CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 44165/98
by Piotr SKROBOL
against Poland

The European Court of Human Rights (Fourth Section), sitting on 15 January 2002 as a Chamber composed of

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mr A. PASTOR RIDRUEJO,
Mr J. MAKARCZYK,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application introduced with the European Commission of Human Rights on 17 June 1996 and registered on 30 October 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, Piotr Skrobol, is a Polish national, born in 1958 and living in Koszalin, Poland.

Commented [Note1]: To be checked.

A. The circumstances of the case

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

1. The criminal proceedings against the applicant.

On 16 November 1993 the applicant was arrested and detained on remand in the proceedings concerning obtaining credit by false pretences.

On 14 November 1994, in reply to the applicant's letters of 13 and 25 October 1994, the regional prosecutor informed him that his allegations about having been given poisonous and radioactive substances while under arrest would be examined.

On 25 September 1996 the Gdańsk Court of Appeals dismissed the applicant's appeal against the decision of the Koszalin Regional Court of 30 August 1996 to maintain him in custody. The court concluded that the applicant's three-year detention was justified in view of a high probability of the applicant's guilt, the seriousness of the charges against him and a risk of a long-term imprisonment.

On unspecified dates the applicant submitted several applications for release, to no avail. On 28 November 1996 the Koszalin Regional Court refused to release him. On 22 January 1997 the Gdansk Court of Appeals refused to examine his appeal against this decision, pointing out that by virtue of a decision of the Supreme Court of 3 January 1997 the applicant's detention on remand was prolonged until 31 December 1997.

On 6 February 1997 the Koszalin Regional Court dismissed the applicant's request for release, considering that the grounds on which the detention had been ordered had not ceased to exist.

On 23 September 1997 the Koszalin Regional Court ordered that the applicant be released under police supervision on condition that he paid 20,000 PLN. Apparently the conditions for the bail were not fulfilled and the applicant's detention on remand continued. On 3 October 1997 the applicant requested the court to accept a bail bond (*poręczenie majątkowe*) offered by a third person. He submitted that he and his wife had been declared bankrupt and therefore he had no other possibility of paying the required sum.

On 20 November 1997 the Koszalin Regional Court ordered again that the applicant's detention be continued. However, the court envisaged the

possibility of imposing a less severe preventive measure provided that the applicant paid 20,000 PLN as bail.

On 1 December 1997 the Koszalin Regional Court ordered that the applicant be released on condition that he paid 15,000 PLN. The court noted that the police supervision alone was not a sufficient preventive measure in the circumstances of the case. Since the applicant did not pay the bail, his detention on remand continued.

At the hearing on the merits held on 18 December 1997, the Koszalin Regional Court requested the Supreme Court to extend the applicant's detention on remand. Having made an overall assessment of the prosecutor's, the applicant's and his defence's submissions, the court found that the applicant's request to have certain witnesses heard and some additional expert opinions taken would cause a delay in the final stage of the proceedings. The court was of the view that there was a reasonable risk that the applicant, if he were to be released, would deliberately obstruct the proper course of the proceedings or go into hiding. The court refused to impose police supervision on the applicant, offering again the possibility of granting bail in the sum of 15,000 PLN.

By virtue of the Supreme Court decision of 20 January 1998 the applicant's detention on remand was prolonged until 30 June 1998. On 23 February 1998 the Koszalin Regional Court dismissed the applicant's request for release. The court observed that more time was required in order to assess new evidence submitted by the applicant. The court further considered that there was a serious threat that the applicant might obstruct and prolong the proceedings.

Apparently the applicant was released on 26 June 1998.

On 29 June 1998 the applicant was convicted by the first-instance court and sentenced to six and a half years imprisonment.

