CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 65622/01
by Stanisław TOPOLAN
against Poland

The European Court of Human Rights (Fourth Section), sitting on 11 February 2003 as a Chamber composed of

Mr M. PELLONPÄÄ, *President*,
Mrs E. PALM,
Mrs V. STRÁŽNICKÁ,
Mr J. CASADEVALL,
Mr R. MARUSTE,
Mr S. PAVLOSCHI
Mr L. GARLICKI, *judges*

and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application introduced on 26 January 2000,

Having deliberated, decides as follows:

THE FACTS

The applicant, Stanisław Topolan, is a Polish national, who was born in 1932 and lives in Gorzyce Małe.

A. Proceedings concerning the amount of the social insurance benefit

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

From 1 March 1998 to 25 April 1999 the applicant was employed by "I." company.

On 12 August 1991 the Złotoryja Social Insurance authorities issued a decision concerning the amount of the applicant's sickness benefit. The decision was served on the applicant on 6 September 1991.

On 26 September 1991 he lodged an appeal against this decision with the Wrocław Regional Court, claiming a higher amount of the benefit.

By a decision of 15 March 1993 the Wrocław Regional Court stayed the proceedings until the termination of the compensation proceedings which had meantime been instituted by the applicant against his employer company.

Apparently, the compensation proceedings were terminated on 23 January 1992 by a court settlement concluded between the parties before the Głogów District Court. The agreement became valid on 30 January 1992.

In his letters of 2 May and 22 October 1997 the applicant complained about the length of the proceedings concerning the sickness benefit and requested the President of the Wrocław Regional Court to take measures in order to accelerate the proceedings.

On an unspecified date in 1997 the proceedings were resumed by the court. The court held its hearings on 10 July 1997, 12 February 1998 and 16 April 1998.

By a judgment of 18 November 1999 the Wrocław Regional Court in part dismissed and in part allowed the applicant's claim and granted him a higher amount of the benefit.

The applicant lodged an enforcement claim with the Głogów District Court. On 30 May 2000 the court bailiff refused to institute the enforcement proceedings due to certain procedural shortcomings of the judgment of 18 November 1999.

Apparently, the enforcement proceedings are still pending.

B. Other proceedings

1. Compensation proceedings against the applicant's former employer

a) On 9 January 1991 the applicant lodged an action with the Wrocław Regional Court against his employer, "I." company, claiming compensation for allegedly unpaid sickness benefit. Apparently, the case was transmitted to the Głogów District Court, which had jurisdiction to entertain it, due to the value of the litigation.

On 23 January 1992 the parties to the proceedings concluded a settlement before the Głogów District Court and the company agreed to pay to the applicant 3 million old zlotys.

The agreement became valid on 30 January 1992.

b) On 22 April 1994 the applicant lodged another compensation claim with the Głogów District Court against the same company, by which he claimed compensation for reducing the amount of certain of his social insurance benefits.

As far as it can be understood from the applicant's submissions, the Głogów District Court stayed the proceedings on an unspecified date in 1995.

The proceedings were resumed in March 2000.

On 11 July 2000 the applicant extended his compensation claim.

By a judgment of 23 April 2001 the Głogów District Court dismissed his claim as time-barred.

The applicant appealed.

By a judgment of 29 June 2001 the Legnica Regional Court dismissed his appeal and upheld the contested judgment. No cassation appeal lay against this judgment.

2. Compensation proceedings against a municipal school

a) The first set of proceedings was terminated by a judgment of the Głogów District Court of 20 April 1999. The applicant failed to lodge an appeal with the second-instance court.

b) In the second set of proceedings the Głogów District Court dismissed the applicant's compensation claim on 22 November 2000.

On 13 June 2001 the Głogów District Court rejected the applicant's appeal against this judgment as not being lodged within the time-limit provided for by law. Later on, he lodged several motions to have the time-limit for lodging an appeal restored, to no avail.

COMPLAINTS

The applicant complains under Article 6 § 1 of the Convention that the proceedings concerning his social insurance benefit have exceeded a reasonable time.

The applicant complains under Article 6 § 1 of the Convention about the outcome of two sets of the compensation proceedings against his former employer and about the outcome of the two sets of the compensation proceedings against the municipal school.

THE LAW

1. The applicant complains under Article 6 § 1 that the proceedings concerning his social insurance benefit have exceeded a reasonable time.

The Court considers that it cannot, on the basis of the case file, determine the admissibility of this complaint and that it is therefore necessary, in accordance with Rule 54 § 3 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

2. The applicant complains under Article 6 § 1 of the Convention about the outcome of the first set of the compensation proceedings against his former employer.

The Court notes that the proceedings were terminated on 30 January 1992. However, the declaration whereby Poland accepted the right of individual petition took effect on 1 May 1993. It follows that the application is in this part incompatible *ratione temporis* with the provisions of the Convention, within the meaning of Article 35 § 3, and must be rejected, in accordance with Article 35 § 4.

3. The applicant complains under Article 6 § 1 of the Convention about the outcome of the second set of the compensation proceedings against his former employer.

The Court reiterates that according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties in the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see Garcia Ruiz v. Spain [GC], no. 30544/96, § 28, ECHR 1999-I).

The Court finds no elements, which would indicate that the national courts went beyond their proper discretion as to the assessment of the evidence before them.

It follows that this part of the application is therefore manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 35 § 4 of the Convention.

4. The applicant complains under Article 6 § 1 of the Convention about the outcome of two sets of the compensation proceedings against a municipal school.

Under Article 35 § 1 of the Convention the Court may only deal with the matter after all domestic remedies have been exhausted.

As regards the first set of the proceedings, the Court notes that it has not been shown that the applicant lodged an appeal against the judgment of the Głogów District Court of 20 April 1999.

As to the second set of the proceedings, the Court observes that on 13 June 2001 the Głogów District Court rejected the applicant's appeal as not being lodged within the time-limit provided by provisions of law.

In both cases, the domestic remedies have therefore not been exhausted as required by Article 35 § 1 of the Convention. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaint concerning the length of the civil proceedings, instituted in September 1991;

Declares the remainder of the application inadmissible.

Michael O'BOYLE
Registrar

Matti PELLONPÄÄ
President