

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

FOURTH SECTION

DECISION

Application no. 2859/04
by Karol DYLONG
against Poland

The European Court of Human Rights (Fourth Section), sitting on 11 October 2011 as a Chamber composed of:

Ljiljana Mijović, *President,*
Lech Garlicki,
Päivi Hirvelä,
George Nicolaou,
Ledi Bianku,
Zdravka Kalaydjieva,
Nebojša Vučinić, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 22 December 2003,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Karol Dylong, is a Polish national who was born in 1959 and lives in Ruda Śląska. He is represented before the Court by Ms J. Słota-Wadas, a lawyer practising in Gliwice. The Polish Government ("the Government") were represented by their Agent, Mr J. Wołąsiewicz of the Ministry of Foreign Affairs.

The applicant complained, in particular, that the conditions of his detention in Jastrzębie Zdrój Prison had been in breach of Article 3 of the Convention.

The application was communicated to the Government, who submitted their observations on the admissibility and merits. Subsequently, the

applicant's lawyer submitted observations and just satisfaction claims on the applicant's behalf.

A friendly-settlement procedure was put in place following the pilot judgment in the case of *Orchowski v. Poland*, no. 17885/04, ECHR 2009-... (extracts) and the leading decision in the case of *Łatak v. Poland* (no. 52070/08) on 12 October 2010.

By letter dated 25 November 2010 the applicant's representative was invited to inform the Registry whether the applicant accepted the Registrar's friendly-settlement proposal and, if so, to return the enclosed declaration, duly dated and signed. The period allowed for submission of the applicant's position on the friendly-settlement expired on 7 December 2010. No reply has been received.

By two letters dated 25 January and 16 June 2011, sent by registered post to the applicant's private addresses in Ruda Śląska and Gliwice respectively, the applicant was informed about the friendly-settlement proposal and about his lawyer's failure to reply. Moreover, the applicant's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. The letters were not collected and they were eventually returned to the Registry. No correspondence has been received either from the applicant or his lawyer.

The Government accepted the friendly-settlement proposal and submitted a signed declaration to that effect on 6 December 2010.

THE LAW

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

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

Ljiljana Mijović
President