



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

FOURTH SECTION

CASE OF WYPUKOŁ-PIĘTKA v. POLAND
(Application no. 3441/02)

JUDGMENT
(revision)

STRASBOURG

8 June 2010

FINAL

08/09/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Wypukol-Piętka v. Poland (request for revision of the judgment of 20 October 2009),

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 18 May 2010,

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

PROCEDURE

1. The case originated in an application (no. 3441/02) 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, Ms Barbara Wypukol-Piętka (“the applicant”), on 20 December 2001.

2. In a judgment delivered on 20 October 2009, 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 which had so far lasted sixteen years. The Court also decided to award the applicant 14,000 euros (EUR) for non-pecuniary damage and EUR 1,000 for costs and expenses and dismissed the remainder of the claims for just satisfaction.

3. On 11 January 2010 the applicant's daughter informed the Court that the applicant had died on 31 August 2008. She also drew the Court's attention to the fact that the applicant had informed the Court that in 2007 she had given her daughter the property to which the proceedings related. The applicant's daughter submitted a notarised deed certifying that she was her mother's only heir, by way of intestate succession. She accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

4. On 9 March 2010 the Court considered the request for revision and decided to invite the Government to submit any observations.

THE LAW

THE REQUEST FOR REVISION

5. The applicant's daughter requested revision of the judgment of 20 October 2009. The Government, in their observations of 29 March 2010, submitted that the applicant's daughter's rights had not been infringed in any way. They further argued that she had not confirmed that she had agreed to become party to the proceedings before the Court and that she must have been aware of her mother's death but had failed to inform the Court about it. They were of the view that she did not have a legitimate moral interest to obtain payment of just satisfaction awarded to the applicant by the Court.

6. The Court considers that the judgment of 20 October 2009 should be revised pursuant to Rule 80 § 1 of the Rules of Court, which provides:

“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. The Court first notes that the present case differs from the case of *Gabay v. Turkey* (revision), no. 70829/01, 27 June 2006). In that case the Court allowed the Government's request for revision of the judgment but, having regard to the fact that the applicant had died during the proceedings and no relatives expressed the wish to pursue the proceedings, considered that it was no longer justified to continue the examination of the application. In the present case the applicant's heir has made an express request for the proceedings to be pursued and the judgment revised. In view of the circumstances, the Court considers that the award made to the deceased applicant should be paid to her heir, Ms Ewa Piętka. Article 41 of the Court's judgment of 20 October 2009 should be revised accordingly (see, among many other authorities, *Viola v. Italy* (revision), no. 44416/98, 7 November 2002, *Carolla v. Italy* (revision), no. 51127/99, 28 November 2002, *Frattini and Others v. Italy* (revision), no. 52924/99, 26 November 2002, *Ragas v. Italy* (revision), no. 44524/98, 17 December 2002, *D'Ammassa and Frezza v. Italy* (revision), no. 44513/98, 9 January 2003, *Armando Grasso v. Italy* (revision), no. 48411/99, 29 April 2003, *Guerrera and Fusco v. Italy* (revision), no. 40601/98, 31 July 2003, *Perhirin and 29 Others v. France* (revision), no. 44081/98, 8 April 2003, *Lutz v. France* (revision), no. 49531/99, 25 November 2003, *Santoni v. France* (revision), no. 49580/99, 1 June 2004).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to revise its judgment of 20 October 2009 as regards the application of Article 41 of the Convention;

accordingly,

2. *Holds*

(a) that the respondent State is to pay to Ms Ewa Piętka, within three months from the date on which the revised judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the national currency of the respondent State at the rate applicable on the date of settlement, plus any tax that may be chargeable:

(i) EUR 14,000 (fourteen thousand euros) in respect of non-pecuniary damage;

(ii) EUR 1,000 (one thousand euros) in respect of costs and expenses;

(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;

3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 June 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President