2. The applicant's correspondence with the organs of the European Convention of Human Rights.

On 28 February 1998 the applicant lodged a complaint with the President of the Koszalin Regional Court, the Governor of the Koszalin Detention Centre and Director of the Central Post Office claiming, *inter alia*, that his letter from the European Commission of Human Rights dated 21 January 1998 had been intercepted by prison guards. He further complained that his letters to the Convention organs no. 33096 and no. 29458 posted on 16 November 1997 and 4 January 1998 respectively, and sent from the Koszalin detention centre as well as a letter no. 47524 of 20 November 1997 sent from a Koszalin post office, did not reach their destination.

On 17 March 1998 the Director of the Koszalin District Post Office informed the applicant that the letters he had sent from the Koszalin detention centre, nos. 33096 and 29458, were in fact dispatched on 21 November 1997 (not on 16 November 1997) and on 13 January 1998

(not on 4 January 1998). The applicant was also informed by the Director of the Regional Prison Administration in two letters of 6 March 1998 and 20 March 1998 respectively that his complaint concerning the censorship of his correspondence was unfounded. However, his letters were sent and received through the Koszalin Regional Court in accordance with the relevant regulations, which provided for all letters of persons detained on remand being subject to supervision of the court before which the criminal case of the detainee was pending. The applicant received each time a written receipt of his incoming and outgoing mail.

In a reply to the applicant's letter of 10 March 1998 the Chief Inspector of the Central Prison Administration declared on 30 April 1998 that he had found the explanations previously provided by the Director of the Regional Prison Administration satisfactory.

3. The proceedings concerning the alleged murder of the applicant's brother.

On 21 April 1997 the applicant requested the Pszczyna District Prosecutor Office to institute proceedings in connection with the alleged murder of his brother. An inquiry into the circumstances of the death of Józef Skrobol was held. It was established that the applicant's brother died in the Pszczyna Municipal Hospital on 27 February 1995 as a consequence of inflammation of the pancreas. By a decision of 21 May 1997 the Pszczyna District Prosecutor refused to institute preparatory proceedings in the case, considering the applicant's brother's death not unnatural. The applicant lodged an appeal against this decision. By a decision of 8 October 1997 the Katowice Regional Prosecutor upheld the contested decision. Apparently in response to the applicant's renewed request, the Pszczyna District Prosecutor re-examined the case-file and again, on 24 December 1997 refused to institute preparatory proceedings concerning the alleged murder of the applicant's brother. By a decision of 2 March 1998 the Katowice Regional Prosecutor dismissed the applicant's appeal against this decision.

4. Civil proceedings.

a) On 11 June 1996 the Koszalin District Court declared the applicant and his wife's company insolvent on the grounds that the applicant had definitely stopped paying his debts. On 29 October 1996 the Koszalin Regional Court dismissed the applicant's appeal against this decision. By a decision of 29 October 1996 the Koszalin Regional Court upheld the declaration of insolvency.

On an unspecified date the applicant was granted the assistance of a lawyer paid under the legal aid scheme to represent him in the insolvency proceedings.

On 20 January 1998 the Supreme Court dismissed the applicant's appeal against the decision of 29 October 1996. The court considered that the applicant had acted in as a business enterprise and he was therefore able to be declared insolvent. The applicant's officially assigned lawyer failed to attend the hearing before the Supreme Court

b) In September 1996 the applicant sued the Przemysłowo-Handlowy Bank seeking the discontinuance of enforcement of debts (*umorzenie egzekucji*). By a decision of 30 June 1997 the Warsaw Regional Court stayed the proceedings on the ground that the applicant had been involved in insolvency proceedings based on Section 174 § 1 (4) of the Code of Civil Procedure. By a decision of 7 October 1997 the Warsaw Court of Appeals dismissed the applicant's appeal against this decision. On 16 April 1998 the Supreme Court rejected the applicant's cassation appeal on formal grounds. On 15 December 1998 the Supreme Court rejected the applicant's request to grant him retrospective leave to lodge the cassation appeal against the decision of 16 April 1998 out of time.

5. Refusal to institute criminal proceedings against the judge-receiver and the trustee.

On 20 August 1997 the Koszalin District Prosecutor refused to institute criminal proceedings concerning the alleged unlawful acts of the judge-receiver and the trustee in connection with their conduct of the insolvency proceedings. On 25 September 1997 the Koszalin Regional Prosecutor upheld this decision.

