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

FIRST SECTION

DECISION

Application no. 40076/22
Rafał KOWALSKI
against Poland
(see appended table)

The European Court of Human Rights (First Section), sitting on 18 September 2025 as a Committee composed of:

Frédéric Krenc*, President*,
Davor Derenčinović,
Alain Chablais*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 6 August 2022,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant's details are set out in the appended table. The applicant was represented by Mr P. Knut, a lawyer practising in Warsaw.

2. The applicant complained of a violation of the State's positive obligation to ensure a specific legal framework providing for the recognition and protection of his same-sex relationship of over twenty-five years. The complaints under Article 8 on its own, and in conjunction with Article 14 of the Convention, about the absence of any form of legal recognition and protection for same-sex couples in Poland were communicated to the Polish Government ("the Government").

THE LAW

3. The Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

4. The declaration provided as follows:

"4. The Government hereby wish to express – by way of a unilateral declaration – their acknowledgement of the violation of Article 8 of the Convention in the present case. They also state that the above acknowledgment of violation covers all the applicant's allegations, given the Court's case law (see, *Przybyszewska and Others*, nos. 11454/17 and 9 others, §§ 125-126, where the Court stated that it was not necessary to examine separately whether, in this case, there has also been a violation of Article 14 in conjunction with Article 8).

5. Simultaneously, as far as just satisfaction is concerned, I should like to make reference to the Court's judgment of 12 December 2023, issued in the case *Przybyszewska and Others v. Poland* (application no. 11454/17 and 9 others), currently being in the process of implementation in the domestic legal system, as well as the judgment of 19 September 2024, issued in the case *Formela and Others v. Poland* (application no. 58828/12 and 4 others), and the judgment of 27 February 2025, issued in the case *Szypuła and Others v. Poland* (applications nos. 78030/14 and 23669/16) whereby the Court held that finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants.

6. In this regard, in the light of the Court's case-law referred to above, the Government consider with reference to the circumstances of the present case, that finding of a violation should be regarded as sufficient just satisfaction for any pecuniary or non-pecuniary damage sustained by the applicant."

5. The Government informed the Court about progress in implementation of the judgments against Poland.

"7. In view of the above the Government should like to draw the Court's attention to the fact that, following the judgment of the Court issued in the case *Przybyszewska and Others v. Poland*, relevant legislative effort in respect of the subject matter of the case in question was undertaken. In this regard the Government wish to emphasise their full commitment to implementing the Court's judgment in the case *Przybyszewska and Others v. Poland* through introduction into the Polish legal system of the institution of civil partnership (*związek partnerski*).

8. In this respect, the Minister for Equality, which is a position created for the first time in the Polish Government and equipped with universal mandate covering prevention and combating of all forms of discrimination, bias and hatred, prepared a draft Act on Registered Partnerships (*ustawa o rejestrowanych związkach partnerskich*) and a draft Act introducing the Act on Registered Partnerships (*ustawa wprowadzająca ustawę o rejestrowanych związkach partnerskich*). On 8 July 2024 the drafts were included in the list of legislative activities of the Council of Ministers and registered under the numbers UD87 and UD88.

9. The draft Act on Registered Partnerships introduces into the Polish legal system the institution of a civil partnership (*związek partnerski*), available to both same-sex and opposite-sex couples. The draft Act introducing the Act on Registered Partnerships contains, in turn, provisions amending other laws with the purpose of allowing persons in such partnerships to access the rights referred to, among others, in the *Przybyszewska and Others* judgment.

10. In particular, taking into account the standard of protection outlined in the judgment at hand, the draft Act on Registered Partnerships specifies the rights and obligations of persons entering into civil partnerships, such as the obligation to mutual respect, loyalty, assistance and cooperation for the common good. The draft Act allows persons in registered partnerships to establish a communal assets regime

(*wspólność majątkowa),* while the draft introductory Act ensures equal tax position of a person in a civil partnership who has concluded partners' communal assets agreement (*umowa majątkowej wspólności partnerskiej*) with that of a married person in a communal asset regime. In addition, persons in the registered partnerships will be covered by the regulations allowing for exemption from inheritance tax, donation tax and civil law activities tax. The draft Act on Registered Partnerships provides also for an obligation to pay maintenance (*obowiązek alimentacyjny*) after the termination of a civil partnership. Consequently, persons whose civil partnership has ended will be obliged to provide mutual maintenance during a period of one year since the termination of a partnership, if one of them is in need. Finally, the draft introductory Act amends relevant provisions of the Civil Code in order to explicitly include in the provisions referring to inheritance a person who lives in a registered partnership with the testator, on the same terms as his or her spouse.

