



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

FOURTH SECTION

**CASE OF KASZCZYNIC v. POLAND**

*(Application no. 59526/00)*

JUDGMENT

STRASBOURG

22 May 2007

**FINAL**

*22/08/2007*

*This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.*



**In the case of Kaszczyniec v. Poland,**

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr G. BONELLO,

Mr K. TRAJA,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Ms L. MIJOVIĆ, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 3 May 2007,

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

## PROCEDURE

1. The case originated in an application (no. 59526/00) 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”) by a Polish national, Mr Leszek Kaszczyniec (“the applicant”), on 16 June 2000.

2. The applicant was represented by Mr L. Cyrson and Mr W. Michalski, lawyers practising in Poznań. The Polish Government (“the Government”) were represented by their Agents, Mr K. Drzewicki, and subsequently Mr J. Wołasiwicz of the Ministry of Foreign Affairs.

3. On 1 April 2003 the Court declared the application partly inadmissible and decided to communicate the complaints concerning the unreasonable length of the applicant's detention and of his trial to the Government. Under the provisions of Article 29 § 3 of the Convention, the Court decided to examine the merits of the application at the same time as its admissibility.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1951 and lives in Szczecin.

5. On 7 March 1996 the Szczecin Regional Prosecutor laid charges of large-scale fraud against the applicant. On 17 April 1996 the prosecutor ordered his detention on remand in connection with those charges. He also

issued a search and arrest warrant in respect of the applicant. Subsequently, on an unspecified date the prosecution received information that the applicant had left Poland.

6. On 7 October 1996 the prosecutor stayed the investigation due to the fact that the applicant was abroad. On the same day he issued an international search and arrest warrant for the applicant.

7. On 29 November 1996 the applicant was arrested in Germany.

8. On 19 March 1997 the German authorities extradited the applicant to Poland where he was placed in police custody. On 21 March 1997 the Szczecin District Court ordered his detention on remand on suspicion of large-scale fraud. His detention was subsequently prolonged on 16 September and 30 November 1997.

9. On 15 November 1997 the prosecution filed a bill of indictment with the Szczecin Regional Court. The applicant was charged with large-scale fraud to the detriment of the State Treasury. There were two other defendants in the case.

10. The Regional Court held hearings on the following dates: 22 January, 26 and 27 February, 2, 24 and 25 March, 20, 21 and 22 April, 16 June, 14 and 20 July 1998.

11. In the course of his original trial, the applicant lodged numerous unsuccessful applications for release and appealed – likewise unsuccessfully – against refusals to lift the detention. In his applications, he argued that his detention was excessive and had, for all practical purposes, amounted to serving a prison sentence. He asked the courts to release him either on bail or under police supervision, or to accept a guarantee from a responsible person or persons who would undertake to ensure his presence at trial, or to order him to surrender his passport, or to subject his release to all those conditions.

12. On 20 July 1998 the trial court gave judgment. It convicted the applicant as charged and sentenced him to 9 years' imprisonment and a fine. The court further ordered that the period spent by him in pre-trial detention from 29 November 1996 up to the date of his conviction be set off against the sentence imposed.

13. On 15 April 1999, on an appeal lodged by the applicant, the Poznań Court of Appeal quashed the first-instance judgment and remitted the case. The subsequent proceedings were conducted only against two defendants, including the applicant, as the third defendant had not appealed against the first-instance judgment.

14. On 28 December 1999 the Regional Court joined the proceedings in question to the other set of proceedings. The number of defendants increased to three.

15. The retrial was to begin on 28 March 2000 but was adjourned since one of the defendants had to undergo a psychiatric examination. The next hearing scheduled for 9 May 2000 had to be adjourned due to the illness of

a lay judge. The Regional Court held the first retrial hearing on 20 June 2000. Subsequent hearings were held on 12, 18 and 19 July, 22 August, 20, 21 and 28 September, 17 and 18 October, 28 and 29 November and 20 December 2000.