B. Relevant domestic law

1. The 1969 Code of Criminal Procedure

The 1969 Code of Criminal Procedure, which remained in force until 1 September 1998, listed as preventive measures, *inter alia,* detention on remand, bail and police supervision.

Article 209 of the Code, which set out general grounds justifying the imposition of preventive measures, provided that preventive measures could be imposed in order to secure the proper course of proceedings if the evidence against the accused sufficiently justified the opinion that he had committed a criminal offence.

Article 210 read:

> "1. Preventive measures [i.e. detention on remand, bail and police supervision] shall be imposed by the court; before a bill of indictment is lodged with the court, they shall be ordered by the prosecutor (...)."

Article 212 provided that a decision concerning preventive measures could be appealed to a higher court. A prosecutor's order on detention on

remand could be appealed to the court competent to deal with the merits of the case.

Article 213 of the Code provided that a preventive measure should be immediately quashed or changed if the grounds therefor ceased to exist or if new circumstances arose, which justified quashing a given measure or replacing it with another.

Article 225 of the Code provided that detention on remand should be imposed only when it was mandatory and should not be imposed if bail or police supervision, or both of these measures, were considered adequate.

Article 217 of the Code, before it was amended on 1 January 1996, provided insofar as relevant:

> "Detention on remand may be imposed if:
>
> 1. there is a reasonable risk that an accused will abscond or go into hiding, in particular when his identity cannot be established or he has no permanent domicile,
>
> 2. there is a reasonable risk that he will attempt to induce witnesses to give false testimony or to obstruct the proper course of proceedings by any other unlawful means,

Article 218 provided:

> "If there are no special reasons to the contrary, detention on remand should be quashed, in particular, when:
>
> (1) it may seriously jeopardise the life or health of the accused; or
>
> (2) it would entail excessively burdensome effects for the accused or his family."

Pursuant to Article 226 of the Code, bail surety, in the form of cash, securities or mortgage, could be deposited by the accused, or by another person. Determination of the sum, form and all relevant modalities of the bail surety should be made, having regard to the financial situation of the accused and, as the case may be, another person depositing the bail surety, as well as to the assessed damage which could have been caused by the offence concerned and to the character of the offence.

Until 4 August 1996, when the Code of Criminal Procedure was amended, Polish law did not set out any statutory time-limits concerning detention on remand in court proceedings but only in respect of the investigative stage.

Article 222 of the Code of Criminal Procedure, as applicable after 4 August 1996, provided that the whole period of detention on remand until the date on which the court of first instance gave judgment could not exceed one year and six months in cases concerning ordinary offences. In cases concerning serious offences this period could not exceed two years.

In particularly justified cases the Supreme Court could, upon the request of the court competent to deal with the case, prolong detention on remand for a further fixed period exceeding the above-mentioned periods, when it

was necessary in connection with a suspension of the proceedings or because of the prolonged psychiatric observation of the accused or when evidence had to be obtained from abroad or when the accused deliberately obstructed the termination of the proceedings within the above-mentioned time-limits.

2. The 1997 Code of Criminal Procedure.

On 1 September 1998 the 1997 Code of Criminal Procedure replaced the 1969 Code.

Article 263 of the 1997 Code, insofar as relevant, provides:

> "§ 1. During investigation the court which decides about detention on remand shall impose it for a period not longer than 3 months.
>
> § 2. If the special circumstances of a case make it impossible to conclude the investigation within the time-limit provided in § 1, detention on remand may be prolonged, at the request of the prosecutor and when it is necessary, by:
>
> the trial court – for up to 6 months,
>
> the appeal court – for a further fixed period necessary to conclude the investigation but not longer than 12 months.
>
> § 3. The length of detention on remand until the delivery of a first judgment by the trial court shall not exceed 2 years.
>
> § 4. Detention on remand may be prolonged for a fixed period exceeding the periods provided in §§ 2 and 3 only by the Supreme Court at the request of the court dealing with a case (...) – if it is necessary because of the suspension of criminal proceedings, the prolonged psychiatric observation of an accused, the prolonged preparation of an expert opinion, the collection of evidence in a particularly complicated case or abroad, a delay in the proceedings caused by an accused as well as other obstacles which could not be overcome".

