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. 43702/02
by Aleksander GRABIŃSKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 18 October 2005 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr G. BONELLO,
Mr K. TRAJA,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 15 November 2002,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Aleksander Grabiński, is a Polish national who was born in 1949 and lives in Warsaw.

A. The circumstances of the case

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

1. Background to the case

The applicant's family owned a plot of land with a surface area of 1454 sq. m. situated in the very centre of Warsaw, at the junction of Jerusalem Avenue and Marszałkowska Street. The applicant is one of the heirs of the owners of that property.

By virtue of the Decree of 26 October 1945 on the Ownership and Use of Land in Warsaw ("the 1945 Decree") the ownership of all private land was transferred to the City of Warsaw.

On 30 September 1948 the applicant's family filed an application for the grant of the right of temporary ownership (*własność czasowa*) of the plot of land pursuant to section 7 of the 1945 Decree ("the 1948 application"). On 14 September 1953 the Board of the Warsaw National Council (*Prezydium Rady Narodowej*) refused the application and ruled that, consequently, the ownership of all the buildings located on the plot of land at issue be transferred to the State. On 25 January 1954 the competent Minister upheld that decision.

In the meantime, the Law of 20 March 1950 on the Local State Administration entered into force on 13 April 1950. According to section 32 § 2 of that Law, the ownership of all property previously held by the local governments was transferred to the State.

In 1955 the State constructed the Metropol Hotel on the part of the plot which was formerly owned by the applicant's family.

Following the re-establishment of the local government in Poland, on 27 May 1990 the ownership of a part of the plot of land previously owned by the applicant's family was transferred to the City of Warsaw by operation of the law.

At present, the plot of land of 1454 sq. m, formerly owned by the applicant's family, is divided into two separate parts. The first part with a surface area of 818 sq. m. is owned by the City of Warsaw and constitutes a part of a larger plot no. 39 with a surface area of 4163 sq. m. The second part with a surface area of 636 sq. m is owned by the State and administered

by the Warsaw District Office (*Starostwo Powiatu Warszawskiego*). Currently, the latter plot is leased to a certain company and used as a car park.

On 29 June 1993 the Board of the Union of Warsaw Municipalities (*Zarząd Związku Dzielnic Gmin Warszawy*) issued a decision declaring that as of 5 December 1990 the "Syrena" Warsaw Tourist Company was granted the right of perpetual use of the plot of land no. 39 with a surface area of 4163 sq. m located at no. 45 Jerusalem Avenue. On the strength of the same decision the ownership of the buildings attached to that plot, including the Metropol Hotel, was transferred to the "Syrena" company against the payment of a fee. On the relevant date the company was owned by the City of Warsaw.

2. Proceedings for the annulment of the decision refusing the grant of the temporary ownership

On 1 October 1992 S.P., another heir of the applicant's family, filed with the Minister of Planning and Construction (*Minister Gospodarki Przestrzennej i Budownictwa*) an application for annulment of the administrative decisions refusing the grant of the temporary ownership. On 24 March 1993 the Minister quashed the decisions of the Board of the Warsaw National Council of 14 September 1953 and the relevant Minister of 25 January 1954. Consequently, the competent administrative authorities were required to rule on the 1948 application for the grant of the right of perpetual use, which replaced the former temporary ownership. The applicant and other heirs of the previous owners were, as their legal successors, the parties to the subsequent proceedings.

Following the above decision, on 14 July 1994 the Minister of Planning and Construction awarded the applicant and other heirs compensation in the amount of PLZ 12,764,569,000. It appears that that decision has not been enforced.

On 29 April 1995 the Minister of Planning and Construction instituted *ex officio* proceedings with a view to having his earlier decision of 24 March 1993 annulled. On 9 July 1996 the Minister declared the decision of 24 March 1993 null and void. On 20 July 1996 the applicant and S.P. made an application to the President of the Office for Housing and Urban Development (*Prezes Urzędu Mieszkalnictwa i Rozwoju Miast*) for reconsideration (*wniosek o ponowne rozpatrzenie sprawy*) of the decision of 9 July 1996. On 28 February 1997 the President of that Office upheld the decision of 9 July 1996. The applicant appealed against that decision and the earlier decisions of the Minister of Planning and Construction to the Supreme Administrative Court (*Naczelny Sąd Administracyjny*). On 15 May 1997 the Supreme Administrative Court ordered that the enforcement of the decision of 28 February 1997 be stayed.