16. In the meantime, on 20 May 1999 the Poznań Court of Appeal dismissed the applicant's application for release on bail or under police supervision, or under guarantee by a responsible person or under the condition that he surrender his passport. The court found that there was a considerable likelihood that he had committed the offence with which he had been charged. The court further noted that the applicant had already been detained on remand for some 30 months but it considered that, given that he had previously been sought under an international arrest warrant and that he was liable to a severe penalty, there was a real risk that he might obstruct the proper conduct of the trial. In the court's view, that risk justified his being kept in custody. That decision was upheld on appeal.

17. On 27 May 1999 the Court of Appeal prolonged the applicant's detention pending trial until 30 November 1999. The applicant appealed, invoking, *inter alia*, Article 5 § 3 of the Convention. He submitted that his right to trial within a reasonable time or to release pending trial was not respected. He also maintained that his detention was so excessive that it amounted in reality to serving a prison sentence.

18. On 4 August 1999 the Court of Appeal upheld the contested order. Repeating the grounds previously given for the applicant's detention, the court stressed that he had already evaded justice and an international arrest warrant had had to be issued. It considered that the trial had not progressed because of his conduct. In the court's opinion, those circumstances clearly indicated that there was a considerable risk that the applicant, if released, might again upset the proper conduct of the proceedings. Lastly, the court noted that he faced an exceptionally heavy sentence, which had already been shown by the severity of the penalty originally imposed at first instance.

19. On 27 August 1999 the Szczecin Regional Court dismissed an application for release on bail or subject to other guarantees or conditions. The court repeated the grounds previously invoked, attaching particular importance to the fact that he had earlier absconded and had already been sentenced to 9 years' imprisonment. In view of the severity of the sentence to which he was liable, the court considered that neither bail, nor police supervision nor any other guarantee would secure the proper course of the trial.

20. On 16 November 1999 the Regional Court extended the applicant's detention until 30 April 2000, repeating the grounds mentioned in the previous decisions.

21. The applicant appealed, maintaining, among other things, that there was no legal basis for keeping him in custody and that, pursuant to

Article 263 §§ 3 and 4 of the 1997 Code, his detention could have been prolonged only by the Supreme Court because it had exceeded the maximum statutory period of 2 years laid down in paragraph 3 of that provision.

22. On 11 January 2000 the Court of Appeal rejected the appeal. It stressed that both the fact that the applicant had earlier evaded justice and the nature of his, in the court's words, "criminal relations" with certain witnesses involved in the case, indicated that detention was the only preventive measure which would effectively secure the proper course of the trial. As regards the legal basis for his detention, the court pointed out that – as had already been mentioned in the previous detention decisions – his detention continued on the grounds listed in Article 258 §§ 1 (2) and 2 of the 1997 Code as there was a risk that he might obstruct the proper course of the trial and a heavy penalty was likely to be imposed on him. Lastly, as to the question of which court was competent to prolong his detention, the Court of Appeal stated that the applicant had misconstrued Article 263 §§ 3 and 4 of the 1997 Code. That provision, the court added, indeed imposed a statutory time-limit of 2 years on pre-trial detention and laid down that only the Supreme Court could prolong it beyond that term. However, that rule applied only as long as there had been no conviction at first instance. Since the applicant had already been convicted at first instance, no time-limit for detention applied to his case, even though his original conviction had subsequently been quashed on appeal.

23. On 4 February 2000 the Regional Court dismissed a further application for release filed by the applicant in January 2000. It reiterated the grounds invoked in the previous detention decisions and added that, in the light of the material before it, there was a considerable likelihood that the applicant had committed the offence with which he had been charged.

24. On 25 February 2000 the Regional Court dismissed the applicant's subsequent application for release. It recalled that it had already ruled on numerous occasions on his detention. Noting that the applicant had not adduced any new relevant circumstances, the court found it unnecessary to address his arguments.

25. On 26 April 2000 the Regional Court prolonged the applicant's detention until 30 October 2000. It considered that the material gathered in the case justified the opinion that the applicant had committed the offence in question. It observed that a severe penalty (up to 9 years' imprisonment) might be imposed on him. Stressing that the applicant had evaded justice at the initial stage of the proceedings, the court also pointed out that his detention served the purpose of securing the proper conduct of the trial. Furthermore, the court found it necessary to extend his detention until 30 October 2000 because the summer holidays were approaching, which, for all practical purposes, meant that the examination of the case would be postponed.

