

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

FIRST SECTION

DECISION

Application no. 9786/23
Daniel ZAŁUSKI
against Poland

The European Court of Human Rights (First Section), sitting on 29 January 2026 as a Committee composed of:

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

Having regard to:

the application (no. 9786/23) 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 16 February 2023 by a Polish national, Mr Daniel Załuski ("the applicant"), who was born in 1976, lives in Warsaw and was represented by Mr P. Kładoczny, a lawyer practising in Warsaw;

the decision to give notice of the complaint under Article 6 § 1 of the Convention concerning the applicant's lack of access to a court to the Polish Government ("the Government"), represented by their Agent, Ms A. Kozińska-Makowska, of the Ministry of Foreign Affairs, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's access to a court in respect of his attempt to be granted health-related early retirement (*stan spoczynku*).

A. Facts prior to notice of the case being given to the Government

2. Since an accident in 2017 the applicant, a public prosecutor, has been unfit for work, and since 13 September 2017 he has been on sick leave. Following his accident, he made several attempts – both on his own behalf and *via* his superior – to be granted early retirement, but the competent medical examiners found that he was not "permanently incapable of performing the duties of a prosecutor owing to illness or loss of strength", as required by law for health-related early retirement to be granted.

3. The applicant alleged that, despite a legal obligation to do so, the Prosecutor General had not issued a decision refusing the applications for early retirement, which would have been subject to judicial review.

B. Complaint

4. The applicant complained, under Article 6 § 1 of the Convention, that he had been deprived of access to a court owing to the lack of a formal decision on the applications for early retirement.

C. Subsequent developments

5. On 21 December 2023 the Prosecutor General issued a decision refusing to grant early retirement to the applicant. The applicant appealed against that decision; the case was registered with the Supreme Court, and an *in camera* session was scheduled for 24 September 2024.

6. In March 2024 the applicant underwent another medical assessment, the results of which (issued on 3 April 2024) confirmed that he was permanently incapable of performing the duties of a prosecutor.

7. On 22 July 2024 the Prosecutor General granted the applicant early retirement. The applicant did not appeal against that decision, which has become final.

THE COURT'S ASSESSMENT

8. In their observations, the Government raised several objections as to the admissibility of the application, including that the applicant had suffered no significant disadvantage and that he had lost victim status, all of which the applicant contested. In the present case, the Court does not consider it necessary to reach a conclusion on those objections. In the light of the parties' submissions, it considers that the present application can be struck out of its list pursuant to Article 37 § 1 of the Convention for the reasons set out below.

9. The Court notes that the issue at the heart of the applicant's complaint under Article 6 § 1 of the Convention was the impossibility of obtaining judicial review of the *de facto* refusal to grant him early retirement. That

review, in turn, was to afford the applicant an opportunity to have the unfavourable decision changed and, potentially, to obtain early retirement.

10. The Court observes, however, that since notice of that complaint was given to the Polish Government, the applicant was granted access to a court to have a review conducted of an unfavourable decision of the Prosecutor General refusing early retirement (see paragraph 5 above) and, subsequently, his application for early retirement was granted by a fresh decision of the Prosecutor General (see paragraph 7 above).

11. Against that background, the Court considers that, following the events mentioned in the preceding paragraph, and particularly since the applicant's early retirement became effective, the circumstances complained of by the applicant no longer obtain and the effects of a possible violation of the Convention on account of those circumstances have been redressed. The Court therefore finds that both conditions for the application of Article 37 § 1 (b) of the Convention are met (see *El Majjaoui and Stichting Touba Moskee v. the Netherlands* (striking out) [GC], no. 25525/03, §§ 30-34, 20 December 2007, and *Kłucińska-Głuszczak v. Poland* (dec.), no. 33274/22, § 34, 14 October 2025).

12. Accordingly, the matter giving rise to the application under Article 6 § 1 of the Convention can be considered to have been "resolved" within the meaning of Article 37 § 1 (b) of the Convention. The Court also reiterates that it is not required, for the purposes of Article 37 § 1 (b) of the Convention, that the national authorities acknowledge a violation of the Convention or that the applicant, in addition to having obtained a resolution of the matter, is also granted compensation (see *H.P. v. Denmark* (dec.), no. 55607/09, § 78, 13 December 2016).

13. Lastly, no particular reason relating to respect for human rights as defined in the Convention requires the Court to continue the examination of the complaints at issue under Article 37 § 1 *in fine*.

14. Consequently, the application should be struck out of the Court's 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 19 February 2026.

Liv Tigerstedt
Deputy Registrar

Davor Derenčinović
President