



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

FOURTH SECTION

CASE OF URBAŃCZYK v. POLAND

(Application no. 33777/96)

JUDGMENT

STRASBOURG

1 June 2004

FINAL

01/09/2004

*This judgment will become final in the circumstances set out in Article 44
§ 2 of the Convention. It may be subject to editorial revision.*

In the case of Urbańczyk v. Poland,

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

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSKI,
Mr L. GARLICKI,
Mr J. BORRERO BORRERO, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 11 May 2004,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 33777/96) against the Republic of Poland lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Andrzej Urbańczyk ("the applicant"), on 2 September 1996.

2. The applicant was represented by Ms Elżbieta Urbańczyk, a lawyer practising in Częstochowa. The Polish Government ("the Government") were represented by their Agent, Mr Jakub Wołosiewicz of the Ministry of Foreign Affairs.

3. The applicant alleged that the proceedings in which he sought a building permission exceeded a reasonable time within the meaning of Article 6 of the Convention. He also complained under Article 1 of Protocol No. 1 to the Convention that his right of property was infringed in that, as a result of the length of these proceedings, he was prevented from exercising his right as an owner to build a house on the site.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the Fourth Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

6. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section (Rule 52 § 1).

7. By a decision of 28 May 2002, the Court declared the application admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The applicant was born in 1943 and lives in Częstochowa.

9. By a decision of 3 April 1979 the property of the applicant's predecessors in title was expropriated. The property comprised a plot of land located in Częstochowa, at 30 Wieluńska Street (plot No. 30). A house located on this plot was later demolished.

10. On 20 October 1987 the Częstochowa Municipal Architect issued a permit, authorising J.M., the owner of a furniture repair workshop leasing premises situated on an adjacent plot (No. 28), to modernise the premises by, *inter alia*, fitting windows and a door in the boundary wall between the former property of the applicant's predecessors in title and plot No. 28. On an unspecified later date J.M. opened a furniture shop on plot No. 28.

11. By a decision of the Częstochowa Municipal Council of 6 March 1990 the property situated at 30 Wieluńska Street in Częstochowa was returned to the applicant as the aim of the expropriation – the construction of an apartment building – had not been realised.

A. Proceedings concerning the legality of the decision of 20 October 1987.

12. On 10 January 1992 the applicant requested the Częstochowa Governor to declare the decision of 20 October 1987 null and void.

13. On 28 July 1992 the Częstochowa Governor declared null and void the 1987 decision. The M. Company, owned by J.M., leasing plot No. 28, lodged an appeal with the Minister of Town and Country Planning. On 9 November 1992 the Minister upheld the contested decision. The M. Company lodged an appeal with the Supreme Administrative Court.

14. On 3 March 1994 the Supreme Administrative Court annulled the decisions of 28 July and 9 November 1992 whereby the M. Company leasing plot No. 28 had been ordered to block doors and windows in a wall facing the applicant's plot and adjacent to the boundary of the plot.

15. On 14 June 1994 the Częstochowa Governor refused the applicant's request to have the 1987 decision declared partly null and void. On 18 August 1994 this decision was upheld by the Minister of Town and Country Planning. Apparently on 5 October 1994 the applicant lodged an appeal against this decision.

16. On 1 April 1996 the Supreme Administrative Court quashed the decisions by which the administration refused to declare null and void the 1987 decision in so far as it authorised the fitting of a door and windows in the boundary wall between the plots. The court considered that the issue needed to be reconsidered, with special attention being paid to the question whether the building on plot No. 28 had been constructed on the basis of a building permit or, in the alternative, in the absence of any legal basis.

17. On 10 August 1996 the applicant was informed by the Częstochowa Regional Office that an administrative enquiry had been instituted in order to establish whether the building on plot No. 28 had been constructed lawfully. On 22 August 1996 he was further informed that the proceedings would not be terminated before 26 August 1996.

18. On 29 October 1996 the Częstochowa Regional Office refused to declare null and void the 1987 decision concerning the adjacent parcel No. 28. The applicant lodged an appeal with the Chief Inspector of Construction Supervision.

19. On 19 February 1997 the Chief Inspector of Construction Supervision quashed the 1987 decision concerning parcel No. 28 in its entirety, considering that the fitting of windows and a door in the wall adjacent to the applicant's parcel No. 30 was unlawful in that it rendered it impossible for the applicant to use his plot.

20. By a letter of 27 March 1997 of the Częstochowa Municipal Office the applicant and other parties to the proceedings were informed that the case concerning the 1987 decision could not be dealt with within the time-limit provided for by Article 35 of the Code of Administrative Procedure. A new time-limit was fixed. According to the new time-limit, the case was to be disposed of by 5 May 1997.