26. On 15 September 2000 the Regional Court dismissed the applicant's further application for release.

27. On 21 September 2000 the applicant requested that the three sets of criminal proceedings conducted against him before the courts in Szczecin, including the proceedings at issue, be transferred to other courts. On 13 October 2000 his request was refused.

28. On 18 October 2000 the Szczecin Regional Court prolonged the applicant's detention until 30 January 2001. It reiterated all the grounds previously given for his detention. The applicant's appeal, based on Article 5 § 3 of the Convention, was rejected by the Court of Appeal on 31 October 2000.

29. On 12 January 2001 the Regional Court extended the applicant's detention until 30 July 2001. Upon the applicant's appeal, the Court of Appeal reduced the prolongation to 23 February 2001.

30. On 22 February 2001 the Regional Court ordered that the applicant be kept in custody until 24 April 2001. It further held that he could be released if he put up bail of PLN 40,000. The applicant appealed.

31. On 15 March 2001 the Court of Appeal quashed the Regional Court's decision. It ordered that the applicant should be released on condition that he put up bail of PLN 30,000 by 30 March 2001. The Court of Appeal further placed the applicant under police supervision and imposed on him a prohibition on leaving the country.

32. On 27 March 2001 the Regional Court ordered the applicant's release as he had paid the bail. He was released on the same day.

33. On 28 March 2002 the Szczecin Regional Court convicted the applicant of large-scale fraud and breach of official secrecy. It sentenced him to a cumulative sentence of 8 years' imprisonment and a fine. The applicant appealed.

34. On 12 February 2003 the Poznań Court of Appeal amended the Regional Court's judgment by reducing the applicant's cumulative sentence to 6 years' imprisonment. The applicant appealed.

35. On 1 March 2004 the Supreme Court dismissed the applicant's cassation appeal.

## II. RELEVANT DOMESTIC LAW

### A. Detention on remand

36. The relevant domestic law and practice concerning the imposition of detention on remand (*tymczasowe aresztowanie*), the grounds for its prolongation, release from detention and rules governing other, so-called "preventive measures" (*środki zapobiegawcze*) at the material time are stated in the Court's judgments in the cases of *Kudła v. Poland* [GC],

no. 30210/96, §§ 75-79, ECHR 2000-XI; *Bagiński v. Poland*, no. 37444/97, §§ 42-45, 11 October 2005; and *Celejewski v. Poland*, no. 17584/04, §§ 22-23, 4 August 2006.

## **B. Remedies against unreasonable length of the proceedings**

37. The relevant domestic law and practice concerning remedies for the excessive length of judicial proceedings are stated in the Court's decisions in the cases of *Charzyński v. Poland* no. 15212/03 (dec.), §§ 12-23, ECHR 2005-V and *Ratajczyk v. Poland* no. 11215/02 (dec.), ECHR 2005-VIII and the judgment in the case of *Krasuski v. Poland*, no. 61444/00, §§ 34-46, ECHR 2005-V.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

38. The applicant complained that the length of his detention on remand had been excessive. He relied on Article 5 § 3 of the Convention, which reads as follows:

“Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

39. The Government contested that argument.

#### **A. Admissibility**

40. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

#### **B. Merits**

##### *1. Period to be taken into consideration*

41. The Court observes that the applicant was arrested in Hamburg by the German authorities on 29 November 1996 under an international search and arrest warrant. He was extradited to Poland on 19 March 1997 and placed in custody. On 21 March 1997 the Szczecin District Court ordered

his detention on remand. The Government submitted that they could not be held responsible for the period of the applicant's detention between 29 November 1996 and 19 March 1997, when he had been in the custody of the German authorities. The Court shares that argument and accordingly finds that the starting point for calculating the length of the applicant's detention under Article 5 § 3 is 19 March 1997.