On 11 December 1998 the Supreme Administrative Court quashed both contested decisions, considering that there were no grounds on which to hold that the decision of 24 March 1993 could be declared null and void. As a consequence of that judgment, the 1948 application for the grant of the right of perpetual use filed by the applicant's family was yet to be examined.

3. Proceedings concerning the grant of the right of perpetual use of the plot owned by the City of Warsaw

On 11 June 1996 the Board of the City of Warsaw (*Zarząd Miasta Stołecznego Warszawy*) decided *ex officio* to stay the proceedings until the termination of the proceedings instituted by the Minister of Planning and Construction in 1995 (see above). The applicant appealed against that decision. On 29 August 1996 the Warsaw Local Government Board of Appeal (*Samorządowe Kolegium Odwoławcze*) quashed the decision of 11 June 1996.

On 19 August 1997 the applicant wrote a letter to the Board of the City of Warsaw, inquiring about the progress in the proceedings following the decision of the Board of Appeal of 29 August 1996. He demanded an explanation about the delays in the proceedings.

On 12 November 1997 the Board of the City of Warsaw decided to discontinue the proceedings, considering that they had become devoid of purpose. It observed that the 1948 application for the grant of the right of perpetual use had been already dismissed, and that the application for the annulment of the latter decision had failed. The applicant appealed against that decision.

On 24 March 1998 the Local Government Board of Appeal quashed the impugned decision and remitted the case for re-examination.

On 19 June 1998 the applicant filed with the Board of Appeal a complaint about the inactivity of the Board of the City of Warsaw.

On 14 July 1998 the Board of the City of Warsaw stayed the proceedings until the termination of the proceedings before the Supreme Administrative Court concerning an appeal against the decision of the President of the Office for Housing and Urban Development of 28 February 1997.

On 13 August 1998 the Warsaw Local Government Board of Appeal ordered the Board of the City of Warsaw to issue a decision in the case by 30 September 1998.

On 16 January 1999, following the judgment of the Supreme Administrative Court of 11 December 1998, the applicant requested the Warsaw Mayor to grant him the right of perpetual use.

In January 1999 the Mayor of Warsaw began negotiations with the applicant and other heirs of the former owners with a view to renouncing their claims to the plot of land at issue in exchange for an alternative plot. On 23 March 1999 the applicant and other heirs accepted the Mayor's

proposal. However, on 29 April 1999 the Deputy Mayor of Warsaw informed them that he had to withdraw from the negotiations as there were grounds on which the 1948 application could be dismissed.

On 1 June 1999 the Board of the City of Warsaw refused the application. It observed that the plot of land of specific surface and shape, which had been the subject of the application, was not in existence at the time of the issuing of the present decision. Moreover, it noted that on part of the plot of land formerly owned by the applicant's family, the State had constructed the Metropol Hotel. Thus, it considered that it was not possible to mark off the plot of land which was the subject of the application. In addition, the Board of the City of Warsaw noted that the "Syrena" company had been granted the right of perpetual use of the plot of land which partly overlapped with the plot of land at issue by virtue of a decision of 29 June 1993.

On 21 June 1999 S.P., one of the heirs of the applicant's family, lodged an appeal against the decision of the Board of the City of Warsaw.

On 1 June 2000 the Warsaw Local Government Board of Appeal upheld the contested decision.

On 30 June 2000 S.P. lodged an appeal with the Supreme Administrative Court against the decision of the Warsaw Local Government Board of Appeal.

On 27 February 2002 the Supreme Administrative Court quashed the impugned decision and the earlier decision of the Board of the City of Warsaw. It considered that section 7 of the 1945 Decree laid down two requirements which had to be met in order to grant the right of perpetual use of land, i.e. the filing of the application in time and the compatibility of the intended use of the land with the local development plan. The Supreme Administrative Court observed that the relevant application had been lodged in time. However, the administrative authorities had not at all examined the second requirement laid down in the 1945 Decree, but had instead based their decisions on grounds which were not provided in the relevant law. Lastly, the Supreme Administrative Court instructed the administrative authorities to examine the heirs' intentions as to the use of the land at issue. It further emphasised that if the intended use was compatible with the local development plan, the administrative authorities were under an obligation to grant the application.

On 13 August 2002 the Board of the City of Warsaw informed the applicant and other heirs that due to the complex nature of the case a decision would be issued by 30 November 2002. On 25 April 2003 the applicant lodged with the Warsaw Local Government Board of Appeal a complaint about the inactivity of the Board of the City of Warsaw.

