



Chamber hearing in the case *Pietrzak v. Poland and Bychawska-Siniarska and Others v. Poland*

The European Court of Human Rights is holding a **Chamber** hearing today **Tuesday 27 September 2022 at 9.15 a.m.** in the case of ***Pietrzak v. Poland and Bychawska-Siniarska and Others v. Poland*** (application nos. 72038/17 and 25237/18).

The case concerns the compatibility of the national legislation authorising secret surveillance by the police and intelligence services in respect of communications, and data collection about those communications (“metadata”), with the requirements of Articles 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the European Convention on Human Rights.

A recording of the hearing will be available this afternoon on the Court’s Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

Mr Mikołaj Pietrzak, who was born in 1982, is a lawyer. He lives in Warsaw and is Dean of the Warsaw Bar. Ms Dominika Bychawska-Siniarska, born in 1982, is a member and employee of the Helsinki Foundation for Human Rights; Ms Barbara Grabowska-Moroz, born in 1986, is a university lecturer and researcher and external expert of the Helsinki Foundation for Human Rights; Mr Wojciech Klicki and Ms Katarzyna Szymielewicz, born in 1987 and 1981 respectively, are members of the Panoptykon Foundation. These two foundations are non-governmental organisations (NGOs) based in Warsaw. The applicants are Polish nationals.

Between June and July 2017 each of the applicants submitted complaints, on the basis of Article 227 of the Code of Administrative Procedure, to the Prime Minister and the respective heads of the various police and intelligence services – including the Internal Security Agency (“the ABW”), the Central Anti-Corruption Bureau (“the CBA”), the National Tax Administration (“the KAS”), the Military Counterintelligence Service (“the SKW”), the national police, the border police and the national gendarmerie – about certain provisions of the national legislation governing secret surveillance.

According to the applicants, the legislation permitted members of these police and intelligence services to monitor their telecommunications and digital communications without their knowledge. As the members of the services in question were not required to inform them about possible surveillance, the applicants were consequently unable to have the lawfulness of that activity reviewed by a court, which, in their view, was contrary to the Constitution.

Between June and September 2017, the heads of the above-mentioned police and intelligence services sent their responses to the applicants’ complaints.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, the applicants complain that the secret systems for monitoring communications (telecommunications, postal and digital communications) and gathering metadata, introduced in application of the Law of 15 January 2016 amending the Police Act and certain other laws, and the Anti-Terrorism Act (Law of 16 June 2016), interfere with their right to respect for their private life. Relying on Article 8 taken together with Article 13 (right to an effective remedy), the applicants allege that they had no effective remedy which would have enabled them to establish whether they themselves had been subjected to secret surveillance and, if necessary, to have the lawfulness of that surveillance reviewed by a court.

Procedure

The applications were lodged with the European Court of Human Rights on 29 September 2017 and 12 February 2018.

Notice of the applications was [given](#)¹ to the Polish Government, together with questions from the Court, on 27 November 2019.

Eleven third-party interveners have been given leave to take part in the written procedure; of these, four have been invited to take part in the hearing.

Composition of the Court

The case will be heard by a Chamber, composed as follows:

Marko **Bošnjak** (Slovenia), *President*,
 Péter **Paczolay** (Hungary),
 Krzysztof **Wojtyczek** (Poland),
 Erik **Wennerström** (Sweden),
 Raffaele **Sabato** (Italy),
 Lorraine **Schembri Orland** (Malta),
 Ioannis **Ktistakis** (Greece), *judges*,
 Davor **Derenčinović** (Croatia), *substitute judge*,

and also Renata **Degener**, *Section Registrar*.

Representatives of the parties

Government

Jan **Sobczak**, *Agent*,
 Marta **Bielińska**, Konrad **Malinowski**, Edyta **Gołąb**, Tomasz **Książkiewicz** et Arkadiusz **Matyjasik**
Advisors,

Applicant

Małgorzata **Mączka-Pacholak**, *Council*.

Third parties

For the Commissioner for Human Rights

Mirosław **Wróblewski**, *Director, Office of the Commissioner for Human Rights of Poland*
 Kinga **Zielińska**, *Chief Specialist, Office of the Commissioner for Human Rights of Poland*

For the European Criminal Bar Association

Andreas Alexios **Anagnostakis**, *ECBA Human Rights Officer*

Mikołaj **Pietrzak**, Dominika **Bychawska-Siniarska**, Barbara **Grabowska-Moroz** and Wojciech **Klicki**, the applicants in the case, will also attend the hearing.

¹ In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

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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.