

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

FIRST SECTION

CASE OF MODZELEWSKI v. POLAND

(Application no. 31654/20)

JUDGMENT

STRASBOURG

11 April 2024

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Modzelewski 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 21 March 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 9 July 2020.

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 criminal proceedings and of the lack of any effective remedy in domestic law.

THE LAW

I. THE GOVERNMENT'S REQUEST TO STRIKE OUT THE APPLICATION UNDER ARTICLE 37 § 1 OF THE CONVENTION

5. The Government submitted a unilateral declaration which did not offer a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (Article 37 § 1 *in fine*). The Court rejects the Government's request to strike the application out and will accordingly pursue its examination of the merits of the case (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, § 75, ECHR 2003-VI).

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

6. The applicant complained that the length of the criminal proceedings in question had been incompatible with the "reasonable time" requirement

and that he had no effective remedy in this connection. He relied on Article 6 § 1 and Article 13 of the Convention.

7. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

8. In the leading case of *Rutkowski and Others v. Poland,* nos. 72287/10 and 2 others, 7 July 2015, the Court already found a violation of Article 6 of the Convention in relation to the length of judicial proceedings.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

10. The Court further notes that the applicant did not have at his disposal an effective remedy in respect of these complaints.

11. These complaints are therefore admissible and disclose a breach of Article 6 § 1 and of Article 13 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Rejects* the Government's request to strike the application out of the list;

2. *Declares* the application admissible;

3. *Holds* that this application discloses a breach of Article 6 § 1 and Article 13 of the Convention concerning the excessive length of criminal proceedings and the lack of an effective domestic remedy in that regard;

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 11 April 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Péter Paczolay President

APPENDIX

Application raising complaints under Article 6 § 1 and Article 13 of the Convention (excessive length of criminal proceedings and lack of any effective remedy in domestic law)

Application no. Date of introduction	Applicant's name Year of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Domestic decision on complaint under the 2004 Act Domestic award (in Polish zlotys)	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) [1]
31654/20 09/07/2020	**Norbert MODZELEWSKI** 1987	01/09/2014	06/11/2019	5 years, 2 months and 6 days 1 level(s) of jurisdiction	Warsaw Regional Court, 25/06/2020, case no. IX S 41/20, PLN 4,000	2,300

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