



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF MATOŃ v. POLAND

(Application no. 30279/07)

JUDGMENT

STRASBOURG

9 June 2009

FINAL

09/09/2009

This judgment may be subject to editorial revision.

In the case of Matoń v. Poland,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Giovanni Bonello,

Ljiljana Mijović,

Päivi Hirvelä,

Ledi Bianku,

Nebojša Vučinić, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 19 May 2009,

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

PROCEDURE

1. The case originated in an application (no. 30279/07) 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 Adam Matoń (“the applicant”), on 4 July 2007.

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

3. On 23 June 2008 the President of the Fourth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS**I THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1950 and lives in Kraków.

1. Criminal proceedings against the applicant

5. On 19 June 2000 the Katowice District Prosecutor issued a bill of indictment against the applicant on charges of drug trafficking, unlawful possession of firearms and membership of an organised criminal gang. There were 36 accused and 147 witnesses in the case.

6. On 20 February 2001 the Katowice District Court held a first hearing in the case. From that date to 30 March 2004 the court scheduled two hundred hearings in the case. During that period of time the court held one hundred thirty and two hearings.

7. On 13 February 2008 the Katowice District Court gave judgment in the case convicting the applicant. The applicant appealed.

8. The proceedings are currently pending before the Katowice Regional Court.

2. Proceedings under the 2004 Act

9. On 31 May 2005 the applicant lodged a complaint with the Katowice Court of Appeal under the Act of 17 June 2004 on complaints about a breach of the right to a trial within a reasonable time (*Ustawa o skardze na naruszenie prawa strony do rozpoznania sprawy w postępowaniu sądowym bez nieuzasadnionej zwłoki*) (“the 2004 Act”). He also claimed just satisfaction in the amount of PLN 10,000.

10. On 20 July 2005 the Katowice Court of Appeal dismissed the length complaint. Although the court found that the proceedings had lasted a very long time, it concluded that this had not amounted to an “excessive length” as defined by the 2004 Act. The Court of Appeal pointed out that the court had scheduled 58 hearings in 2001, 66 in 2002, 73 in 2003, 64 in 2004 and 85 in 2005. However, several hearings had had to be postponed because defence lawyers, co-accused and witnesses were absent and assessors and judges were ill.

11. On 19 October 2006 the applicant lodged another complaint with the Katowice Court of Appeal.

12. On 31 January 2007 the Katowice Court of Appeal again dismissed the length complaint. The court found that the proceedings had been handled properly and the delays had been attributable to other persons and unexpected circumstances rather than to the court. The Court of Appeal pointed out that since July 2005 the court had held over 30 hearings and over 30 hearings had had to be postponed because defence lawyers and experts had been absent, assessors, a judge and certain co-accused had been ill, renovation works had been carried out in the hearing room and there had been a shortage of police officers to convey the accused to the court. The Court of Appeal acknowledged that the proceedings were of a complex character and noted that the court had taken many appropriate steps in order to speed them up.

II. RELEVANT DOMESTIC LAW AND PRACTICE

13. The relevant domestic law and practice concerning remedies for the excessive length of judicial proceedings, in particular the applicable provisions of the 2004 Act, are stated in the Court’s decisions in the cases of

Charzyński v. Poland no. 15212/03 (dec.), §§ 12-23, ECHR 2005-V and *Ratajczyk v. Poland* no. 11215/02 (dec.), ECHR 2005-VIII and the judgment in the case of *Krasuski v. Poland*, no. 61444/00, §§ 34-46, ECHR 2005-V.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF THE UNREASONABLE LENGTH OF THE PROCEEDINGS

14. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, laid down 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 on 19 June 2000 and has not yet ended. It has thus lasted eight years and eight months at two levels of jurisdiction.

A. Admissibility

17. The Court notes that this complaint 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 parties’ submissions*

18. The Government underlined that the case had been extremely complex. It had concerned an organised criminal group and 56 charges brought against 36 defendants. In 2008 the case-file comprised 187 volumes. They relied on the volume of evidence obtained by the prosecuting authorities and on the difficulties in conducting the investigation, given the considerable number of defendants, as well as the serious nature of the offences committed by the criminal gang.

19. The Government submitted that the conduct of the proceedings had been hindered by the excessive exercise of procedural rights by the defendants and their defence counsel. They had lodged numerous applications and appealed against almost every decision. The trial court had been required to examine all those applications and the prolongation of the proceedings had thus been inevitable.

