

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

FIRST SECTION

CASE OF ORŁOWSKI v. POLAND

(Application no. 5648/21)

JUDGMENT

STRASBOURG

26 June 2025

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



In the case of Orłowski v. Poland,

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

Alena Poláčková*, President*,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 5648/21) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 29 December 2020 by a Polish national, Mr Leszek Orłowski ("the applicant"), who was born in 1977 and is detained in Radom;

the decision to give notice of the complaint under Article 3 of the Convention concerning the lengthy imposition of the "dangerous detainee" regime on the applicant to the Polish Government ("the Government"), represented by their Agent, Mr. J. Sobczak, of the Ministry of Foreign Affairs and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 5 June 2025,

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

SUBJECT MATTER OF THE CASE

1. The present application, lodged under Article 3 of the Convention, concerns the lengthy imposition of the "dangerous detainee" regime with regard to the applicant.

2. The applicant has been deprived of his liberty since 2005. He received multiple convictions for various offences including armed robberies committed in an organised criminal group. As submitted by the Government, the applicant was sentenced to in total nineteen years of imprisonment.

3. On 27 November 2009 the Warsaw Remand Centre Prison Commission (*komisja penitencjarna*) classified the applicant as a "dangerous detainee". In the decision the commission stated that the applicant lacked moral character and was suspected of being a member of an organised and armed criminal gang.

4. On 19 May 2015 the Court decided to strike the first application lodged by the applicant (*Leszek Orłowski v. Poland* (dec.) [Committee], no. 35681/13, 19 May 2015) out of its list of cases following a friendly settlement reached between the parties. The application concerned the complaint under Article 3 of the Convention with regard to the "dangerous detainee" regime.

5. On 18 June 2019 the Court decided to strike the second application lodged by the applicant, also concerning the lengthy imposition of the

"dangerous detainee" regime on him (*Leszek Orlowski v. Poland* (dec.) [Committee], no. 60537/15, 18 June 2019), out of the list. The Court accepted a unilateral declaration submitted by the Government acknowledging a violation of the applicant's rights guaranteed by Article 3 of the Convention, in respect of the application of the "dangerous detainee" regime, and Article 6 § 1 of the Convention in respect of the length of the proceedings.

6. On 19 February 2020, under section 88b § 2 of the Code of Execution of Criminal Sentences ("the Code"), the Włocławek Prison Commission extended the regime but discontinued the routine application of strip searches every time the applicant left or entered the cell. On 13 May and 12 August 2020 the Lublin Prison Commission also extended the regime disapplying the measure of routine strip searches (the latter decision was in force until 9 November 2020).

7. Afterwards, various prison commissions extended the regime regularly, however, without expressly disapplying the measure indicated in section 88b (5) of the Code.

8. On each occasion the commission examined the personal situation of the applicant and his behaviour in detention, it concluded that the regime had been necessary as the applicant had posed a risk to prison security. The decisions of the commission held as follows:

> "the applicant knows and understands the rules... but is willing to transgress them, to disregard them, in order to satisfy his immediate needs or to gain acceptance in a group."

With respect to his behaviour it stated:

> "extreme demoralisation, hostile, aggressive attitude towards the entire justice system... he has repeatedly committed assaults on prison officers..., he does not see the need to respect existing regulations, ... reacts with disobedience to any action aimed at correcting his attitude; lack of progress in re-socialisation, he does not accept rational arguments."

9. Between 25 August 2022 and 31 August 2023 the applicant was detained in the Radom Detention Centre where he had been strip searched on several occasions. He complained about it but on 8 March 2023 the Radom District Prosecutor refused to open an investigation, finding that the searches had legal basis. The applicant's appeal was dismissed on 27 November 2023 by the Radom District Court. The court noted that although the applicant was classified by the "dangerous detainee" regime, the routine strip searches had been discontinued on 28 July 2022; nevertheless, they could still be carried out when the applicant left or entered the prison's residential unit if there had been a risk to prison security or need to prevent the commission of an offence.

10. The applicant complained in general terms that the lengthy imposition of the "dangerous detainee" regime on him, including routine strip searches, amounted to a breach of Article 3 of the Convention.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

11. The Court notes that the applicant's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

12. The relevant principles deriving from the Court's case-law were summarised in *Piechowicz v. Poland* (no. 20071/07, §§ 158-65, 17 April 2012) and *Horych v. Poland* (no. 1362/08, §§ 85-92, 17 April 2012).

13. Turning to the present case the Court observes that on 27 November 2009 the prison commission imposed the "dangerous detainee" regime on the applicant. The initial period of the imposition of the regime on the applicant has already been examined by the Court, on two occasions, most recently on 18 June 2019 (see paragraphs 4 and 5 above). With respect to the period after June 2019, which is to be examined in the case at hand, the Court notes that the regime has been extended at regular intervals and is apparently still imposed.

14. Following the amendments to the domestic law which entered into force on 24 October 2015, the new section 88b (2) of the Code made it possible for the prison commission to modify the scope of security measures applicable to the detainees (see *Bechta v. Poland*, no. 39496/17, §§ 16 and 27, 20 May 2021). In application of this provision, on 19 February 2020, the prison commission discontinued routine strip searches of the applicant (see paragraph 6 above). Afterwards the same decision was taken in May and August 2020 and on 28 July 2022.

15. The Court also notes that, in application of Section 88a (2) of the Code, the decisions of the prison commission were based on specific reasons pertaining to the applicant's recent behaviour (see *Bechta*, cited above, § 28, and compare and contrast *Prus v. Poland*, no. 5136/11, § 37, 12 January 2016). On each occasion the authorities examined the applicant's personal situation, namely his behaviour, and assessed the need to continue the application of the regime depending on the fresh assessment of the risk posed by him to the security of the prison and its staff.

16. In view of the above the Court considers that, in the application of the amended domestic law, for a part of the period under consideration, the authorities alleviated the regime by lifting systematic strip searches taking into account the applicant's behaviour (see *Bechta*, cited above, § 29, and compare and contrast *Piechowicz*, cited above, § 166).

17. Nevertheless, for a period between 10 November 2020 and 28 July 2022 it is apparent that the applicant was subjected, whenever he left or entered his cell, to a full body search. The strip searches were carried out as a matter of routine and were not linked to any specific security needs, or to any specific suspicion concerning the applicant's conduct.

18. The Court has already stated in the *Piechowicz* case that while strip searches might be necessary to ensure prison security or to prevent disorder or crime, it was not persuaded by the Government's argument that such systematic, intrusive, and exceptionally embarrassing checks performed daily, or even several times a day, were necessary to ensure safety in the prison (see *Piechowicz*, cited above, § 176). Given that the applicant was already being subjected to several other strict surveillance measures, and that the authorities did not rely on any specific or convincing security requirements, the Court considers that the practice of daily strip searches applied to him for a prolonged period of time must have caused him feelings of inferiority, anguish and accumulated distress which went beyond the unavoidable suffering and humiliation involved in the execution of his prison sentence (see *Horych*, § 101, and *Piechowicz*, §§ 175-76, both cited above).

19. In conclusion, taking into account the cumulative effects of the "dangerous detainee" regime on the applicant, the Court finds that the authorities failed to show that the strip searches to which the applicant had been subjected, particularly during the period between November 2020 and July 2022, were necessary to attain the legitimate aim of ensuring prison security.

There has accordingly been a violation of Article 3 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. The applicant did not submit any claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention.

Done in English, and notified in writing on 26 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Alena Poláčková President