21. On 18 April 1997 the M. Company appealed to the Supreme Administrative Court against the decision of 19 February 1997.

22. In a letter of 14 May 1997 the applicant was informed by the Supreme Administrative Court, in reply to his complaint that the appeal against the decision of 19 February 1997 had not yet been decided, that, in view of the Court's case-load, there was a delay of approximately eighteen months for cases to be heard and judgment given.

23. On 10 April 1997, J.U., one of the co-owners of parcel No. 30, which was also co-owned by the applicant, sold her share of the property to a third party.

24. On 19 May 1997 the applicant submitted a complaint about the inactivity of the administration to the Chief Inspector of Construction

Supervision. On 9 July 1997 the Częstochowa Regional Office informed the applicant that his complaint about the inactivity of the administration in the proceedings concerning parcel No. 28 could not be dealt with within the one-month time-limit provided for by law. On 28 July 1997 the Częstochowa Regional Office informed the applicant that the complaint was unfounded.

25. On 2 July 1999 the Supreme Administrative Court quashed the decision of the Chief Inspector of Construction Supervision of 19 February 1997, considering that the lower authorities had failed to establish whether the supervision of the Principal Inspector of Conservation of Cultural Heritage should apply to the area within which parcel No. 28 was situated.

26. On 14 January 2000 the applicant sold his share in parcel No. 30 to third parties.

27. On 14 February 2000 the Chief Inspector of Construction Supervision quashed the decision of 29 October 1996 and ordered that the case be re-examined by the organ of the first-instance. The applicant appealed. On 20 June 2000 the applicant lodged his pleadings with the court, complaining, *inter alia*, that the proceedings had lasted an unreasonably long time. The protracted nature of the proceedings had forced the applicant to sell this property. He had no other choice as the property was losing value as a result of the length of the proceedings. His property rights had been flagrantly breached in the proceedings in which the authorities have shown a manifest disregard of his legitimate interests.

28. On 25 January 2002 the Supreme Administrative Court quashed the decision of 14 February 2000 rendered by the Chief Inspector of Construction Supervision, considering that there was no need to remit the case to the first-instance body, especially in view of the excessive length of proceedings.

29. On 13 January 2003 the Chief Inspector of Construction Supervision quashed the decision of 29 October 1996 and declared the 1987 decision entirely null and void, considering that the latter had been rendered in flagrant breach of the substantive provisions of construction law.

B. Proceedings concerning the applicant's request for building permit.

30. On 10 January 1992 the applicant requested the Częstochowa Municipal Department of Architecture and Land Development to grant him planning permission for the construction of an apartment house on his plot (No. 30).

31. On 12 February 1992 the Department granted the applicant preliminary planning permission (*wskazania lokalizacyjne*).

32. In a letter of 11 April 1992 directed to the Częstochowa Municipal Department of Architecture and Land Development the applicant's

neighbour, leasing the plot at 28 Wieluńska Street, protested against the preliminary building permission given to the applicant. In reply dated 23 April 1992 the Department informed him that his objections were unfounded, and that plot No. 28 had to be used in a manner consistent with the applicant's property rights to plot No. 30. It was further stated that the preliminary permission given to the applicant was consonant with the general vision of land development in the part of the town concerned, which was of a historical character and was to be preserved and enhanced. Similar arguments were set out in a letter of 19 June 1992, apparently in reply to further complaints made by the applicant's neighbour.

33. On 23 December 1992 the applicant requested that he should be given a building permit and submitted relevant technical documents in support of his request.

34. On 18 January 1993 the Director of the Częstochowa District Office stayed the proceedings concerning the applicant's request for the grant of final building permit, pending the final decision in the proceedings for a declaration of nullity of the 1987 decision. The applicant appealed to the Częstochowa Governor. The contested decision was upheld by the Governor on 1 March 1993. The applicant lodged a further appeal with the Supreme Administrative Court.

35. On 16 November 1993 the Supreme Administrative Court allowed the applicant's appeal and quashed the contested decision relating to the stay of the proceedings. The court pointed out, firstly, that the proceedings concerning the status of the 1987 decision had in fact been terminated by a final decision and, secondly, that there was nothing in the character of these proceedings, which essentially concerned the fitting of doors and windows in the boundary wall between plots Nos. 28 and 30, which would make it impossible to proceed in the case concerning the applicant's request for the grant of final building permit.

36. On 19 January 1994 the Częstochowa District Office requested the applicant to submit the documentation confirming his legal title to plot No. 30.

