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. 7441/05
by Patrycjusz GERTER
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 25 January 2005,

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 Patrycjusz Gerter, is a Polish national who was born in 1963 and is currently detained in Warsaw-Mokotów Remand Centre. He was represented before the Court by Ms B. Słupska-Uczkiewicz, a lawyer practising in Wrocław.

A. Particular circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

1. The applicant's detention

On 6 November 1998 the applicant was sentenced to 25 years' imprisonment and was committed to Wołów Prison. Since that date he has been continuously detained in several penitentiary facilities in Rawicz, Strzelin, Kłodzko, Brzeg, Kluczbork and Nowy Wiśnicz. On an unspecified date the applicant was transferred to Warsaw-Mokotów Remand Centre where he is currently detained.

2. Conditions of the applicant's detention

The parties gave partly differing accounts of the conditions of the applicant's detention.

The applicant maintained that throughout his detention he was held in overcrowded cells.

Without submitting the exact statistics, the Government acknowledged that during the applicant's detention in Strzelin Prison he had spent several days in a cell in which the statutory minimum size of 3 m² per person had not been respected. The Government did not comment on the level of overcrowding in the remaining penitentiary facilities. More recently, the Government also submitted that on an unspecified date, presumably in November 2009, the applicant had been placed in a cell in which the statutory minimum standard of 3 m² per person was respected. The applicant did not contest this submission.

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

The applicant lodged several complaints with the penitentiary authorities regarding the conditions of his detention. Only one of them was considered well-founded.

The applicant brought a civil action in tort against the State Treasury *statio fisci* Wołów Prison to seek compensation for the infringement of his personal rights. On 17 May 2006 the Wroclaw Regional Court dismissed the applicant's claim. The applicant appealed. On 24 August 2006 the applicant was requested to pay a basic court fee in the amount of PLN 30 (approximately EUR 7.50). In reply, the applicant requested the court to exempt him from payment of the basic court fee arguing that he was detained and lacked financial resources. On 11 October 2006 the court dismissed the applicant's request stating that he had already been exempted from paying most of the court fees. On an unspecified date the Wroclaw Regional Court rejected the applicant's appeal on formal grounds. The applicant has not brought a civil action in respect of the remaining period of his detention.

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