CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 5184/02
by Artur BORDYCZEWSKI
against Poland

The European Court of Human Rights (Fourth Section), sitting on 13 June 2006 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr G. BONELLO,
Mr M. PELLONPÄÄ,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,
and Mr T.L. EARLY, *Section Registrar*.

Having regard to the above application lodged on 31 December 2001,

Having regard to the partial decision of 22 November 2005,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together.

Having regard to the observations submitted by the respondent Government on 3 February 2006,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Artur Bordyczewski, is a Polish national who was born in 1968 and lives in Gdynia. The Polish Government ("the Government") were represented by their Agent, Mr J. Wołąsiewicz, of the Ministry of Foreign Affairs.

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

On 7 November 1996 the applicant was arrested on suspicion of murder. On 9 November 1996 the Gdynia District Court remanded him in custody. Having relied on the existence of a reasonable suspicion that the applicant had committed the offence concerned, the Gdańsk Regional Court, the Gdańsk Court of Appeal and the Supreme Court prolonged the applicant's detention by numerous subsequent decisions. On 6 November 1998 the Gdańsk Regional Court gave a judgment on the merits. The court convicted the applicant as indicted and sentenced him to eight years' imprisonment. Both the public prosecutor and the applicant appealed. On 5 May 1999 the Gdańsk Court of Appeal quashed the judgment under appeal and remitted the case for re-examination. It pointed out that the judgment was based on circumstantial evidence and that certain facts required clarification. When the case was re-heard, the hearings were often adjourned for the further collection of evidence. On 26 July 2001 the Gdańsk Regional Court gave judgment. It sentenced the applicant to eleven years' imprisonment. The applicant appealed.

The Gdańsk Court of Appeal upheld the judgment on 23 May 2002. The applicant's counsel lodged a cassation appeal with the Supreme Court. On 27 June 2003 the Supreme Court dismissed the applicant's cassation appeal as ill-founded.

COMPLAINT

The applicant complains under Article 5 § 3 about the length of his detention on remand.

THE LAW

The Court observes that by a letter of 15 February 2006 the applicant was invited to provide information about his legal representation and the documents concerning his financial situation, by 4 April 2006.

By a registered letter of 14 March 2006, the applicant was informed that the period allowed for submission of the needed information had expired and that no extension of time had been requested. The applicant's attention was drawn to Article 37 § 1 (a) of the Convention which provides:

> "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
>
> (a) the applicant does not intend to pursue his 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."

On 24 March 2006 a postal delivery report (*avis de réception*) was received at the Court indicating that the registered letter of 14 March 2006 had been received by the applicant on 20 March 2006.

The Court has received no reply to the above letters.

In the light of the above, the Court considers that the applicant does not intend to pursue his application. The Court also considers that respect for human rights as defined in the Convention does not require it to continue the examination of the case. The application should therefore be struck out of the list of cases in accordance with Article 37 § 1 (a) of the Convention.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention;

Decides to strike the application out of its list of cases.

T.L. EARLY
Registrar

Nicolas BRATZA
President