



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

FOURTH SECTION

CASE OF KUPIEC v. POLAND

(Application no. 16828/02)

JUDGMENT

STRASBOURG

3 February 2009

FINAL

06/07/2009

This judgment may be subject to editorial revision.

In the case of Kupiec v. Poland,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Giovanni Bonello,

Ljiljana Mijović,

Ján Šikuta,

Mihai Poalelungi,

Nebojša Vučinić, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 13 January 2009,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 16828/02) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Polish national, Michał Kupiec (“the applicant”), on 2 April 2001.

2. The Polish Government (“the Government”) were represented by their Agent, Mr J. Wolasiewicz of the Ministry of Foreign Affairs.

3. The applicant alleged, in particular, that he had been deprived of his right of access to a court, contrary to Article 6 of the Convention.

4. On 5 September 2006 the President of the Fourth Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1976 and lives in Kraków.

6. On 19 June 2000 the applicant sued three professors from the Cracow University of Science and Technology (*Akademia Górniczo-Hutnicza*) before the Cracow Regional Court (*Sąd Okręgowy*) alleging professional misconduct on their part and seeking protection of his personal rights. He submitted that the professors had deliberately made him fail his fourth year

of studies. They allegedly prohibited him from participation in lectures and the examinations. In this respect he claimed PLN 400,000 in compensation from the professors and PLN 1,000,000 from the University.

7. On 8 October 2000 the applicant submitted information concerning his financial situation. He maintained that he received a family pension in the amount of PLN 322. He further stressed that he was a student, that he did not work and that he had incurred huge debts on his bank account (several thousand Polish zlotys).

8. On 20 October 2000 the Regional Court asked the applicant to submit a copy of his bank statement and the contract for the purchase of his car. In reply, on 23 October 2000 the applicant sent a letter to the court, claiming that his debts amounted to PLN 17,323. However, he could not ask the bank for a statement because the bank would have discovered his debts. He was also not able to submit the contract for the purchase of his car (Renault Clio) as it had been bought with his mother's money.

9. On 3 November 2000 the Krakow Regional Court refused to exempt the applicant from the payment of court fees. The court held that the applicant had failed to submit evidence i.e. his bank statement in support of his allegations that he had substantial debts. According to the court, the fact that the applicant owned a Renault Clio was an indication that his financial situation was sound. The court stressed that it was impossible to cover the costs of the car maintenance with the applicant's pension.

10. On 13 December 2000 the applicant lodged an interlocutory appeal. He stressed that the court fee for lodging his claim exceeded PLN 75,000, which he was unable to pay. He further maintained that he did not own any real estate and that he rented his apartment under the rent-control scheme. Moreover, he was not even able to pay the reduced rent and he already owed PLN 3,670.45 to the housing co-operative. He further claimed that the fact that he owned a car was of no relevance as he had bought it two years ago when his financial situation had been better, given that he had had a part-time job at the time. He did not have a copy of the contract for the purchase of the car. However, he maintained that he had bought a new car and had paid PLN 30,900 for it.

11. On 14 December 2000 the Regional Court again refused the applicant's request. The court stressed that the fact that the applicant owned a car worth PLN 40,000 and at the same time his only income was a family pension of PLN 323 indicated that his financial situation was good and that he must have had some hidden resources. Otherwise, he would not be able to support himself and to maintain his car. According to the court, the applicant was trying to conceal his real financial situation.

12. On 4 January 2001 the applicant lodged an interlocutory appeal against this decision. He claimed that the court's refusal to exempt him amounted to a violation of his right of access to a court.

13. On 22 January 2001 the Krakow Court of Appeal dismissed the applicant's interlocutory appeal. The court held that a person applying for legal aid should not take out a loan in a situation when he still had assets (a car). In addition, the applicant had failed to provide a detailed statement about his financial situation.

14. On 15 February 2001 the Regional Court ordered the applicant to pay PLN 29,100 as a fee for lodging his statement of claim on pain of having his claim returned.

