



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF WROŃSKI v. POLAND

(Application no. 473/07)

JUDGMENT

STRASBOURG

23 June 2009

FINAL

23/09/2009

This judgment may be subject to editorial revision.

In the case of Wroński 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 Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 2 June 2009,

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

PROCEDURE

1. The case originated in an application (no. 473/07) 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 Mirosław Wroński (“the applicant”), on 18 December 2006.

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

3. On 29 April 2008 the President of the Fourth Section of the Court decided to communicate the complaint concerning the length of the proceedings to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

4. The Government submitted a unilateral declaration and invited the Court to strike out the application, in accordance with Article 37 of the Convention.

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

5. The applicant was born in 1963 and lives in Gdynia.

A. Disciplinary proceedings against the applicant

6. On 30 March 1993 the Chief of the Gdańsk Regional Police Headquarters (*Komenda Wojewódzka Policji*) dismissed the applicant from the police service (he was held accountable for accepting bribes).

7. On 14 May 1993 the Chief of the Principal Police Headquarters (*Komenda Główna Policji*) upheld the decision.

B. Criminal proceedings against the applicant

8. In November 1992 the Gdynia prosecution authorities charged the applicant, a serving police officer at the time, with numerous counts of fraud.

9. On 30 June 1993 a bill of indictment against the applicant and eleven other suspects was lodged with the Gdynia District Court (*Sąd Rejonowy*).

10. The applicant did not submit any information concerning the court's hearings between July 1993 and January 2005.

11. Two hearings, scheduled on 1 February and 8 March 2005, were adjourned as some of the suspects failed to appear.

12. Two hearings, scheduled on 12 April and 10 May 2005, were cancelled due to the judge's illness.

13. On 7 June 2005 the court severed the charges against the applicant and four other accused.

14. Subsequently, the trial court held hearings on 12 and 26 July, 6 September, 12 October, 17 November and 12 December 2005, and 18 January, 15 February, 15 March, 19 April, 5 and 29 June and 19 July 2006.

15. On 21 July 2006 the Gdynia District Court convicted the applicant as charged and sentenced him to one year and six months' imprisonment and a fine of 800 Polish zlotys (PLN).

16. On 25 September 2006 the applicant appealed.

17. On 11 December 2006 his appeal was dismissed by the Gdańsk Regional Court (*Sąd Okręgowy*).

C. Proceedings under the 2004 Act

18. On 2 October 2006 the applicant lodged a complaint under section 5 of the Law 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") and asked for just satisfaction.

19. On 13 November 2006 the Gdańsk Regional Court dismissed his complaint. It limited its examination of the length of proceedings issue to the period after the entry into force of the 2004 Act and stressed that the Act

could not be applied to the protracted length of court proceedings occurring before that date. Having analysed the conduct of the District Court during the period after the entry into force of the 2004 Act, the Regional Court found that there were no delays for which the District Court could be held responsible. Pointing to the complexity of the case and the voluminous documentation gathered in the proceedings it held that the proceedings had been conducted with due diligence and within a reasonable time.

II. RELEVANT DOMESTIC LAW AND PRACTICE

20. 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. THE GOVERNMENT'S REQUEST TO STRIKE OUT THE APPLICATION UNDER ARTICLE 37 OF THE CONVENTION

21. On 14 January 2009 the Government submitted a unilateral declaration similar to that in the case of *Tahsin Acar v. Turkey* (*Tahsin Acar v. Turkey* (preliminary objection) [GC], no. 26307/95, ECHR 2003-VI) and informed the Court that they were ready to accept that there had been a violation of the applicant's rights under Article 6 § 1 of the Convention as a result of the unreasonable length of the proceedings in which the applicant had been involved. In respect of non-pecuniary damage the Government proposed to award PLN 18,000 to the applicant (the equivalent of 4,400 euros (EUR)). The Government invited the Court to strike out the application in accordance with Article 37 of the Convention.

