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. 6214/02
by Edmund KRANZ
against Poland

The European Court of Human Rights (Fourth Section), sitting on 10 September 2002 as a Chamber composed of

Sir Nicolas BRATZA, *President*,
Mrs E. PALM,
Mr M. FISCHBACH,
Mr J. CASADEVALL,
Mr R. MARUSTE,
Mr L. GARLICKI,
Mr S. PAVLOVSCHI, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application introduced on 29 January 2002,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Edmund Kranz, is a Polish national, who was born in 1919 and lives in Bydgoszcz.

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

A. Facts before 1 May 1993.

On 19 July 1966 the applicant and his wife obtained a divorce decree. On 5 November 1975 the applicant's ex-wife filed with the Bydgoszcz District Court (*Sąd Rejonowy*) a petition for division of the matrimonial property.

On 16 October 1978 the Bydgoszcz District Court gave a decision. Both parties appealed. On 30 May 1979 the Bydgoszcz Regional Court (*Sąd Wojewódzki*) quashed the first-instance decision and remitted the case.

In 1982 the applicant's ex-wife donated her share in the disputed property to A.H. and E.H., who became parties to the proceedings.

On 2 December 1990 the applicant sent a letter to the Minister of Justice, complaining about the slow progress of the proceedings. On 15 February 1991, in reply to his complaints, the President of the Bydgoszcz Regional Court acknowledged that the proceedings were indeed lengthy.

Prior to 1 May 1993, the Bydgoszcz District Court held a number of hearings and obtained several expert reports.

B. Facts after 1 May 1993.

On 2 October 1996 the Bydgoszcz District Court gave a decision. The court granted ownership of the entire property (plot of land and a house) to A.H. and E.H. The court also ordered them to pay off the applicant's share in the estate.

On 5 June 1997, on the applicant's appeal, the Bydgoszcz Regional Court partly amended the first-instance decision. On 19 September 1997 the applicant lodged a cassation appeal.

In March 1998 A.H. and E.H. sold their share in the property to a certain J.S. On 28 April 1999 the Supreme Court (*Sąd Najwyższy*) quashed the decision of 5 June 1997 and remitted the case to the Bydgoszcz Regional Court (*Sąd Okręgowy*).

On 20 December 2000 the Bydgoszcz District Court issued an interim order allowing the applicant to install central heating in his part of the house. On 25 June 2001, upon an appeal by J.S., the Bydgoszcz Regional Court quashed this decision.

It appears that the proceedings are pending before the Bydgoszcz Regional Court.

COMPLAINTS

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

2. The applicant also complains under Article 1 of Protocol No. 1 about the fact that the courts failed to protect his property as the parties to the proceedings had damaged several objects belonging to him.

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) to of the Rules of Court, to give notice of this complaint to the respondent Government.

2. The applicant further alleges that the domestic courts failed to protect his property as it was damaged by the parties to the proceedings.

The Court notes that the domestic proceedings in the present case concern a civil law dispute between private individuals and, therefore, they may not themselves engage the responsibility of the State under Article 1 of Protocol No. 1 (see, *mutatis mutandis*, application no. 13021/87, Ruiz Mateos v. the United Kingdom, decision of 8 September 1988, DR 57, p. 268). It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Convention, within the meaning of Article 35 § 3 and must be rejected, in accordance with Article 35 § 4. Moreover, even assuming that the applicant's complaint could give rise to any issue under Article 1 of Protocol No. 1 to the Convention, the Court observes that the relevant proceedings are pending and that accordingly, this complaint is premature.

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 the remainder of the application inadmissible.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President