

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

FOURTH SECTION

DECISION

Application no. 5906/05
by Tomasz ŚLIWIŃSKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 23 August 2011 as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Ljiljana Mijović,
Sverre Erik Jebens,
Zdravka Kalaydjieva,
Nebojša Vučinić,
Vincent A. De Gaetano, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 19 January 2005,

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Tomasz Śliwiński, is a Polish national who was born in 1961 and lives in Częstochowa. He was initially represented before the Court by Ms M. Łuczkiewicz, a lawyer practising in Częstochowa. The Polish Government ("the Government") were represented by their Agent, Mr J. Wołąsiewicz of the Ministry of Foreign Affairs.

The applicant complained under Article 3 of the Convention about the overcrowding and inadequate conditions of his detention.

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 three letters dated 25 January 2011, sent by registered post to the applicant's home address and to Herby Prison, and to the applicant's representative, the applicant and his lawyer were once more informed about the friendly-settlement proposal. Moreover, their 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 letter sent to the applicant's home address was not collected and was eventually returned to the Registry. There is no information about the fate of the other two letters. No response 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 7 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

Nicolas Bratza
President