COMPLAINTS

The applicant complains under Article 5 § 1 and Article 1 of Protocol No. 4 to the Convention that he was deprived of his liberty unlawfully and without justification. The applicant submits that the charges against him were unfounded and that the evidence was created and manipulated by the prosecutor.

He complains under Article 5 § 3 about the length of his detention on remand and the fact that the courts, without providing sufficient justification, imposed unattainable and unfair conditions of his release, in that they did not accept a bail bond offered by third persons and insisted on his paying the bail although he and his wife had been declared bankrupt.

The applicant submits that in this way the prosecutor tried to blackmail him into withdrawing his motions as to evidence.

He further complains under Article 5 § 4 of the Convention about the way in which the courts reviewed the lawfulness of his detention.

He complains under Article 6 of the Convention that in the criminal proceedings against him the court disregarded evidence submitted by him, did not allow him to question witnesses and refused his requests to have additional expert opinions examined.

He further complains that the decision of 30 June 1997 given by the Warsaw Regional Court, upheld by the Warsaw Court of Appeals, to stay proceedings in the case concerning his claim against the Przemysłowo-Handlowy Bank, deprived him of the right to a fair trial.

He also complains under Article 6 § 1 of the Convention that in the civil proceedings concerning the insolvency of his company the evidence was falsified and the motions submitted by him were ignored and that the declaration of insolvency was unlawful. The applicant alleges that his officially appointed lawyer did not act with diligence as he failed to represent him at the cassation appeal hearing held on 20 January 1998.

The applicant complains under Article 1 of Protocol No.1 to the Convention that his property was deliberately destroyed by the judge-receiver and the trustee in the course of the insolvency proceedings and that his requests to institute criminal proceedings against these persons were refused.

Furthermore, the applicant complains under Article 13 of the Convention that he did not have an effective remedy to complain about the endangered security of his family. He submits that his brother died in unclear circumstances and that an attempt was made to poison the applicant himself in the detention centre.

He finally complains about the censorship and interception of his correspondence under Article 8 of the Convention.

THE LAW

1. The applicant complains under Article 5 § 1 of the Convention and Article 1 of Protocol No. 4 to the Convention that when detained on remand he was unlawfully deprived of liberty.

Article 5 § 1, insofar as relevant, provides as follows:

> "Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed

an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;"

Article 1 of Protocol No. 4 to the Convention reads:

"No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation."

The Court first recalls that any measure depriving a person of his liberty should issue from and be executed by an appropriate authority and should not be arbitrary (see, among other authorities, *Baranowski v. Poland,* no. 28358/95, §§ 50-57, ECHR 2000-III; and the Winterwerp v. the Netherlands judgment of 24 October 1979, Series A no. 33, pp. 19-20,§§ 45 et seq.).

The Court further recalls that the "reasonableness" of the suspicion on which an arrest must be based forms an essential element of the safeguard against arbitrary arrest and detention. Having a "reasonable suspicion" presupposes the existence of facts or information which would satisfy an objective observer that the person concerned may have committed the offence (cf. the Fox, Campbell and Hartley v. the United Kingdom judgment of 30 August 1990, Series A no. 182, p. 16, § 32).

As to the level of "suspicion", Article 5 § 1(c) of the Convention does not presuppose that the investigating authorities should have obtained sufficient evidence to bring charges, either at the time of the arrest of while the arrested person is in custody. The object of questioning during detention under Article 5 § 1(c) of the Convention is to further the criminal investigation by way of confirming or dispelling the concrete suspicion grounding the arrest. Thus, facts which raise a suspicion need not be of the same level as those necessary to justify a conviction or even the bringing of a charge, which comes at the next stage of the process of criminal investigation. The existence or not of a reasonable suspicion in a concrete instance depends ultimately on the particular facts (cf. the Murray v. the United Kingdom judgment of 28 October 1994, Series A no. 300-A, p. 27, §§ 55 and 57).