20. As regards the conduct of the authorities, the Government maintained that they had shown special diligence in the case. The trial court had held hearings at regular intervals, even up to nine hearings every month, five hearings per month on average. Some of the hearings had to be adjourned due to the illness of the other co-defendants, convergence with hearings in other cases, the absence of defendants who were at liberty and defence counsel as well as problems with transporting the crown witnesses to the court. The trial court had taken all available measures to ensure their presence at the hearings.

21. The Government submitted that the domestic court had taken measures to discipline the defendants and their defence counsel who had failed to comply with the court's orders. Consequently, the Government maintained that there had been no delays in the proceedings for which the authorities could be held responsible. They concluded that there had been no violation of Article 6 § 1 in the present case.

22. The applicant disagreed with the Government. He submitted that he had not contributed to the prolongation of the proceedings. The applicant argued that his case could not be considered complex simply on account of the significant volume of evidence. He maintained that his case should have been examined separately as it had not been complex and charges against him had been based only on testimonies of two crown witnesses. Finally, he submitted that the case had been examined with delays. As a result, he had been held in custody for four years.

2. *The Court's assessment*

23. 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 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).

24. 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).

25. The Court can accept that some delays in the procedure before the trial court could be explained by the fact that the trial court had to deal with a very complex case which involved a number of defendants and

voluminous evidence. However, it considers that this in itself cannot justify the overall length of the proceedings.

26. As regards the conduct of the applicant, the Court, having regard to the available evidence, does not find it established that the applicant substantially contributed to the delays in the proceedings. The Government emphasised that the defendants bore the main responsibility for the length of the proceedings but they failed to indicate any particular circumstances in respect of the applicant.

27. As regards the conduct of the relevant authorities, the Court notes that the hearings were held regularly and when they were adjourned it had been normally for reasons not attributable to the court. Furthermore, the trial court took measures to ensure the presence of defence counsel and co-defendants at the hearings. The Court also notes that there were delays in the proceedings caused by the renovation works carried out in the hearing room and a shortage of police officers to convey defendants and crown witnesses to the trial court.

28. The Court further observes that on 20 July 2005 and 31 January 2007 the Katowice Court of Appeal found, having examined the applicant's complaints about the breach of his right to a trial within a reasonable time, that the length of the proceedings had not been excessive. The Court of Appeal noted that there had been no delays caused by the trial court's inactivity. The Court considers that the Court of Appeal, when examining the applicant's complaints, generally applied standards which were in conformity with the principles embodied in the Court's case-law. The Court discerns, however, one serious shortcoming in the review carried out by the Court of Appeal, namely that the latter did not regard the fact of the applicant's detention as a relevant factor for directing the trial court to conduct the proceedings with particular diligence.

29. In this connection, it recalls that persons kept in detention pending trial are entitled to "special diligence" on the part of the authorities. Consequently, in cases where a person is detained pending the determination of criminal charges against him, the fact of his detention is itself a factor to be considered in assessing whether the requirement of a decision on the merits within a reasonable time has been met (see, for example, *Abdoella v. the Netherlands*, judgment of 25 November 1992, Series A no. 248-A, p. 17, § 24; *Jabłoński v. Poland*, no. 33492/96, § 102, 21 December 2000; *Mõtsnik v. Estonia*, no. 50533/99, § 40, 29 April 2003; *Bqk v. Poland*, no. 7870/04, § 81, 16 January 2007).

30. In this respect, the Court would point out that the duty to administer justice expeditiously was incumbent in the first place on the domestic authorities. Notwithstanding the significant difficulties which they faced in the present case, the domestic authorities were required to organise the trial efficiently and ensure that the Convention guarantees were fully respected in the proceedings. Moreover, the Court notes that the proceedings, which

have already lasted over eight years, are still pending before the second-instance court.

31. Having regard to all the circumstances of the case and the overall length of the proceedings, the Court considers that the reasonable time requirement of Article 6 § 1 of the Convention has not been respected. Consequently, there has been a violation of this provision.

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 submitted a claim for just satisfaction in respect of non-pecuniary damage without specifying its amount.

34. The Government did not express an opinion on the matter.

35. The Court considers that the applicant must have sustained non-pecuniary damage. Taking into account that the case was very complex and the domestic authorities took steps in order to speed up the proceedings, and making its assessment on an equitable basis, the Court awards the applicant EUR 2,900 under that head.

B. Costs and expenses

36. The applicant did not make any claim for costs and expenses involved in the proceedings.

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 in accordance with Article 44 § 2 of the Convention, EUR 2,900 (two thousand nine hundred euros) in respect of non-pecuniary damage, plus any tax that may be chargeable, to be converted into the 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.

Done in English, and notified in writing on 9 June 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President