



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

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FOURTH SECTION

DECISION

Application no. 60618/08
by Adrian WRÓBLEWSKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 29 September 2009 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 regard to the above application lodged on 21 November 2008,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Adrian Wróblewski, is a Polish national who was born in 1976 and is currently detained at the Bydgoszcz Remand Centre. The Polish Government (“the Government”) were represented by their Agent, Mr J. Wołásiewicz of the Ministry of Foreign Affairs.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

1. Criminal proceedings against the applicant

On 7 February 2001 the applicant was arrested on suspicion of having committed multiple thefts.

On 8 February 2001 the Świecie District Court remanded him in custody. He was released from detention on 25 July 2001.

On 20 April 2001 the District Prosecutor lodged a bill of indictment with the Świecie District Court. The applicant was charged with several counts of theft. There were 3 defendants in the case, all charged with multiple thefts.

On 13 June 2001 the Świecie District Court held the first hearing. A subsequent hearing scheduled for 25 July 2001 was adjourned.

Between 25 July 2001 and 20 November 2003 the court did not engage in any procedural activity.

On 20 November 2003 the court ordered that an expert report be obtained in order to determine the applicant's mental condition.

At a hearing held on 11 March 2005 the court in a new composition ordered that the proceedings be conducted anew. The court held hearings on 14 April, 30 May and 24 June 2005.

Between 1 August 2005 and 14 September 2006 ten hearings were scheduled and all of them were adjourned. On at least two occasions hearings were adjourned as the police had failed to bring certain defendants from a detention centre. Some hearings were adjourned as the witnesses or other co-accused had failed to comply with the summonses. On two occasions one of the co-accused failed to appear and on one occasion one of the lay judges was ill.

At a hearing on 14 September 2006 the court, having regard to the fact that a long time had elapsed since the last hearing, ordered that the proceedings be conducted anew.

By its decisions of 18 June and 2 July 2007 the Bydgoszcz Regional Court excluded all judges from the Świecie District Court from further proceedings in the applicant's case and referred it to the Bydgoszcz District Court.

The proceedings are currently pending before the Bydgoszcz District Court.

2. Proceedings under the 2004 Act

On an unspecified date the applicant lodged with the Opole Regional Court 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”).

The applicant sought a ruling that the length of the proceedings before the Świecie District Court had been excessive and an award of just satisfaction in the amount of 10,000 Polish zlotys (PLN) (approx. 2,500 euros (EUR)).

On 1 August 2005 the Bydgoszcz Regional Court gave a decision in which it acknowledged the excessive length of the proceedings before the Świecie District Court, finding in particular that there had been a period of unjustified inactivity between 25 July 2001 and 20 November 2003. The Bydgoszcz Regional Court further observed that the Świecie District Court had failed to organise the proceedings against the applicant correctly both before and after 17 September 2004 (the date on which the 2004 Act entered into force). The court dismissed however the applicant’s request for compensation stating that he had failed to substantiate it convincingly.

On 16 October 2006 the Bydgoszcz Regional Court dismissed the applicant’s subsequent complaint under the 2004 Act. It referred, however, only to the period after the dismissal of his previous complaint. The court found that during the relevant period between 1 August 2005 and 16 October 2006 the delays occurred in the proceedings were not imputable to the Świecie District Court but were caused by “objective circumstances”.

On 24 July 2007 the Bydgoszcz Regional Court, after examining yet another complaint filed by the applicant, acknowledged the excessive length of the proceedings before the Świecie District Court, finding in particular that there had been a period of unjustified inactivity between 25 July 2001 and 20 November 2003 and between January 2004 and 11 March 2005.

The court dismissed however the applicant’s request for compensation stating that he had failed to substantiate it convincingly.

B. Relevant domestic law and practice

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 its judgment in the case of *Krasuski v. Poland*, no. 61444/00, §§ 34-46, ECHR 2005-V.

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention about the unreasonable length of the criminal proceedings against him. He also alleged that Article 13 of the Convention had been breached, as he did not

have any remedy at his disposal to appeal against the decisions of the Bydgoszcz Regional Court given in respect of his complaints filed under the 2004 Act.

THE LAW

On 3 August 2009 the Court received the following declaration from the Government:

“I, Jakub Wołosiewicz, Agent of the Government, declare that the Government of Poland offer to pay PLN 20,000 (twenty thousand Polish zlotys) to Mr Adrian Wróblewski with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.”

On 14 August 2009 the Court received the following declaration signed by the applicant:

“I, Adrian Wróblewski, note that the Government of Poland are prepared to pay me the sum of PLN 20,000 (twenty thousand Polish zlotys) with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. 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.

I accept the proposal and waive any further claims against Poland in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Lawrence Early
Registrar

Nicolas Bratza
President