42. On 20 July 1998 the Szczecin Regional Court convicted the applicant of large-scale fraud and sentenced him to 9 years' imprisonment. As from that date he was detained "after conviction by a competent court", within the meaning of Article 5 § 1 (a) and therefore that period of his detention falls outside the scope of Article 5 § 3 (cf. *Kudła*, cited above, § 104). On 15 April 1999 the Court of Appeal quashed the applicant's conviction. Following that date his detention was again covered by Article 5 § 3. It continued until 27 March 2001 when the applicant was released on bail. Consequently, the period to be taken into consideration lasted 3 years, 3 months and 13 days.

## *2. The reasonableness of the length of detention*

### **(a) The parties' arguments**

43. The Government argued that the length of the applicant's detention had not been excessive and that there had been valid reasons for holding him in detention for the entire period in question. The domestic courts had given on each occasion relevant and sufficient reasons justifying the applicant's detention and regularly supervised it.

44. The applicant's detention had been justified by the reasonable suspicion that he had committed the offences with which he had been charged and the fact that the charges against him attracted a heavy sentence. The domestic courts had also relied on the risk that the applicant might interfere with the proper course of the proceedings. In this respect, they referred to the applicant's leaving the country and the need to issue an international arrest warrant for him.

45. The Government further justified the length of the applicant's detention by the particular complexity of the case, which stemmed from the number of defendants and offences, and the fact that the court had joined another set of criminal proceedings to the proceedings at issue. Lastly, they maintained that the authorities had displayed adequate diligence in dealing with the applicant's case.

46. The applicant maintained that the length of his detention on remand had been unreasonable.

**(b) The Court's assessment**

*(i) Principles established under the Court's case-law*

47. The presumption is in favour of release. As established in *Neumeister v. Austria* (judgment of 27 June 1968, Series A no. 8, p.37, § 4), the second limb of Article 5 § 3 does not give judicial authorities a choice between either bringing an accused to trial within a reasonable time or granting him provisional release pending trial. Until conviction, he must be presumed innocent, and the purpose of the provision under consideration is essentially to require his provisional release once his continuing detention ceases to be reasonable (see *McKay v. the United Kingdom* [GC], no. 543/03, § 41, ECHR 2006-...).

48. Continued detention therefore can be justified in a given case only if there are specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty laid down in Article 5 of the Convention (see, among other authorities, *Kudła*, cited above, §§ 110-111).

49. It falls in the first place to the national judicial authorities to ensure that, in a given case, the pre-trial detention of an accused person does not exceed a reasonable time. To this end they must, paying due regard to the principle of the presumption of innocence, examine all the facts arguing for or against the existence of the above-mentioned requirement of public interest justifying a departure from the rule in Article 5 and must set them out in their decisions on the applications for release. It is essentially on the basis of the reasons given in these decisions and of the established facts stated by the applicant in his appeals that the Court is called upon to decide whether or not there has been a violation of Article 5 § 3 (see, for example, *Labita v. Italy* [GC], no. 26772/95, § 152, ECHR 2000-IV, and *Kudła*, cited above, § 110).

50. The persistence of a reasonable suspicion that the person arrested has committed an offence is a condition sine qua non for the lawfulness of the continued detention, but after a certain lapse of time it no longer suffices. The Court must then establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds were “relevant” and “sufficient”, the Court must also be satisfied that the national authorities displayed “special diligence” in the conduct of the proceedings. The complexity and special characteristics of the investigation are factors to be considered in this respect (see, for example, *Scott v. Spain*, judgment of 18 December 1996, *Reports of Judgments and Decisions* 1996-VI, pp. 2399-2400, § 74, and *I.A. v. France*, judgment of 23 September 1998, *Reports* 1998-VII, p. 2978, § 102).

51. In sum, domestic courts are under an obligation to review the continued detention of persons pending trial with a view to ensuring release when circumstances no longer justify continued deprivation of liberty. For

at least an initial period, the existence of reasonable suspicion may justify detention but there comes a moment when this is no longer enough. As the question whether or not a period of detention is reasonable cannot be assessed in the abstract but must be assessed in each case according to its special features, there is no fixed time-frame applicable to each case (see *McKay*, cited above, § 45).

