



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

FOURTH SECTION

CASE OF CZAJKOWSKA AND OTHERS v. POLAND

(Application no. 16651/05)

JUDGMENT

STRASBOURG

13 July 2010

FINAL

13/10/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Czajkowska and Others v. Poland,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä,

Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 22 June 2010,

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

PROCEDURE

1. The case originated in an application (no. 16651/05) 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 six Polish nationals, Ms Barbara Czajkowska, Mr Tadeusz Korsak, Ms Danuta Korsak, Mr Tadeusz Łagowski, Mr Tomasz Świeczak, and Ms Agata Wicherek (“the applicants”), on 9 April 2005.

2. The applicants were represented by Mr P. Paluch, a lawyer practising in Kraków. The Polish Government (“the Government”) were represented by their Agent, Mr J. Wołosiewicz of the Ministry of Foreign Affairs.

3. The applicants alleged, in particular, that the length of administrative proceedings in their case exceeded a “reasonable time”. They also alleged that the delay in payment of compensation amounted to a breach of Article 1 of Protocol No. 1 to the Convention.

4. On 11 September 2008 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 applicants, Ms Barbara Czajkowska, Mr Tadeusz Korsak, Ms Danuta Korsak, Mr Tadeusz Łagowski, Mr Tomasz Świeczak, and Ms Agata Wicherek, are Polish nationals who were born in 1963, 1926, 1925, 1927, 1956 and 1963 respectively and live in Warsaw. They were represented before the Court by the first applicant, Ms Barbara Czajkowska.

6. Ms Waława Korsak, the first applicant's grandmother, owned a plot of agricultural land measuring a total surface area of 46,000 sq. m located in Warsaw. The applicants are Ms Waława Korsak's heirs.

7. By virtue of the Decree of 26 October 1945 on the Ownership and Use of Land in Warsaw, ownership of all private land was transferred to the City of Warsaw. Subsequently, under section 32(2) of the Law of 20 March 1950 on Local Organs of the Uniform State Power (*ustawa o terenowych organach jednolitej władzy państwowej*), all this land became the property of the State Treasury.

8. In 1961 Ms Waława Korsak applied for compensation for the nationalised property.

9. On 13 February 1965 the Board of the Warsaw National Council (*Prezydium Rady Narodowej*) granted the application in part and awarded Ms Korsak compensation for 23,000 sq. m of the land in question.

10. On 20 November 1969 the Board awarded further compensation for a house and trees under section 53(1) of the Expropriation of Property (Conditions and Procedures) Act of 12 March 1958. The decision contained a statement that the question of compensation for the remaining part of the land would be decided at a later stage. That decision was amended in 1970 as regards the amount of the compensation awarded to the first applicant's grandmother.

11. On 29 March 1978 Ms Waława Korsak's son, Mr Jerzy Korsak, applied for compensation for the remaining part of the property. It appears that other applicants joined the proceedings and that between 1991 and 2007 they made repeated requests for compensation.

12. In 1992 the administrative proceedings, pending before the Warsaw District Office (*Urząd Rejonowy*), were stayed.

13. In 1998 the second applicant lodged a complaint about the inactivity of the Mayor of Warsaw (*Prezydent Miasta Warszawy*), but this was dismissed by the Supreme Administrative Court on 11 March 1998.

14. In the meantime, on 15 January 1998, the Head of the Warsaw District Office had informed the Supreme Administrative Court that the administrative proceedings concerning the property in question had now been completed. The Office did not, however, have the necessary financial means to pay the compensation under section 215(1) of the 1997 Land Administration Act. The letter then stated:

“In the light of the above, payment of the compensation could be finalised after the Office receives the necessary funds.”

15. The Warsaw District Office having failed to reach a decision, the applicants lodged a complaint about its inactivity with the Supreme Administrative Court.

16. On 8 May 2003 the court allowed the complaint and ordered the District Office to issue a decision regarding the applicants' claim for compensation within two months.

17. Subsequently, the Mayor of Warsaw resumed the proceedings, and then discontinued them on 30 September 2003. The applicants appealed.

18. On 6 February 2004 the Mazowiecki Governor (*Wojewoda*) quashed the impugned decision and remitted the case for fresh consideration.

19. On 27 May 2005 the Mayor of Warsaw gave a decision in which he dismissed the application for compensation. The Mayor relied on section 215(1) of the 1997 Land Administration Act and considered that the applicants had not fulfilled the legal requirements and could not therefore be awarded compensation.

