



# 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) and Jerzy Makarczyk (1992-2002)

[List of judges of the Court since 1959](#)

The Court dealt with 2,024 applications concerning Poland in 2018, of which 2,000 were declared inadmissible or struck out. It delivered 21 judgments (concerning 24 applications), 20 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2017	2018	2019*
Applications allocated to a judicial formation	2064	1936	860
Communicated to the Government	404	115	229
Applications decided:	2466	2024	827
- Declared inadmissible or struck out (Single Judge)	1822	1496	761
- Declared inadmissible or struck out (Committee)	213	489	50
- Declared inadmissible or struck out (Chamber)	411	15	8
- Decided by judgment	20	24	8

\* January to July 2019

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 01/07/2019	
Total pending applications*	2218
Applications pending before a judicial formation:	1344
Single Judge	185
Committee (3 Judges)	473
Chamber (7 Judges)	686
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 **643** Registry staff members.

## Noteworthy cases, judgments delivered

### Grand Chamber

#### [Kudła 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,

<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

### Chamber

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

##### Violation of Article 2

#### [Olewnik-Cieplińska and Olewnik v. Poland](#)

05.09.2019

The case concerned the kidnapping and murder of the applicants' brother and son, Krzysztof Olewnik. He was kidnapped in 2001, detained and ill-treated for over two years, then murdered despite the handover of the ransom demanded by the kidnappers. His body was recovered in 2006.

The Court found in particular that the domestic authorities had to be considered responsible for a series of serious errors on the part of the police in dealing with Mr Olewnik's kidnapping, which had ultimately resulted in his death.

#### [Mojsiejew 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.

**Kanciał v. Poland**

23.05.2019

The case concerned the applicant's allegations of police brutality during a raid by law-enforcement officers, in particular the use of an electrical discharge weapon.

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

**Słomka v. Poland**

06.12.2018

The case concerned the applicant's 14-day custodial sentence for contempt of court after shouting slogans during the trial of communist-era generals who ordered martial law in the 1980s.

Violation of Article 6

Violation of Article 10 (right to freedom of expression)

**Application inadmissible**

**Kwiatkowski v. Poland**

16.05.2019

The case concerned the adoption, by the *Sejm* (Polish Parliament), of a report concerning allegations of corruption in connection with the amendment of the Broadcasting Act. The report was alleged to have impugned the applicant's reputation and to have constituted a criminal conviction, without affording him an effective remedy.

Application declared inadmissible as manifestly ill-founded.

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](#)

**[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 \(right to respect for the home\)](#)

<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](#).

[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](#)

**[Giszcak 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.

### **Solska and Rybicka v. Poland**

20.09.2018

The case concerned the exhumation of the victims killed in the Polish Air Force plane crash in Smolensk in 2010. The Polish prosecuting authorities ordered the exhumations in 2016 as part of the ongoing investigation into the crash, which killed 96 people, including the President of Poland. The authorities wanted to conduct autopsies to establish the cause of the crash, including the possibility of an explosion on board.

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-Kaleta 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.

#### **Brzeziński v. Poland**

25.07.2019

The case concerned an allegation that the applicant’s freedom of expression had been breached, on account of comments made by him in an election campaign brochure.

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

#### **Baczkowski 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**

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### **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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### **Xero Flor w Polsce sp. z o.o. v. Poland (no. 4907/18)**

Application [communicated](#) to the Government in September 2019

The case concerns proceedings brought by the applicant company claiming compensation for damage to its property, and its complaint about the appointment of one judge in particular to the Constitutional Court which examined its case.

Relying on Article 6 § 1 (right to fair trial) of the Convention, the applicant company complains about the courts' refusal to refer legal questions to the Constitutional Court on the constitutionality of the Hunting Act and the 2010 Regulation.

Further relying on Article 6 § 1, the applicant company also alleges that the bench of five judges of the Constitutional Court which examined its case was composed in violation of the Constitution. Lastly, the applicant company alleges a breach of Article 1 of Protocol No. 1 (protection of property) because it could not obtain full compensation for the damage to its property.

This is the second application to be communicated to the Government of Poland raising an issue related to changes in the judiciary.

### **ŚWIT SP. Z O.O. v. Poland (no. 77169/14)**

Application [communicated](#) to the Government in June 2019

The applicant company (publisher of a regional magazine) published an article about a Catholic priest who had a child with a married woman (no photo was published but he could be identified from other details). The domestic courts considered this to be a breach of the priest's private life and ordered the defendants to publish an apology within the first pages of the magazine.

Relying on Article 10 (freedom of expression) of the Convention, the applicant company complains that the court's order requiring the publication of an apology constituted an unjustified and

disproportionate interference with its freedom of expression.

### **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.

[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

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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)

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.

**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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