

May 2006

---

***Mółka v. Poland (dec.) - 56550/00***

Decision 11.4.2006 [Section IV]

**Article 8**

**Article 8-1**

**Respect for private life**

Lack of public assistance to a handicapped person rendering it impossible for him to cast a vote in local elections: *inadmissible*

The applicant is a severely handicapped person and can move only in a wheelchair. In 1998 the applicant was driven by his mother to a polling station where he intended to vote in the elections to municipality and district councils and provincial assemblies. The Chairman of the Local Electoral Commission informed the applicant's mother that the applicant could not cast his vote because it was not allowed to take a ballot paper outside the premises of the polling station and he was not going to carry the applicant inside the station. The applicant returned home without casting his vote. Three hours before closing of the polling stations, the applicant telephoned the Municipal Electoral Commission and made a protest against the refusal to allow him to vote. He also asked for help in casting his vote. In reply, he was informed that the Local Commission acted in conformity with the law and was advised to arrange himself some assistance in entering the premises of the polling station. The applicant lodged an electoral protest with the regional court. The regional court dismissed the protest, observing that the applicant had not considered the possibility of entering the polling station with the assistance of third persons on a stretcher or a wheel chair. Moreover, the court considered that the public authorities were not in a position to eliminate all the difficulties encountered by the handicapped citizens in enjoying their rights. The appellate court upheld this decision.

*Inadmissible* under Article 8 – It cannot be excluded that the authorities' failure to provide appropriate access to the polling station for the applicant, who wishes to lead an active life, might have aroused feelings of humiliation and distress capable of impinging on his personal autonomy, and thereby on the quality of his private life. The Court does not rule out that, in circumstances such as those in the present case, a sufficient link between the measures sought by an applicant and the latter's private life would exist for Article 8 to be engaged. In cases concerning the State's positive obligations to ensure effective "respect" for private life, a fair balance has to be struck between the competing interests of the individual and of the community as a whole and the margin of appreciation enjoyed by States in this area. In the present case this margin of appreciation is even wider as the issue at stake involves a provision of adequate access for the disabled to the polling stations which must necessarily be assessed in the context of the allocation of limited State resources. The national authorities are in a better position to carry out this assessment than an international court. Moreover, the Court notes that the applicant has not shown, as was pointed out by the domestic courts, that he could not have been assisted in entering the polling station by other persons. The situation complained of concerned one isolated incident as opposed to a series of obstacles, architectural or otherwise,

preventing physically disabled applicants from developing their relationships with other people and the outside world. Bearing in mind the above considerations, the Court considers that the respondent State cannot be said, in the special circumstances of the present case, to have failed to ensure respect for the applicant's private life. Furthermore, a new law of 2001 obliges the relevant authorities to provide adequate access for disabled voters to the polling stations during elections. Those legislative provisions would indicate that the respondent State has not been oblivious to the plight of disabled voters: *manifestly ill-founded*.

---

© Council of Europe/European Court of Human Rights  
This summary by the Registry does not bind the Court.

Click here for the [Case-Law Information Notes](#)