier and Sassi*, 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.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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

25. The applicant did not claim any particular sum in respect of non-pecuniary damage. He asked the Court to award him just satisfaction in the amount it considered adequate, given the detriment suffered by him and his family on account of the unreasonable length of the proceedings.

26. The Government asked the Court to rule that finding a violation would constitute in itself just satisfaction.

27. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him 3,000 euros (EUR) under that head.

B. Costs and expenses

28. The applicant also claimed PLN 13,200 for the costs and expenses incurred before the domestic courts.

29. The Government contested the claim.

30. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses incurred in the domestic proceedings.

C. Default interest

31. 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 in accordance with Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable, to be converted into Polish zlotys 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 27 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Nicolas BRATZA
President