



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

FOURTH SECTION

CASE OF TROJAŃCZYK v. POLAND

(Application no. 11219/02)

JUDGMENT
(revision)

STRASBOURG

28 April 2009

FINAL

28/07/2009

This judgment may be subject to editorial revision.

In the case of Trojańczyk v. Poland (request for revision of the judgment of 9 January 2007),

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

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä,

Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 7 April 2009,

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

PROCEDURE

1. The case originated in an application (no. 11219/02) against the Republic of Poland lodged with the Court on 16 July 2001 under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Ms B. Trojańczyk, the applicant.

2. In a judgment delivered on 9 January 2007, the Court held that there had been a violation of Article 6 § 1 of the Convention on account of the excessive length of the proceedings in the applicant’s case. The Court also decided to award the applicant 5,400 euros (EUR) for non-pecuniary damage and dismissed the remainder of the claims for just satisfaction.

3. On 1 August 2007 the Government informed the Court that they had learned that the applicant had died on 7 November 2006. They accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

4. On 4 November 2008 the Court considered the request for revision and decided to give the applicant’s representative three weeks in which to submit any observations.

THE LAW

THE REQUEST FOR REVISION

5. The Government requested revision of the judgment of 9 January 2007, which it had been unable to execute because the applicant had died before the judgment had been adopted. Mr Michał Trojańczyk and Mr Maciej Trojańczyk are heirs, as certified by the decision of the Warsaw District Court of 1 October 2007.

6. The Court considers that the judgment of 9 January 2007 should be revised pursuant to Rule 80 of the Rules of Court, the relevant parts of which provide:

“A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment.

...”

7. Having regard to the short period of time elapsed between the Court’s judgment in the case and the death of the applicant (see paragraphs 2 and 3 above) and to its established case law (see, among other authorities, *Armando Grasso v. Italy* (revision), no. 48411/99, § 5-7, 29 April 2003), the Court decides to award the heirs jointly the amounts it previously awarded to the deceased applicant, namely EUR 5,400 for non-pecuniary damage.

8. 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

Decides to revise the judgment of 9 January 2007;

accordingly,

Holds

(a) that the respondent State is to pay jointly to the heirs of Mrs B. Trojańczyk, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,400 (five thousand four hundred euros) in respect of non-pecuniary damage, to be converted into Polish zlotys at the rate applicable at the date of 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.

Done in English, and notified in writing on 28 April 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President