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

FIRST SECTION

DECISION

Application no. 11600/15
Marek PLUCIŃSKI
against Poland

The European Court of Human Rights (First Section), sitting on 27 November 2025 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. 11600/15) 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 2 March 2015 by a Polish national, Mr Marek Pluciński ("the applicant"), who was born in 1956, lives in Lutomiersk, and was represented by Mr W. Zielonacki, a lawyer practising in Poznań, and Ms A. Wróbel-Kryńska, a lawyer practicing in Łódź;

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 case concerns the refusal of the authorities to compensate the applicant for three plots of land which were used as internal roads and which had never been expropriated.

2. On 24 July 2002 the mayor of Lutomiersk (*Wójt Gminy*) divided a plot of land owned by the applicant into a number of smaller plots, at the applicant's request. The decision designated three of the new plots as "roads."

3. The applicant sold several of the plots but retained ownership of the three plots providing the access road to the plots ("the access plots") that had been sold. According to the Government, the access plots were unpaved, and no proper road infrastructure had been constructed on them.

4. On 24 January 2005 the applicant instituted administrative proceedings seeking "compensation for property expropriated *ex lege* by the municipality" (*odszkodowanie za nieruchomość przejętą z mocy prawa)* basing his claim on the 2002 decision on the division of his land.

5. The subsequent administrative proceedings resulted in several decisions being taken by the mayor of Pabianice (*Starosta Pabianicki*) granting the applicant compensation in respect of the three access plots, but those decisions were quashed by higher authorities, and ultimately by the Łódź Regional Administrative Court on 28 May 2009. The court emphasised that the administrative authorities had failed to establish the circumstances crucial to the outcome of the case, namely whether the three plots in question were designated as public roads, within the meaning of the domestic law. The court explained that under the domestic law, only plots of land designated as public roads were expropriated *ex lege* by the State once the decision on the division of the land had become final. The court remitted the case for fresh examination, directing the administrative authorities to establish the public or private nature of the roads to be constructed on the three access plots. That ruling was upheld by the Supreme Administrative Court on 13 July 2010.

6. On 9 November 2011 the mayor of Pabianice dismissed the applicant's request for compensation, having established that the roads in question were not public roads.

7. Subsequently, on 17 February 2012 the Łódź Governor quashed that decision and remitted the case for fresh examination. On 27 September 2012 the Łódź Regional Administrative Court quashed the Łódź Governor's decision on appeal, finding that it was in breach of domestic law. The court emphasised that the main issue was to establish the legal nature of the access plots. In the light of all the material collected in the case, it agreed with the mayor of Pabianice's assessment that the plots in question did not have the status of public roads within the meaning of the Act on Public Roads (*ustawa o drogach publicznch*) of 21 March 1985. The legal status of the three plots was unequivocally established on the basis, in particular, of the local development plan, as in force at the material time. The applicant was still the owner of the access plots and, as he had confirmed to the court, they provided access to the individual plots of land which he had subdivided. The court established that there had never been any legal basis for the expropriation of the three access plots by the municipality and that the applicant had always been aware of the fact that no compensation was due to him. Since it had been established beyond any doubt that the plots did not

have the status of public roads, the applicant was not entitled to any compensation under the provisions relied on.

8. On 10 July 2014 the Supreme Administrative Court dismissed a cassation appeal by the applicant. It fully upheld the lower court's reasoning, pointing out that the 2002 decision on the division of the applicant's land had not resulted in the transfer of ownership over the access plots to the municipality but had contained statements that were both erroneous and devoid of any legal meaning, therefore, it became necessary to establish the legal nature of the plots. This had taken place in the administrative proceedings and resulted in finding that the plots had not been public roads within the meaning of domestic law. However, since the applicant complained about the *de facto* use of the roads by the wider public, the correct legal avenue would have been to institute civil proceedings, as indicated in the case-law of the administrative courts (the court referred, in particular, to the judgment of the Gdańsk Regional Administrative Court of 5 February 2013 in case no. II SA/GD 614/12 where the court held: "... in the event of a restriction on the exercise of property rights by owners of plots of land designated as internal roads, which in fact serve as public roads, the owner shall have recourse only to civil proceedings in order to claim compensation in that regard.")

9. On 27 November 2014 the Łódź Governor upheld the mayor of Pabianice's decision of 9 November 2011. The local authority reiterated that the applicant had remained the owner of the plots in question and that ownership had not been transferred to the municipality because the plots had not been designated as public roads. In consequence, the procedure for awarding compensation for the *ex lege* transfer of property to the State would not have been successful. The applicant did not appeal against that decision.