(ii) *Application of the principles to the circumstances of the present case*

52. The Court observes that the judicial authorities, in addition to the reasonable suspicion against the applicant, relied principally on two grounds, namely (1) the severity of the penalty to which he was liable and (2) the risk of obstruction of the proceedings. In respect of the latter, they underlined that the applicant had evaded justice at the early stages of the proceedings by having left the country. That had resulted in the issue of an international search and arrest warrant. Furthermore, the Government submitted that the applicant's detention was additionally justified by the complexity of the case.

53. The Court accepts that the reasonable suspicion that the applicant had committed the offences with which he had been charged may have warranted his detention in the early stage of the proceedings. However, with the passage of time that ground inevitably became less relevant. In particular, the Court considers that that ground cannot suffice to justify the entire period in issue. It must then establish whether the other grounds advanced by the judicial authorities were “relevant” and “sufficient” to continue to justify the deprivation of the applicant's liberty.

54. The Court notes that the judicial authorities continuously relied on the likelihood that a heavy sentence might be imposed on the applicant, given the nature of the offences with which he had been charged. In this respect, the Court recalls that the severity of the sentence faced is a relevant element in the assessment of the risk of absconding or re-offending. It acknowledges that in view of the seriousness of the charges against the applicant the authorities could justifiably consider that such a risk existed. However, the Court has repeatedly held that the gravity of the charges cannot by itself serve to justify long periods of detention on remand (see *Ilijkov v. Bulgaria*, no. 33977/96, §§ 80-81, 26 July 2001 and *Lachowski v. Poland*, no. 27556/03, § 34, 5 December 2006). In the circumstances of the present case, the Court finds that the severity of the anticipated penalty alone, or in conjunction with the other grounds relied on by the authorities, cannot constitute a “relevant and sufficient ground” for holding the applicant in detention for a period of 3 years and over 3 months.

55. As regards the risk of obstruction of the proceedings, the Court observes that throughout the entire relevant period the judicial authorities based their findings in this respect on the fact that the applicant had left the country in order to avoid criminal responsibility. The Court agrees that the

applicant's absconding justified keeping him in custody at the initial stages of the proceedings. However, the Court considers that that ground gradually lost its force and relevance as the proceedings progressed. In particular, given the absence of any further attempt on the part of the applicant to obstruct the proceedings, it is difficult to accept that that circumstance could justify the conclusion that the risk of his interfering with the proper course of the proceedings persisted during the entire period that he spent in custody (see *mutatis mutandis*, *Harazin v. Poland*, no. 38227/02, § 42, 10 January 2006). Furthermore, the Court notes that after the applicant's release on bail on 27 March 2001 it appears that he did not attempt to obstruct the proper conduct of the proceedings.

56. The Court further observes that the applicant was primarily detained on charges of large-scale fraud to the detriment of the State Treasury committed together with an accomplice. The defendants had not been formally charged with acting in an organised criminal gang. In these circumstances, the Court is not persuaded that the instant case presented particular difficulties for the investigation authorities and for the courts to determine the facts and mount a case against the perpetrators as would undoubtedly have been the case had the proceedings concerned organised crime (see *Celejewski*, cited above and *Bąk v. Poland*, no. 7870/04, § 56, 16 January 2007).

57. The Court would also emphasise that under Article 5 § 3 the authorities, when deciding whether a person should be released or detained, are obliged to consider alternative measures of ensuring his appearance at trial. Indeed, that provision proclaims not only the right to “trial within a reasonable time or to release pending trial” but also lays down that “release may be conditioned by guarantees to appear for trial” (see *Neumeister*, cited above, p. 36, § 3; and *Jabłoński v. Poland*, no. 33492/96, § 83, 21 December 2000).

58. The Court observes that in the present case the authorities gave consideration to other non-custodial preventive measures with a view to ensuring the applicant's presence at trial (see paragraphs 16 and 19 above). They found nonetheless that those measures would not be sufficient to secure the proper conduct of the proceedings, relying, in particular, on the fact that the applicant had earlier absconded. The Court notes that the applicant was eventually released on bail on 27 March 2001. However, it has not been explained to the Court's satisfaction why the risk previously relied on by the authorities ceased to exist on that date, namely 3 years and over 3 months since he was first remanded in custody.

