



# Poland

## Ratified the European Convention on Human Rights in 1993

### National Judge: Krzysztof Wojtyczek

[Judges' CVs](#) are available on the ECHR Internet site

Previous Judges: Lech Garlicki (2002-2012); Jerzy Makarczyk (1992-2002)

The Court dealt with 2,466 applications concerning Poland in 2017, of which 2,446 were declared inadmissible or struck out. It delivered 20 judgments (concerning 20 applications), 14 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2016	2017	2018**
Applications allocated to a judicial formation	2421	2065	989
Communicated to the Government	68	404	93
Applications decided:	2275	2466	894
- Declared inadmissible or struck out (Single Judge)	2115	1822	790
- Declared inadmissible or struck out (Committee)	85	213	82
- Declared inadmissible or struck out (Chamber)	46	411	13
- Decided by judgment	29	20	9

\*\* January to July 2018

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#).

Statistics on interim measures can be found [here](#).

Applications pending before the court on 01/07/2018	
Total pending applications*	2079
Applications pending before a judicial formation:	1495
Single Judge	191
Committee (3 Judges)	689
Chamber (7 Judges)	615
Grand Chamber (17 Judges)	0

\*including applications for which completed application forms have not yet been received

## Poland and ...

### The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **668** Registry staff members.

## Noteworthy cases, judgments delivered

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### Grand Chamber

#### [Kudla v. Poland](#)

26.10.2000

Existence of an effective remedy to challenge the length of judicial proceedings.

No violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 5 § 3 (right to liberty and security)

Violation of Article 6 § 1 (right to a trial within a reasonable time)

Violation of Article 13 (right to an effective remedy)

#### **Cases concerning protection of property (Article 1 of Protocol No. 1)**

##### Violations of Article 1 of Protocol No. 1

#### [Broniowski v. Poland](#)

22.06.2004 (pilot judgment)<sup>1</sup>

Failure to take measures to compensate persons repatriated from the "territories beyond the Bug River" after the Second World War who had had to abandon property there. Structural problem. Some 80,000 people concerned.

See also [decisions of 12.12.2007](#) noting that a new law had been passed to settle cases of this type.

#### [Hutten-Czapska v. Poland](#)

19.06.2006 (pilot judgment)

Restrictive system of rent control which originated in laws passed under the former communist regime. The ceiling on rents was so low that they did not even cover building maintenance costs. Structural problem. Some 100,000 people concerned.

See also [Grand Chamber judgment of 28.04.2008](#) noting that a new law had been passed to settle cases of this type,

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<sup>1</sup> The pilot judgment procedure was developed as a technique of identifying the structural problems underlying repetitive cases against many countries and imposing an obligation on States to address those problems.

See the document ["The Pilot judgment procedure"](#) which is available on the ECHR's website.

and [closure of the pilot judgment procedure](#).

## Noteworthy cases, judgments delivered

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### Chamber

#### **Right to life cases (Article 2)**

##### Violation of Article 2

#### [Moisiejew v. Poland](#)

24.03.2009

Death in a sobering-up cell. Failure by the authorities to explain the circumstances of the death and to investigate.

#### **Cases dealing with inhuman or degrading treatment or punishment (Article 3)**

##### Violations of Article 3

#### [Orchowski v. Poland and Sikorski v. Poland](#)

22.10.2009

Structural problem of overcrowding in Polish prisons.

#### [Kupczak v. Poland](#)

25.01.2011

Paraplegic man suffering from severe chronic pain detained for over two and a half years without adequate medication.

#### [R.R. v. Poland \(no. 4047/07\)](#)

26.05.2011

Baby born severely disabled, his mother having been denied timely access to an amniocentesis.

#### [Piechowicz v. Poland and Horych v. Poland](#)

17.04.2012

Both cases concerned a regime in Polish prisons for detainees who are classified as dangerous.

Violation of Article 5 §§ 3 and 4 (right to liberty and security) in the case *Piechowicz v. Poland*

**P. and S. v. Poland (no. 57375/08)**

30.10.2012

The case concerned the difficulties encountered by a teenage girl, who had become pregnant as a result of rape, in obtaining access to an abortion, in particular due to the lack of a clear legal framework, procrastination of medical staff and also as a result of harassment.

No violations of Article 3

**Rywin v. Poland**

18.02.2016

The case concerned a corruption scandal involving Mr Rywin, a well-known film producer, which arose in the context of parliamentary proceedings for the amendment of the Broadcasting Act.