On 30 May 2003 the applicant informed the Board that he intended to use the plot of land at issue in accordance with the local development plan.

On 9 December 2003 the Mayor of Warsaw, who in the meantime had assumed the competences of the Board of the City of Warsaw, issued his

decision in the case. He refused the application, considering that the use of the plot by the heirs of the former owners would not be compatible with the local development plan adopted on 9 February 1993. In particular, the Mayor found that one part of the plot at issue was designated partly for walkways and green areas, and partly for the junction of Jerusalem Avenue and Marszałkowska Street which was an important area for public transport in the whole city centre. In respect of the other part of the plot at issue, the Mayor considered that the Metropol Hotel stood on it and that it was not feasible to detach from the existing larger plot a part which was owned by the applicant's family. He also had regard to section 31 of the Land Administration Act (*ustawa o gospodarce nieruchomościami*) which provided that in the case of a plot of land with a building situated on it, the grant of the right of perpetual use of the plot was to be effected with the simultaneous acquisition of the buildings located on the plot. However, the building of the Metropol Hotel was owned by the "Syrena" company and could not be split so as to reflect the borders of the estate formerly owned by the applicant's family. Furthermore, the application could not be granted because the right of perpetual use of the plot of land which partly overlapped with the plot at issue, had been awarded to the "Syrena" company on the strength of the decision of 29 June 1993.

On 24 December 2003 the applicant filed an appeal against the decision of the Mayor of Warsaw to the Warsaw Local Government Board of Appeal. On 24 February 2004 the applicant lodged with the Supreme Administrative Court a complaint about the inactivity of the Warsaw Local Government Board of Appeal. It appears that the proceedings are pending.

4. Proceedings concerning the grant of the right of perpetual use of the plot of land owned by the State

On 5 February 1999 the applicant requested the Warsaw District Office to grant him the right of perpetual use of the plot of land owned by the State Treasury. On 11 March 1999 he lodged with the Warsaw Governor a complaint about the inactivity of the Warsaw District Office.

On 23 March 1999 the Warsaw District Office asked the Board of the City of Warsaw to provide the relevant documents concerning the status of the property at issue. On 10 May 1999 the relevant documents were submitted to the District Office. On 25 May and 16 June 1999 the District Office requested the Warsaw-Centre Municipality to submit some additional documents.

On 9 July 1999 the applicant filed with the Warsaw Governor a second complaint about the inactivity of the District Office.

On 9 August 1999 the District Office requested the Warsaw-Centre Municipality to provide information as to the use of the plot of land at issue as provided in the local development plan. The requested information was submitted on 17 August 1999.

On 30 August 1999 the Warsaw Governor ordered the Warsaw District Office to issue a decision in the applicant's case within one month.

On 8 October 1999 the District Office informed the applicant that due to the complex nature of the case a decision would be issued by 15 January 2000.

On 4 January 2000 the Warsaw District Office refused to grant the right of perpetual use in respect of the plot owned by the State Treasury, considering that that plot was designated in the local development plan for a street, i.e. for public use.

The applicant appealed against that decision.

On 7 September 2000 the Warsaw Governor upheld the decision of the Warsaw District Office. S.P. lodged an appeal against the decision of the Governor with the Supreme Administrative Court.

On 12 March 2002 the Supreme Administrative Court quashed the decision of the Warsaw Governor of 7 September 2000 and the earlier decision of the Warsaw District Office as they were issued in breach of section 7 of the 1945 Decree. It considered that the use of the plot of land at issue by the successors of the former owners would not be incompatible with the local development plan.

On 7 June 2002 the Warsaw District Office informed the applicant that it would not be possible to conclude the proceedings within the time-limit specified in Article 35 of the Code of Administrative Procedure due to the need to undertake further examination of the application. It appears that the proceedings are pending.

5. Proceedings concerning the grant of the right of perpetual use of land for the benefit of the "Syrena" company

On 10 May 1996 S.P., one of the heirs, filed with the Board of the City of Warsaw an objection against the auction for the sale of shares in the "Syrena" company.

On 17 September 1996 the applicant made an application to the Warsaw Local Government Board of Appeal for annulment of the decision of the Board of the Union of Warsaw Municipalities of 29 June 1993 (see above part 1). On 31 October 1996 the Board of Appeal refused to institute the proceedings. On 20 November 1996 the applicant filed an application for reconsideration of that decision. On 30 December 1996 the Board of Appeal decided to stay the proceedings until the termination of the proceedings pending before the Minister of Planning and Construction (see part 2. above). On 7 October 1997 the Board of Appeal quashed its earlier decision of 31 October 1996. On 26 November 1997 it refused that application. The applicant filed an application for reconsideration of the matter. On 17 September 1998 the Board of Appeal quashed its earlier decision and refused to institute proceedings for the annulment. The applicant appealed against that decision to the Supreme Administrative Court.