20. The applicants appealed, but their appeal was dismissed by the Mazowiecki Governor on 14 February 2006. They lodged a complaint with the Regional Administrative Court (*Wojewódzki Sąd Administracyjny*) against that decision.

21. On 18 October 2006 the Regional Administrative Court allowed the complaint and quashed both impugned decisions.

22. The applicants complained about the Mayor of Warsaw's inactivity and asked the Regional Administrative Court to fine the Mayor for having failed to implement the Supreme Administrative Court's decision of 8 May 2003. However, on 30 October 2007 the applicants withdrew their application apparently because in the meantime the Mayor had given a decision. On the same day – that is, on 30 October 2007 – the Regional Administrative Court discontinued the proceedings.

23. On 17 October 2007 the Mayor of Warsaw gave a decision, under section 215(1) of the 1997 Land Administration Act, in which he agreed to pay the applicants compensation for a part of the property measuring 11,400 sq. m. The Mayor considered that this part of the property had been agricultural land and that the conditions for payment of the compensation under the above provision had thus been fulfilled. The total compensation paid (PLN 5,782,335) was divided among Ms Barbara Czajkowska,

Mr Tadeusz Korsak, Mr Tomasz Świeczak and Ms Agata Wicherek according to their share in Ms Wacława Korsak's estate. The two remaining applicants, Ms Danuta Korsak and Mr Tadeusz Łagowski, were not parties to the proceedings at that stage as they had either donated or sold their shares in the inheritance to the other applicants. The Mayor also decided that the application regarding compensation for the remaining part of the property, measuring 13,208 sq. m, would be settled at a later stage.

24. The applicants did not appeal against that decision.

25. On 20 January 2009 the Mayor of Warsaw gave a further decision, under section 215(1) of the 1997 Land Administration Act, in which he agreed to pay the applicants compensation for a part of the property measuring 12,009 sq. m. The Mayor considered that this part of the property had been agricultural land and that the conditions for payment of the compensation under the above-mentioned provision had thus been fulfilled. The total compensation paid (PLN 6,376,779) was divided among Ms Barbara Czajkowska, Mr Tadeusz Korsak, Mr Tomasz Świeczak and Ms Agata Wicherek according to their share in Ms Wacława Korsak's estate. The Mayor also decided that the application regarding compensation for the remaining (and last) part of the property, measuring 1,103 sq. m, would be settled at a later stage by a separate decision.

26. The proceedings regarding this part of the applicants' claim are pending.

II. RELEVANT DOMESTIC LAW AND PRACTICE

27. Article 1 of the Decree of 26 October 1945 on the Ownership and Use of Land in Warsaw (*Dekret o własności i użytkowniu gruntów na obszarze m.st. Warszawy*) (“the 1945 Decree”) provides as follows:

“In order to enable rational rebuilding of the capital and its further development according to the Nation's needs, and particularly [to enable] prompt disposal of plots of land and their proper use, all land on the territory of the City of Warsaw shall, on the date of entry into force of this decree, become the property of the Warsaw municipality [*własność gminy m. st. Warszawy*].”

28. The issue of compensation for property taken over by the State under the 1945 Decree was governed, until 1 August 1985, by the Expropriation of Property (Conditions and Procedures) Act of 12 March 1958 (*Ustawa o zasadach i trybie wywłaszczenia nieruchomości*). Section 53(1) of this Act provided as follows:

“The provisions of this Act concerning compensation for expropriated property shall apply where relevant to compensation for agricultural land ... which became the State's property following the [1945 Decree] should its former owners or their legal successors who run the farms concerned be deprived of the use of the land in question after the entry into force of this Act.”

29. On 1 August 1985 the above-mentioned Act was replaced by the Land Administration and Expropriation Act ("*Ustawa o gospodarce nieruchomościami i wywłaszczaniu nieruchomości*") of 29 April 1985. Section 90 contained a similar provision relating to compensation for agricultural land taken over by the State under the 1945 Decree.

30. On 1 January 1998 the above-mentioned Act was repealed and replaced by the new Land Administration Act (*Ustawa o gospodarce nieruchomościami*) of 21 August 1997 ("the 1997 Land Administration Act"). Section 215(1) contained a similar provision concerning compensation for agricultural property which provided as follows:

"The provisions of this Act concerning compensation for expropriated property shall apply where relevant to compensation for agricultural farms on land which became the State's property following the [1945 Decree] if their former owners or their legal successors who ran the farms were deprived of the practical use of the land in question after 5 April 1958."