37. By a decision of 21 February 1994 the Częstochowa Municipal Department of Architecture, Town Planning and Construction Supervision refused to grant final building permit to the applicant. That Department considered that the applicant had failed to submit documents in order to show that his proposed development complied with the local land development plans. The Department further stated that no final decision had as yet been given on the issue concerning the fitting of a door and windows in the boundary wall between the applicant's plot and plot No. 28.

38. On 15 April 1994 the Częstochowa Regional Office dismissed the applicant's appeal against the decision of 21 February 1994.

39. On 6 June 1995 the Supreme Administrative Court quashed the refusals of 21 February 1994 and 15 April 1994 to give the applicant

building permission. The Administrative Court observed that if the applicant had indeed failed to submit the required documentation, he should have been invited to supplement his motion in order to comply with formal requirements. The Supreme Administrative Court further noted that the administrative organs had failed themselves to collect all the evidence which was necessary for issuing the relevant decision.

40. On 31 August 1995 the Częstochowa District Office requested the applicant to submit the documents confirming his legal title to his plot and the notary consent of the co-owners to construct a building on it. The applicant was informed that if he did not submit the requested documentation his application for a building permit would not be examined.

41. On 18 September 1995 the District Department of Architecture, Town Planning and Construction Supervision requested the applicant to submit a decision concerning the development plan for the plot concerned, which, according to the provisions of the new Construction Act of 7 July 1994, was a prerequisite for a further examination of the applicant's request for the grant of building permit. He was also requested to submit amendments to the original building project so as to take into account the presence of windows and a door on the boundary between the plots.

42. The proceedings did not progress until on 10 April 1997 and on 14 January 2000 respectively, J.U. and the applicant sold their shares in parcel No.30 to third parties.

II. RELEVANT DOMESTIC LAW

A. Judicial review of administrative decisions

43. Under Article 196 § 1 of the Code of Administrative Procedure, as applicable until 1 October 1995, an appeal could be lodged with the Supreme Administrative Court against the merits of a second-instance administrative decision on the ground that the decision was not in conformity with the law.

44. Article 207 § 2 stated that the court should set the decision aside wholly or in part if it was established that the decision was issued in breach of substantive law, that the proceedings leading to the decision were flawed by a defect which rendered the decision null and void, or if such procedural shortcomings had occurred in the proceedings leading to the decision that their reopening was justified.

45. Pursuant to Article 16 of the Supreme Administrative Court Act of 11 May 1995, which entered into force on 1 October 1995, that court has competence to examine:

- appeals against administrative decisions on the merits;

- appeals against procedural decisions against which such an appeal is available;
- decisions given in administrative enforcement proceedings;
- administrative acts other than decisions listed above, creating or acknowledging legal rights or entitlements or obligations.

B. Length of administrative proceedings

(a) Before 1 October 1995

46. Under Article 35 of the Code of Administrative Procedure of 1960, the administration was obliged to deal with cases without undue delay. Simple cases should be dealt with no delay. In cases requiring enquiry, a first-instance decision should be given no later than one month. In particularly complex cases, decisions should be issued within two months.

47. If the decision was not given within those time-limits, a complaint under Article 37 of the Code could be filed with the higher-instance authority, which should fix an additional time-limit, identify the persons responsible for the failure to deal with the case within the time-limits, and, if need be, arrange for preventive measures to be adopted in order to prevent further delays.

(b) After 1 October 1995

48. In 1995 the Supreme Administrative Court Act was adopted, which entered into force on 1 October 1995. It created further specific procedures in which a complaint about the administration's failure to act speedily could be raised.

49. Under Article 17 of the Act, the Supreme Administrative Court is competent to examine complaints about the administration's inactivity in administrative proceedings in cases referred to in Article 16 of the Act.

50. Pursuant to Article 26 of the Act, if a complaint about the inactivity of an administrative authority is well-founded, the court shall oblige the competent authority to give a decision, or to carry out the factual act, or to confer or acknowledge an individual entitlement, right or obligation.

51. The 1995 Act also gave the Supreme Administrative Court special powers in order to ensure compliance of the administrative authorities with the judgments of that court. Under Article 31 of the Act, in cases in which the court found that the administrative authority had failed to carry out its order to give a decision, the court may impose a fine on the authority concerned.

52. The court, if the circumstances of the case so permit, can also rule on the merits of the case.

53. The court can give such decisions if the party to the proceedings has first summoned the authority concerned to carry out the court's order given under the provisions of Article 17 of the Act.

54. A party to the proceedings who sustained damage as a result of a failure of the administrative body to act in compliance with the judgment of the Supreme Administrative Court given under Article 17 of the Act, is entitled to claim compensation from the administrative authority concerned, according to principles of civil liability as set out by the Civil Code. Such a claim should be first lodged with that authority. A decision on the compensation claim should be taken by that administrative authority within three months.