22. The applicant did not agree with the Government's proposal. He considered that the amount proposed did not constitute sufficient just satisfaction for the damage he had sustained and requested the Court to continue the examination of the application.

23. The Court observes that, as it has already held on many occasions, it may be appropriate under certain circumstances to strike out an application or part of an application under Article 37 § 1 (c) of the Convention on the basis of a unilateral declaration by the respondent Government even if the

applicant wishes the examination of the case to be continued. It will depend on the particular circumstances whether the unilateral declaration offers a sufficient basis for finding that respect for human rights as defined in the Convention and its Protocols does not require the Court to continue its examination of the case (see *Tahsin Acar*, cited above, § 75, and *Melnic v. Moldova*, no. 6923/03, § 22, 14 November 2006).

24. According to the Court's case-law, the amount proposed in a unilateral declaration may be considered a sufficient basis for striking out an application or part thereof. The Court will have regard in this connection to the compatibility of the amount with its own awards in similar length of proceedings cases, bearing in mind the principles which it has developed for determining victim status and for assessing the amount of non-pecuniary compensation to be awarded where it has found a breach of the reasonable time requirement (see *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 85-107, ECHR 2006-....; *Scordino v. Italy (no.1)* [GC], no. 36813/97, §§ 193-215, ECHR-2006-...; and *Dubjakova v. Slovakia* (dec.), no. 67299/01, 10 October 2004).

25. As to whether it would be appropriate to strike out the present application on the basis of the unilateral declaration made by the Government, the Court considers that the sum proposed in the declaration in respect of non-pecuniary damage suffered by the applicant as a result of the alleged violation of the Convention does not bear a reasonable relationship with the amounts awarded by the Court in similar cases for non-pecuniary damage.

26. On the facts and for the reasons set out above, the Court finds that the Government failed to submit a statement offering a sufficient basis for finding that respect for human rights as defined in the Convention and its Protocols does not require the Court to continue its examination of the case (see, by contrast, *Spółka z o.o. WAZA v. Poland* (striking out), no. 11602/02, 26 June 2007).

27. This being so, the Court rejects the Government's request to strike this part of the application out under Article 37 of the Convention and will accordingly pursue its examination of the admissibility and merits of the case.

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

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

29. The Government refrained from submitting observations on the admissibility and merits of the complaint.

30. The Court notes that the proceedings commenced in November 1992. However, 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. Nevertheless, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time.

31. The period in question ended on 11 December 2006. It thus lasted thirteen years and seven months for two levels of jurisdiction (thirteen years and some three months before the first-instance court).

A. Admissibility

32. 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

33. 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).

34. 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).

35. 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. Furthermore, the Court considers that, in dismissing the applicant's complaint that the proceedings in his case exceeded a reasonable time, the Gdańsk Regional Court failed to apply standards which were in conformity with the principles embodied in the Court's case-law (see *Majewski v. Poland*, no. 52690/99, § 36, 11 October 2005).

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.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

36. Further, the applicant complained under Article 6 § 2 of the Convention, that his dismissal from the police service has resulted in a breach of the principle of presumption of innocence.

37. Leaving aside the issue of applicability of Article 6 of the Convention to the impugned proceedings, the Court observes that under 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...”

38. The final decision in the disciplinary proceedings against the applicant was delivered on 14 May 1993, more than six months before 18 December 2006, the date on which this complaint was submitted to the Court.

It follows that this part of the application has been lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

39. 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

40. The applicant claimed PLN 700,000 (equivalent to EUR 143,000) in respect of pecuniary and non-pecuniary damage.

41. The Government submitted that the sum requested by the applicant was exorbitant. Should the Court establish that there has been a violation of the Convention, they requested that the amount of just satisfaction be assessed on the basis of the case-law in similar cases and national economic circumstances.

42. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it awards the applicant EUR 10,300 in respect of non-pecuniary damage.

B. Costs and expenses

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

C. Default interest

44. 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. *Rejects* the Government's request to strike the application out of the list;
2. *Declares* the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *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 10,300 (ten thousand three 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 June 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President