CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 40707/98
by Andrzej SKOWIERŻAK
against Poland

The European Court of Human Rights (Third Section), sitting on 16 October 2001 as a Chamber composed of

Mr J.-P. COSTA, *President*,
Mr L. LOUCAIDES,
Mr J. MAKARCZYK
Mr P. KŪRIS,
Mrs F. TULKENS,
Mr K. JUNGWIERT,
Mrs H.S. GREVE, *judges*,
and Mrs S.DOLLÉ, *Section Registrar*,

Having regard to the above application introduced with the European Commission of Human Rights on 20 March 1998 and registered on 7 April 1998,

Having regard to Article 5 § 2 of Protocol No. 11 to the Convention, by which the competence to examine the application was transferred to the Court,

Having deliberated, decides as follows:

THE FACTS

The applicant, Andrzej Skowierżak, is a Polish national, born in 1940 and living in Kielce, Poland. He is represented before the Court by Mr Włoch, a lawyer practising in Kraków.

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

On 2 October 1995 the Kielce Regional Prosecutor (*prokurator wojewódzki*) instituted an investigation in regard to suspected child trafficking.

On 12 October 1995 the prosecutor charged the applicant with child trafficking and incitement to false testimony.

On 17 October 1995 the prosecutor remanded him in custody.

The applicant appealed, but on 23 November 1995 the Kielce Regional Court (*sąd wojewódzki*) dismissed his appeal.

On 11 December 1995 the applicant was released on bail.

On 26 May 1997 the applicant notified the Minister of Justice about criminal offences allegedly committed, *inter alia*, by the Kielce Regional Prosecutor in the course of the investigation.

On 30 June 1997 the prosecutor submitted to the Kielce Regional Court the bill of indictment. The indictment comprised allegations in respect of four individuals, including the applicant. One of them was a Swedish national. The prosecutor requested the court to summon 15 witnesses, including two Swedish nationals.

The court held hearings on 10 August, 8 October, 9 November and 8 December 1999, as well as 12 January, 16 February, 21 March, 12 May and 9 June 2000.

On 16 June 2000 the court gave judgment. The applicant was convicted of inciting U. K. and K. K. to give false testimony and sentenced to one year and six months' imprisonment, suspended for two years. He was acquitted of child trafficking. The applicant submits that the judgment was accompanied by 125 pages of reasoning. He appealed.

On 8 March 2001 the Kraków Court of Appeal (*sąd apelacyjny*) acquitted the applicant of inciting U. K. to give false testimony. It dismissed the remainder of his appeal.

COMPLAINTS

1. The applicant complains under Article 3 of the Convention that the prosecution authorities intentionally caused him physical and psychological suffering, in particular by detaining him on remand.

2. He complains under Article 5 of the Convention about the alleged unlawfulness of his detention and the fact that he was prevented from carrying out his professional duties as a lawyer.

3. The applicant complains under Article 6 of the Convention about the allegedly unreasonable length of the proceedings.

4. He complains that the judgment of the Court of Appeal contains certain statements which contravene Polish law and that the count of child trafficking was from the beginning of the proceedings unlawful and unsubstantiated.

THE LAW

1. The applicant complains under Article 3 of the Convention about alleged ill-treatment by the prosecution authorities.

Even assuming that this complaint was submitted to the Court less then six months from the end of the period during which the applicant's case was being dealt with by the prosecution authorities, the Court notes in any event that the applicant has failed to submit any evidence which discloses an appearance of a breach of Article 3. Therefore, this complaint must be rejected as being manifestly ill-founded, in accordance with Article 35 §§ 3 and 4 of the Convention.

2. The applicant complains under Article 5 of the Convention about the alleged unlawfulness of his detention.

The Court observes that the applicant was released on 11 December 1995, and thus more than six months before the date on which this complaint was lodged with the Court (20 March 1998). It follows that the complaint is time-barred and must be rejected, pursuant to Article 35 §§ 1 and 4 of the Convention.

3. The applicant complains under Article 6 § 1 of the Convention that the proceedings against him exceeded a reasonable time.

The Court considers that it cannot, on the basis of the file, determine the admissibility of this complaint and that it is therefore necessary, in accordance with Rule 54 § 3 (b) of the Rules of the Court, to give notice of it to the respondent Government.

4. The applicant complains about certain errors of law allegedly committed by the prosecution and judicial authorities in the course of the proceedings.

The Court recalls that it is not called upon to deal with errors of fact and law allegedly committed by a national court unless and in so far as they may

have infringed rights and freedoms protected by the Convention (see *García Ruiz v. Spain* [GC], no. 30544/96, ECHR 1999-I, § 28). It finds that there are no elements in the case-file which require it to consider whether the latter proviso applies.

Therefore, it rejects this complaint as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaint about the allegedly unreasonable length of the criminal proceedings against him;

Declares the remainder of the application inadmissible.

S. DOLLÉ
Registrar

J.-P.COSTA
President