55. If the authority concerned fails to give a ruling in this respect within this time-limit, or if the party is not satisfied with the compensation granted, the compensation claim against the administrative body can be lodged with a civil court.

56. The Supreme Administrative Court ruled that the administration's failure to act occurs when it has failed to take any steps in order to deal with the case, or when it did take such steps but such steps did not result in a decision or order being given, or in other relevant measures being taken. For the assessment of the complaint about the administration's failure to act the reasons for this failure are irrelevant. In particular it is of no relevance whether the acts had not been carried out as a result of the authority's lack of diligence, or as a result of its conviction that the decision or the act in question should not be given or carried out at all (NSA Warsaw, judgment of 1 December 1998, U IV SAB 121/97).

THE LAW

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

57. The applicant complains under Article 6 of the Convention about the length of proceedings in which he requested to be granted building permission.

58. Article 6 § 1 of the Convention in its relevant part reads:

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

A. Period to be taken into consideration

59. The proceedings at issue concerning the building permit were instituted on 23 December 1992. They were closely linked to the

proceedings which aimed at declaring the decision of 20 October 1987 null and void. However, the period to be taken into a consideration began not on that date, but on 1 May 1993, when the declaration whereby Poland recognised the right of individual petition for the purposes of former Article 25 of the Convention took effect. The Court notes that in order to assess the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time (see, among other authorities, *Humen v. Poland* [GC], no. 26614/95, § 59, 15 October 1999, unreported).

60. As to the end of the proceedings, the Government maintained that they had lasted until 10 April 1997, on which date J. U., one of the co-owners of plot No. 30, sold her share to M.O. According to the Government, the new co-owner of the plot had refused to give his consent to have anything constructed on the plot, and as a consequence, the administrative organs could not issue a building permit in favour of the applicant. The applicant disputed the Government's submissions.

61. In the Court's view, the Government has failed to submit any persuasive evidence that the proceedings at issue became devoid of purpose in 1997. Nevertheless, it is not disputed that on 14 January 2000 the applicant sold his share in plot No. 30. This, as it could be assumed, resulted in the applicant's no longer having a legal interest in applying for a building permit. Accordingly, on the material before it, the Court considers that the period to be examined ended on 14 January 2000 and thus lasted 7 years and 22 days of which the period of 6 years, 8 months and 13 days falls within the Court's jurisdiction *ratione temporis*.

B. Arguments before the Court

1. The Government's submissions

62. The Government considered the length of the proceedings to be reasonable. Firstly, they maintained that the applicant himself had contributed to the prolongation of the proceedings by failing to submit to the Częstochowa District Office some indispensable documentation.

63. Secondly, the Government contended that the case had been a complex one, mainly due to the fact that before issuing the building permit the administrative authorities had had to determine the legality of the decision of 20 October 1987 allowing J. M. to fit windows and a door in the boundary wall between plots No. 30 and 28. It had been also necessary to establish whether the building located on plot No. 28 had been constructed on the basis of a building permit or in the absence of any legal basis. The Government claimed that the case had been even more complex as the decision of 20 October 1987 had been issued while the State was the owner of plot No. 30. They also pointed to the fact that the buildings in Wieluńska Street were located in the historic district of Częstochowa, and therefore, the

Regional Monuments Conservator had to decide whether they were in harmony with the historic character of the area.

64. The Government were of the opinion that the administrative authorities had conducted the case with due diligence and had rendered their decisions without delay. However, they acknowledged the fact that the process had been blocked by the unresolved issue with regard to the windows and a door in the boundary wall between plots No. 30 and 28 and that the Supreme Administrative Court had delivered a number of judgments in the proceedings concerning the building permit as well as the decision of 1987.

2. The applicant's submissions

65. The applicant rejected the Government's argument that the protracted character of the proceedings resulted from the complexity of the case.

66. In his opinion the Supreme Administrative Court had postponed the rendering of the final decision by dealing with issues of minor relevance. The applicant found it particularly deplorable that in its judgment of June 1999 the Administrative Court had ordered to examine whether the Monuments Conservator was competent to decide about the purpose of plots No. 28 and 30. He observed that it had been known for many years that the area at issue was under the supervision of the Regional Monuments Office. In this connection, the applicant referred to the letter of 23 April 1992 from the Częstochowa Municipal Department of Architecture and Land Development, according to which the building under design would be consonant with the general vision of the reconstructed historic part of the city.