15. On 25 February 2001 the applicant again asked to be exempted from the court fees. He claimed that he was unable to pay that amount. He owed PLN 20,000 to the bank and had no savings. In addition, his claim related to the protection of personal rights. As regards his car, he could not sell it since a different set of civil proceedings concerning it was pending. Lastly, he maintained that apart from the family pension - PLN 326 - he did not have any other income. He had no possessions and the car was his only asset.

16. On 3 April 2001 the Regional Court refused the applicant's request. The court held that the applicant should have sold his car in order to obtain money for court fees.

17. On 18 April 2001 the applicant again lodged an interlocutory appeal against this decision. The applicant repeated his earlier arguments and referred to the right of access to a court.

18. On 21 May 2001 the Court of Appeal gave a decision and exempted the applicant from 80 % of the court fees for lodging his statement of claim. The court found that the court fee in the amount of PLN 29,100 constituted a limitation on the applicant's right of access to a court and that the amount had to be reduced. At the same time, it held that a court fee in the amount of 5,820 PLN could not be considered excessive for the applicant.

19. On 13 July 2001 the applicant again made an interlocutory appeal and submitted that PLN 5,820 was too much and he was unable to pay it.

20. On 16 July 2001 the Regional Court refused to grant the applicant any further exemption from court fees. Upon the applicant's further appeal, the Krakow Court of Appeal upheld the decision on 23 October 2001. The court held that the applicant had not submitted any new arguments which would have justified a further exemption from court fees.

21. On 7 January 2002 the Regional Court ordered the applicant to pay a court fee of PLN 5,820 for lodging his statement of claim on pain of having the claim returned.

22. On 14 January 2002 the applicant lodged yet another motion for an exemption from court fees. He stated among other things that he had lost the right to a family pension.

23. On 18 January 2002 the Regional Court returned the statement of claim to the applicant as he had failed to pay the required court fee. On 4 March 2002 the Regional Court quashed the decision to return the statement of claim to the applicant. On the same date it dismissed the applicant's motion for an exemption. It held that there were no new circumstances which would argue in favour of allowing the applicant's request. The applicant appealed to the Court of Appeal.

24. On 15 May 2002 the Court of Appeal dismissed the applicant's interlocutory appeal. The court held that the applicant had already been exempted from the greater part of the fees due in his case (80 %) and that he only had to pay PLN 5,820. Furthermore, despite his allegedly bad financial situation, the applicant had been able to maintain a car. The court acknowledged that the car was the subject of enforcement proceedings. However, since the applicant had not been able over a two-year period to set aside the sum required for court fees, his application for an exemption had to be dismissed.

25. On 31 July 2002 the Regional Court returned the statement of claim to the applicant since he had failed to pay the required court fee. The applicant appealed.

26. On 13 September 2002 the court ordered the applicant to pay the court fee of PLN 1,164 for lodging an interlocutory appeal. On 30 September 2002 the applicant asked to be exempted from payment of this fee.

27. On 2 October 2002 the court asked the applicant to submit a detailed statement about his financial situation.

28. On 19 November 2002 the Cracow Regional Court exempted the applicant from the fee for lodging his interlocutory appeal.

29. On 6 March 2003 the Court of Appeal dismissed the applicant's interlocutory appeal against the decision to return the statement of claim to him.

II. RELEVANT DOMESTIC LAW AND PRACTICE

30. The legal provisions applicable at the material time and questions of practice are set out in paragraphs 23-33 of the judgment delivered by the Court on 19 June 2001 in the case of *Kreuz v. Poland* (no. 28249/95, ECHR 2001-VI; see also *Jedamski and Jedamska v. Poland*, no. 73547/01, §§ 29-39).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

31. The applicant complained under Article 6 § 1 that the excessive amount of court fees required from him in order to proceed with his claim had been in breach of his right of access to a court for the determination of his civil rights. The relevant part of Article 6 § 1 provides:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing ... by [a] ... tribunal established by law. ...”

