

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. 10874/05
by Arkadiusz SZUBSKI
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 28 February 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 Arkadiusz Szubski, is a Polish citizen who was born in 1978 and is currently detained in Wejherowo Remand Centre. He was represented before the Court by Ms G. Koczorowska, a lawyer practising in Szczecin.

A. Particular circumstances of the case

1. Period of the applicant's detention

On an unspecified date in 2000 the applicant was committed to Poznań Remand Centre to serve a prison sentence. It appears that he remained there until late 2002 when he was transferred to Nowogard Prison. On 25 November 2003 he was once again detained in Poznań Remand Centre.

On a further, unspecified date the applicant was transferred to Goleniów Prison and later to prisons in Stargard Szczeciński, Czarne and eventually to Wejherowo Remand Centre where he currently remains.

2. Conditions of the applicant's detention

The applicant submitted that all prisons and remand centres in which he had been detained were overcrowded. He submitted, by way of an example, that in Poznań Remand Centre he had been placed together with thirteen other inmates in a prison cell measuring approximately 30 m^2. He pointed out that the Remand Centre's sanitary facilities had been old and rusty and that the walls of his cell had been covered with mould. In Nowogard Prison the applicant was detained together with five other detainees in a cell of 8.5 m^2. The sanitary conditions in Nowogard Prison were comparable to those in Poznań Remand Centre. In Goleniów Prison the applicant was detained together with a paraplegic inmate and he submitted that he had been permanently required to take care of him, help him to wash himself and wash his clothes as well as to clean the cell, although these tasks were normally incumbent on the prison authorities.

The Government acknowledged that in Poznań Remand Centre, in Goleniów Prison and in Nowogard Prison the applicant might have been

temporarily placed in cells which measured less than 3 m² per prisoner. They further pointed out that the cells in which the applicant had been detained were disinfected on a regular basis. Moreover, the applicant had been provided with adequate personal hygiene products and could take a bath once a week. With regard to the issue of care of the paraplegic fellow inmate, the Government explained that the applicant had never been required to take care of the detainee in question and that he had done so of his own accord, along with other co-detainees placed in the same cell. They further stated that the paraplegic detainee had been receiving adequate assistance from the prison medical staff.

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

On 25 March and 15 April 2005 the applicant filed complaints with the penitentiary authorities about the conditions of his detention. Both complaints were dismissed as unfounded.

The applicant did not bring a civil action in tort 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