11. With regard to the agenda of legislative activities on the above-mentioned draft Acts, the Government underline that they were published and submitted for drafting arrangements, incl. public consultations in October 2024. The drafting arrangements process is pending."

6. The applicant was sent the terms of the Government's unilateral declaration several weeks before the date of this decision. The Court has not received a response from the applicant accepting the terms of the declaration.

7. The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

"... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

8. Thus, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

9. The Court has established clear and extensive case-law, including in cases brought against Poland, concerning complaints relating to the violation of the applicants' right to respect for their private and family life due to lack of a specific legal framework providing for the recognition and protection of their same-sex unions (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, § 225, 17 January 2023, and *Przybyszewska and Others v. Poland*, nos. 11454/17 and 9 others, § 123, 12 December 2023).

10. The Court notes the nature of the admissions contained in the Government's declaration with refence to its case-law. It further takes note of the developments in the legislative process that has been initiated (see above). The execution of the judgments in cases *Przybyszewska and Others* and *Formela and Others* (both cited above), which concerned identical issues, is currently under the supervision of the Committee of Ministers and that necessary general measures are being taken in that context. The Court considers that the Committee of Ministers is better placed and equipped than the Court to monitor the measures that need to be adopted by the respondent

State (see, *mutatis mutandis*, *Rutkowski and Others v. Poland*, nos. 72287/10 and 2 others, § 207, 7 July 2015, and *Canword v. the Netherlands* (dec.) [Committee], no. 21464/15, 15 November 2022).

11. The absence from the unilateral declaration of a grant of compensation for non-pecuniary damage does not, in the view of the Court, render the declaration unacceptable (see *Friðjón Björgvin Gunnarsson v. Iceland* (dec.), no. 48281/18, 10 May 2022, and *Canword,* cited above, § 16). The Court has itself consistently declined to make an award under that heading in cases concerning the same issue (see *Fedotova and Others*, cited above, § 235, and *Przybyszewska and Others*, cited above, § 126).

12. The Court has recently examined unilateral declarations submitted by the Government in identical cases against Poland and considers that its conclusions are directly applicable to the case under considerations (see *Gruszczyński-Gęgowski and Others against Poland* (dec.) [Committee], nos. 5059/22 and 9 others, § 15, 7 May 2025).

13. In the light of the above considerations, in particular in the context of the relevant developments (paragraph 5 above) and given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application in the part covered by the unilateral declaration (Article 37 § 1 *in fine*).

14. Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

15. In view of the above, it is appropriate to strike the application out of the list of cases in so far as it relates to the complaint under Article 8 of the Convention.

16. Relying on Article 14 of the Convention taken in conjunction with Article 8, the applicant also complained that the fact that he was unable to secure legal recognition of his relationship amounted to discrimination on grounds of sexual orientation.

17. Having regard to the facts of the case, the Government's unilateral declaration and the Court's decision to strike out the complaint under Article 8 of the Convention, the Court considers that it is not necessary to examine separately this complaint (see *Przybyszewska and Others*, cited above, § 126).

18. Finally, the applicant claimed 14,977 Polish zlotys (equivalent to 3,540 euros (EUR)) in respect of costs and expenses incurred both before the domestic courts and the Court. Pursuant to Rule 43 § 4 of the Rules of Court, when an application has been struck out in accordance with Article 37 of the Convention, the costs shall be at the discretion of the Court. The general principles governing reimbursement of costs under Rule 43 § 4 are essentially the same as under Article 41 of the Convention (see, for example, *Union of*

Jehovah's Witnesses and Others v. Georgia (dec.), no. 72874/01, 21 April 2015; *Pastukhov v. Poland* (dec.) [Committee], no. 34508/17, §§ 22-27, 4 February 2020; and *A.E v. Poland* (dec.) [Committee], no. 26129/19, 17 January 2023). In the present case, regard being had to the above criteria and the documents in its possession, the Court considers it reasonable to award the applicant the sum claimed in full.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration relating to the complaint under Article 8 of the Convention and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike that part of the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Decides that it is not necessary to examine the remainder of the application;

Holds that the respondent State is to pay the applicant, within three months, EUR 3,540 (three thousand five hundred and forty euros) in respect of costs and expenses, plus any tax that may be chargeable to the applicant, to be converted into Polish zlotys at the rate applicable at the date of settlement;

Holds 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 9 October 2025.

Viktoriya Maradudina	Frédéric Krenc
Acting Deputy Registrar	President

APPENDIX

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments	Amount awarded for costs and expenses per application (in euros)[1]
40076/22 06/08/2022	**Rafał KOWALSKI** 1971	Knut Paweł Warszawa	10/03/2025	02/06/2025	3,540

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