

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. 39877/03
by Henryk ŚMIETANA
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 27 November 2003,

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 Henryk Śmietana, is a Polish national who was born in 1970 and is currently detained in Cieszyn Prison. He was represented before the Court by Mr A. Płaza, a lawyer practising in Opole.

A. Particular circumstances of the case

1. Period of the applicant's detention

On 3 November 2000 the applicant was committed to Sosnowiec Remand Centre and then continuously detained in several penitentiary facilities. On 24 July 2010 he was transferred to Cieszyn Prison where he is currently detained.

2. Conditions of the applicant's detention

The applicant maintained that throughout his detention he was held in overcrowded cells in conditions below the basic standard of hygiene.

The Government submitted that they could not confirm whether or not during his stay in Zabrze Remand Centre (from 14 August 2002 until 17 January 2005 and from 14 December 2005 until 9 February 2007) the applicant had been detained in cells with a surface area of at least 3 m² per person. However, they acknowledged that during the applicant's detention, the remand centre had been overcrowded. Regarding other penitentiary facilities, they submitted that the period of the applicant's detention in cells in which the statutory minimum requirement of 3 m² per person had not been respected had amounted to some 125 days. 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 did not lodge any formal complaints with the penitentiary authorities regarding specifically the conditions of his detention. Nor did he bring a civil action 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