



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

FOURTH SECTION

CASE OF KAZIMIERCZAK v. POLAND

(Application no. 33863/96)

JUDGMENT
(Striking out)

STRASBOURG

27 July 2000

In the case of Kazimierczak v. Poland,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Mr G. RESS, *President*,

Mr A. PASTOR RIDRUEJO,

Mr L. CAFLISCH,

Mr J. MAKARCZYK,

Mrs N. VAJIĆ,

Mr M. PELLONPÄÄ,

Mr V. BUTKEVYCH, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 6 July 2000,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case was referred to the Court by the Polish Government (“the Government”) on 29 September 1999, within the three-month period laid down by former Article 48 (b) of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”). It originated in an application (no. 33863/96) against the Republic of Poland lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention by a Polish national, Mr Janusz Kazimierczak (“the applicant”), on 30 April 1996. The applicant complained, *inter alia*, under Article 5 § 3 of the Convention about the length of his detention on remand. On 27 October 1998 the Commission (Second Chamber) declared the application admissible. In its report of 31 May 1999 (former Article 31 of the Convention), it expressed the unanimous opinion that there had been a violation of Article 5 § 3 of the Convention.

2. In the proceedings before the Court the Government were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. On 6 December 1996 the panel of the Grand Chamber determined that the case should be decided by one of the Sections (Rule 100 § 1 of the Rules of Court). It was thereupon assigned to the Fourth Section.

4. On 14 April 2000 the Government informed the Court that the applicant had died on 28 February 1998 and requested it to strike the application out of the Court’s list of cases.

5. In view of the above, the Chamber constituted within the Section decided to dispense with an oral hearing in the present case.

AS TO THE FACTS

6. On 24 July 1995 the applicant was charged with homicide and detained on remand. On 29 May 1996 the Otwock District Prosecutor (*Prokurator Rejonowy*) lodged a bill of indictment with the Warsaw Regional Court (*Sąd Wojewódzki*). In the course of the trial the applicant lodged several requests for release. He was released on 28 January 1998.

AS TO THE LAW

7. On 14 April 2000 the respondent Government notified the Court that the applicant had died and invited it to strike the application out of its list of cases, pursuant to Article 37 § 1 of the Convention.

8. Article 37 § 1 of the Convention provides, insofar as relevant:

“ The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that ...

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

9. In the circumstances, the Court concludes that it is no longer justified to continue the examination of the application. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article.

10. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 27 July 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Georg RESS
President