

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

FOURTH SECTION

DECISION

Application no. 45200/06
by Dariusz DEMIANIUK
against Poland

The European Court of Human Rights (Fourth Section), sitting on 8 March 2011 as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Ljiljana Mijović,
Sverre Erik Jebens,
Päivi Hirvelä,
Ledi Bianku,
Zdravka Kalaydjieva, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 27 October 2006,

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

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Dariusz Demianiuk, is a Polish national who was born in 1964 and lives in Kowal. The Polish Government ("the Government") were represented by their Agent, Mr J. Wołąsiewicz of the Ministry of Foreign Affairs.

On 30 August 2007 the President of the Fourth Section decided to communicate the applicant's complaint under Article 3 of the Convention, in so far as it concerned overcrowding and poor living and

sanitary conditions, the practice of not separating smoking and non-smoking detainees and not securing to the applicant adequate medical care and treatment during his detention in Płock Prison between June 2005 and June 2009.

THE LAW

On 11 January 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 Dariusz Demianiuk, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights, PLN 20,000 (twenty thousand Polish zlotys), 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.), and inadequate medical care in detention.
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> 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."

On 9 February 2011 the Court received the following declaration signed by the applicant's lawyer:

> "I, Dariusz Demianiuk, 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 20,000 (twenty thousand Polish zlotys), plus any tax that may be chargeable to the applicant. I further note that the payment constitutes 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.), and inadequate medical care n detention.
>
> 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."

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

Nicolas Bratza
President