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

FIRST SECTION

DECISION

Application no. 20811/15
Michał DUDEK
against Poland

The European Court of Human Rights (First Section), sitting on 17 October 2017 as a Committee composed of:

Aleš Pejchal, *President,*
Krzysztof Wojtyczek,
Armen Harutyunyan, *judges,*
and Renata Degener, *Deputy Section Registrar,*

Having regard to the above application lodged on 15 April 2015,

Having regard to the declaration submitted by the respondent Government on 22 November 2016 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Michał Dudek, is a Polish national who was born in 1977 and is detained in Tarnow. He was represented before the Court by Mr P. Eilmes, a lawyer practising in Cracow.

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

3. The applicant complained under Article 3 of the Convention about the "dangerous detainee" regime which had been imposed on him from 2001 until 8 April 2016.

4. The application had been communicated to the Government.

THE LAW

5. After the failure of attempts to reach a friendly settlement, by a letter of 22 November 2016 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

6. They acknowledged a violation of the applicant's rights guaranteed by Article 3 of the Convention. They undertook to pay him 50,000 Polish zlotys (approximately 12,000 euros) to cover any pecuniary and non-pecuniary damage as well as his costs and expenses, which would be free of any taxes that might be applicable. It would be payable within three months of the date of notification of the decision taken by the Court. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from the 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. They further requested the Court to strike the application out of its list of cases.

7. By a letter of 16 January 2017 the applicant indicated that he was not satisfied with the terms of the unilateral declaration.

8. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the application."

9. It also reiterates that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

10. To this end, the Court has examined the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (see *Tahsin Acar v. Turkey* ((preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Sp. z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

11. The Court has established in a number of cases, including those brought against Poland, its practice concerning complaints of a violation of Article 3 as regards various aspects of the application of the "dangerous detainee" regime (see, for example, *Piechowicz v. Poland*, no. 20071/07,

§§ 166-178, 17 April 2012, and *Horych v. Poland*, no. 13621/08, §§ 93-103, 17 April 2012).

12. Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

13. Moreover, in the light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

14. Lastly, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

15. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Article 3 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 16 November 2017.

Renata Degener
Deputy Registrar

Aleš Pejchal
President