CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

PILOT-JUDGMENT PROCEDURE

Application no. 22837/06
by Czesław and Marek MINKO
against Poland

The European Court of Human Rights (Fourth Section), sitting on 23 September 2008 as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Giovanni Bonello,
Ljiljana Mijović,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä, *judges,*

and Lawrence Early, *Section Registrar,*

Having regard to the above application lodged on 17 May 2006,

Having regard to the decision to apply the pilot-judgment procedure and to adjourn its consideration of applications deriving from the same systemic problem identified in the case of *Broniowski v. Poland* (no. 31443/96),

Having regard to the decisions to strike the applications *Wolkenberg and Others v. Poland* (no. 50003/99) and *Witkowska-Toboła v. Poland* (no. 11208/02) out of the Court's list of cases,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Czesław Minko and Mr Marek Minko, are Polish nationals who live in Białogard. Their dates of birth are unknown. They were represented before the Court by Mr R. Nowosielski, a lawyer practising in Gdańsk.

A. Historical background to Bug River cases before the Court

(See *E.G. v. Poland*, no. 50425/99, §§ 2-5).

B. Particular circumstances of case no. 22837/06

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

On 22 September 1994 the Head of Białograd District Office (*Kierownik Urzędu*) issued a decision confirming that the applicants' father had the right to compensation for the property abandoned in the territories beyond the Bug River, valued at 1,498,704,000 Polish zlotys (PLN).

On 13 March 1995 the applicants' father acquired compensatory property from the State, valued at PLN 9,330.80.

On 27 March 1997 the Białograd District Court (*Sąd Rejonowy*) gave a decision declaring that the applicants and other members of the family had acquired the applicants' father estate.

On 3 December 2002 the applicants lodged a claim for the remainder of compensation for the Bug River property against the State Treasury. The applicants sought full compensation for the original property. The action was unsuccessful.

The applicants' subsequent attempts to acquire State property were unsuccessful. The only possibility of enforcing the claim was to participate in competitive bids for the sale of State property. However, the State authorities throughout Poland officially acknowledged the acute shortage of State-owned land designated for the realisation of the Bug River claims.

This fact and the fact that at the material time it was the authorities' common practice to desist from organising auctions for Bug River claimants or to openly deny them the opportunity to enforce their entitlement through the statutory bidding procedure was established by the Court in the *Broniowski* judgment (see *Broniowski*, cited above, §§ 48-61, 69-87 and 168-176).

The applicants did not inform the Court whether they had initiated proceedings under the Law on the realisation of the right to compensation for property left beyond the present borders of the Polish State (*Ustawa o realizacji prawa do rekompensaty z tytułu pozostawienia nieruchomości poza obecnymi granicami państwa polskiego*) ("the July 2005 Act") in order to obtain compensation for the Bug River property.

C. Relevant domestic law and practice in respect of Bug River claims

(See *E.G. v. Poland*, no. 50425/99, §§ 16-17).

COMPLAINT

(See *E.G. v. Poland*, no. 50425/99, § 18).

THE LAW

(See *E.G. v. Poland*, no. 50425/99, §§ 19-29).

For these reasons, the Court unanimously

1. *Decides* to strike the application out of its list of cases;

2. *Decides* to close the pilot-judgment procedure applied in respect of the Bug River applications in the case of *Broniowski v. Poland* (no. 31443/96).

Lawrence Early
Registrar

Nicolas Bratza
President