On 19 November 1998 the Supreme Administrative Court stayed the proceedings until the termination of the proceedings concerning the application for annulment of the Minister of Planning and Construction's decision of 24 March 1993. The proceedings were resumed on 27 September 2002. On 11 December 2002 the Supreme Administrative Court quashed the decision of the Board of Appeal of 17 September 1998 on procedural grounds. Consequently, the Board of Appeal was to examine the applicant's application for annulment again.

On 20 June and 20 December 2003 the applicant requested the Board of Appeal to expedite the proceedings.

On 10 December 2003 the Board of Appeal quashed its earlier decision of 26 November 1997 and declared null and void the decision of the Board of the Union of Warsaw Municipalities of 29 June 1993 as having been issued in manifest breach of the law. It considered that the decision of 29 June 1993 had been issued in a flagrant violation of the rights of the heirs of the former owners, as their application for the grant of the right of perpetual use was pending at the material time. It further observed that the heirs' claims to the plot of land formerly owned by their family had to be examined prior to the decision on the use of land by the "Syrena" company.

B. Relevant domestic law

1. Decree on the Ownership and Use of Land in Warsaw

In accordance with the Decree of 26 October 1945 on the Ownership and Use of Land in Warsaw (*dekret o własności i użytkowaniu gruntów na obszarze m. st. Warszawy*, "the 1945 Decree") the ownership of all land in Warsaw was transferred to the City of Warsaw.

The 1945 Decree provided, in so far as relevant:

> "Section 5. Buildings and other objects located on the land, which is being transferred to the municipality's ownership, remain the property of those who have owned them so far, unless specific provisions provide otherwise.
>
> ...
>
> Section 7. (1) The owner of a plot of land ... can within six months after the taking of possession of the land by the municipality file a request to be granted ... the right to a perpetual lease (*wieczysta dzierżawa*) with a peppercorn rent (*czynsz symboliczny*). ...
>
> (2) The municipality shall grant the request if the use of the land by the former owner is compatible with its function set forth in the development plan (*plan zabudowania*). ...
>
> (4) In case the request is refused, the municipality shall offer the person entitled, as long as it has spare land in its possession, a perpetual lease of land of equal value, on the same conditions, or the right to construct on such land.

(5) In case no request, as provided for in paragraph (1), is filed, or the former owner is for any other reasons not granted a perpetual lease or the right to construct, the municipality is obliged to pay compensation pursuant to Article 9.

Section 8. In case the former owner is not granted the right to a perpetual lease or the right to construct, all buildings located on the land shall become the property of the municipality, which is obliged to pay, pursuant to Article 9, compensation for the buildings which are fit to be used or renovated.

Section 9.

...

(2) The right to compensation begins to apply six months after the day of taking the land into possession by the municipality of Warsaw and expires three years after that date. ...”

Pursuant to section 32 § 2 of the Law of 20 March 1950 on the Local State Administration which entered into force on 13 April 1950, the ownership of all property previously held by the local governments was transferred to the State.

In 1990 the local government was re-established. According to the section 5 § 1 of the Law of 10 May 1990 the ownership of the land which had previously been held by the State Treasury and which was within the administrative territory of municipalities, was transferred to the latter.

2. The right of perpetual use of land

Under Article XXXIX of the Decree of 11 October 1946 introducing the Property Law (*prawo rzeczowe*) and the Law on Land and Mortgage Registers, the right to construct and the right to a perpetual lease could be transferred into temporary ownership (*własność czasowa*).

Section 40 of the Law of 14 July 1961 on Administration of Land in Towns and Estates (*Ustawa o gospodarce terenami w miastach i osiedlach*) replaced temporary ownership with the right of perpetual use (*użytkowanie wieczyste*).

The right of perpetual use is defined in Articles 232 et seq. of the 1964 Civil Code as amended (*Kodeks Cywilny*). It is an inheritable and transferable right *in rem* which, for 99 years, gives a person the full benefit and enjoyment of property rights attaching to land owned by the State Treasury or municipality. It has to be registered in the court land register in the same way as ownership. The transfer of that right, like the transfer of ownership, can be effected only in the form of a notarised deed, on pain of it being void *ab initio.* The “perpetual user” (*użytkownik wieczysty*) is obliged to pay the State Treasury (or the municipality, as the case may be) an annual fee which corresponds to a certain percentage of the value of the land in question.

