

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

FIRST SECTION

CASE OF NOGAJSKI v. POLAND

(Application no. 26593/21)

JUDGMENT

STRASBOURG

6 July 2023

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Nogajski v. Poland,

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

Alena Poláčková*, President*,
Gilberto Felici,
Raffaele Sabato*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 15 June 2023,

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 16 July 2021.

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

5. 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.

6. The Government raised a preliminary objection that the applicant can no longer be considered, within the meaning of Article 34 of the Convention, a "victim" of a violation of his right to a hearing within a reasonable time since he had been awarded 2,000 Polish zlotys (PLN). The Court notes that this issue falls to be determined in the light of the principles established under the Court's case-law (see *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-107, ECHR 2006-V, and *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 178-213, ECHR 2006-V).

7. The Court notes that the Warsaw-Praga Regional Court analysed the course of the impugned proceedings in the light of the criteria which the Court

itself applies. It concluded that there had been delays for which the domestic authorities should be held responsible, that the applicant's right to a hearing without unjustified delay had been breached and awarded him the equivalent of 440 euros (EUR) in respect of the length of the proceedings. The Court finds that the redress provided to the applicant at the domestic level, considered on the basis of the facts of which he complains before the Court, was insufficient (see *Janulis v. Poland*, no. 31792/15, § 21, 16 January 2020, with further examples). In these circumstances, the argument that the applicant has lost his victim status cannot be upheld.

8. 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).

9. 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 in respect of issues similar to those in the present case.

10. 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.

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

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

14. 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. *Declares* the application admissible;

2. *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 lack of an effective remedy in that regard;

3. *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 July 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Alena Poláčková
Acting Deputy Registrar	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]
26593/21 16/07/2021	**Grzegorz NOGAJSKI** 1986	05/06/2017	31/12/2020	3 year(s) and 6 month(s) and 27 day(s) 1 level(s) of jurisdiction	Warsaw-Praga Regional Court, 11/03/2021, case no. VI S 21/21, PLN 2,000	2,150

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