

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

FOURTH SECTION

DECISION

PILOT-JUDGMENT PROCEDURE

AS TO THE ADMISSIBILITY OF

Application no. 5346/06
by Piotr DULEBA
against Poland

The European Court of Human Rights (Fourth Section), sitting on 14 December 2010 as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Ljiljana Mijović,
Ján Šikuta,
Mihai Poalelungi,
Nebojša Vučinić,
Vincent A. de Gaetano, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 7 December 2006,

Having regard to the final pilot judgments in the cases of *Orchowski v. Poland* (no. 17885/04) and *Norbert Sikorski v. Poland* (no. 17599/05) delivered on 22 October 2009, in particular to the finding under Article 46 of the Convention that overcrowding in Polish prisons and remand centres revealed a structural problem,

Having regard to the decisions to declare the applications *Łatak v. Poland* (no. 52070/08) and *Łomiński v. Poland* (no. 33502/09) inadmissible for non-exhaustion of domestic remedies,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Piotr Duleba, is a Polish citizen who was born in 1967 and currently lives in Nowy Sącz.

A. Particular circumstances of the case

1. Period of the applicant's detention

From 19 October 2005 until 3 June 2006 the applicant was detained in Nowy Sącz Prison. From 25 September 2006 until 17 October 2006 he was held in Wadowice Prison. From 17 October 2006 he was detained in Jastrzębie Zdrój Prison. On an unspecified date in December 2007 or in January 2008 he was once again committed to Nowy Sącz Prison. On 25 August 2008 the applicant was released.

2. Conditions of the applicant's detention

The applicant submitted that in Nowy Sącz Prison he had been held consecutively in three overcrowded cells, without specifying the living space per prisoner. He further submitted that his cell in Wadowice Prison had been so overcrowded that only two people could stand in the middle at the same time. Detainees had to take turns to eat meals at a small table or hold their plates in their laps. Cells in Wadowice Prison were furnished with old and damaged stools, tables and cupboards.

The applicant explained that Jastrzębie Zdrój Prison had been a semi-open facility (*zakład półotwarty*) where he and nine other detainees were held together in a cell of 22 m². The cell in question had one window and was equipped with bunk beds, tables, cupboards and several stools. The conditions in the entire prison were marked by overcrowding, inadequate sanitation and hygiene, insufficient lighting as well as lack of proper ventilation. The buildings were dilapidated and their walls were cracked due to vibrations resulting from the activity of a nearby coal mine. The shower room was located in a separate building and prisoners were not given enough time to dry or change inside the shower room and therefore had to walk the distance back to the living quarters wet and undressed.

The Government explained that the minimum living space per prisoner in the three cells in Nowy Sącz Prison in which the applicant had been held ranged from 3 to 3.5 m², depending on their occupancy at a particular time. They conceded that temporary overcrowding had existed in Nowy Sącz Prison at the material time but the prison authorities had not been storing information as to the exact number of prisoners being detained in each cell at different times in the relevant period.

According to the Government, the applicant remained in Wadowice Prison for thirteen days in cells measuring from 1.9 to 3 m² per inmate. In Jastrzębie Zdrój Prison the applicant had been detained in a cell with a living space per inmate ranging from 2.17 to 3.1 m², depending on its occupancy at a particular moment. Cells in Jastrzębie Zdrój Prison had been open daily from 7:30 until 18:30 and the applicant could spend almost the entire day outside his cell. The sanitation and hygiene were adequate. The applicant's cell was properly lit by natural light. The ventilation system had worked properly but for rare situations where detainees themselves would clog ventilation holes with paper. The Government moreover submitted that the prison buildings had been regularly renovated. The shower rooms were well heated with radiators and there had been a hallway in front of its entrance.

3. The applicant's actions concerning the conditions of his detention

The applicant filed a number of complaints about the conditions of his detention with the State authorities, the remand centre's administration and the Ombudsman, all of which were dismissed.

The applicant did not bring a civil action in tort to seek compensation for the infringement of his personal rights.

B. Relevant domestic law and practice

(See *Siedlecki and 9 other applications v. Poland*, no. 5246/03).

COMPLAINTS

(See *Siedlecki and 9 other applications v. Poland*, no. 5246/03).

THE LAW

(See *Siedlecki and 9 other applications v. Poland*, no. 5246/03).

For these reasons, the Court unanimously

Declares the application inadmissible.

Fatoş Aracı Deputy Registrar	Nicolas Bratza President