59. Having regard to the foregoing, the Court hence concludes that the reasons relied on by the courts in their decisions were not sufficient to justify the applicant's being held in custody for 3 years and over 3 months.

60. That finding would, as a rule, absolve the Court from determining whether the national authorities displayed “special diligence” in the conduct

of the proceedings. However, in that context the Court cannot but note that even though the Court of Appeal quashed the first-instance judgment and remitted the case on 15 April 1999, the first hearing at the retrial stage of the proceedings took place only 14 months later, i.e. on 20 June 2000. In addition, the Court cannot accept that the Szczecin Regional Court in its decision of 26 April 2000 took into account the summer holidays as a factor which warranted further prolongation of the applicant's detention. Having regard to the foregoing, it cannot be said that the authorities displayed "special diligence" in the conduct of the criminal proceedings against the applicant.

61. There has accordingly been a violation of Article 5 § 3 of the Convention.

## II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

62. The applicant complained that the length of criminal proceedings had been incompatible with the "reasonable time" requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

"In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal..."

63. However, pursuant to Article 35 § 1 of the Convention:

"The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law ..."

64. With respect to the requirement of exhaustion of domestic remedies, the Court notes that the Government did not refer to the remedies introduced by the Law of 17 June 2004 on complaints about a breach of the right to a trial within a reasonable time ("the 2004 Act").

65. The applicant for his part, maintained that those remedies were not effective and stated explicitly that he had no wish to lodge a complaint about a breach of the right to a trial within a reasonable time under the relevant provisions.

66. The Court notes that the criminal proceedings against the applicant were terminated on 1 March 2004. On 16 June 2000, the date on which the application was lodged with the Court, they were pending before the Szczecin Regional Court. It further observes that, pursuant to section 18 of the 2004 Act, it was open to persons such as the applicant in the present case whose case was pending before the Court to lodge, within six months from 17 September 2004, a complaint about the unreasonable length of the proceedings with the relevant domestic court, provided that their application to the Court had been lodged in the course of the impugned proceedings and that it had not yet been declared admissible.

67. The Court has already examined that remedy for the purposes of Article 35 § 1 of the Convention and found it effective in respect of

complaints about the excessive length of judicial proceedings in Poland. In particular, it considered that it was capable both of preventing the alleged violation of the right to a hearing within a reasonable time or its continuation, and of providing adequate redress for any violation that has already occurred (see *Charzyński*, cited above, §§ 36-42).

68. The applicant, having been informed by the Registrar of the possibility of lodging a complaint about the length of the proceedings under the 2004 Act, has chosen not to avail himself of this remedy. Accordingly, the complaint about the unreasonable length of the proceedings must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

69. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

#### A. Damage

70. The applicant claimed 200,000 Polish zlotys (approx. EUR 50,000) in respect of non-pecuniary damage related to his unlawful imprisonment and the excessive length of proceedings.

71. The Government submitted that the applicant's claim related to the alleged violation of Article 6 § 1 was exorbitant and should be rejected.

72. The Court notes that the applicant's complaint under Article 6 § 1 has been declared inadmissible and thus there is no basis for making any award under that head. In respect of the claim regarding the applicant's unlawful imprisonment, the Court considers that that claim in substance is related to the finding of a violation of Article 5 § 3 in the present case. The Court finds in this connection that the applicant has suffered non-pecuniary damage which is not sufficiently compensated by the finding of the violation. Considering the circumstances of the case and making its assessment on an equitable basis, the Court awards the applicant EUR 1,000 in respect of non-pecuniary damage.

#### B. Costs and expenses

73. The applicant's lawyers claimed costs and expenses in an unspecified amount for the proceedings before the Court. However, the Court observes that they failed to produce any documents in support of the claim. In those

circumstances, the Court rejects the claim for costs and expenses (see, *Adamiak v. Poland*, no. 20758/03, § 49, 19 December 2006).

### C. Default interest

74. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the unreasonable length of detention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,000 (one thousand euros) in respect of non-pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 May 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY  
Registrar

Nicolas BRATZA  
President