**Cases dealing with Article 5 (right to liberty and security)**

**Stokłosa v. Poland**

03.11.2011

The case concerned a complaint by a well-known ex-politician and businessman that a junior judge, appointed by the Minister of Justice, detained him in breach of the Convention.

Violation of Article 5 § 3

**Grabowski v. Poland**

30.06.2015

Mr Grabowski, 17 years old at the time, complained that his placement in a shelter for juveniles had been extended for a period of five months without a specific court order, pending a decision in correctional proceedings against him.

Violation of Article 5 §§ 1 and 4

**Cases concerning Article 6**

Right to a fair trial

**Matyjek v. Poland**

24.04.2007

The fairness of "lustration proceedings" aimed at exposing persons who worked for or collaborated with the State's security services during the communist period.

Violation of Article 6

**Chim and Przywieczerski v. Poland**

12.04.2018

The case concerned the applicants' trial and conviction for various offences related to the State-run Fund for the Service of

Foreign Debt (FOZZ). The first applicant was a senior manager at the Fund while the second headed a company which had dealings with it.

Violation of Article 6

Right to a fair trial by an independent and impartial tribunal

**Henryk Urban and Ryszard Urban v. Poland (no. 23614/08)**

30.11.2010

Lack of independence of a trial court composed of a junior judge ("asesor sądowy").

Violation of Article 6 § 1

**Rutkowski and Others v. Poland**

07.07.2015 (Pilot judgment)<sup>2</sup>

Concerned the applicants' complaints that the length of the proceedings before the Polish courts in their cases had been excessive and that the operation of the remedy at national level for the excessive length of court proceedings was defective.

Violation of Article 6 § 1

Violation of Article 13 (right to an effective remedy)

The Court concluded that the situation of which the applicants complained had to be qualified as a practice which was incompatible with the European Convention and decided to apply the pilot-judgment procedure.

There are about 650 similar cases pending before the Court at different stages of the procedure. The Court decided to communicate to the Polish Government all new applications, giving it a two-year time limit for processing those cases and affording redress to all victims.

Right of access to court

**Woś v. Poland**

08.06.2006

The Court found that Article 6 § 1 was applicable to proceedings brought by victims of forced labour under former Nazi Germany, before the Polish-German Reconciliation Foundation, under the so-called first compensation scheme.

Violation of Article 6 § 1

<sup>2</sup> The pilot judgment procedure was developed as a technique of identifying the structural problems underlying repetitive cases against many countries and imposing an obligation on States to address those problems. See [factsheet on Pilot judgments](#).

### **Apanasewicz v. Poland**

03.05.2011

Failure to enforce a decision ordering the closure of a concrete production plant built unlawfully in a residential area.

[Violation of Article 6 § 1](#)

[Violation of Article 8 \(right to respect for the home\)](#)

[Right to be assisted by a lawyer](#)

### **Adamkiewicz v. Poland**

02.03.2010

A minor was denied prompt access to a lawyer and his case was investigated and adjudicated by the same judge.

[Violation of Article 6 § 3 \(c\) in conjunction with Article 6 § 1 \(right to a fair trial\)](#)

[Right to a trial within a reasonable time](#)

## **Cases dealing with private and family life (Article 8)**

### **Violations of Article 8**

#### **Giszcza v. Poland (no. 40195/08)**

29.11.2011

The case concerned a Polish prisoner's complaint about not being allowed to visit his daughter who was in intensive-care and that, following her death, he decided not to go to her funeral as it was not clear whether he would have to attend in prison uniform and chains and under police escort.

#### **Joanna Szulc v. Poland (no. 43932/08)**

13.11.2012

The case concerned the Polish authorities' refusal, for more than ten years, to grant a woman - who denied any collaboration with the security services during the communist era - access to all documents about her collected by those services. The Court held in particular that Poland had failed to put in place an effective procedure whereby interested parties could obtain access to security service documents concerning themselves.

#### **K.J. v. Poland (no. 30813/14)**

01.03.2016

The case concerned a Polish national's complaint about the proceedings before the Polish courts for the return of his child to the United Kingdom where he is currently living and where the child had been born and raised for the first two years of her life. The mother, also Polish, left the U.K. with

their daughter for a holiday in Poland in July 2012 and has never returned. In the ensuing Hague Convention proceedings, the Polish courts dismissed the father's request for the return of his daughter.

#### **Kacper Nowakowski v. Poland**

10.01.2017

The case concerned the contact rights of a deaf and mute father with his son, who also has a hearing impairment. Mr Nowakowski, the applicant, complained in particular about the dismissal of his request to extend contact with his son.

