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

FOURTH SECTION

DECISION

Application no. 27209/14
Zbigniew SZPOTON
against Poland

The European Court of Human Rights (Fourth Section), sitting on 5 January 2016 as a Committee composed of:

Nona Tsotsoria, *President,*
Krzysztof Wojtyczek,
Gabriele Kucsko-Stadlmayer, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 16 May 2014,

Having regard to the declaration submitted by the respondent Government on 13 October 2015 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Zbigniew Szpoton, is a Polish national, who was born in 1970 and is currently detained in Wronki Prison.

The Polish Government ("the Government") were represented by their Agent, Mrs Justyna Chrzanowska.

The applicant complained under Article 3 of the Convention about the conditions of his detention, particularly about overcrowding.

The application had been communicated to the Government.

THE LAW

The applicant complained about conditions of his detention. He relied on Article 3 of the Convention.

After the failure of attempts to reach a friendly settlement, by a letter of 13 October 2015 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "The Government hereby wish to express – by way of the unilateral declaration – their acknowledgment of violation of Article 3 of the Convention by failure to afford the applicant adequate conditions of his detention. Simultaneously, the Government declare that they are ready to pay the applicant the sum of PLN 10,000 (ten thousand Polish zlotys) to cover any pecuniary and non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to the applicant. The Government consider the above sum to be reasonable in the light of the Court's case-law in similar cases (*Ulatowski* v. *Poland*, application no. 29848/11, decision of 6 March 2012; *Jurgielewicz* v. *Poland*, application no. 70795/11, decision of 9 October 2012). It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points."

By a letter of 28 October 2015, the applicant indicated that he was not satisfied with the terms of the unilateral declaration on the ground that the amount proposed had not been satisfactory.

The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the application".

It also reiterates that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court has examined the declaration carefully in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Article 3 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 28 January 2016.

Fatoş Aracı
Deputy Registrar

Nona Tsotsoria
President