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

FIRST SECTION

DECISION

Application no. 38342/19
S. and Others
against Poland
(see appended table)

The European Court of Human Rights (First Section), sitting on 19 May 2022 as a Committee composed of:

Alena Poláčková, *President,*
Raffaele Sabato,
Davor Derenčinović, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 9 July 2019,

Having regard to the decision to grant the applicants anonymity, in accordance with Rule 47 § 4 of the Rules of the Court,

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

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

The applicants were represented by Mr J. Głuchowski, a lawyer practising in Poznań.

The applicants' complaints under Article 2 of the Convention concerning their relative's right to life, who died from the hands of her former husband, and Article 3 in respect of the alleged failure by the Polish authorities to take appropriate measures with a view to protecting the first and second applicants from the ill-treatment to which they were subjected by their father, were communicated to the Polish Government ("the Government").

THE LAW

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.

The Government acknowledged the violation of Article 2 of the Convention in respect of the death of the applicants' relative and Article 3 of the Convention in respect of the Polish authorities' failure to take appropriate measures to protect the first two applicants from the ill-treatment by their father. They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the application 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 settlement 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 case.

The applicants were sent the terms of the Government's unilateral declaration several weeks before the date of this decision. They did not accept the terms of the declaration.

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 case 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 domestic violence under Articles 2 and 3 of the Convention (see, for example, *Kurt v. Austria* [GC], no. 62903/15, 15 June 2021; *Opuz v. Turkey*, no. 33401/02, ECHR 2009; *E.S. and Others v. Slovakia*, no. 8227/04, 15 September 2009, and *Talpis v. Italy*, no. 41237/14, 2 March 2017).

Noting the admissions contained in the Government's declaration as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (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 application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application 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 case out of the list.

For these reasons, the Court, unanimously,

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

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

Done in English and notified in writing on 9 June 2022.

Viktoriya Maradudina Acting Deputy Registrar	Alena Poláčková President

APPENDIX

Application raising complaints under Articles 2 and 3 of the Convention

Application no. Date of introduction	Applicants' initials Year of birth	Date of receipt of Government's declaration	Date of receipt of applicants' comments	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
38342/19 09/07/2019	**S born in** 1991 **T born in** 1992 **W born in** 1972 **M born in** 1952	03/03/2022	23/03/2022	EUR 26,000 to S EUR 26,000 to T EUR 26,000 jointly to W and M

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