

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

FIRST SECTION

DECISION

Application no. 43727/21
Zdzisław ŁABUDEK against Poland
and 15 other applications
(see appended table)

The European Court of Human Rights (First Section), sitting on 5 December 2024 as a Committee composed of:

Georgios A. Serghides*, President*,
Erik Wennerström,
Alain Chablais*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants and their representatives is set out in the appended table.

The applicants complained under Article 6 § 1 of the Convention of a violation of their right to a hearing by an "independent and impartial tribunal established by law" since their civil or criminal cases had been decided by various formations of the Supreme Court composed of judges appointed to that court by the President of Poland, pursuant to the recommendation of the National Council of the Judiciary (*Krajowa Rada Sądownictwa*, "the NCJ") as established under the Amending Act on the NCJ and certain other statutes of 8 December 2017. The complaints were communicated to the Polish Government ("the Government").

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

After the failure of attempts to reach a friendly settlement, the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

In each case the Government acknowledged the violation of the right to an "independent and impartial tribunal established by law" under Article 6 § 1 of the Convention. They offered to pay the applicants 10,000 euros (EUR) and invited the Court to strike the applications out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the cases.

The applicants were sent the terms of the Government's unilateral declarations several weeks before the date of this decision. The Court has not received a response from the applicants accepting the terms of the declarations.

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".

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

The Court has established clear and extensive case-law concerning complaints relating to the right to a hearing by an "independent and impartial tribunal established by law" protected by Article 6 § 1 of the Convention (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 214). In respect of Poland, the deficiencies in the procedure for the appointment of judges of the Supreme Court, resulting in violations of the applicants' right to a hearing by an "independent and impartial tribunal established by law" protected by Article 6 § 1 of the Convention, have been established in respect

of various Chambers of the Supreme Court: the Disciplinary Chamber (see *Reczkowicz v. Poland*, no. 43447/19, 22 July 2021), the Chamber of Extraordinary Review and Public Affairs (see *Dolińska-Ficek and Ozimek v. Poland*, nos. 49868/19 and 57511/19, 8 November 2021) and formations of the Civil Chamber (see *Advance Pharma sp. z o.o v. Poland*, no. 1469/20, 3 February 2022). In its pilot judgment in the case of *Wałęsa v. Poland* (no. 50849/21, 23 November 2023), the Court listed several interrelated systemic problems which entailed repeated breaches of the fundamental principles of the rule of law, separation of powers and the independence of the judiciary.

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 cases under considerations (see *Dudek and Lazur v. Poland* (dec.), nos. 41097/20 and 39577/22, 8 October 2024).

The Court notes that the Government's declarations in the present cases contain, firstly, an unconditional acknowledgement of the violation of Articles 6 § 1 of the Convention regarding the right to an independent and impartial "tribunal established by law." Secondly, the Government undertook to pay the applicants the sums which are consistent with amounts awarded in similar cases.

Noting the admissions contained in the Government's declarations as well as the amount of compensation proposed the Court considers that it is no longer justified to continue the examination of the applications (Article 37 § 1 (c)).

In the light of the above considerations, 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 applications (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications may 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).

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

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 16 January 2025.

Viktoriya Maradudina Acting Deputy Registrar	Georgios A. Serghides President

APPENDIX

List of applications:

No.	Application no. Date of introduction	Applicant's name Year of birth, where applicable	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments, if any	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
1.	43727/21 18/08/2021	**Zdzisław ŁABUDEK** 1961	Gorząch Monika Katowice	16/10/2024	15/11/2024	10,000
2.	60827/21 30/11/2021	**Janusz CHOLEWICKI** 1954 **Bogumiła CHOLEWICKA** 1957	Hetmański Grzegorz Olsztyn	02/10/2024	04/11/2024	10,000, jointly to the two applicants
3.	1210/22 23/12/2021	**ARYDIUM SP. Z O.O.**	Kanty Tomasz Gdynia	10/10/2024	08/11/2024	10,000
4.	10374/22 14/02/2022	**Joanna PALIŃSKA** 1965	Gazda Paweł Poznań	02/10/2024	-	10,000
5.	12043/22 16/02/2022	**Maria BRZESKA-BUDZANOWSKA** 1963	Gazda Paweł Poznań	02/10/2024	-	10,000
6.	17426/22 22/03/2022	**Mateusz KLAG** 1976 **Marzena KLAG** 1976	Olejniczek Paweł Serniki	02/10/2024	23/10/2024	10,000, jointly to the two applicants
7.	19345/22 05/04/2022	**Jan CHOCHOLAK** 1959 **Władysława CHOCHOLAK** 1961	Sawicki Maciej Gorzów Wielkopolski	02/10/2024	06/11/2024	10,000, jointly to the two applicants
8.	25293/22 11/05/2022	**KLASZTOR OJCÓW AUGUSTIANÓW W KRAKOWIE**	Kożuch Małgorzata Kraków	02/10/2024	05/11/2024	10,000
9.	25294/22 09/05/2022	**Waldemar ŻUREK** 1970	Gregorczyk-Abram Sylwia Warsaw	03/07/2024	11/10/2024	10,000
10.	27922/22 23/05/2022	**Marek KWAŚNICKI** 1953	Woźniak Jacek Rawicz	03/10/2024	15/11/2024	10,000

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11.	31638/22 15/06/2022	**Bożena BŁACHOWICZ** 1966	Gregorczyk-Abram Sylwia Warsaw	03/07/2024	25/09/2024	10,000
12.	31652/22 15/06/2022	**Anna BARANIAK** 1973	Baraniak Piotr Ożarów Mazowiecki	28/10/2024	04/11/2024	10,000
13.	36908/22 07/07/2022	**Dominik CZESZKIEWICZ** 1978	Gregorczyk-Abram Sylwia Warsaw	09/07/2024	11/10/2024	10,000
14.	39542/22 25/07/2022	**Daniela MATUSZEWSKA-NAŁUDKA** 1955	Krężelewski Jacek Toruń	14/10/2024	23/10/2024	10,000
15.	41352/22 19/08/2022	**Andrzej STĘPIEŃ** 1967	Gregorczyk-Abram Sylwia Warsaw	02/10/2024	13/11/2024	10,000
16.	4913/23 18/01/2023	**Dawid MALANTOWICZ** 1980	Pilarczyk Łukasz Poznań	02/10/2024	05/11/2024	10,000

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