CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

FINAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 42072/98
by Ryszard MACIEJEWSKI
against Poland

The European Court of Human Rights (Third Section), sitting on 28 August 2001 as a Chamber composed of

Mr J.-P. COSTA, *President*,
Mr L. LOUCAIDES,
Mr J. MAKARCZYK,
Mr P. KŪRIS,
Mrs F. TULKENS,
Mr K. JUNGWIERT,
Mrs H.S. GREVE, *judges*,
and Mr T.L. EARLY, *Deputy Section Registrar*,

Having regard to the above application introduced with the European Commission of Human Rights on 18 February 1998 and registered on 7 July 1998,

Having regard to Article 5 § 2 of Protocol No. 11 to the Convention, by which the competence to examine the application was transferred to the Court,

Having regard to the partial decision of 14 December 1999,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ryszard Maciejewski, is a Polish national, born in 1949 and living in Leszno Górne, Poland.

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

On 3 September 1993 the Agricultural Co-operative "N" lodged with the Słubice District Court (*Sąd Rejonowy*) an action in which it sought the dispossession of the applicant of a property situated in Kunowice. The property consisted of a detached house located on a plot of land.

The first hearing was held on 17 September 1993 but it was adjourned as the plaintiff had submitted to the court a wrong address for the applicant and he had not been served with a summons.

Between 19 October 1993 and 7 July 1994 the court adjourned three hearings because of the ill-health of the applicant and the presiding judge, and held seven hearings. The applicant failed to attend two of them.

In the meantime, on 16 June 1994, the applicant asked the court to stay the case as he had initiated administrative proceedings concerning the contested property.

On 25 August 1994 the Słubice District Court delivered a judgment in which it ordered the dispossession of the applicant. The court pointed out that on 18 August 1993 the applicant had moved into the house after it had been abandoned by a certain Mr A. Ł. However, the property belonged to the Co-operative, which had never agreed that the applicant should acquire its tenancy.

On 14 November 1994 the applicant filed with the Gorzów Wielkopolski Regional Court (*Sąd Wojewódzki*) an appeal against the judgment of the District Court.

On 17 January 1995 the Gorzów Wielkopolski Regional Court quashed the judgment of 25 August 1994 and remitted the case to the Słubice District Court, instructing it to take additional evidence.

The applicant was absent during the hearings held on 19 June and 7 September 1995. On the latter occasion his absence was caused by ill-health.

The applicant was absent during the hearing held on 5 October 1995 because he refused to collect a summons.

During the hearing held on 20 November 1995 the plaintiff changed its claim and asked the court to order the eviction of the applicant. It also requested the court to stay the case pending the outcome of the administrative proceedings instituted by the applicant, which request was granted.

On 7 July 1999 the Słubice District Court decided to resume its examination of the case in view of the fact that the administrative

Commented [Note1]: To be checked.

proceedings and those concerning the title to the property, which the applicant had initiated on 10 September 1996, had been terminated.

The applicant failed to attend the hearing held on 26 August 1999. On 23 September 1999 he sent to the court a letter which included the following statement:

> "The refusal to take part in the proceedings will prevent a scandal which the court intends to cause. The betrayal of their independence by the courts in Słubice and Gorzów Wielkopolski allowed me to apply to the European Court of Human Rights in Strasbourg, where I already await the examination of my complaint. Therefore I am returning the served summons."

On 28 September 1999 the Słubice District Court delivered a judgment ordering the eviction of the applicant. He failed to lodge an appeal against that decision in accordance with the relevant formalities.

COMPLAINT

The applicant complained that the civil proceedings were not concluded within a reasonable time, contrary to Article 6 § 1 of the Convention.

THE LAW

The applicant complained that the length of the civil proceedings was in breach of Article 6 § 1 of the Convention, which in so far as relevant provides:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

The Government contended that the facts of the present case did not disclose a violation of Article 6 § 1.

The Court will assess the reasonableness of the length of the impugned proceedings in the light of the particular circumstances of the case having regard to its complexity, the conduct of the applicant and that of the authorities dealing with the case (see, among other authorities, *Malinowska v. Poland*, no. 35843/97, 14.12.2000, § 38).

The Court notes that the impugned proceedings began on 3 September 1993, when dispossession proceedings were instituted against the applicant, and ended on 28 September 1999, when the applicant's eviction was ordered. They thus lasted more than six years before the courts at three instances. It considers that the subject matter of the litigation was not particularly complex.

The Court finds that the conduct of the applicant significantly contributed to the length of the proceedings: On numerous occasions he failed to attend hearings. The applicant refused to collect a summons for the hearing held on 5 October 1995. Furthermore, the applicant's letter of 23 September 1999 addressed to the Słubice District Court amounted to a refusal to participate in the proceedings. The Court also notes that the impugned proceedings were stayed between 20 November 1995 and 7 July 1999 because the applicant had initiated administrative proceedings and proceedings concerning the title to the contested property.

With respect to the conduct of the national authorities, the Court considers that there were no discernible delays which may be attributed to them. In these circumstances, the Court concludes that the impugned proceedings do not disclose an unreasonable delay within the meaning of Article 6 § 1. It follows that the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

T.L. EARLY
Deputy Registrar

J.-P. COSTA
President