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

FOURTH SECTION

DECISION

Application no. 1828/15
Sylwester ZIEMNICKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 9 February 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 19 December 2014,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Sylwester Ziemnicki, is a Polish national, who was born in 1964 and is currently detained in Medyka Prison.

The Polish Government ("the Government") were represented by their Agent, Ms Justyna Chrzanowska, of the Ministry of Foreign Affairs.

The applicant complained under Article 3 of the Convention about overcrowding and inadequate living conditions during his detention in Wadowice Prison from 26 February to 26 March 2010.

THE LAW

On 26 November 2015 the Court received the following declaration signed by the applicant:

"I, Sylwester Ziemnicki, note that the Government of Poland are prepared to pay me, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights, PLN 9,300 (nine thousand three hundred Polish zlotys), to cover any and all pecuniary and non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to me. The sum referred to above includes PLN 6,300 (six thousand three hundred Polish zlotys) which is to cover costs and expenses of the proceedings before the domestic courts and which are payable by me to the State Treasury on account of the judgments of the Rzeszów Regional Court of 22 October 2013 (case no. I C 1390/11) and the Rzeszów Court of Appeal of 17 April 2014 (case no. I ACa 19/14).

I further note that the payment constitutes redress for the systemic violation of Article 3 of the Convention on account of the conditions of his detention, in particular overcrowding, as identified by the Court in the pilot judgment given in the case of *Orchowski v. Poland* (no. 17885/04) on 22 October 2009 (see paragraphs 135 and 147 et seq.).

This sum will be payable within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Poland in respect of the facts giving rise to these applications. I declare that this constitutes a final resolution of the case."

On 12 January 2016 the Court received the following declaration from the Government:

" I, Justyna Chrzanowska, Agent of the Government, declare that the Government of Poland offer to pay to Sylwester Ziemnicki, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights PLN 9,300 (nine thousand three hundred Polish zlotys) to cover any and all pecuniary and non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to the applicant. The sum referred to above includes PLN 6,300 (six thousand three hundred Polish zlotys), which is to cover costs and expenses of the proceedings before the domestic courts and which are payable by the applicant to the State Treasury on account of the judgments of the Rzeszów Regional Court of 22 October 2013 (case no. I C 1390/11) and the Rzeszów Court of Appeal of 17 April 2014 (case no. I ACa 19/14).

The payment is intended to provide the applicant with redress for the systemic violation of Article 3 of the Convention on account of the conditions of his detention, in particular overcrowding, as identified by the Court in the pilot judgment given in the case of *Orchowski v. Poland* (no. 17885/04) on 22 October 2009 (see paragraphs 135 and 147 et seq.).

This sum will be payable within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. 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. The payment will constitute the final resolution of the case."

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application. 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 in accordance with Article 39 of the Convention.

Done in English and notified in writing on 3 March 2016.

Fatoş Aracı
Deputy Registrar

Nona Tsotsoria
President