

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

FOURTH SECTION

DECISION

Application no. 26895/05
by Urszula ZALEWSKA
against Poland

The European Court of Human Rights (Fourth Section), sitting on 31 May 2011 as a Committee composed of:

Zdravka Kalaydjieva, *President,*
Lech Garlicki,
Vincent A. De Gaetano, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 8 July 2005,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Urszula Zalewska, is a Polish national who was born in 1953 and lives in Sierpc. The Polish Government ("the Government") are represented by their Agent, Mr J. Wołąsiewicz of the Ministry of Foreign Affairs.

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

A. Criminal proceedings

In 1998 the applicant instituted criminal proceedings against members of a management board of a housing cooperative in connection with the alleged financial irregularities. On 16 October 1998 the Sierpc District

Prosecutor discontinued the investigation. On 20 October 1999 the Sierpc District Court upheld the decision of the Sierpc District Prosecutor.

B. Civil proceedings for annulment

In June 2001 the applicant filed an action for annulment of certain resolutions adopted by an assembly of members of a housing cooperative. On 13 November 2002 the Płock Regional Court gave judgment in the applicant's favour. On 24 September 2003 the Warsaw Court of Appeal dismissed the defendant's appeal.

C. Civil proceedings for payment against the applicant

On 19 November 2003 the Płock Regional Court gave judgment against the applicant ordering her to pay a certain amount to the plaintiff. On 26 November 2004 the Warsaw Court of Appeal dismissed her appeal. On a later unknown date the court assigned a legal-aid lawyer to prepare a cassation appeal in the case.

On 31 March 2005 the applicant and the lawyer met. The lawyer explained to her orally why she saw no grounds on which to prepare a cassation appeal in the case. On 21 April 2005 the applicant requested the Ombudsman to lodge a cassation complaint on her behalf. On 10 May 2005 the Ombudsman refused her request.

D. Civil proceedings for reinstatement

On 11 April 2001 the applicant filed an action for reinstatement against her former employer. On 12 March 2003 the Płock District Court dismissed her claim and awarded her compensation for unlawful dismissal. On 16 June 2004 the Warsaw Regional Court dismissed the applicant's appeal.

On 18 June 2004 the applicant's legal-aid lawyer requested the court to be served with the written reasons of the judgment. They were served on her on 27 September 2004. The time-limit for the lodging of a cassation appeal was to expire on 27 October 2004.

In a letter to the applicant dated 1 October 2004 the lawyer informed her about the refusal to draw up a cassation appeal. On 18 October 2004 the applicant requested the court to assign another legal-aid lawyer. On 25 October 2004 the court refused.

On 5 November 2004 the applicant again requested the lawyer to draw up a cassation appeal in her case. On 26 November 2004 the lawyer reiterated that she saw no grounds on which to do so.

On 11 December 2004 the applicant requested the Warsaw Bar Association to appoint another legal-aid lawyer. On 30 December 2004 the Warsaw Bar Association refused to assign another legal-aid lawyer to the case.

E. Civil proceedings for compensation

In May 2001 applicant filed an action for compensation, compensatory benefit and payment against her former employer. On 19 March 2001 the Warsaw Regional Court gave judgment partly in the applicant's favour. On 7 May 2002 the Warsaw Court of Appeal quashed the first-instance judgment and remitted the case.

On 13 October 2004 the Warsaw Regional Court gave judgment partly in the applicant's favour. On 25 October 2005 the Warsaw Court of Appeal dismissed the applicant's appeal. On 8 December 2005 the second-instance judgment became final.

F. Civil proceedings for eviction against the applicant

On 11 August 2006 the Sierpc District Court ordered the applicant to leave a flat which she had occupied with her family. On 13 February 2008 the Sierpc District Court's Bailiff ordered the applicant to leave her flat. On 31 March 2008 the Sierpc District Court quashed the bailiff's decision because the applicant had not been offered a council flat. On 12 June 2008 the Płock Regional Court dismissed the plaintiff's interlocutory appeal.

On 21 April 2009 the Sierpc District Court's Bailiff ordered the applicant to leave her flat.

G. Civil proceedings for payment against the applicant

On 9 March 2007 the Sierpc District Court gave an order of payment against the applicant. On 28 March 2007 the applicant lodged an appeal. She failed to provide further information concerning the case.

H. Civil proceedings for payment against the applicant

On 16 October 2008 the Sierpc District Court gave an order of payment against the applicant.

I. Enforcement proceedings against the applicant

On 6 May 2005 the Sierpc District Court's Bailiff instituted the enforcement proceedings against the applicant on the basis of the orders issued in the proceedings under 7) and 8). The applicant failed to provide further information about these proceedings.

COMPLAINTS

The applicant complained under Article 6 of the Convention about the outcome and unfairness of the proceedings.

The applicant further complained that she had been denied an effective access to a court since the legal-aid lawyers refused to file a cassation appeal to the Supreme Court in the proceedings summarised above under 3) and 4).

THE LAW

By letter dated 29 January 2010 the Government's observations were sent to the applicant, who was requested to submit any observations together with any claims for just satisfaction in reply by 12 March 2010. Subsequently, by the President's decision of 21 April 2010, the applicant was granted legal aid.

By letter dated 26 November 2010, sent by registered post, the applicant was notified that the period allowed for submission of the applicant's observations had expired and that no extension of time had been requested. The applicant's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. The applicant received this letter on 29 November 2010. By a letter of 30 November 2010 she informed the Court that she had encountered difficulties in finding a lawyer. The time-limit for the submission of a reply to the Government's observations was subsequently extended until 22 February 2011.

However, no response has been received.

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue her application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

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

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Fatoş Aracı
Deputy Registrar

Zdravka Kalaydjieva
President