67. As to the District Office request of 31 August 1995 to submit the necessary documentation confirming the applicant's legal title to his plot, the applicant argued that it had been clearly at odds with the decision to return the property to him. Moreover, he claimed that the administrative authorities had declined to provide him access to the relevant documents.

68. The applicant was of the opinion that the authorities had failed to handle his case with due diligence. He emphasised that due to the length of the proceedings he had to abandon his investment plans and sell his share in the property of plot No. 30 at a price below the market value, partly in order to pay his debts. Moreover, following the administrative authorities' demands, he had had to order a set of architectural plans of the house to be built, the value of which was estimated at around PLN 301,000 in 2000, and which had turned out to be completely useless.

C. Reasonableness of the length of proceedings

69. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities (see, among many other authorities, *Zwierzynski v. Poland*, no. 34049/96, 19 June 2001, § 41; *Zawadzki v. Poland*, no. 34158/96, 20 December 2001, § 69).

70. The Court finds no indication that there was anything particularly complex in terms of architectural or technical content of the applicant's request for the building permit.

71. The Court considers that even if the applicant could be blamed for any delay by having failed to submit required documents, he cannot be regarded as having contributed to the prolongation of the proceedings at issue in a decisive manner.

72. In the Court's view the length of the proceedings concerning the building permit cannot be examined out of the context of the proceedings relating to the legality of the decision of 20 October 1987, which started on 10 January 1992 and continued until 13 January 2003. The outcome of the latter was to be purportedly decisive for the result of the applicant's application for the building permit. The Court observes that the progress of the proceedings concerning the legality of the decision of 20 October 1987 was affected by the periods of inactivity on the part of the Supreme Administrative Court, in particular between October 1994 and April 1996 and between April 1997 and July 1999. Numerous remittals of the case led to further delays. The Court also notes that it was as late as in 1996 when the authorities decided to examine whether any building permit had been issued in respect of the building on the adjacent plot.

73. At the same time, the administrative authorities remained passive in respect of the applicant's request for the building permit and after September 1995 there was no progress whatsoever in the relevant proceedings.

74. The Court reiterates that Article 6 § 1 imposes on the Contracting States the duty to organise their judicial systems in such a way that their courts can meet each of its requirements, including the obligation to hear cases within a reasonable time (*Frydlender v. France*, [GC], no. 30979/96, § 45, ECHR 2000-VII).

75. In the light of the criteria laid down in its case-law and having regard to all the circumstances of the case, the Court considers that the length of the proceedings complained of was excessive and failed to satisfy the reasonable time requirement. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL 1 OF THE CONVENTION

76. The applicant complained under Article 1 of Protocol No. 1 to the Convention that his right of property is being infringed in that, as a result of exceedingly long administrative proceedings relating to his request for a building permit and the validity of the decisions concerning buildings directly adjacent to his land, he had been prevented from exercising his right as an owner to build a house on the site.

77. The Government contested that argument.

78. Article 1 of Protocol No. 1 reads:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

79. Having regard to the circumstances of this case, the Court considers that Article 1 of Protocol No.1 complaint does not give rise to any separate issue (see, for example, *Zanghi v. Italy*, judgment of 19 February 1991, Series A no. 194-C, § 23, and *Di Pede v. Italy*, judgment of 26 November 1996, *Reports* 1996-IV, no. 17, § 35).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

80. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

81. The applicant claimed in respect of pecuniary damage:

- PLN 301,000 as reimbursement of the amount corresponding to the updated value of the building plans he had been obliged to submit by the authorities in order to get the building permit;
- PLN 125,000 as compensation for the loss of prospective profit from the leased property;

- PLN 100,000 as compensation for the buildings demolished at the time when the property of the applicant's predecessors in title was expropriated.

82. The Government considered that the applicant's claims were excessive and that there was no direct link between the alleged damage and the proceedings at issue.

83. The Court does not discern any causal link between the violation found and the pecuniary damage alleged, it therefore rejects this claim. On the other hand the Court is of the view that the applicant can reasonably be considered to have suffered non-pecuniary damage on account of the length of the proceedings concerning the request for a building permit. Accordingly, the Court considers that, in the particular circumstances of the case and deciding on an equitable basis, the applicant should be awarded EUR 5,000.

B. Costs and expenses

84. The applicant did not seek to be reimbursed for any costs or expenses in connection with the proceedings before the Court.

C. Default interest

85. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
2. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention EUR 5,000 (five thousand euros) in respect of non-pecuniary damage, to be converted into Polish zlotys at the rate applicable at the settlement, plus any tax that may be chargeable;
 - (b) that 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;

3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 June 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'Boyle
Registrar

Nicolas Bratza
President