

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

SECOND SECTION

DECISION

Application no. 36356/22
Waldemar Slawomir KNIHINICKI
against Norway

The European Court of Human Rights (Second Section), sitting on 7 May 2025 as a Committee composed of:

Gediminas Sagatys, *President*,
Stéphane Pisani,
Juha Lavapuro*, judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to:

the above application lodged on 2 July 2022,

the parties' observations,

the notification of the Polish Government of their right to intervene in the proceedings (Article 36 § 1 of the Convention and Rule 44 of the Rules of Court) and their decision not to exercise their right to do so;

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Waldemar Slawomir Knihinicki, is a Polish and Norwegian national, who was born in 1957 and lived in Vormsund when he lodged his application. He was represented before the Court by Mr N. Nordhus, a lawyer practising in Oslo.

The Norwegian Government ("the Government") were represented by their Agent, Ms H. Busch, of the Office of the Attorney General for Civil Matters, assisted by P. Wennerås, an advocate at the same office.

The case concerns the surrender of the applicant from Norway to Poland on the basis of a European arrest warrant issued in 2010. Under Article 6 of the Convention the applicant complains of a violation of his right to a fair trial on the ground that he would face a risk of a flagrant denial of justice in Poland upon being surrendered.

On 24 March 2025, in reply to several questions put by the Court, the Government indicated that following his final conviction for other facts the

applicant is serving a prison sentence in Norway and that he would not be released before mid-2026 at the earliest. The Government further informed that on 20 December 2024 the Ministry of Justice had decided that the applicant could be surrendered temporarily to Poland. On 4 February 2025 the applicant had been surrendered with a view to being questioned by the Polish authorities and he had been returned to Norway on 17 February 2025.

Hence the Government declared that if the Polish authorities were to request the applicant's surrender to Poland again, they would have to submit a new arrest warrant. The applicant was therefore not at risk at the moment or in the foreseeable future of being surrendered to Poland. The Government specified that the applicant would have access to all the remedies available under the Norwegian law if he wished to challenge a potential future surrender request.

The applicant did not reply to the questions put by the Court within the set time-limit nor did he provide submissions in response to the Government.

THE LAW

In expulsion cases, the Court has held that it was no longer justified to continue examination of an application, within the meaning of Article 37 § 1 (c) of the Convention, and it has decided to strike the application out of its list of cases when it was clear from the information available that the applicant no longer faced any risk, at the moment or for a considerable time to come, of being expelled and subjected to treatment contrary to the Convention, and that he or she had the opportunity to challenge any new expulsion order before the national authorities and if necessary before the Court (see *F.G. v. Sweden* [GC], no. 43611/11, § 74, 23 March 2016, and *Khan v. Germany* (striking out) [GC], no. 38030/12, § 34, 21 September 2016, with further references).

The Court has applied the same principles in extradition cases (see, for instance, *D.S. v. Russia* (dec.) [Committee], no. 30943/22, 31 May 2022, and *C.W. v. Portugal* (dec.) [Committee], no. 44528/22, § 15, 30 January 2025).

In the instant case, the Court notes that the Government declared that the applicant could no longer be surrendered on the basis of the European arrest warrant that had been the subject of the application before the Court. The Government further clarified that if the Polish authorities were to request the applicant's surrender to Poland again, they would have to submit a new arrest warrant.

The Court therefore concludes that the applicant faces no risk of being surrendered at the moment or in the foreseeable future.

The Court notes that the applicant has not provided any submissions to the Court within the set time-limit and it has no reason to doubt the validity of the Norwegian Government's declarations. The Court reiterates in this context that it has struck out applications after having been informed by the

respondent Government that the national authorities no longer intended to expel the applicant to the country of destination in the near future or for some time to come, even though that information had not been accompanied by any formal undertaking by the respondent Government (see *Khan*, cited above, § 37, with further references).

The Court also notes – and the Government have confirmed – that should the Polish authorities issue a new arrest warrant, the applicant would have remedies available under the domestic law for challenging the order in the Norwegian courts. Moreover, he would have the opportunity, if necessary, to lodge a fresh application with the Court.

Under those circumstances, in view of the subsidiary nature of the supervisory mechanism established by the Convention and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention or its Protocols, the Court, in accordance with Article 37 § 1 (c) of the Convention, considers that it is no longer justified to continue the examination of the application.

The Court would also reiterate that after it has struck an application out of its list of cases it can at any time decide to restore it to the list if it considers that the circumstances justify such a course, in accordance with Article 37 § 2 of the Convention (see *Khan*, cited above, § 41).

In view of the above, it is appropriate to strike the application out of the list of cases.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 28 May 2025.

Viktoriya Maradudina Acting Deputy Registrar	Gediminas Sagatys President