CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 51599/99
by Jolanta RYCHLICKA and Ryszard RYCHLICKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 7 May 2002 as a Chamber composed of

Sir Nicolas BRATZA, *President*,
Mrs E. PALM,
Mr J. MAKARCZYK,
Mrs V. STRÁŽNICKÁ,
Mr M. FISCHBACH,
Mr J. CASADEVALL,
Mr R. MARUSTE, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 8 January 1999,

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

Having deliberated, decides as follows:

THE FACTS

The applicants are Polish citizens, a married couple living in Goleniòw.

A. The circumstances of the case

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

On 2 October 1988 the second applicant was seriously injured in a car accident during his professional military service in a military unit in G. On 3 November 1988 the investigations concerning the accident were discontinued, as the driver who had caused it died.

Following the accident, the second applicant became disabled. On 14 December 1989 the military medical panel assessed his health loss at 100 per cent. He lost his ability to speak, is tetraplegic and suffers from depression. On 10 April 1990 the second applicant left military service.

On 23 November 1992 the military unit G. informed the State Insurance Company (Państwowy Zakład Ubezpieczeń, hereinafter referred to as SIC) of the accident and inquired about possible insurance entitlements that the second applicant might have had.

On 2 February 1993 the first applicant, acting also on behalf of her husband, lodged with the Szczecin Regional Court a compensation claim against the G. military unit and against the Stargard Szczeciński branch of the SIC. She also claimed to be granted a monthly allowance as she had to give up work in order to take full-time care of her husband. She submitted a power of attorney given by her husband. On 12 May 1993 the court ordered the applicants to identify the defendant more precisely.

On 11 June 1993 the Szczecin Regional Court exempted the applicants from the court fees.

On 23 February 1994 the applicants requested the court to fix a date for the hearing in the case.

On 8 December 1994 the court ordered that the statement of claim be served on the defendants.

On 29 December 1994 the Stargard Szczeciński branch of the SIC, the second defendant, lodged its written pleadings with the court. On 5 January 1995 the defendant military unit G. filed with the court its reply to the applicant's statement of claim, and on 10 January 1995 it lodged further pleadings. On 21 January 1995 the court ordered the applicant to respond to the defendants' pleadings.

On 15 March 1995 the Stargard branch of the SIC requested the court to summon the Goleniów branch of the SIC as another defendant.

On 10 April 1995 the applicants concluded a settlement with the Goleniów branch of the SIC, providing for a payment of PLN 20,000 and a monthly pension.

The court summoned the Goleniów branch of the SIC on 15 November 1995 to participate in the proceedings. On 16 January 1996 the statement of claim was served on the third defendant. On 19 February the Goleniów branch of the SIC submitted pleadings in which it requested that the proceedings against it be discontinued, referring to the settlement of 10 April 1995.

On 12 April 1996 the court ordered that the applicants be served with this reply and fixed the hearing for 4 July 1996.

On 13 May 1996 the applicants requested the Szczecin Regional Court to have regard to the second applicant's disability and to transmit the case to the District Court in Goleniòw in the vicinity of their domicile. On 17 July 1995 the Szczecin Regional Court informed the applicants that under the applicable legal provisions the case had to be conducted before the Szczecin Regional Court as it was the latter which was competent to entertain it, regard being had to the amount of the claim.

On 25 July 1996 a first hearing was held in the case. The court discontinued the proceedings concerning the Goleniów branch of the SIC and requested the applicants to specify their claim against the Stargard branch of the SIC. The court also allowed the applicant's request to have a legal aid lawyer appointed to the case. On 20 August 1996 the local Bar Association appointed Z.K. to the case. On 4 October 1996 the court ordered that relevant case documents be served on him. On 3 January 1996 the court urged Z.K. to state the applicant's position.

On 18 February 1997 the lawyer assigned to represent the second applicant in the case under the legal aid scheme lodged with the court his pleadings on behalf of the plaintiffs. The court summoned him to specify the claims and rectify some other shortcomings of the pleadings. On 2 April 1997 he specified the applicants' compensation claims at 60,000 PLN (Polish zlotys). On 28 May 1997 the court ordered that pleadings be served on the defendants.

On 2 July 1997 the applicants withdrew their claim against the Stargard branch of the SIC.

The next hearing was held on 30 October 1997. The court ordered that expert evidence be taken concerning the damage to the applicant's health caused by the accident, the future prospects of improvement, if any, and necessary rehabilitation. It also ordered that a military hospital provide the second applicant's medical file. The file was submitted on 15 November 1997. On 22 April 1998 the court requested another hospital to submit another medical file.

