



Large-scale malfunctioning of Polish system when dealing with a brutal kidnapping, ending in death of victim, Krzysztof Olewnik

The case [Olewnik-Cieplińska and Olewnik v. Poland](#) (application no. 20147/15) 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.

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 2 (right to life) of the European Convention on Human Rights as concerned the State's failure to comply with its duty to protect the life of the applicants' relative, and

a violation of Article 2 of the European Convention as concerned the inadequate investigation into his death.

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.

Furthermore, despite a parliamentary inquiry into the case producing a highly critical report and the prosecuting authorities' efforts to bring proceedings against the police, prosecutors and high-ranking civil servants, the proceedings into Mr Olewnik's murder were still pending 17 years after his kidnapping and the circumstances of the events had not been fully clarified.

Principal facts

The applicants, Danuta Olewnik-Cieplińska and Włodzimierz Olewnik, are Polish nationals who were born in 1974 and 1949, respectively, and live in Drobin (Poland).

Their relative, Krzysztof Olewnik, was kidnapped in 2001 when he was 25 years old. He was detained and ill-treated until 2003 when he was murdered, despite his family handing over the ransom demanded by the kidnappers via telephone messages and letters containing threats to his life.

His body was eventually recovered in 2006 when one of the kidnappers, named by a witness in 2005, confessed and indicated the burial place.

Ten gang members were ultimately convicted by final judgment in 2010. Their convictions were mainly based on confessions. At their trial they described keeping the victim chained to a wall by his neck and leg. He was also drugged, beaten and poorly fed.

The alleged gang leader and the two other main kidnappers died in detention before or just after their trial. Although their deaths were classed as suicides, after being investigated, they nevertheless

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

led to the resignation of the Minister of Justice and a wave of dismissals in the prosecution and prison services.

In addition to the proceedings against the gang members, there were several other attempts between 2009 and 2013 to clarify the kidnapping and murder.

In particular, the Gdańsk prosecuting authorities brought criminal proceedings against most of those involved in the case, namely the police for abuse of power, the prosecutors for negligence and high-ranking civil servants for inaction. Two of the officers were acquitted because the offences had become time-barred while the other investigations were discontinued.

In 2009 the Sejm (the lower house of the Parliament) also set up a Parliamentary Inquiry Committee, which examined not only the actions of the police and the prosecution service, but also of the public administration bodies and the Prison Service. Its final report in 2011 concluded that “visible sluggishness, errors, recklessness, and a lack of professionalism on the part of the investigators resulted in the failure to discover the perpetrators of the kidnapping, and... ultimately, in (Mr Olewnik’s) death.” It also explored the possibility that the errors by public officials “had been intentional and ... aimed at covering their tracks, destroying evidence ... and, consequently, that some of them had cooperated with the criminal gang which kidnapped and murdered Krzysztof Olewnik”.

An investigation into kidnapping and murder against other unidentified individuals is still ongoing.

Complaints, procedure and composition of the Court

Relying in particular on Article 2 (right to life), the applicants alleged that the domestic authorities were responsible for their relative’s death because they had failed to effectively investigate his kidnapping and, ultimately, protect his life and that there had been no effective investigation into his murder.

The application was lodged with the European Court of Human Rights on 14 April 2015.

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

Ksenija **Turković** (Croatia), *President*,
Krzysztof **Wojtyczek** (Poland),
Aleš **Pejchal** (the Czech Republic),
Pauliine **Koskelo** (Finland),
Tim **Eicke** (the United Kingdom),
Jovan **Ilievski** (North Macedonia),
Raffaele **Sabato** (Italy),

and also Abel **Campos**, *Section Registrar*.

Decision of the Court

Article 2 (right to life)

The Court found that the Polish authorities had known or should have known that there had been a real and immediate risk to Mr Olewnik’s life from the moment he had disappeared. From the beginning his sudden disappearance had been investigated as a kidnapping, and, according to statistics provided by the Government, kidnappings at the relevant time in Poland mostly involved particular torment, damage to health, even death. Negotiations with Mr Olewnik’s kidnappers had lasted four years, during which time letters clearly threatening his life and health had been sent to

his family. All the letters had been passed on to the police. The gravity of the situation and the vulnerability of the victim had not diminished with time, on the contrary it had only increased.

In such circumstances the domestic authorities were required under the European Convention to do all that could reasonably be expected of them to find Mr Olewnik as swiftly as possible and to identify the kidnappers.

The Court had extensive evidence before it regarding the action taken by the police and prosecutors. It paid particular attention to the Parliamentary Inquiry Committee's report and its conclusions giving clear examples of the police's lack of engagement and incompetency in the first years of the investigation into the kidnapping.

Agreeing with the assessment in that report, the Court listed some of the most serious errors on the part of the police in dealing with Mr Olewnik's kidnapping. Among other things, they had failed: to correctly gather all the forensic evidence at the victim's house directly after the kidnapping; to take evidence for over three years from a supermarket cashier who had sold a mobile telephone to the gang leader in 2001; to investigate an anonymous letter dated 2003 naming the individuals involved in the kidnapping; to rapidly analyse and trace calls, even though the kidnappers had been using a known telephone SIM card; and to supervise the handover of the ransom. Those errors, among others, clearly indicated that the domestic authorities had failed to respond with the level of commitment required in a case of kidnapping and prolonged abduction.

The Court concluded that the domestic authorities had to be considered responsible for that series of failures. There had therefore been a violation of Article 2 as concerned the State's failure to comply with its duty to protect the life of the applicants' relative.

Article 2 (investigation)

The Court noted that there had been a turning point in the investigation in 2005 and the main kidnappers had been arrested in 2006, indicted in 2007 and had then swiftly been convicted, mostly on the basis of their confessions.

Furthermore, the parliamentary inquiry and the Gdańsk prosecutors' efforts in the years 2009 to 2013 had contributed to positive developments in the investigation.

Nevertheless, the Court noted that some 17 years after the kidnapping the proceedings into Mr Olewnik's murder were still pending and the circumstances of the events had not been fully clarified, leaving the applicants in a state of uncertainty. The Government had been asked to provide information on those ongoing proceedings, but had failed to do so on the grounds of confidentiality.

The Court concluded that the authorities had failed to carry out an adequate and effective investigation into the death of Mr Olewnik, in further violation of Article 2.

Article 41 (just satisfaction)

The Court held that Poland was to pay the applicants, jointly, 100,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Patrick Lannin (tel: + 33 3 90 21 44 18)

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.