

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

FIRST SECTION

# CASE OF ZIĘBA v. POLAND

*(Application no. 54110/18)*

*This version was rectified on 25 July 2023*
*under Rule 81 of the Rules of Court.*

JUDGMENT

STRASBOURG

8 June 2023

*This judgment is final but it may be subject to editorial revision.*

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**In the case of Zięba v. Poland,**

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Alena Poláčková*, President*,
Gilberto Felici,
Raffaele Sabato*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 17 May 2023,

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

# PROCEDURE

1. The case originated in an application against Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 7 November 2018.

2. The applicant was represented by Mr M. Orliński, a lawyer practising in Katowice.

3. The Polish Government ("the Government") were given notice of the application.

# THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of the excessive length of criminal proceedings and of the lack of any effective remedy in domestic law.

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

6. The applicant complained that the length of the criminal proceedings in question had been incompatible with the "reasonable time" requirement and that he had no effective remedy in this connection. He relied on Article 6 § 1 and Article 13 of the Convention.

7. The Government raised a preliminary objection that the applicant had failed to submit his case to the Court within the six-month time-limit provided for by Article 35 § 1 of the Convention (as applicable at the time of lodging of the present application). The applicant disagreed, indicating that he had dispatched the application within the above time-limit. In support of his argument, he submitted a copy of postal receipt, according to which the present application was indeed dispatched on 7 November 2018.

8. The Court notes that the final domestic decision on civil action under the 2004 Act and the Civil Code[1] was served on the applicant's lawyer on 7 May 2018, thus the application was dispatched on the last day of the six-month time-limit (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 60, 29 June 2012). In these circumstances, the Government's preliminary objection must be dismissed.

9. 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, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

10. In the leading case of *Rutkowski and Others v. Poland,* nos. 72287/10 and 2 others, 7 July 2015 the Court already found a violation in respect of issues similar to those in the present case.

11. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level. 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.

12. The Court further notes that the applicant did not have at his disposal an effective remedy in respect of these complaints.

13. These complaints are therefore admissible and disclose a breach of Article 6 § 1 and of Article 13 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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."

15. Regard being had to the documents in its possession and to its case-law (see, in particular, *Rutkowski and Others*), the Court finds it reasonable to award the sum indicated in the appended table.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

[1] Rectified on 25 July 2023: words "complaint under the 2004 Act" were replaced by "civil action under the 2004 Act and the Civil Code".

2. *Holds* that this application discloses a breach of Article 6 § 1 and Article 13 of the Convention concerning the excessive length of criminal proceedings and lack of an effective domestic remedy in that regard;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, 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.

Done in English, and notified in writing on 8 June 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Viktoriya Maradudina | Alena Poláčková |
| Acting Deputy Registrar | President |

# APPENDIX

## Application raising complaints under Article 6 § 1 and Article 13 of the Convention (excessive length of criminal proceedings and lack of any effective remedy in domestic law)

| Application no.<br>Date of introduction | Applicant's name<br>Year of birth | Representative's name and location | Start of proceedings | End of proceedings | Total length<br>Levels of jurisdiction | Domestic decision on complaint under the 2004 Act<br>Domestic award<br>(in Polish zlotys) | Amount awarded for non-pecuniary damage and costs and expenses per applicant<br>(in euros)[1] |
|---|---|---|---|---|---|---|---|
| 54110/18<br>07/11/2018[2] | **Sławomir ZIĘBA**<br>1968 | Orliński Mariusz<br>Katowice | 01/12/2001 | 17/10/2013 | 11 year(s) and 10 month(s) and 17 day(s)<br>3 level(s) of jurisdiction | Katowice Regional Court, case no. II C 428/15 (civil claim), 26/04/2016<br>Katowice Court of Appeal, case no. I ACa 656/16, 08/12/2016<br>Supreme Court, case no. V CSK 517/17, 27/03/2018 (served on 07/05/2018) | 7,800 |

[1] Plus any tax that may be chargeable to the applicant.
[2] Rectified on 25 July 2023: date „08/11/2018" was replaced by "07/11/2018".