In the light of all the material in its possession it is not alleged and the Court finds no indication that the applicant's detention was unlawful or ordered otherwise than "in accordance with a procedure prescribed by law", within the meaning of Article 5 § 1. There is nothing to indicate that the applicant was arrested and later remanded in custody other than in conformity with domestic law. His detention on charges of having committed criminal offences fell within the ambit of Article 5 § 1(c) of the Convention, as having been effected for the purpose of bringing him ultimately before the legal authority competent to determine criminal charges against him. As regards the alleged falsification of the evidence by the prosecutor, the Court is not convinced by the applicant's arguments in this respect as these allegations have not been substantiated in any way. In

conclusion, the Court considers that the charges laid against the applicant were based on a reasonable suspicion of his having committed criminal offences punishable under the Criminal Code.

The Court finds no separate issue under Article 1 of Protocol No. 4 to the Convention. It follows that this complaint is manifestly ill-founded under Article 35 § 3 of the Convention and must be rejected under Article 35 § 4.

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

The Court considers that it cannot, on the basis of the case-file, determine the admissibility of these complaints and that it is therefore necessary, in accordance of the Rule 54 § of the Rules of the Court, to give notice of this part of the application to the respondent Government.

3. The applicant complains under Article 5 § 4 of the Convention about the way in which the courts held the proceedings concerning review of the lawfulness of his detention on remand.

Article 5 § 4 of the Convention provides:

> "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

The Court recalls that arrested or detained persons are entitled to a review bearing upon the procedural and substantive conditions which are essential for the "lawfulness", in the sense of the Convention, of their deprivation of liberty. This means that the competent court has to examine not only compliance with the procedural requirements set out in domestic law but also the reasonableness of the suspicion grounding the arrest and the legitimacy of the purpose pursued by the arrest and the ensuing detention (see the Brogan and Others v. the United Kingdom judgment of 29 November 1988, Series A no. 145-B, pp. 34-35, § 65, and *Grauslys v. Lithuania*, no. 36743/97, §§ 51-55, 10 October 2000, unreported).

However, the Court notes that the applicant has failed to specify the alleged procedural shortcomings of the proceedings concerning the review of the lawfulness of his detention. He has also failed to indicate which proceedings he had in mind. Accordingly, and also in view of the fact that a significant number of hearings were held before the Koszalin Regional Court as well as by the Gdańsk Court of Appeal in order to examine the applicant's requests for release, the Court cannot find any appearance of a breach of Article 5 § 4 of the Convention in the present case. It follows that the complaint under Article 5 § 4 is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected as under Article 35 § 4.

4. The applicant complains, invoking Article 6 §§ 1, 2 and 3 (d) of the Convention that he was unfairly treated by the courts in the criminal

proceedings against him, in that the court disregarded the evidence submitted by him and refused his requests to question certain witnesses and have additional experts examined.

However, it does not appear from the documents submitted by the applicant that he filed an appeal against the first-instance judgment of 29 June 1998, or that a final judgment of the Supreme Court in these proceedings has been pronounced. It follows that this complaint must be rejected under Article 35 §§ 1 et 4 of the Convention for non-exhaustion of domestic remedies.

5. The applicant further complains under Article 6 § 1 that he was deprived of access to court in that the proceedings in the case concerning the discontinuance of enforcement of debts were stayed by virtue of a decision of 30 June 1997 given by the Warsaw Regional Court.