In 1997 Law on Transforming Perpetual Use Vested in Individuals into Ownership (*ustawa o przekształceniu prawa użytkowania wieczystego przysługującego osobom fizycznym w prawo własności*) was enacted. The

law guarantees individuals who acquired perpetual use of property before 31 October 1998 the right to have that right transformed into ownership. Article 6 § 1 (6) of that law provides that individuals who acquired the right to perpetual lease under article 7 of the 1945 decree are entitled to such transformation free of charge, regardless of when they acquired their right to a perpetual lease. Requests for the transformation could have been submitted until the end of 2002.

3. Inactivity of the administrative authorities

Article 35 of the Code of Administrative Procedure of 1960 lays down time-limits ranging from 1 month to 2 months for dealing with a case pending before an administrative authority. If these time-limits have not been complied with, the authority must, under Article 36 of the Code, inform the parties of that fact, explain the reasons for the delay and fix a new time-limit. Pursuant to Article 37 § 1, if the case has not been handled within the time-limits referred to in Articles 35 and 36, a party to administrative proceedings can lodge an appeal to the higher authority, alleging inactivity. In cases where the allegations of inactivity are well-founded, the higher authority fixes a new term for handling the case and orders an inquiry in order to determine the reasons for the inactivity and to identify the persons responsible for the delay. If need be, the authority may order that measures be applied to prevent such delays in the future.

On 1 October 1995 a new Law of 11 May 1995 on the Supreme Administrative Court ("the 1995 Act") came into force.

According to the provisions of section 17 of the 1995 Act, a party to administrative proceedings may, at any time, lodge with the Supreme Administrative Court a complaint about inactivity on the part of an authority obliged to issue an administrative decision.

Section 26 of the Law provides:

> "When a complaint alleging inactivity on the part of an administrative authority is well-founded, the Supreme Administrative Court shall oblige that authority to issue a decision, or to perform a specific act, or to confirm, declare, or recognise a right or obligation provided for by law."

Pursuant to section 30 of the Law, the decision of the Supreme Administrative Court ordering an authority to put an end to its inactivity is legally binding on the authority concerned. If the authority has not complied with the decision, the court may, under section 31 of the 1995 Act, impose a fine on it and may itself give a ruling on the right or obligation in question.

COMPLAINTS

1. The applicant complains under Article 6 § 1 of the Convention about the unreasonable length of the proceedings before the Board of the City of Warsaw (subsequently the Mayor of Warsaw) concerning the application for the grant of the right of perpetual use.

2. He also complains under Article 6 §1 of the Convention about the unreasonable length of the proceedings before the Warsaw District Office concerning the application for the grant of the right of perpetual use.

3. The applicant further complains under Article 13 of the Convention that he did not have at his disposal an effective remedy against the decisions of the administrative authorities. He argued that the Supreme Administrative Court which quashed a number of unfavourable decisions issued by the administrative authorities could not determine the merits of his application, given its limited jurisdiction.

4. The applicant also complains under Article 1 of Protocol No. 1 to the Convention that his family was deprived of the property owned by them and that the application for the grant of the right of perpetual use has not been finally determined.

THE LAW

1. The applicant complains under Article 6 § 1 of the Convention about the unreasonable length of the proceedings before the Board of the City of Warsaw (subsequently the Mayor of Warsaw) concerning the application for the grant of the right of perpetual use.

The Court considers that it cannot, on the basis of the file, determine the admissibility of this complaint and that it is therefore necessary to give notice of this part of the application to the respondent Government.

2. He also complains under Article 6 §1 of the Convention about the unreasonable length of the proceedings before the Warsaw District Office concerning the application for the grant of the right of perpetual use.

The Court considers that it cannot, on the basis of the file, determine the admissibility of this complaint and that it is therefore necessary to give notice of this part of the application to the respondent Government.

3. The applicant further complains under Article 13 of the Convention that he did not have at his disposal an effective remedy against the decisions of the administrative authorities. He argued that the Supreme Administrative Court which quashed a number of unfavourable decisions issued by the administrative authorities could not determine the merits of his application, given its limited jurisdiction.

The Court considers that that this complaint falls to be examined under Article 6 § 1 of the Convention. The safeguards of this provision, implying the full panoply of a judicial procedure, are stricter than, and absorb, those of Article 13 (see, for example, the *Brualla Gómez de la Torre v. Spain*, judgment of 19 December 1997, Reports of Judgments and Decisions 1997-VIII, p. 2957, § 41).

