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

FIRST SECTION

DECISION

Application no. 33291/15
Barbara Teresa PIEKARSKA
against Poland

The European Court of Human Rights (First Section), sitting on 2 April 2026 as a Committee composed of:

Davor Derenčinović*, President*,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 33291/15) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 29 June 2015 by a Polish national, Ms Barbara Teresa Piekarska ("the applicant"), who was born in 1937 and lives in Warsaw, and was represented by Mr W. Dobkowski, a lawyer practising in Warsaw;

the decision to give notice of the application to the Polish Government ("the Government"), represented by their Agent, Mr J. Sobczak, of the Ministry of Foreign Affairs.

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns an alleged lack of legal certainty and coherence in proceedings for compensation for damage caused by an administrative decision of 8 December 1980 which was later set aside.

2. The applicant's legal predecessor owned a plot of land located in Warsaw. By virtue of a decree of 26 October 1945 on the Ownership and Use of Land in Warsaw, the ownership of all private land was transferred to the city of Warsaw.

3. The applicant requested to be granted the right of temporary ownership (*własność czasowa*) of the plot of land. On 8 December 1980 the relevant authority refused the request.

4. On 21 March 2003 the Warsaw Self-Government Board of Appeal (*Samorządowe Kolegium Odwoławcze)* declared that the decision of 9 December 1980 had been delivered in breach of the law and set it aside. On 9 June 2003 the same authority refused to award compensation, finding that the applicant had sustained no damage in connection with the decision of 8 December 1980.

5. In July 2003 the applicant brought an action for compensation against the Municipality of Warsaw ("the Municipality") before the Warsaw Regional Court ("the Regional Court") under Article 160 § 5 of the Code of Administrative Procedure.

6. During the proceedings, the Municipality argued that the action should have been brought against the State Treasury. Consequently, the Regional Court decided to invite the State Treasury to join the proceedings as a co-defendant. The applicant objected to that decision.

7. On 26 July 2005 the Regional Court upheld the applicant's claim in so far as it was directed against the Municipality. It ordered the Municipality to pay the applicant 228,072 Polish zlotys in compensation and dismissed the remainder of the claim. The court dismissed the argument that the claim should have been directed against the State Treasury.

8. Both parties appealed against that judgment.

9. On 3 August 2006 the Warsaw Court of Appeal upheld the applicant's appeal and dismissed that of the Municipality. It decided that the sums awarded by the Regional Court would be increased by an amount in interest corresponding to late payment and ordered that the judgment was immediately enforceable. The enforcement clause was delivered on 8 August 2006, and on 18 September 2006 the court bailiff enforced the judgment.

10. The defendant lodged a cassation appeal with the Supreme Court.

11. On 14 March 2007 the Supreme Court quashed the impugned judgment and remitted the case. It held that in the past there had been two approaches as to who the defendant should be in disputes similar to that of the applicant. The first approach established that the action for compensation should be brought against the Municipality and the second approach established that the action should be brought against the State Treasury. However, the situation was ultimately decided by a resolution adopted by seven judges of the Supreme Court on 7 December 2006 (III CZP 99/06), which clarified that the State Treasury was liable for damages caused by an administrative decision delivered before 27 May 1990, even if the decision had been set aside after that date.

12. On 10 July 2007 the Court of Appeal overturned the judgment of 26 July 2005 and dismissed both the initial claim and the applicant's appeal.

The court ordered the applicant to reimburse to the Municipality the sum awarded by the Regional Court.

13. On 29 May 2008 the Supreme Court refused to entertain a cassation appeal lodged by the applicant. The judgment was served on the applicant's lawyer on 12 June 2008.

14. Subsequently, in June 2010, the Municipality brought an action in new proceedings against the applicant for unjust enrichment, requesting the reimbursement of the sum unjustly obtained on the basis of the Court of Appeal's judgment of 10 July 2007.

15. On 3 July 2012 the Warsaw Regional Court ordered the applicant to reimburse the Municipality the sum she had obtained in 2006. It noted that the applicant's claim against the Municipality had been dismissed by a final decision delivered by the Supreme Court on 29 May 2008. Therefore, the payment made by the Municipality in 2006 had had no legal basis, thus constituting unjust enrichment on the part of the applicant, and had to be reimbursed. The court reiterated that the obligation on the applicant to return the sum obtained in 2006 had been decided in the final judgment delivered by the Court of Appeal on 10 July 2007 and upheld by the Supreme Court on 29 May 2008. The only issue left to be examined separately was the exact amount to be reimbursed to the Municipality, which was the only, limited, subject of the proceedings at hand.

