

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

FOURTH SECTION

DECISION

Application no. 35938/10
by Piotr Bronisław BANASZKOWSKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 7 February 2012 as a Committee composed of:

George Nicolaou, *President,*
Ledi Bianku,
Vincent A. De Gaetano, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 13 April 2010,

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

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Piotr Bronisław Banaszkowski, is a Polish national who was born in 1983 and is currently detained in Warsaw Remand Centre. The Polish Government ("the Government") were represented by their Agent, Mr J. Wołąsiewicz of the Ministry of Foreign Affairs.

The applicant complained under Article 3 of the Convention about the conditions of his detention.

THE LAW

On 24 November 2011 the Court received the following declaration signed by the applicant:

> "I, Piotr Bronisław Banaszkowski, 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 5,500 (five thousand five hundred 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. 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 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."

On 21 December 2011 the Court received the following declaration from the Government:

> "I, Jakub Wołąsiewicz, Agent of the Government, declare that the Government of Poland offer to pay, to Mr Piotr Bronisław Banaszkowski, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights, PLN 5,500 (five thousand five hundred 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 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 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."

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.

Fatoş Aracı
Deputy Registrar

George Nicolaou
President