

Press release issued by the Registrar

Chamber judgment
Not Final¹

[Jasinska v. Poland](#) (application no. 28326/05)

**NEGLIGENCE ON THE PART OF THE AUTORITÉS ALLOWED A PRISONER TO
COMMIT SUICIDE**

Unanimously

Violation of Article 2 (right to life)
of the European Convention on Human Rights

Principal facts

The applicant, Kazimiera Jasińska, is a Polish national who was born in 1938 and lives in Krasnystaw (Poland).

She assumed partial responsibility for bringing up her grandson, R. Ch., whose mother had died and whose father was in prison. The child received treatment at a very young age for mild psychosis, hyperexcitability, irritability, depression and headaches. It was later discovered that his condition was due to meningitis, from which he had suffered as a child. He was prescribed medical treatment and declared partially unfit for work.

R. Ch. was convicted a number of times for theft, including one charge of aggravated theft. On 18 March 2002 he began serving a nine-year sentence in Krasnystaw Prison. He consulted doctors about thirty times and was prescribed psychotropic drugs on a number of occasions, the last one being on 25 August 2004 when he consulted a psychiatrist who made the following observations: "negative frame of mind, general malaise, bouts of depression, headaches".

On 28 August 2004 R. Ch. was taken to hospital by ambulance suffering from convulsions and shaking. He admitted having swallowed psychotropic tablets that had been prescribed by one of the consultant psychiatrists at the prison. He started shaking again and after an unsuccessful attempt to resuscitate him he died during the early hours of the morning.

¹Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

The autopsy report of 10 January 2005 indicated that the main cause of death had been drug poisoning. Criminal proceedings instituted by the district prosecutor's office were closed by the prosecutor on the ground that, according to the investigation, the only possible explanation was that R. Ch. had succeeded in getting hold of a substantial quantity of tablets by hiding them under his tongue every time the nurse distributed them.

The applicant instituted a second set of criminal proceedings against the authorities, claiming that they had failed to take account of her grandson's state of health and had thus negligently caused his suicide. On 19 June 2006 the investigation was closed on the ground that there was no evidence to suspect that a third party had contributed to the death or that the authorities had been negligent.

A court-ordered expert report of 29 May 2002 had concluded that R. Ch. was not suffering from a serious mental illness and that his condition did not require him to be hospitalised outside prison, but had pointed out nonetheless that he had stated that he had previously slit his veins and attempted to poison himself with medicines. The investigation carried out after the young man had committed suicide confirmed that he had shown signs of mild mental deficiency, phobia and mild injuries to his central nervous system.

Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment), the applicant alleged that negligence on the part of the prison authorities had allowed her grandson to kill himself.

The application was lodged with the European Court of Human Rights on 28 July 2005.

Judgment was given by a Chamber of seven judges, composed as follows:

Nicolas **Bratza** (United Kingdom), *President*,
Lech **Garlicki** (Poland),
Giovanni **Bonello** (Malta),
Ljiljana **Mijović** (Bosnia and Herzegovina),
Päivi **Hirvelä** (Finland),
Ledi **Bianku** (Albania),
Nebojša **Vučinić** (Montenegro), *Judges*,

and also Lawrence **Early**, *Section Registrar*.

Decision of the Court

The prison authorities had been informed of the deterioration in R. Ch.'s health and should legitimately have considered him as a suicide risk rather than simply renewing his medical prescriptions. R. Ch.'s condition had been diagnosed while he was a child and confirmed subsequently. Moreover, the expert report of 29 May 2002 had clearly indicated that he had mentioned a previous attempt to commit suicide. His continuing bouts of depression had also been referred to during the consultation of 25 August 2004, three days before he committed suicide.

At no time had the authorities in charge of the proceedings after R.Ch.'s death ever attempted to clarify the exact circumstances in which the psychotropic drugs had been administered or how their ingestion had been supervised. Nor had the Government provided

a plausible explanation for how the young man had managed to elude the vigilance of the prison authorities by amassing a lethal quantity of drugs.

The Court noted a clear deficiency in a system that had allowed a first-time prisoner, who was mentally fragile and whose state of health had deteriorated, to gather a lethal dose of drugs without the knowledge of the medical staff responsible for supervising the ingestion of his medicine, and to subsequently commit suicide. It pointed out that the authorities' responsibility was not confined to prescribing medicines, but also consisted in ensuring that they were properly taken, in particular in the case of mentally disturbed prisoners.

As the authorities had failed to comply with their obligation to protect the life of the applicant's grandson, the Court held that there had been a violation of Article 2.

Given that the applicant's complaint under Article 3 was based on the same facts as the complaint under Article 2, the Court did not consider it necessary to examine it.

Under Article 41 (just satisfaction), the Court held that Poland had to pay the applicant 16,000 euros (EUR) in respect of non-pecuniary damage and EUR 850 for costs and expenses.

The judgment is available only in French. This press release is a document produced by the Registry. It does not bind the Court. The judgments are available on its [website](#).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.