CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 17220/03
by Romuald LASKOWSKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 12 February 2008 as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Giovanni Bonello,
Stanislav Pavlovschi,
Ljiljana Mijović,
David Thór Björgvinsson,
Ledi Bianku, *judges,*

and Lawrence Early, *Section Registrar*,

Having regard to the above application lodged on 3 December 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Romuald Laskowski, is a Polish national who was born in 1960 and lives in Sieradz. The Polish Government ("the Government") were represented by their Agent, Mr J. Wołąsiewicz of the Ministry of Foreign Affairs.

A. The circumstances of the case

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

1. The first set of proceedings against a housing cooperative

On 27 December 1995 the applicant lodged a claim for payment against a housing cooperative.

On 23 May 1997 the Sieradz District Court *(Sąd Rejonowy)* dismissed his claim.

On 17 July 1997 the applicant appealed.

On 3 November 1997 the Sieradz Regional Court *(Sąd Okręgowy)* quashed the first-instance judgment and remitted the case.

On 18 September 1998 the Sieradz District Court ordered that the above-mentioned proceedings be examined jointly with some other proceedings which the applicant had instituted against the same defendant.

On 4 May 2000, at the request of both parties, the court stayed the proceedings.

On 18 September 2002 the applicant requested the court to resume the proceedings.

On 22 January 2003 the court resumed the proceedings.

In 2004 the court appointed five expert witnesses. All of them refused to prepare their reports.

On 15 October 2004 an expert witness was successfully appointed.

On 20 January 2005 the expert's report was submitted to the court.

On 4 March 2005 the Sieradz District Court gave judgment ordering the housing cooperative to pay to the applicant a certain amount of money.

On 15 April 2005 the applicant, who considered the amount granted too low, lodged his appeal.

On 29 June 2005 the Sieradz Regional Court partly amended the first-instance judgment and dismissed the remainder of the applicant's appeal.

2. The applicant's complaint under the 2004 Act

On 11 February 2005 the applicant lodged a complaint under the Law of 17 June 2004 on complaints about a breach of the right to a trial within a reasonable time *(Ustawa o skardze na naruszenie prawa strony do rozpoznania sprawy w postępowaniu sądowym bez nieuzasadnionej zwłoki)* ("the 2004 Act").

On 9 March 2005 the Sieradz Regional Court dismissed his complaint on the ground that on the date of the entry into force of the 2004 Act no undue delays in the proceedings could be discerned. The court acknowledged that the proceedings before 2004 had been unreasonably lengthy for various reasons, that some hearings had been adjourned without any justification and that the judge rapporteur had had no conception of how to handle the

case. The court also found that there had been some periods of inactivity on the part of the Sieradz District Court (altogether about 3 years, not taking into account the period during which the proceedings had been stayed). However, the court stressed that the 2004 Act had entered into force on 17 September 2004 and could not be applied to the events occurring before that date. Having analysed the conduct of the District Court in the period following the entry into force of the 2004 Act, the Regional Court found that the proceedings had been conducted with due diligence and within a reasonable time.

3. The second set of proceedings against a housing cooperative

On 14 December 1993 the applicant lodged a claim for payment against a housing cooperative with the Sieradz District Court.

On 17 November 1994 the Sieradz District Court dismissed his claim. The applicant appealed.

On 7 June 1995 the Sieradz Regional Court quashed the first-instance judgment and remitted the case.

On 20 December 1995 the Sieradz District Court again gave judgment and ordered the housing cooperative to pay a certain amount of money to the applicant. Both parties appealed.

On 28 June 1996 the Sieradz Regional Court again quashed the first-instance judgment and remitted the case.

On 3 June 2002 the Sieradz District Court gave judgment. Both parties appealed again.

On 11 September 2002 the Sieradz Regional Court dismissed their appeals.

B. Relevant domestic law and practice

The relevant domestic law and practice concerning remedies for the excessive length of judicial proceedings are stated in the Court's decisions in cases of *Charzyński v. Poland* no. 15212/03 (dec.), §§ 12-23, ECHR 2005-V and *Ratajczyk v. Poland* no. 11215/02 (dec.), ECHR 2005-VIII and the judgment in the case of *Krasuski v. Poland*, no. 61444/00, §§ 34-46, ECHR 2005-V.

COMPLAINTS

1. As regards the first set of proceedings for payment against a housing cooperative, the applicant complained under Article 6 § 1 of the Convention about a violation of his right to have his case heard within a reasonable time and to have a fair hearing.

2. He also complained under Article 13 of the Convention that the Polish remedy against the excessive length of proceedings had been ineffective because the court had examined only the part of the proceedings after the entry into force of the 2004 Act.

3. As regards the second set of proceedings against a housing cooperative, the applicant, invoking Article 6 § 1 of the Convention, complained that they had exceeded a "reasonable time" and that the judgments given in his case had been "unjust".

THE LAW

On 11 September 2007 the Court received the following declaration signed by the applicant:

> "I note that the Government of Poland are prepared to pay me the sum of PLN 12,000 (twelve thousand Polish zlotys) with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. 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.
>
> I accept the proposal and waive any further claims against Poland in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case."

On 1 October 2007 the Court received the following declaration from the Government:

> "I declare that the Government of Poland offer to pay PLN 12,000 (twelve thousand Polish zlotys) to Mr Romuald Laskowski with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses will be free of any taxes that may be applicable and it will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case."

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Lawrence Early
Registrar

Nicolas Bratza
President