Article 6 § 1 provides, insofar as relevant:

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

The Court recalls that Article 6 § 1 embodies the "right to a court", of which the right of access, that is, the right to institute proceedings before a court in civil matters, constitutes one aspect. However, this right is not absolute, but may be subject to limitations; these are permitted by implication since the right of access by its very nature calls for regulation by the State. In this respect, the Contracting States enjoy a certain margin of appreciation, although the final decision as to the observance of the Convention's requirements rests with the Court. It must be satisfied that the limitations applied do not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired. Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see, most recently, the Tinnelly & Sons Ltd and Others and Mc Elduff and Others v. the United Kingdom judgment of 10 July 1998, *Reports* 1998-IV, p. 1660, § 72).

The Court further notes that in the majority of the Contracting States, the right of access to court is regulated in respect of, *inter alia*, persons declared bankrupt. Such regulations are not in principle contrary to Article 6 of the Convention where the aim pursued is legitimate and the means employed to achieve the aim are proportionate (cf. Eur. Comm. HR, No. 12040/86, Dec. 4.5.87, D.R. 52, p. 269).

In the present case the applicant lodged an action against the Przemysłowo-Handlowy Bank, whereas the bank had previously advanced an enforceable claim against the applicant. Under Polish law, as defined by Section 174 §1 1(4) of the Code of the Civil procedure, the court is *ex officio* obliged to stay civil proceedings if a party thereto is involved in

insolvency proceedings, and if the object of the claim constitutes a part of an insolvent estate. The Court observes that the limitation imposed on the applicant as regards the access to the court in the proceedings concerning the discontinuance of enforcement of his debts towards the bank was not disproportionate to the legitimate aim of protecting the rights of his creditors and safeguarding the proper administration of the insolvent estate in the interest of the community, namely in order to ensure payment of his debts to the highest possible degree.

It follows that the complaint under Article 6 § 1 is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected as under Article 35 § 4.

6. The applicant also complains that in the insolvency proceedings the courts unjustly rejected the evidence submitted by him

The Court recalls, at the outset, that while Article 6 of the Convention guarantees the right to a fair trial, it does not lay down any rules on the admissibility of evidence as such, which is therefore primarily a matter for regulation under national law (see *Garcia Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I)

In the applicant's case there is no indication, nor has it been persuasively argued, that the courts went beyond their discretion to admit or refuse the evidence.

It follows that this part of application is manifestly ill-founded within the meaning of the Convention and that it must be rejected under Article 35 § 4 of the Convention.

7. The applicant further complains that he was deprived of legal aid at the cassation appeal hearing held in the insolvency proceedings on 20 January 1998 before the Supreme Court because his officially assigned lawyer failed to attend the only hearing held in these proceedings.

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

8. The applicant complains about the refusal to institute criminal proceedings against the judge-receiver and the trustee.

The Court observes that the Convention does not guarantee a right to have criminal proceedings instituted against third persons.

It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Convention, within the meaning of Article 35 § 3, and must be rejected, in accordance with Article 35 § 4.

9. Furthermore, insofar as the applicant alleges that his brother was murdered by unspecified persons, the Court notes that the applicant has not

provided any *prima facie* evidence substantiating his complaints about the alleged murder of his brother or assassination attempts directed towards himself or any other member of his family. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected, in accordance with Article Article 35 §§ 3 and 4 of the Convention.

10. The applicant also complains about the censorship and interception of his correspondence under Article 8 of the Convention.

The Court notes that, as regards the letter no 47524 sent from a Koszalin post office, it was not stopped or delayed in any way. It follows that this part of application is manifestly ill-founded within the meaning of the Convention and that it must be rejected under Article 35 §§ 3 and 4 of the Convention.

However, as regards the letters no. 33096 and no. 29458 sent from the Koszalin Detention Centre, the Court considers that it cannot, on the basis of the case-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 this complaint to the respondent Government.

For these reasons, the Court

Decides to adjourn the examination of the applicant's complaints about the length of his detention on remand and the alleged interference with his correspondence with the Convention organs, unanimously, and the complaint about lack of a fair hearing before the Supreme Court in the insolvency proceedings, by a majority;

Declares inadmissible the remainder of the application.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President