At the next hearing on 15 July 1998 the applicant's counsel specified the legal basis of the applicant's claim, submitting that the failure of the applicant's military unit to inform the SIC of the accident had resulted in the applicant's not receiving compensation to which he was entitled under the non-compulsory accident insurance policy. The court quashed its own decision of 30 October 1997 concerning the taking of medical evidence and requested the Stargard branch of the SIC to submit the accident file, having regard to the applicant's submissions as to the legal basis of their claim. The Stargard branch of the SIC submitted the file to the court on 5 October 1998.

On 2 November 1999 the court discontinued the proceedings insofar as it related to the Stargard branch of the SIC. The applicants appealed, submitting that the proceedings should not have been discontinued as the

SIC had failed to express its consent thereto. On 15 December 1998 the court requested the applicants' lawyer to rectify the formal shortcomings of the appeal. On 19 February 1999 the case-file was forwarded to the Poznań Court of Appeal. On 9 March 1999 the latter court summoned the applicants' lawyer to rectify some other shortcomings of the appeal. On 13 April 1999 the appellate court quashed the decision of 2 November 1999.

On 14 June 1999 the Stargard branch of the SIC requested that the proceedings against it be discontinued. On 27 July 1999 the court accordingly discontinued the proceedings.

The next hearing scheduled for 21 January 2000 was adjourned as the applicants' lawyer was ill. On 21 February 200 the court requested the local bar to appoint another lawyer for the applicants and on 21 March 2000 the Szczecin Bar Association assigned Ms. E. W.G. to the case.

On 26 May 2000 the G - 1 military unit informed the court that the G. military unit had been dissolved, the G - 1 unit not being the legal successor of the former. At the hearing of 29 May 2000 the court stayed the proceedings in order to establish the legal successor of the G. military unit. On 14 June 2000 the proceedings were resumed. On 20 July 2000 the President of the Civil Division of the Court established that in fact the G - 1 unit was the successor of the dissolved G. unit. At the hearing of 21 September 2000 the court allowed evidence from the SIC's accident file, closed the hearings and adjourned the delivery of the judgment until 29 September 2000.

On 29 September 2000 the court delivered the judgment by which it dismissed the applicants' claims, finding that the inactivity of the G. military unit had no bearing on the insurer's liability under the non-compulsory insurance scheme.

On 22 November 2000 the applicants lodged an appeal with the Szczecin Regional Court , to be forwarded to the Poznań Court of Appeal.

On 25 April 2001 the Poznań Court of Appeal dismissed the applicants' appeal.

On an unspecified date the applicants requested the court to exempt them from the cassation court fee. On an unspecified date the court discontinued the proceedings concerning the lodging of the cassation. The applicants appealed against this decision.

The proceedings are apparently pending.

COMPLAINTS

The applicants complain under Article 6 § 1 of the Convention about the excessive length of the proceedings.

They further complain under Article 13 of the Convention that because of the undue length of the proceedings they cannot have their case determined by a final judgment of the Supreme Court.

THE LAW

1. The applicants' complaint relates to the length of the proceedings, which began on 2 February 1993 and are still pending. They have therefore already lasted nine years.

According to the applicants, the length of the proceedings is in breach of the "reasonable time" requirement laid down in Article 6 § 1 of the Convention. The Government reject the allegation.

The Court first observes that, as Poland's declaration recognising the right of individual petition for the purposes of former Article 25 of the Convention took effect on 1 May 1993, the period preceding that date lies outside the Court's jurisdiction *ratione temporis*.

As regards the period after 1 May 1993, the Court considers, in the light of the criteria established in its case-law on the question of "reasonable time" (the complexity of the case, the applicants' conduct and that of the competent authorities), and having regard to all the information in its possession, that an examination of the merits of this complaint is required.

2. The applicants further complain under Article 13 of the Convention that because of the undue length of the proceedings they cannot have their case determined by a final judgment of the Supreme Court.

The Court recalls that where the Convention right asserted by the individual is a "civil right", within the meaning of Article 6 § 1, the safeguards of that provision, implying the full panoply of a judicial procedure, are stricter than, and absorb, those of Article 13 (see, *inter alia*, the Brualla Gómez de la Torre v. Spain judgment cited above, p. 2957, § 41, and Kudła *v. Poland* [GC], no. 30210/96, § 146, ECHR 2000-XI).

Therefore, and having regards to its earlier conclusion on the applicants' complaint about the length of proceedings, the Court finds this complaint manifestly ill-founded and rejects it, in accordance with Article 35 §§ 3 and 4.

For these reasons, the Court unanimously

Declares admissible, without prejudging the merits of the case, the applicants'complaint that the proceedings in their case have lasted unreasonably long;

Declares inadmissible the remainder of the application.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President