The Court recalls that in the case of *Ortenberg v. Austria*, judgment of 25 November 1994, Series A no. 295-B, it examined a similar complaint in respect of the powers of the Austrian Administrative Court and found that its review had fulfilled the requirements of Article 6 § 1 (the Ortenberg v. Austria judgment, cited above, § 34). The Court considers that a similar conclusion to that adopted in the Ortenberg judgment can be reached in the present case, having regard to the fact that the Supreme Administrative Court in its judgments of 27 February and 12 March 2002 thoroughly examined the applicant's complaints, without ever having to decline jurisdiction in replying to them. Furthermore, in its judgment of 27 February 2002 the Supreme Administrative Court gave specific instructions to the Board of the City of Warsaw as to a further examination of the application for the grant of perpetual use of the plot of land owned by the City of Warsaw.

In addition, the Court notes that under section 31 of the 1995 Supreme Administrative Court Act, in the framework of proceedings on the complaint against the inactivity of an administrative authority, the Supreme Administrative Court may rule on the merits of the case if the administrative authority fails to comply with a judgment obliging it to issue a decision in a case within a certain time-limit (see relevant domestic law *in fine*).

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

4. The applicant also complains under Article 1 of Protocol No. 1 to the Convention that his family was deprived of the property owned by them and that the application for the grant of the right of perpetual use has not been finally determined.

The Court notes that on the strength of the 1945 Decree the City of Warsaw (and subsequently the State Treasury) became the owner of all the land in the city. However, the Decree guaranteed land owners a right to be granted perpetual lease (from 1946 – temporary ownership) of their land, provided that their application was lodged in time and that the use of the land would be compatible with the local development plan. Later, the right of perpetual use replaced temporary ownership. The applicant's family lodged an application for temporary ownership in 1948, but it was dismissed by a decision given in 1953 and upheld in 1954. On 24 March 1993 the Minister of Planning and Construction quashed the decisions refusing the application. Following a number of various procedural developments, the Supreme Administrative Court finally upheld the 1993

decision in its judgment of 11 December 1998. As a result, the 1948 application for the grant of the right of perpetual use filed by the applicant's family was yet to be examined.

The Court further notes that subsequently the proceedings concerning the grant of the perpetual use of land previously owned by the applicant's family have been conducted in respect of the relevant parts before two different administrative authorities: the Board of the City of Warsaw (subsequently: the Mayor of Warsaw) and the Warsaw District Office. Those two sets of proceedings are currently pending.

The Court firstly recalls that Article 1 of Protocol No. 1 cannot be interpreted as imposing any general obligation on the Contracting States to restore property which was transferred to them before they ratified the Convention. Nor does Article 1 of Protocol No. 1 impose any restrictions on the Contracting States' freedom to determine the scope of property restitution and to choose the conditions under which they agree to restore property rights of former owners (see *Kopecký v. Slovakia* [GC], no. 44912/98, § 35(d), ECHR 2004-...).

Secondly, the Court observes that the two sets of domestic proceedings to determine the applicant's claims are currently pending before the relevant administrative authorities. Therefore, in so far as the applicant relies on Article 1 of Protocol No. 1 to the Convention, the Court considers that it would be premature to take a position on the substance of this complaint. In so far as the applicant complains about the length of those proceedings, the Court is of the view that Article 1 of Protocol No.1 complaint does not give rise to any separate issue (see, as a recent authority, *Beller v. Poland*, no. 51837/99, § 74, 1 February 2005).

Thirdly, the Court recalls that that there is no necessary interrelation between the existence of claims covered by the notion of "possessions" within the meaning of Article 1 of Protocol No. 1 and the applicability of Article 6 § 1 to the relevant proceedings. The Court considers that the fact that the applicant does not appear to have a legitimate expectation to have his property restored to him under the provisions of domestic law is sufficient to exclude the application of Article 1 of Protocol No. 1 of the Convention to the circumstances of the case (see, *J.S. and A.S. v. Poland*, no. 40732/98, § 51, 24 May 2005).

Having regard to the foregoing, the Court finds that the applicant's complaint under Article 1 of Protocol No. 1 is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaints concerning the length of proceedings before the Board of the City of

Warsaw (subsequently: the Mayor of Warsaw) and the length of proceedings before the Warsaw District Office;

Declares the remainder of the application inadmissible.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President