CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 58777/00
by Elżbieta ŁAWICKA-POPLEWSKA
against Poland

The European Court of Human Rights (Fourth Section), sitting on 7 September 2004 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mrs V. STRÁŽNICKÁ,
Mr J. CASADEVALL,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI, *judges*,
and Mrs F. ELENS-PASSOS, *Deputy Section Registrar*,

Having regard to the above application lodged on 24 September 1999,

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, Ms Elżbieta Ławicka-Poplewska, is a Polish national who was born in 1947 and lives in Suchy Las, Poland.

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

A. Facts prior to 1 May 1993

In 1986 the applicant lodged with the Poznań District Court *(Sąd Rejonowy)* an application for division of the joint matrimonial property of her late father and his former wife.

Subsequently, the court held five hearings and obtained three expert opinions.

B. Facts after 30 April 1993

On 25 May 1993 the court ordered another expert opinion.

On 8 February 1994 the trial court dismissed the applicant's request to exempt her from the court-fees. The applicant lodged an appeal against it. It appears that on 18 April 1995 the trial court finally dismissed her application.

On 4, 7 and 18 September 1995 the court held hearings. It ordered to adduce further expert evidence.

Subsequently, several new expert opinions were obtained by the court.

On 26 September 1996, 30 January, 8 September, 6 October and 23 October 1997 the court held hearings. It heard expert witnesses and ordered that new expert opinions be obtained.

On 13 November 1997 the Poznań District Court delivered a partial decision (*postanowienie częściowe*).

The other party to the proceedings lodged an appeal against this decision.

On 17 March 1998 the Poznań Regional Court (*Sąd Wojewódzki*) quashed the impugned decision and remitted the case to the first-instance court.

On 20 August, 1 October as well as 17 and 19 November 1998 the Poznań District Court held hearings.

At the hearing held 8 April 1999 the parties reached a friendly settlement. As a result, on the same date the Poznań District Court decided to discontinue the proceedings.

COMPLAINT

The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the unreasonable length of the proceedings.

THE LAW

On 7 July 2004 the Court received the following declaration signed by the respondent Government:

> "I declare that the Government of Poland offer to pay PLN 12,000 to Ms Elżbieta Ławicka-Poplewska 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 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."

On 8 July 2004 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 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 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."

The Court takes note of the agreement reached between the parties and considers that the matter has been resolved (Article 37 § 1 (b) of the Convention). Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the examination of the application to be continued. Accordingly, the application to the case

of Article 29 § 3 of the Convention should be discontinued and the case struck out of the list.

For these reasons, the Court unanimously

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

Françoise ELENS-PASSOS	Nicolas BRATZA
Deputy Registrar	President