

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

FOURTH SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 18461/10
by Daniel WYSZYŃSKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 24 May 2011 as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Ljiljana Mijović,
Sverre Erik Jebens,
Päivi Hirvelä,
Ledi Bianku,
Zdravka Kalaydjieva, *judges,*

and Lawrence Early, *Section Registrar,*

Having regard to the above application lodged on 28 March 2010,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Daniel Wyszyński, is a Polish national who was born in 1977 and is currently detained in Koziegłowy Prison.

A. The circumstances of the case

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

1. The period of the applicant's detention

On 14 June 2006 the applicant was committed to Wronki Prison. On 30 December 2009 he was transferred to Koziegłowy Prison where he is currently detained.

2. Conditions of the applicant's detention

The applicant submitted that during the entire period of his detention he had been held in overcrowded cells in conditions which did not comply with the basic standards of hygiene. He also claimed that he was placed in cells together with members of the prison sub-culture.

3. The applicant's actions concerning the conditions of his detention

On 4 July 2009 the applicant brought a civil action against the State Treasury *statio fisci* Wronki Prison seeking 100,000 Polish zlotys (PLN) in compensation for the infringement of his personal rights.

On 24 March 2010 the Poznań Regional Court (*Sąd Okręgowy*) dismissed the applicant's action. The court established that at the relevant time the applicant was detained in cells in which the statutory minimum standard of 3 m² per person was not respected. It held however that the applicant had not suffered any non-material damage as a result of the overcrowding in Wronki Prison and therefore the requirements of Articles 23 and 24 of the Civil Code in conjunction with Article 448 of the Civil Code were not satisfied. The court further observed that from 14 June 2006 to 4 July 2006 and from 14 August 2006 to 9 September 2007 the applicant had worked eight hours a day outside his cell. It also considered that awarding compensation to a criminal offender would go against the principles of social conduct. Finally, the court observed that the cells in Wronki Prison were fully equipped and offered an appropriate standard of hygiene.

The applicant appealed.

On 13 October 2010 the Poznań Court of Appeal (*Sąd Apelacyjny*) partly allowed the applicant's appeal. It considered that the first-instance court had erred in its reasoning that the applicant's personal rights had not been infringed as a result of overcrowding and inadequate sanitary conditions. The court held that detaining the applicant in overcrowded cells in conditions which did not comply with the basic standards of hygiene had infringed his personal rights and awarded him 2,000 PLN in compensation.

B. Relevant domestic law and practice

A detailed description of the relevant domestic law and practice concerning general rules governing the conditions of detention in Poland and domestic remedies available to detainees alleging that conditions of

their detention were inadequate are set out in the Court's pilot judgments given in the cases of *Orchowski v. Poland* (no. 17885/04) and *Norbert Sikorski v. Poland* (no. 17599/05) on 22 October 2009 (see §§ 75-85 and §§ 45-88 respectively). More recent developments are described in the Court's decision in the case of *Łatak v. Poland* (no. 52070/08) on 12 October 2010 (see §§ 25-54).

COMPLAINTS

1. The applicant complains in substance under Article 3 of the Convention of overcrowding and inadequate living conditions of his detention.

2. Invoking Article 6 of the Convention, the applicant complains about the unfairness of the civil proceedings for compensation against Wronki Prison.

THE LAW

A. Restoration of the application to the Court's list

The Court notes that the present application was declared inadmissible by a Single Judge on 14 December 2010 for non-exhaustion of domestic remedies. It was found that the proceedings concerning the applicant's action for the infringement of his personal rights and compensation on account of overcrowding and inadequate prison conditions were still pending.

However, on 29 December 2010 the applicant submitted a copy of the Poznań Court of Appeal judgment of 13 October 2010 constituting the final resolution of his case before the domestic courts. In these circumstances, the Court considers that the application should be re-opened and restored to the list.

B. Alleged violation of Article 3 of the Convention

The applicant complained under Article 3 of the Convention alleging that the conditions of his detention had been inadequate. Article 3 provides:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The Court finds that it cannot, on the basis of the case file, determine the admissibility and the merits of the complaint. It is therefore necessary to

give notice of this part of the application to the respondent Government in accordance with Rule 54 § 2 (b) of the Rules of Court.

C. Alleged violation of Article 6 of the Convention

The applicant further complained under Article 6 of the Convention about the unfairness of the civil proceedings for compensation against Wronki Prison.

The Court observes that the applicant did not allege any particular failure to respect his right to a fair hearing on the part of the relevant courts and authorities. Indeed, his complaints are limited to a challenge to the result of the proceedings. Assessing the circumstances of the case as a whole, the Court finds no indication that the applicant's right to a fair trial was not respected in the impugned proceedings. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to re-open the application and to restore it to the list;

Decides to adjourn the examination of the applicant's complaint concerning the conditions of his detention;

Declares the remainder of the application inadmissible.

Lawrence Early
Registrar

Nicolas Bratza
President