[No violation of Article 8](#)

#### **Węgrzynowski and Smolczewski v. Poland**

16.07.2013

The case concerned the complaint by two lawyers that a newspaper article damaging to their reputation - which the Polish courts, in previous libel proceedings, had found to be based on insufficient information and in breach of their rights - remained accessible to the public on the newspaper's website.

[The Court declared the complaint of Mr Węgrzynowski inadmissible as he had failed to lodge his complaint within the required time-limit \(six months after the last decision of the Polish courts\).](#)

**Inadmissible application**

#### **Antkowiak v. Poland**

14.06.2018

The case concerned a custody dispute over a child between the applicants, who are prospective adoptive parents, and the biological parents. The applicants wanted to adopt a baby from a woman who had agreed during her pregnancy to give up her child. However, she changed her mind when the baby was born. A legal dispute between the applicants and the biological parents is still ongoing. The child has been in the care of the applicant couple since being born in 2011.

[Application declared inadmissible.](#)

## **Freedom of expression cases (Article 10)**

[Violations of Article 10](#)

**Wojtas-Kaletka v. Poland**

16.07.2009

Public television journalist reprimanded for criticising the channel's programme policy.

**Wizerkaniuk v. Poland**

05.07.2011

Journalist convicted for publishing an interview with a politician without his consent.

**Kaperzynski v. Poland**

03.04.2012

The case concerned a journalist's criminal conviction for not having published a reply by a mayor to an article which criticised the authorities' dealing with deficiencies of the local sewage system.

**Braun v. Poland**

04.11.2014

The case concerned the complaint by a film director and historian about being ordered to pay a fine and to publish an apology for having damaged the reputation of a well-known professor to whom he had referred, in a radio debate, as an informant of the secret political police during the communist era.

**Cases dealing with discrimination issues (Article 14)**

**Baczowski and Others v. Poland**

03.05.2007 (see 'other noteworthy cases')

**Kozak v. Poland**

02.03.2010

Refusal to acknowledge a homosexual's right to take over a lease after his companion's death.

Violation of Article 14 in conjunction with Article 8 (right to respect for one's home)

**Grzelak v. Poland (no. 7710/02)**

15.06.2010

The applicants complained that their son was harassed and discriminated against for not following religious education classes.

Violation of Article 14 in conjunction with Article 9 (freedom of thought, conscience and religion)

**Cases dealing with property issues (Article 1 of Protocol No. 1)**

Violations of Article 1 of Protocol No. 1

**Moskal v. Poland**

15.09.2009

Reduction of a social security benefit following the correction of an administrative error.

**Sierpiński v. Poland and Plechanow v. Poland**

03.11.2009 and 07.07.2009

Applicants deprived of compensation for illegal expropriations because they applied to the wrong authority. They felt they were the victims of repeated administrative reforms, inconsistencies in the domestic law and lack of legal certainty.

**Other noteworthy cases, judgments delivered**

**Baczowski and Others v. Poland**

03.05.2007

Refusal of the mayor of Warsaw to authorise a gay rights march.

Violation of Articles 11 (freedom of assembly and association), 13 (right to an effective remedy) and 14 (prohibition of discrimination)

**Frasik v. Poland and Jaremowicz v. Poland**

05.01.2010

Arbitrary refusal by authorities to authorise detainees to marry. Lack of an effective remedy to challenge the refusal.

Violation of Articles 12 (right to marry), and 13 (right to an effective remedy) in both cases

Violation of Article 5 § 4 (right to liberty and security) in the case of Frasik v. Poland

**Al Nashiri v. Poland and Husayn (Abu Zubaydah) v. Poland**

24.07.2014

These cases concerned allegations of torture, ill-treatment and secret detention of two men suspected of terrorist acts. The applicants allege that they were held at a CIA "black site" in Poland.

In both cases:

Violation of Article 3 (prohibition of torture and inhuman or degrading treatment), in both its substantive and procedural aspects  
Violation of Article 5 (right to liberty and security)

Violation of Article 8 (right to respect for private and family life)

Violation of Article 13 (right to an effective remedy)



Violation of Article 6 § 1 (right to a fair trial)

The Court also decided that Poland had failed to comply with its obligation under Article 38 of Convention (obligation to furnish all necessary facilities for the effective conduct of an investigation).

As regards Mr Al Nashiri, the Court further held that there had been a violation of Articles 2 (right to life) and 3 of the Convention taken together with Article 1 of Protocol No. 6 (abolition of the death penalty).