10. Invoking Article 1 of Protocol No. 1 to the Convention, the applicant complained that the three access plots should have been expropriated given that they had been used as roads accessible to the general public in order to access the other plots he had sold. He also argued that plots not formally designated as public roads should be expropriated by the public authorities and that their refusal to formally expropriate the plots in question had breached his right to the peaceful enjoyment of his possessions.

THE COURT'S ASSESSMENT

11. The Court firstly notes that the Government raised several objections to the admissibility of the application, including that the applicant had not appealed against the Łódź Governor decision of 27 November 2014 and that he had not made use of the civil-law remedy.

12. The applicant acknowledged that he had a right of appeal to the Regional Administrative Court, but pointed out that that court would be bound by the legal view expressed in the previous judgments of the Regional

Administrative Court and the Supreme Administrative Court in the same case. He further underlined that he should not be required to exhaust all remedies provided at the domestic level.

13. The Court, however, considers it unnecessary to rule separately on each of the Government's objections since the application is in any event inadmissible for the following reasons.

14. The Court notes that the Act on Public Roads contains a legal definition of a "public road" (see *Gogołek v. Poland* (dec.) [Committee], no. 66094/13, § 15, 22 October 2019). Under the domestic law, only plots of land designated as public roads are expropriated *ex lege* by the State once the decision on the division of the land has become final.

15. In the case at hand, the 2002 decision on the division of the land did not result in the *ex lege* transfer of ownership over the access plots to the municipality. The applicant nevertheless instituted administrative proceedings which had the specific purpose of compensating *ex lege* expropriations (see paragraph 4 above). The administrative authorities established that the plots in question had never been expropriated and did not have the status of public roads within the meaning of the domestic law. The applicant was therefore not entitled to any compensation in the administrative proceedings instituted by him.

16. The Court notes that the assessment of the domestic law and facts carried out by the Regional Administrative Court and the Supreme Administrative Court was consistent and based on a detailed analysis of the provisions of domestic law and established practice. The Court does not find that there was any appearance of arbitrariness or that the findings reached were otherwise manifestly unreasonable. Moreover, the applicant was duly represented during those proceedings and had ample opportunities to advance any arguments which he regarded as pertinent for the outcome of the case (see *Gniazdowska-Sapieha v. Poland* (dec.), no. 18887/11, § 76, 9 July 2024).

17. As argued by the Government, if the applicant believed that his internal roads had been *de facto* used by the wider public, it would have been possible for him to bring a civil claim in order to seek the restitution of his land and compensation for the non-contractual use of that land. The applicant has not provided any convincing arguments as to why he failed to avail himself of this remedy.

18. The Court reiterates that the rule of exhaustion of domestic remedies in Article 35 § 1 of the Convention requires applicants to first use the remedies provided by the national legal system, thus exempting States from answering before the Court for their acts before they have had an opportunity to put matters right through their own legal system. Recourse should therefore be had by an applicant to remedies which are available and sufficient to afford redress in respect of the breaches alleged. As a consequence, complaints intended to be made before the Court should have first been made to the

appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law, and any procedural means that might prevent a breach of the Convention should have been used (see, among many other authorities, *Cardot v. France*, 19 March 1991, § 34, Series A no. 200, and *Akdivar and Others v. Turkey*, 16 September 1996, § 66, *Reports of Judgments and Decisions* 1996-IV).

19. The Court also notes that in another case against Poland, concerning the same legal question as that raised in the present case, the Court referred to a series of judgments of the domestic courts from 2008 and 2013 to 2015 relating to the effectiveness of remedies under the Civil Code (see *Gogołek*, cited above, § 30). In addition, the judgment of the Gdańsk Regional Administrative Court of 5 February 2013 (II SA/GD 614/12) referred to in the present case clearly indicated that *de facto* limitations on property rights could be examined only in civil proceedings. The Supreme Administrative Court, in its judgment of 10 July 2014, explicitly pointed out to the applicant that he should have sought recourse in civil-law remedies (see paragraph 8 above).

20. The Court notes that this development in the domestic case-law occurred after its judgment in *Bugajny and Others v. Poland* (no. 22531/05, 6 November 2007), which was heavily relied on by the applicant.

21. The Court sees no reason to doubt the effectiveness of the above-mentioned remedy and sees no reason to depart from its findings previously reached (see, *Gogołek,* cited above, § 31). In view of the above, and having regard to the subsidiary character of the Convention machinery, the Court does not find that there were any special reasons exempting the applicant from the requirement to exhaust domestic remedies.

22. It follows that the Government's objection in this regard must be upheld and the application must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 18 December 2025.

Liv Tigerstedt
Deputy Registrar

Davor Derenčinović
President