



## An application complaining about a parliamentary report on corruption allegations declared inadmissible

In its decision in the case of [Kwiatkowski v. Poland](#) (application no. 58996/11) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns the adoption, by the *Sejm* (Polish Parliament), of a report concerning allegations of corruption in connection with the amendment of the Broadcasting Act. The report was alleged to have impugned the applicant's reputation and to have constituted a criminal conviction, without affording him an effective remedy.

The Court found that the *Sejm* had not ruled on the applicant's criminal liability but had expressed an opinion on his conduct as a public figure. He had not been charged or convicted and no sanction had been imposed on him. The Court noted that the domestic courts had not rejected jurisdiction in respect of the protection of his reputation and had examined the case on the merits. It further pointed out that the domestic authorities could not be held liable for acts of the press. Lastly, the Court took the view that the alleged interference with the applicant's right to respect for his private life had not been disproportionate to the legitimate aims pursued.

### Principal facts

The applicant, Robert Kwiatkowski, is a Polish national who was born in 1961 and lives in Warsaw. He was Chairman of the Board of Directors of the State television corporation from 1998 to 2004.

In December 2002 a national daily newspaper published an article about corruption in connection with parliamentary work on an amendment to the Broadcasting Act: Lew Rywin, a famous cinema producer, on the instructions of a "power-holding group", was said to have proposed his help in exchange for certain advantages.

In January 2003 the *Sejm* set up a parliamentary commission of inquiry to investigate the circumstances. It subsequently rejected the commission's report, which found that Mr Rywin had acted alone and, in September 2004, adopted another report, which named a number of prominent figures as having committed the offence of bribery. This was reported in the media.

The applicant brought proceedings for the protection of his reputation. His claim was dismissed in November 2009 by Warsaw Regional Court, which found that the alleged damage was not made out, since the applicant was a public figure and the commission, an instrument for parliamentary scrutiny of government action, had acted within the confines of the Constitution and the law. It added that the applicant had never been charged or convicted in connection with the offence in question.

The applicant appealed, arguing that the *Sejm*, not a court, had declared him guilty of a criminal offence. The Warsaw Court of Appeal dismissed the appeal in April 2010 on the following grounds: the commission had been lawfully constituted, in compliance with the legislative provisions; the adoption of the report had fallen within the remit of Parliament, which had not ruled on criminal liability but had issued an opinion, which had not been a replacement for any court decision; the applicant had been able to bring his case before a court, and the report had only concerned his public activities. In a decision of 17 March 2011 the Supreme Court refused to entertain the applicant's appeal.

From 2004 to 2008 an investigation was conducted into the allegations of corruption surrounding the legislative procedure for the amendment of the Broadcasting Act, but it was then dropped when it became time-barred.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 12 September 2011.

Mr Kwiatkowski complained under Article 6 (right to a fair hearing) that he had been found guilty of a criminal offence by the *Sejm* and not by a court.

Relying on Article 6 § 2 (presumption of innocence) and Article 8 (right to respect for private life), he alleged that the report had breached his right to be presumed innocent and had damaged his reputation. Lastly, under Article 13 (right to an effective remedy) taken together with Article 8, he alleged that he had had no effective remedy.

The decision was given by a Committee of three judges, composed as follows:

Ksenija **Turković** (Croatia), *President*,  
Krzysztof **Wojtyczek** (Poland),  
Armen **Harutyunyan** (Armenia),

and also Renata **Degener**, *Deputy Registrar*.

## Decision of the Court

### Article 6 § 1

The Court noted that the work of a parliamentary commission of inquiry was of a political nature and concerned the functioning of the executive and any anomalies. It pointed out, as in the [Rywin](#) case, that the commission's inquiry had been opened following press coverage, to look into allegations of corruption on the part of high-ranking public figures.

The Court found that the *Sejm* had not ruled on the applicant's criminal liability but had expressed an opinion on his conduct as a public figure. He had not been charged or convicted and no sanction had been imposed on him. The question referred to the commission of inquiry had not been such as to lead to a decision on any "criminal charge" against the applicant.

The Court found that the complaint under Article 6 § 1 was incompatible with the Convention provisions.

### Article 6 § 2 and Article 8

The Court reiterated that in the absence of any criminal proceedings, protection against defamation fell within Article 8.

The Court observed that the report had been adopted in accordance with the relevant provisions of the Constitution and the law on parliamentary commissions of inquiry. In view of the seriousness of the questions at issue, the fact of bringing the commission's findings to the public's knowledge had pursued aims that were compatible with the Convention (public safety, prevention of disorder or crime and protection of the rights and freedoms of others). The facts, whose disclosure had triggered a major political scandal, constituted an important question of general interest on which the public were entitled to receive information.

The Court noted that the *Rywin* case had shown that there had been a factual basis for the commission's findings. It did not have any reason to conclude that the report's findings had been arbitrary or manifestly at odds with the reality.

The Court observed that the domestic courts had not rejected jurisdiction in respect of the protection of the applicant's reputation and had examined the case on the merits. It further pointed out that the domestic authorities could not be held liable for acts of the press.

The Court took the view that the alleged interference with the applicant's right to respect for his private life had not been disproportionate to the legitimate aims pursued. The complaint was rejected as manifestly ill-founded.

### Article 13 taken together with Article 8

As the complaints under Article 6 were incompatible with Convention provisions and those under Article 8 and Article 6 § 2 were manifestly ill-founded, Article 13 was inapplicable.

The Court found that this complaint had to be rejected.

*The decision is available only in French.*

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