THE LAW

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

31. The applicants complained that the length of the proceedings were incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

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

32. The Government decided to refrain from taking a position on that question.

33. The Court notes that the proceedings commenced in 1961, when Ms Waława Korsak applied for compensation for the nationalised property. However, the period to be taken into consideration began only on 1 May 1993, when the recognition by Poland of the right of individual petition took effect. Nevertheless, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time.

34. The period in question has not yet ended. It has thus lasted almost seventeen years.

A. Admissibility

35. The Government submitted that the applicants had not exhausted the remedies available under Polish law in respect of the excessive length of administrative proceedings. They argued that the applicants had the possibility of lodging a claim for compensation with the Polish civil courts for damage caused by the excessive length of the administrative proceedings, under Article 417 of the Civil Code.

36. The applicants' lawyer submitted that the remedy relied on by the Government was not relevant in the applicants' case because it was subject to a ten-year limitation period and the impugned proceedings had lasted for more than fifty years. The lawyer further submitted that the remedy would not be effective because the main reason for such a delay in establishing and paying the compensation was the lack of financial means on the part of the administrative authorities, as had been admitted in the Head of the Warsaw District Office's letter of 15 January 1998 (paragraph 14 above).

37. The Court first notes that it has already examined the issue whether after 18 December 2001 a compensation claim in tort, as provided for by Polish civil law, was an effective remedy in respect of complaints about the length of proceedings. It held that no persuasive arguments had been adduced to show that Article 417 of the Civil Code could at that time be relied on for the purpose of seeking compensation for the excessive length of proceedings or that such an action offered reasonable prospects of success (see *Małasiewicz v. Poland*, no. 22072/02, §§ 32-34, 14 October 2003, and, for administrative proceedings, *Boszek v. Poland*, no. 4054/03, § 35, 5 December 2006). The Court sees no grounds on which to depart from those findings in the present case.

38. Secondly, the Court notes that the applicants lodged several complaints about inactivity on the part of administrative authorities. Their second complaint proved to be effective: the Supreme Administrative Court ordered that the Mayor of Warsaw issue a decision within two months (see paragraph 16 above). The third complaint was withdrawn, because in the meantime a decision on the merits had been given (see paragraph 22 above).

39. The Court concludes that, having exhausted the available remedies provided by domestic law, particularly with a view to accelerating the administrative proceedings, the applicants were not required to embark on another attempt to obtain redress by bringing a civil action for compensation. Accordingly, for the purposes of Article 35 § 1 of the Convention, the applicants have exhausted domestic remedies. For these reasons, the Government's plea of inadmissibility on the ground of non-exhaustion of domestic remedies must be dismissed.

40. The Court further notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

It considers that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

41. The Government decided to refrain from taking a position on that matter. They confined their submissions to saying that the proceedings in the applicants' case were particularly complex and that what was at stake for the applicants was of a purely pecuniary nature, so no special diligence was required in the circumstances of the present case.

42. The applicants submitted that the proceedings in their case had exceeded a "reasonable time".

43. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

44. The Court admits that the case is complex. It is also true that it concerns solely pecuniary compensation. However, the Court considers that the complexity of the case and the fact that it did not concern an issue in which special diligence is required cannot justify the overall length of proceedings which, from the standpoint of the Court's temporal jurisdiction, have already lasted almost seventeen years. That period must in any event be considered excessive.

45. Having examined all the material submitted to it and taking into account all the arguments put forward by the Government, the Court considers that in the instant case the length of the proceedings failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

46. The applicants maintained that the situation in issue infringed their right to the peaceful enjoyment of their possessions, as guaranteed by Article 1 of Protocol No. 1, which reads as follows:

"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.”

47. The Court notes that the delay in payment of the compensation still persists. Currently, the applicants are waiting for a further decision which will determine the amount of the remaining part of the compensation. For those reasons the Court considers that, having found a violation of Article 6 § 1 of the Convention on account of the unreasonable length of the administrative proceedings, it may still examine the case under Article 1 of Protocol No. 1 in view of the authorities' delay in paying the compensation to the applicants.

