

Résolution CM/ResDH(2012)198¹
Nowinski contre Pologne
Exécution de l'arrêt de la Cour européenne des droits de l'homme

(Requête n° 25924/06, arrêt du 20 octobre 2009, définitif le 20 janvier 2010)

Le Comité des Ministres, en vertu de l'article 46, paragraphe 2, de la Convention de sauvegarde des droits de l'homme et des libertés fondamentales, qui prévoit qu'il surveille l'exécution des arrêts définitifs de la Cour européenne des droits de l'homme (ci-après nommées « la Convention » et « la Cour »),

Vu l'arrêt définitif, qui a été transmis par la Cour au Comité dans l'affaire ci-dessus et la violation constatée (voir document [DH-DD\(2011\)685E](#)) ;

Rappelant l'obligation de l'Etat défendeur, en vertu de l'article 46, paragraphe 1, de la Convention, de se conformer aux arrêts définitifs dans les litiges auxquels il est partie et que cette obligation implique, outre le paiement de la satisfaction équitable octroyée par la Cour, l'adoption par les autorités de l'Etat défendeur, si nécessaire :

- de mesures individuelles pour mettre fin aux violations constatées et en effacer les conséquences, dans la mesure du possible par *restitutio in integrum* ; et
- de mesures générales permettant de prévenir des violations semblables ;

Ayant invité le gouvernement de l'Etat défendeur à informer le Comité des mesures prises pour se conformer aux obligations susmentionnées ;

Ayant examiné le bilan d'action fourni par le Gouvernement indiquant les mesures adoptées afin d'exécuter l'arrêt y compris les informations fournies en ce qui concerne le paiement de la satisfaction équitable octroyée par la Cour (voir document [DH-DD\(2011\)685E](#)) ;

S'étant assuré que toutes les mesures requises par l'article 46, paragraphe 1, ont été adoptées ;

DECLARE qu'il a rempli ses fonctions en vertu de l'article 46, paragraphe 2, de la Convention dans cette affaire et

DECIDE d'en clore l'examen.

¹ Adoptée par le Comité des Ministres le 6 décembre 2012 lors de la 1157e réunion des Délégués des Ministres.

ACTION REPORT²
Information about the measures to comply with the judgment in the case of
Nowiński against Poland³

Case description

Nowiński, application no. 25924/06, judgment of 20/10/2009, final on 20/01/2010

The case concerns a violation of the applicant's right of access to a court in that his claim for compensation against the Wrocław Court of Appeal was declared inadmissible on the sole ground that the applicant had not provided his home address (violation of Article 6 § 1 of the Convention).

The applicant provided the Wrocław Regional Court with his work address and post-office box address for correspondence. However, the court considered that in spite of that information he had not indicated his "place of residence" within the meaning of Article 126 § 2 of the Code of Civil Procedure. Consequently, on 16/05/2005 the Regional Court refused his claim.

The European Court of Human Rights found that the applicant, who was the plaintiff in the case, was in permanent contact with the domestic courts and it was in his best interest to ensure the proper course of the proceedings. He had therefore provided a fixed address through which he could be contacted. The Court recalled that the right of access to a court is not absolute. It may be subject to limitations, provided those limitations pursue a legitimate aim and are proportionate. The Court accepted that "a requirement to indicate a place of residence served a legitimate aim [...] However, it considered that the strict application [of the rule] in the applicant's case" was disproportionate (see §34 of the Court's judgment). The Court concluded that as "the Government failed to submit any arguments making it possible to assess the need for the limitations imposed on the applicant, the Court cannot but conclude that the requirements of Article 6 § 1 were not complied with" (§35 of the Court's judgment).

I. Just satisfaction and individual measures

1. Just satisfaction

Pecuniary damage	Non-pecuniary damage	Cost and expenses	Amount
-	1,000 EUR	-	1,000 EUR
Paid on 15/04/2010			

2. Individual measures

The amount awarded by the Court (1,000 EUR, approximately 4,000 PLN) exceed the amount claimed by the applicant in domestic proceedings (i.e., 3,000 PLN, see § 11 of the Court's judgment). *In these circumstances, no further individual measure appears necessary.*

II. General measures

Violation of Article 6 § 1 of the Convention in the present case was rather of incidental nature and resulted from excessive formalism of national courts. Therefore, it seems that in order to avoid similar violations in the future publication and dissemination of the Court's judgment would be appropriated.

In this context it should be noted that the Court's judgment was translated into Polish and published on the Internet site of the Ministry of Justice (www.ms.gov.pl). The judgment has been sent to all courts of appeal and the General Prosecutor's Office with request to disseminate it among judges and prosecutors. It has been also sent to the National School of Judiciary and Public Prosecution, with request to include it in the training program addressed to judges and prosecutors, and to the Supreme Court.

In these circumstances, no further general measure appears necessary.

² Information submitted by the Polish authorities on 1 August 2011.

³ En anglais uniquement.

III. Conclusions of the respondent state

The Government considers that further individual measures are not necessary in the present case and that the general measures adopted, in particular publication and dissemination of the judgment of the European Court of Human Rights, will be sufficient to conclude that Poland has complied with its obligations under Article 46, paragraph 1 of the Convention in respect to the breach of Article 6 § 1 of the Convention.