



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

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FIRST SECTION

Application no. 2415/21
Zbigniew SARATA
against Poland
lodged on 8 December 2020
communicated on 13 June 2022

SUBJECT MATTER OF THE CASE

The applicant is a defendant in a civil case initiated by a housing cooperative on 2 June 2011. On 4 June 2013 the Warsaw Regional Court gave judgment; upon appeal, it was partly amended on 26 May 2014 by the Warsaw Court of Appeal. The claimant lodged a cassation appeal and on 17 December 2015 the Supreme Court quashed the judgment and remitted the case. On 20 November 2017 the Warsaw Court of Appeal gave judgment granting the claim. The applicant's cassation appeal was allowed by the Supreme Court on 26 September 2019 and the case was again remitted. In 2019 the claimant lodged a constitutional complaint; the case was stayed between 28 February 2020 and an unspecified date in 2021. On 10 March 2021 the Warsaw Court of Appeal gave judgment. It amended the judgment of 4 June 2013 by dismissing the claim of the housing cooperative against the applicant. The claimant lodged a cassation appeal with the Supreme Court; the proceedings are pending before that court.

On 1 October 2020 the applicant lodged a complaint under the Law of 17 June 2004 on complaint about breach of the right to have a case examined in an investigation conducted or supervised by a prosecutor and in judicial proceedings without undue delay (*ustawa o skardze na naruszenie prawa strony do rozpoznania sprawy w postępowaniu przygotowawczym*

prowadzonym lub nadzorowanym przez prokuratora i postępowaniu sądowym bez nieuzasadnionej zwłoki – “the 2004 Act”). On 25 November 2020 the Supreme Court sitting as a panel of three judges of the Chamber of Extraordinary Review and Public Affairs dismissed the complaint (case no. I NSP 166/20). The panel was composed of judges G.Ż., E.S., and P.K., appointed to that court by the President of Poland on 10 October 2018, pursuant to the recommendation of the National Council of the Judiciary (*Krajowa Rada Sądownictwa*, “the NCJ”), as established under the Amending Act on the NCJ and certain other statutes of 8 December 2017 (*ustawa o zmianie ustawy o Krajowej Radzie Sądownictwa oraz niektórych innych ustaw*; “the 2017 Act”, resolution no. 331/2018 of 28 August 2018).

The applicant complains about the unreasonable length of proceedings, lack of an effective remedy in this respect and that his complaint under the 2004 Act was examined by the Chamber of Extraordinary Review and Public Affairs of the Supreme Court, which was not an “independent and impartial tribunal established by law” within the meaning of Article 6 § 1 of the Convention.

QUESTIONS TO THE PARTIES

1. Was Article 6 § 1 of the Convention under its civil head applicable to the proceedings instituted by the applicant under the 2004 Act?
2. If so, was the Chamber of Extraordinary Review and Public Affairs of the Supreme Court which dealt with the applicant's complaint under the 2004 Act an "independent and impartial tribunal established by law" as required by Article 6 § 1 of the Convention? Reference is made to the cases of *Dolińska-Ficek and Ozimek v. Poland*, nos. 49868/19 and 57511/19, §§ 283-359, 8 November 2021, and *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, §§ 205-290, 1 December 2020.
3. Was the length of the civil proceedings in the present case in breach of the "reasonable time" requirement of Article 6 § 1 of the Convention (see *Rutkowski and Others v. Poland*, nos. 72287/10 and 2 others, 7 July 2015)?
4. Did the applicant have at his disposal an effective domestic remedy for his complaint under Article 6 § 1 concerning the unreasonable length of the proceedings under the 2004 Act, as required by Article 13 of the Convention?