A. Applicability of Article 1 of Protocol No. 1

48. The Government conceded that Article 1 of Protocol No. 1 was applicable to the present case. They maintained that it covered certain pecuniary assets such as debts and that even though the amount of compensation had not been fully determined, the fact that the applicants had been paid almost the full amount of compensation justified the application of Article 1 of Protocol No. 1 to the Convention.

49. The applicants' lawyer submitted that their claim for compensation amounted to “possessions” within the meaning of Article 1 of Protocol No. 1 and that that provision was therefore applicable in the present case.

50. The Court observes that Article 1 of Protocol No. 1 protects pecuniary assets, such as debts (see *Pressos Compania Naviera S.A. and Others v. Belgium*, 20 November 1995, § 31, Series A no. 332). A debt falls within the scope of Article 1 of Protocol No. 1 if the applicant has a “legitimate expectation” that a current, enforceable claim will be determined in his favour (see *Jantner v. Slovakia*, no. 39050/97, § 29, 4 March 2003).

51. The Court notes that the 1958 Expropriation of Property Act and the 1997 Land Administration Act provided for the payment of compensation for expropriated agricultural property which became State property following the 1945 Decree (see paragraphs 29 and 30 above). The decisions given in the applicants' case (see paragraphs 9 and 10 above) indicated that their claim for compensation had been confirmed by the authorities. This gave rise to a continuous situation which existed before and after 10 October 1994, that is before and after the date on which Protocol No. 1 to the Convention entered into force in respect of Poland. Furthermore, the administrative authorities, in giving decisions and determining the amount of compensation for each part of the property, confirmed the applicants'

right to further compensation by informing them that it would be settled at a later stage.

52. Without examining in detail the provisions of domestic law in force before the date of entry into force of Protocol No. 1 in respect of Poland, the Court finds that the applicants could claim to be entitled to recover their debt against the State; accordingly, it concludes that Article 1 of Protocol No. 1 is applicable.

The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

B. Compliance with Article 1 of Protocol No. 1

53. The circumstances of the present case fall within the ambit of the first sentence of the first paragraph of Article 1, which lays down the principle of peaceful enjoyment of property in general terms (see *Matos e Silva, Lda., and Others v. Portugal*, 16 September 1996, § 81, *Reports of Judgments and Decisions* 1996-IV, and *Almeida Garrett, Mascarenhas Falcão and Others v. Portugal*, nos. 29813/96 and 30229/96, § 48, ECHR 2000-I).

54. For the purposes of the first sentence of the first paragraph of Article 1 of Protocol No. 1, the Court must determine whether a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see, among other authorities, *Matos e Silva, Lda. and Others*, cited above, § 86).

55. The applicants considered that that balance had not been struck. They submitted that the property in question had mostly been sold to private entities for commercial rather than public purposes. Shopping malls and office buildings had been built on it. The authorities enjoyed the benefits from selling or renting the property and, at the same time, had so far required almost sixty years to calculate and pay compensation to the expropriated owners or their heirs.

56. The Government, referring to the judgment of *James and Others v. the United Kingdom* (judgment of 21 February 1986, Series A no. 98), contended that Article 1 of Protocol No. 1 did not guarantee a right to compensation in full in all circumstances, as legitimate objectives of public interest, such as those pursued by economic reforms or by measures improving social justice, could necessitate reimbursement being less than the real value of the property concerned. In such cases, the criteria applied

by the national authorities, who had a wide margin of appreciation in that sphere, had to be respected, unless they clearly lacked any reasonable basis.

57. The Government then pointed to the complex character of the case, and to its time- and resource-consuming nature. They maintained further that almost all the compensation had already been paid and that the remaining part would be paid in the near future.

58. They added that the passage of time had ultimately worked to the applicants' advantage because statutory changes to the criteria used for assessing the compensation had resulted in a marked improvement in the terms of reparation.

59. The Government submitted that the situation in the present case could not lead to the conclusion that the applicants had borne an excessive burden which had upset the fair balance between the demands of the public interest and the protection of the right to peaceful enjoyment of possessions.