## Noteworthy cases, decisions delivered

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### **Łatak v. Poland and Łomiński v. Poland**

12.10.2010

Could an appeal under Polish law be considered as an effective remedy against prison overcrowding (see the Orchowski and Sikorski cases mentioned above).

Applications declared inadmissible: detainees complaining of overcrowding in Polish prisons should bring a civil action before having their claim examined by the Court (see also this [press release](#) concerning further decisions in this respect).

### **Cichopek and 1,627 other applications**

14.05.2013

These cases concern the reduction of the pension rights accumulated by former members of the Polish State Security between 1944 and 1990 during the time of the communist regime pursuant to the provisions of a law enacted in 2009.

The applicants' complaints were declared inadmissible either as manifestly ill-founded or incompatible with the provisions of the Convention.

## Noteworthy pending cases

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### **Kornicka-Ziobro v. Poland (no. 23037/16)**

Application [communicated](#) to the Government in September 2017

It concerns allegation of medical malpractice and the related investigation.

Relying on Article 2 (right to life) of the Convention, Ms Kornicka-Ziobro complains that her husband's right to life was breached on account of lengthy investigation and criminal proceedings

following allegations that his death had been caused by medical negligence.

### **Rabczewskav. Poland (no. 8257/13)**

Application [communicated](#) to the Government in September 2017

Concerning a popular pop singer known as Doda and her complaint about being convicted for insulting the Holy Bible following an interview she gave to a news website in 2009. She had described the authors of the Bible as writing under the influence of drugs and alcohol.

The applicant relies on Article 10 (freedom of expression) of the Convention.

### **Solska v. Poland (no. 30491/17) and Rybicka v. Poland (no. 31083/17)**

Applications [communicated](#) to the Government in September 2017

Concerning some families' complaints about the exhumation of their relatives' bodies without their consent; their relatives had died in a plane crash in Russia (Smolensk) in 2010; the plane had been carrying the Polish State delegation from Warsaw to Russia to attend a ceremony marking the 70th anniversary of the Katyn massacre. All 96 people on board died.

The Polish prosecuting authorities opened an investigation into the crash following conflicting conclusions about the cause of the crash (accident or explosion). In 2016 the authorities ordered autopsies on the bodies to determine if the victims' injuries had been caused by an impact with the ground or an explosion on board.

The applicants argue that the right to respect for the memory of their relatives falls under the notion of private and family life protected by Article 8 of the Convention. They note in particular that in order to carry out the investigation, it had not been necessary to exhume the bodies of all the victims.

### **M.K. v. Poland (no. 40503/17), M.A. and others v. Poland (no. 42902/17), M.K. and others v. Poland (no. 43643/17), and D.A. and others v. Poland (no. 51246/17)**

Applications communicated to the Government between June and September 2017

Those cases concern Chechen (first three cases) and Syrian nationals (D.A. and others) who travelled to the Terespol border crossing (at the Polish-Belarusian border) in order to seek asylum in Poland. They tried to lodge applications for

international protection numerous times but were denied entry to the country and were sent back to Belarus without the asylum proceedings being instigated. In all cases the Court, under Rule 39 of its Rules of Court, issued interim measures<sup>3</sup> indicating to the Government that the applicants should not be removed to Belarus.

The applicants all complain about being repeatedly denied the possibility to lodge an application for international protection. Most of them allege that their situation was not reviewed individually and that they are victims of a general policy adopted by the Polish authorities aimed at reducing the number of asylum applications registered in Poland. They also allege that the Polish Government did not comply with the interim measures granted by the Court.

**Olewnik-Cieplińska and Olewnik v. Poland (no. 20147/15)**

Application [communicated](#) to the Government in November 2015

The case concerns the State's alleged failure to comply with the positive obligation to protect the victim's rights under Article 2 (right to life) of the Convention and to conduct an effective investigation into the kidnapping and murder of the applicants' brother and son.

**Case dealing with expulsion of foreigners**

**Bilalova v. Poland (no. 23685/14)**

Application [communicated](#) to the Government in October 2014

The case concerns the detention for three months of the applicant and her five children, aged between 4 and 10, in a supervised centre for foreigners in Poland pending their expulsion to Russia.

Ms Bilalova relies on Articles 3 (prohibition of inhuman or degrading treatment), 5 § 1 (right to liberty and security) and 8 (right to respect for private and family life) of the Convention.

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<sup>3</sup> For further information on interim measures please consult [this document: http://www.echr.coe.int/Documents/PD\\_interim\\_measures\\_intro\\_ENG.pdf](http://www.echr.coe.int/Documents/PD_interim_measures_intro_ENG.pdf)

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