

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF JANOWSKI v. POLAND

(Application no. 36483/19)

JUDGMENT

STRASBOURG

6 June 2024

This judgment is final but it may be subject to editorial revision.



In the case of Janowski v. Poland,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Péter Paczolay*, President*,
Gilberto Felici,
Raffaele Sabato*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 16 May 2024,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application against Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 6 August 2019.

2. The Polish Government ("the Government") were given notice of the application.

THE FACTS

3. The applicant's details and information relevant to the application are set out in the appended table.

4. The applicant complained of the excessive length of his pre-trial detention and also raised other complaints under the provisions of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

5. The applicant complained principally that his pre-trial detention had been unreasonably long. He relied on Article 5 § 3 of the Convention.

6. The Court observes that the general principles regarding the right to trial within a reasonable time or to release pending trial, as guaranteed by Article 5 § 3 of the Convention, have been stated in a number of its previous judgments (see, among many other authorities, *Kudła v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI, and *McKay v. the United Kingdom* [GC], no. 543/03, §§ 41-44, ECHR 2006-X, with further references).

7. In the leading cases of *Kauczor v. Poland,* no. 45219/06, 3 February 2009 and *Celejewski v. Poland,* no. 17584/04, 4 May 2006, the Court already found a violation in respect of issues similar to those in the present case.

8. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different

conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the applicant's pre-trial detention was excessive.

9. These complaints are therefore admissible and disclose a breach of Article 5 § 3 of the Convention.

II. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

10. The applicant submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose violations of the Convention in the light of its findings in *Frasik v. Poland*, no. 22933/02, §§ 64-66, ECHR 2010 (extracts).

III. REMAINING COMPLAINTS

11. The Government noted that the complaint under Article 5 § 4 of the Convention concerning the allegedly protracted examination of the applicant's appeal against the decision of 4 October 2019, extending his detention on remand, had not been raised in any of the applicant's submissions. The applicant did not comment on this point.

12. The Court notes that while the applicant provided the Court with copies of documents relating to the procedure at issue, he did not raise, even in substance, any complaints in this respect. Accordingly, this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention (see *Uruç v. Turkey* (dec.), no. 39558/10, § 26, 20 October 2020).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Kauczor*, cited above), the Court considers it reasonable to award the sum indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the excessive length of pre-trial detention and the other complaints under the well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of the application inadmissible;

2. *Holds* that these complaints disclose a breach of Article 5 § 3 of the Convention concerning the excessive length of pre-trial detention;

3. *Holds* that there has been a violation of the Convention as regards the other complaints raised under the well-established case-law of the Court (see appended table);

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 6 June 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Péter Paczolay
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 5 § 3 of the Convention (excessive length of pre-trial detention)

Application no. Date of introduction	Applicant's name Year of birth	Period of detention	Court which issued detention order / examined appeal	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]
36483/19 06/08/2019	**Tomasz JANOWSKI** 1983	14/11/2018 to 10/11/2021	Łódź District Court, 16/11/2018, IV Kp 530/18 (first detention order); Łódź Court of Appeal, 15/09/2021, II AKp 126/21 (last extension)	2 year(s) and 11 month(s) and 28 day(s)	failure to conduct the proceedings with due diligence during the period of detention; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; persistent reliance, as the case progressed, on charges concerning membership of an organised criminal group; collective detention orders	Art. 5 (4) - excessive length of judicial review of detention - On 07/02/2019 the Łódź Regional Court prolonged the applicant's detention until 13/05/2019. The applicant appealed. His appeal was dismissed by the Łódź Court of Appeal on 08/05/2019 (case no. II AKz 298/19). On 09/05/2019 his detention was prolonged for a further period. The applicant complains that his appeal was devoid of purpose since the Court of Appeal examined it just one day before the next extension. Art. 5 (4) - excessive length of judicial review of detention - On 08/02/2021 the Łódź Court of Appeal (case no. II AKz 21/21) decided not to examine the applicant's appeal against the decision of 17/12/2020 to extend his detention. The court found that his detention had already been prolonged for a further period. Thus, examining his appeal served no purpose.	5,100

[1] Plus any tax that may be chargeable to the applicant.