CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 73009/01
by Janina GÓRECKA
against Poland

The European Court of Human Rights (Fourth Section), sitting on 11 February 2003 as a Chamber composed of

Mr M. PELLONPÄÄ, *President*,
Mrs E. PALM,
Mrs V. STRÁŽNICKÁ,
Mr J. CASADEVALL,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI, *judges*,
and Mr M. O'BOYLE, *Section Registrar,*

Having regard to the above application introduced on 25 May 2000,

Having deliberated, decides as follows:

THE FACTS

The applicant, Janina Gorecka is a Polish national, who was born in 1957 and lives in Cracow, Poland.

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

A. Facts prior to 1 May 1993

On 21 October 1991 the applicant's husband filed a divorce petition with the Cracow Regional Court (*Sąd Wojewódzki*).

Subsequently, the court held hearings on 13 February and 7 May 1992.

On 20 July 1992 the trial court secured the applicant's maintenance claims. The applicant's husband appealed. On 23 November 1992 the Cracow Court of Appeal (*Sąd Apelacyjny*) dismissed his appeal.

B. Facts after 30 April 1993

The court held the hearings on the following dates: 11 May, 22 June, 14 September 1993, 13 September and 4 November 1994.

On 12 April 1995 the trial court again secured the applicant's maintenance claims. The applicant's husband appealed. On 3 August 1995 the Cracow Court of Appeal dismissed his appeal.

Subsequently, the trial court held the hearings on the following dates: 17 October 1995, 5 March, 11 June, 5 November 1996, 4 March and 26 June 1997.

On 8 July 1997 the court granted a divorce decree. The applicant appealed.

On 21 January 1998 the Cracow Court of Appeal dismissed the applicant's appeal.

On 5 February 1998 the applicant lodged a cassation appeal against the judgment. On 28 July 1999 the Supreme Court dismissed the appeal. The judgment was delivered to the applicant on 1 December 1999.

COMPLAINTS

1. The applicant complains under Article 6 §1 of the Convention about the unreasonable length of the proceedings.

2. The applicant also alleges a breach of Article 6 §1 of the Convention in that she did not have a "fair hearing" because the courts gave unjust judgments and made serious errors of fact and law.

THE LAW

1. The applicant complains under 6 § 1 that the length of the proceedings exceeded a reasonable time.

The Court considers that it cannot, on the basis of the file, determine the admissibility of this complaint and that it is therefore necessary, in accordance with Rule 54 § 3 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

2 The applicant further complains under Article 6 § 1 of the Convention about unfairness of the proceedings. She alleges that the courts gave unjust judgments and committed errors of fact and law.

The Court reiterates that according to Article 19 of the Convention, the Court's duty is to ensure the observance of the engagements undertaken by the Contracting Parties in the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see *Garcia Ruiz v. Spain* [GC], no. 30544/96, ECHR 1999-I, § 28).

In the present case, the Court finds no indication that the courts went beyond the margin of appreciation left to them in respect of the assessment of evidence, or that the proceedings were otherwise unfair.

It follows that this part of the application is therefore manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaint that the length of the proceedings in his case exceeded a "reasonable time" within the meaning of Article 6 § 1 of the Convention;

Declares inadmissible the remainder of the application.

Michael O'BOYLE
Registrar

Matti PELLONPÄÄ
President