32. The Government contested that argument.

A. Admissibility

33. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

34. The applicant maintained that the sum required from him for proceeding with his claim had been excessively high and disproportionate to his means. Even after partial exemption, it had been 18 times higher than his monthly income.

35. The applicant concluded that his right of access to a court had been breached.

(b) The Government

36. The Government firstly recapitulated the general rules concerning exemption from court fees.

37. They secondly noted that the court fee was calculated with reference to the value of the claim. The applicant should have realised that the value of his claims would have influenced the amount of court fees required from him.

38. They further stressed that the applicant was exempted from 80 % of the fees required from him. In their opinion, the requested sum had not been excessive since the applicant had a source of income and also had owned a relatively new car.

39. They maintained that the decisions of the domestic authorities which assessed the applicant's liability to pay court fees had not been disproportionate or arbitrary bearing in mind the applicant's financial status and the value of his claim: PLN 1,500,000.

40. In addition, the applicant's claims were not subject to prescription in so far as they concerned his personal rights. If the applicant were to submit his claim to the court again there would be no formal obstacles to its examination.

41. In sum, the Government invited the Court to find that there had been no violation of Article 6 of the Convention.

2. The Court's assessment

(a) Principles deriving from the Court's case law

42. The Court observes that in its judgment in *Kreuz v. Poland* (cited above, § 60) it dealt with the question whether the requirement to pay substantial fees to civil courts in connection with claims could be regarded as a restriction on the right of access to a court.

43. In this connection the Court held that the amount of the fees assessed in the light of the particular circumstances of a given case, including the applicant's ability to pay them, and the stage of the proceedings at which that restriction had been imposed were factors which were material in determining whether or not a person had enjoyed his right of access and had "a ... hearing by [a] tribunal".

(b) Application of the above principles to the present case

44. The Court will now determine whether, in the particular circumstances of the present case, the fee actually required constituted a restriction that impaired the very essence of the applicant's right of access to a court.

45. The Court firstly notes that the case concerned the applicant's action for protection of his personal rights and his claim for PLN 1,400,000 in compensation. The court fees which he was required to pay were determined as a fraction of the value of the claim, namely the amount of compensation sought.

46. The Court observes that the applicant was first ordered to pay PLN 29,100. Following a partial exemption he was ordered to pay PLN 5,820 (see paragraphs 14 and 18 above, for the relevant domestic law, see *Kreuz v. Poland* (cited above §§ 23-33)).

47. The Court reiterates that a claim submitted to a tribunal for determination must be presumed to be genuine and serious unless there are clear indications to the contrary which might warrant the conclusion that the claim is frivolous or vexatious or otherwise lacking in foundation (see *Rolf Gustafson v. Sweden*, judgment of 1 July 1997, *Reports of Judgments and Decisions* 1997-IV, § 38). Even assuming that the dispute in the present case was “genuine and serious” within the meaning of the Court’s case-law (see *Kaukonen v. Finland*, no. 24738/94, Commission decision of 8 December 1997) the Court finds, in view of the facts of the case, that the applicant’s compensation claim appears grossly exaggerated and unrealistic. Had the applicant claimed a more reasonable amount the court fees would have been smaller.

48. In addition the Court notes that despite the exaggerated amount of compensation claimed by the applicant, the domestic authorities nevertheless exempted him from the greater part of the court fees due (see paragraphs 14 and 18 above).

49. For the Court, applicants who deliberately inflate the value of their claims for compensation cannot be expected to be exempted entirely from the payment of court fees or from the requirement to contribute in a reasonable amount to the costs of taking the action.

50. In the circumstances, the Court considers that the amount of fees required from the applicant in the present case cannot be considered disproportionate.

51. The Court concludes that there has been no violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLES 2, 3, 4, 5, 10 AND 13 OF THE CONVENTION

52. The applicant complained of a violation of Articles 2, 3, 4, 5, 10 and 13 of the Convention.

53. The Court finds that the facts of the case do not disclose any appearance of a violation of the above-mentioned provisions. It follows that these complaints are manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning lack of access to a court admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 3 February 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President