16. On 4 September 2013 the Warsaw Court of Appeal dismissed an appeal lodged by the applicant. It reiterated that, in the proceedings at hand, the courts had been bound by the final nature of the judgment of 29 May 2008 dismissing the applicant's claim and ordering her to return the money to the Municipality. At the current point, the applicant could only contest the amount ordered by the court to be reimbursed by her, which she had not done effectively.

17. On 21 November 2014 the Supreme Court refused to hear a cassation appeal lodged by the applicant.

18. Relying on Article 1 of Protocol No. 1 to the Convention, the applicant complained that, as a result of incoherent and inconsistent case-law of the domestic courts, she had been deprived of compensation which she believed she had been entitled to. At the material time, it had not been clear which entity – the State Treasury or the Municipality – had been liable for damage caused by an administrative decision which had later been annulled.

THE COURT'S ASSESSMENT

19. The Government raised an objection that the application should be rejected for the applicant's failure to comply with the six-month time-limit[1] for lodging an application. The Government emphasised that the applicant had complained to the Court about the refusal to compensate her for the property owned by her legal predecessor on account of alleged legal uncertainty. This issue had arisen in the proceedings for compensation which had ended on 29 May 2008. In that set of proceedings, the domestic court had given a final decision to dismiss the applicant's claim for compensation, finding that it should have been directed against the State Treasury and not the Municipality. The date of notification of this ruling of the Supreme Court to the applicant, on 12 June 2008, should be considered the date from which the six-month time-limit had started to run, during which the applicant should have lodged her application with the Court. The subsequent set of proceedings had only concerned the amount to be returned by the applicant and had not been the subject of any complaint by the applicant.

20. The applicant contested the Government's objection, asserting that the final judgment in her case had been given on 21 November 2014. She reiterated that the breach of the Convention had occurred on account of imprecise regulations as to the entity responsible for paying damages. The applicant relied on the Court' case-law in which it had found, in similar legal and factual circumstances, that there had been a breach of the right to effective enjoyment of possessions as guaranteed by Article 1 of Protocol No. 1 because the applicants had been unable to obtain compensation owing to the inconsistency of the domestic case-law and the lack of legal certainty and coherence in that respect (see *Plechanow v. Poland*, no. 22279/04, §§ 99-112, 7 July 2009, and *Sierpiński v. Poland*, no. 38016/07, §§ 79 and 80, 3 November 2009).

21. In view of the facts of the case and the parties' submissions, the Court finds that the applicant's complaint made before it concerned the proceedings for compensation lodged on 8 July 2003 against the Municipality of Warsaw and dismissed on 29 May 2008 by a final decision delivered by the Supreme Court. It was only in that set of proceedings that the domestic courts delivered a final decision that no compensation was due from the Municipality and they were faced with the issue of divergent interpretation of the law prior to the Supreme Court's resolution of 7 December 2006 (see paragraphs 7, 11 and 12 above). In those proceedings the courts also established with final effect the applicant's obligation to return the sums already obtained through unjust

[1] Protocol No. 15 to the Convention has shortened the time-limit provided for by Article 35 § 1 of the Convention to four months from the final domestic decision. However, in the present case, the six-month period still applies, given that the applicant lodged her application prior to 1 February 2022, the date of the entry into force of the new rule (pursuant to Article 8 § 3 of Protocol No. 15 to the Convention).

enrichment. As noted by the Government, the subsequent set of proceedings only concerned the amount to be returned by the applicant (see paragraph 19 above).

22. It follows that the Court is prevented from examining the merits of the complaint concerning the alleged lack of legal certainty and coherence in the proceedings for compensation because the proceedings in question ended on 29 May 2008 and the applicant lodged her application with the Court after more than six months, that is, on 29 June 2015 (see *Plechanow*, cited above, § 92, where the Court considered that the Supreme Court's judgment ending proceedings for compensation constituted the final decision for the purpose of the six-month rule).

23. Accordingly, this part of the application has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

24. In so far as the applicant can be understood as complaining that she was ordered to reimburse the compensation in the subsequent set of proceedings, the Court observes that, in the proceedings instituted by the Municipality under the provisions governing unjust enrichment, the domestic courts did not address the merits of the compensation claim and were limited to establishing the exact amount to be reimbursed by the applicant. Indeed, both of the courts examining the case related to unjust enrichment reiterated that the compensation claim had already been decided with final effect on 29 May 2008 and that the judgment had been universally binding (see paragraphs 15 and 16 above). The applicant did not complain that the calculation of the reimbursement had been incorrect or had otherwise breached her rights.

25. Accordingly, this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 May 2026.

Liv Tigerstedt
Deputy Registrar

Davor Derenčinović
President