

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

FOURTH SECTION

DECISION

Application no. 70973/14
Robert ATAMANIUK
against Poland

The European Court of Human Rights (Fourth Section), sitting on 29 March 2016 as a Committee composed of:

Iulia Antoanella Motoc, *President,*
Krzysztof Wojtyczek,
Gabriele Kucsko-Stadlmayer, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 21 October 2014,

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

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Robert Atamaniuk, is a Polish national, who was born in 1977 and lives in Sucha.

The Polish Government ("the Government") were represented by their Agent, Ms Justyna Chrzanowska of the Ministry of Foreign Affairs.

The applicant complained under Article 3 of the Convention about overcrowding and inadequate living conditions during his detention in the Zielona Góra Remand Centre.

THE LAW

On 23 December 2015 the Court received the following declaration from the Government:

"I, Justyna Chrzanowska, Agent of the Government, declare that the Government of Poland offer to pay to Robert Atamaniuk, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights PLN 8,000 (eight thousand Polish zlotys) to cover any and all pecuniary and non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to the applicant. The sum referred to above includes PLN 2,460 (two thousand four hundred sixty Polish zlotys), which is to cover costs and expenses of the proceedings before the domestic courts and which are payable by the applicant to the State Treasury on account of the judgments of the Zielona Góra District Court (I C 348/12) and the Zielona Góra Regional Court (VI Ca 228/14).

The payment is intended to provide the applicant with redress for the systemic violation of Article 3 of the Convention on account of the conditions of his detention, in particular overcrowding, as identified by the Court in the pilot judgment given in the case of Orchowski v. Poland (no. 17885/04) on 22 October 2009 (see paragraphs 135 and 147 et seq.).

This sum will be payable within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. 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 12 January 2016 the Court received the following declaration signed by the applicant:

"I, Robert Atamaniuk, note that the Government of Poland are prepared to pay me, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights, PLN 8,000 (eight thousand Polish zlotys), to cover any and all pecuniary and non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to me. The sum referred to above includes PLN 2,460 (two thousand four hundred sixty Polish zlotys) which is to cover costs and expenses of the proceedings before the domestic courts and which are payable by me to the State Treasury on account of the judgments of the Zielona Góra District Court (I C 348/12) and the Zielona Góra Regional Court (VI Ca 228/14).

I further note that the payment constitutes redress for the systemic violation of Article 3 of the Convention on account of the conditions of my detention, in particular overcrowding, as identified by the Court in the pilot judgment given in the case of *Orchowski v. Poland* (no. 17885/04) on 22 October 2009 (see paragraphs 135 and 147 et seq.).

This sum will be payable within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. 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 these applications. 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. 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 in accordance with Article 39 of the Convention.

Done in English and notified in writing on 21 April 2016.

Fatoş Aracı
Deputy Registrar

Iulia Antoanella Motoc
President