60. The Court notes that over fifteen years have elapsed since the entry into force of Protocol No. 1 in respect of Poland without the applicants being paid the full compensation to which they are entitled under the relevant domestic legislation, which right has been confirmed by the domestic authorities (see paragraphs 23 and 25 above). It reiterates that the adequacy of compensation would be diminished if it were to be paid without reference to various circumstances liable to reduce its value, such as unreasonable delay (see *Almeida Garrett, Mascarenhas Falcão and Others v. Portugal*, nos. 29813/96 and 30229/96, § 54, ECHR 2000-I). Abnormally lengthy delays in the payment of compensation for expropriation lead to increased financial loss for the person whose land has been expropriated, putting him in a position of uncertainty (see *Akkus v. Turkey*, 9 July 1997, § 29, *Reports* 1997-V).

61. The delay is indisputably attributable to the State and the complexity of the case cannot justify a delay as long as that which has occurred here.

62. Furthermore, the fact that the applicants have received a large part of the compensation does not appear to be decisive; it is to be noted that between 1969 and 2007 no compensation was awarded. Only in 2007 and 2009, namely thirteen and fifteen years respectively after the entry into force of Protocol No. 1 in respect of Poland, did the applicants receive the amounts due. In any event, even though a large part of the compensation has been paid, the fact remains that the applicants continue to be faced with uncertainty, in particular as regards the amount and the date of payment of the remainder of the compensation. It is that uncertainty, coupled with the manifestly excessive period which the authorities have required to calculate and pay the compensation, that leads the Court to find that the applicants have already had to bear an excessive burden which has upset the fair balance that has to be struck between the demands of the public interest and the protection of the right to peaceful enjoyment of possessions.

63. In conclusion, the Court considers that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

64. The applicants further complained under Article 1 of Protocol No.1 that the nationalisation of their family's property was illegal.

65. The Court notes that this complaint concerns events which occurred before 10 October 1994, when Protocol No. 1 entered into force in respect of Poland. It follows that it must be declared inadmissible in accordance with Article 35 §§ 1 and 3 as incompatible *ratione temporis* with the Convention.

66. The applicants also appear to complain, without invoking any provisions of the Convention, about the amount of compensation awarded them by the Mayor of Warsaw in 2007 and 2009.

67. The Court notes, however, that they failed to appeal against any of the above-mentioned decisions. It follows that their complaints are inadmissible for failure to exhaust domestic remedies and must be declared inadmissible in accordance with Article 35 §§ 1 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

68. 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

69. The applicants claimed 5,300,000 euros (EUR) in respect of pecuniary damage. According to the applicants, this sum represents the difference between the actual value of their property and the compensation that they have already been awarded.

As regards non-pecuniary damage, the applicants claimed EUR 200,000 for “stress and inconvenience of all kinds” caused by the delay in payment of the compensation.

70. As regards the claim for pecuniary damage the Government submitted that had the applicants been dissatisfied with the amount of compensation awarded at the national level, they should have appealed against the decisions given by the Mayor of Warsaw in 2007 and 2009. Consequently, in their view, the applicants were barred from claiming an award for pecuniary damage in the proceedings before the Court.

The Government contested the applicants' claim for an award for non-pecuniary damage.

71. The Court considers that the applicants could have appealed against the decisions of the Mayor of Warsaw awarding them compensation and that they failed to do so. They cannot therefore claim a sum for pecuniary damage on the basis that the compensation awarded them at the national level was too low. The Court therefore rejects the applicants' claim in respect of pecuniary damage. On the other hand, it awards the applicants EUR 20,000 in respect of non-pecuniary damage.

B. Costs and expenses

72. The applicants' lawyer also claimed EUR 337,753 for the costs and expenses incurred before the domestic courts. He produced a total of seven invoices signed by the applicants. The applicants' lawyer did not make any claim for the costs and expenses incurred before the Court.

73. The Government requested that the Court award a sum in respect of costs and expenses only in so far as these have been actually and necessarily incurred and are reasonable as to quantum.

74. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and to the aforementioned criteria, the Court considers that it is impossible to assess which part of the costs before the domestic authorities were necessarily incurred in seeking redress in respect of the complaints under Article 6 and Article 1 of Protocol No. 1 to the Convention. It therefore rejects the claim for costs and expenses in the domestic proceedings. As regards the costs for the proceedings before the Court, no claim was made by the applicants' lawyer.

C. Default interest

75. 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. *Declares* the complaints concerning the excessive length of the administrative proceedings for compensation and the complaint under Article 1 of Protocol No. 1 on account of the delay in payment of compensation admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 20,000 (twenty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Polish zlotys at the rate applicable on the date of settlement;
 - (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;
5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 13 July 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President