



## Grand Chamber hearing concerning alleged “pushbacks” at the Polish-Belarusian border

The European Court of Human Rights is holding a **Grand Chamber**<sup>1</sup> hearing today **Wednesday 12 February 2025 at 9.15 a.m.** in the case of **R.A. and Others v. Poland** (application no. 42120/21).

The case concerns a group of Afghan nationals who allege that they were left stranded in a makeshift camp on the border between Belarus and Poland from 8 August until 23 October 2021. They maintain that they were eventually returned from Belarus to Afghanistan, where they currently reside.

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This is the first of three hearings today concerning alleged “pushbacks” at the Belarusian borders from summer 2021 to summer 2023. The three cases for which there are public hearings today are among over 30 such cases currently pending before the Court against Latvia, Lithuania and Poland.

*After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage. A recording of the hearing will be available this afternoon on the Court’s internet site ([www.echr.coe.int](http://www.echr.coe.int)).*

The case stems from an application against the Republic of Poland lodged by 32 Afghan nationals on 20 August 2021. Only two of the original applicants have expressed the wish to pursue the proceedings before the Court. These two applicants allege that they were eventually returned from Belarus to Afghanistan, where they currently reside.

The applicants say that they crossed the Belarusian-Polish border in early August 2021 before being forcibly “pushed back” to Belarus by Polish border guards. They set up a makeshift camp near the Belarusian-Polish border, where they were allegedly left stranded in problematic sanitary and humanitarian conditions between the Polish border guards, on the one hand, and their Belarusian counterparts, on the other. The applicants allege that, while staying in the camp, they made claims for asylum in Poland but that those claims were not considered by the Polish authorities.

On 20 October 2021 a number of the migrants, including one of the two remaining applicants, crossed the barbed-wire fence along the Belarusian-Polish border. They were allegedly then apprehended by the Polish border guards, who took them to the border crossing and sent them back to Belarus.

### Procedure

The application was lodged with the Court on 20 August 2021, accompanied by a request for an interim measure (Rule 39 of the Rules of Court).

Relying on Articles 2 (right to life) and 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, the applicants complain of having been deprived by the Polish authorities of access to asylum procedures and of being exposed to the risk, if returned to

<sup>1</sup> Under Article 30 of the European Convention on Human Rights, “Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber.”

Afghanistan, of treatment in breach of the Convention and, if sent to Belarus, of chain refoulement. They also complain about their material and sanitary conditions in the camp. Relying on Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens) to the Convention and on Article 13 (right to an effective remedy) taken together with Article 3 of the Convention and Article 4 of Protocol No. 4 to the Convention, the applicants further complain that they have been subjected to a collective expulsion and that no effective remedy was available to them. Lastly, under Article 34 (right of individual application) of the Convention, they complain of the failure by Poland to apply the interim measures indicated by the Court (see below).

On 25 August 2021 the Court granted the request for an interim measure and indicated to the Polish Government, without prejudice to any duties that Belarus may have under international law regarding the situation of the applicants, to provide the applicants with food, water, clothing, adequate medical care and, if possible, temporary shelter. It also clarified that the interim measure should not be understood as requiring that Poland let the applicants enter its territory.

On 27 September 2021 the Court extended the interim measure and gave notice to the Polish Government of the application, with questions from the Court. The Court also decided to give priority to this application under Rule 41 of the Rules of Court. In addition, the Court indicated two new measures to the Government under Rule 39, asking them (i) to allow the applicants' lawyers to make necessary contact with them, for the purpose of the proceedings before the Court, either by authorising direct contact between them, provided that the applicants were on Polish territory, or by allowing the lawyers to approach the Polish border near the location of the applicants; and (ii) not to send the applicants to Belarus, provided that they were actually on Polish territory.

The Chamber of the European Court of Human Rights to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 25 June 2024.

The following have intervened in the written proceedings as third parties: the Council of Europe Commissioner for Human Rights; the Governments of Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Latvia, Lithuania, Norway, the Slovak Republic and Ukraine; the AIRE Centre; the Dutch Council for Refugees; the International Commission of Jurists; the Association for Legal Intervention; the Helsinki Foundation of Human Rights (Poland); CEU Rule of Law Clinic; the Commissioner for Human Rights of Poland; the Free Courts Foundation (Poland); the Ocalenie Foundation; the Rule of Law Institute Foundation (Poland); and UNHCR.

The Council of Europe Commissioner for Human Rights and the Government of Finland will also intervene orally in the proceedings as third parties.

## Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Marko **Bošnjak** (Slovenia), *President*,  
Arnfinn **Bårdsen** (Norway),  
Mattias **Guyomar** (France),  
Lado **Chanturia** (Georgia),  
Ioannis **Ktistakis** (Greece),  
Stéphanie **Mourou-Vikström** (Monaco)  
Alena **Poláčková** (Slovakia),  
Jovan **Ilievski** (North Macedonia),  
María **Elósegui** (Spain),  
Erik **Wennerström** (Sweden),  
Anja **Seibert-Fohr** (Germany),  
Frédéric **Krenc** (Belgium),  
Sebastian **Rădulețu** (Romania),

Diana Kovatcheva (Bulgaria),  
 Gediminas Sagatys (Lithuania),  
 Anna Adamska-Gallant (Poland), *judges*,  
 Mārtiņš Mits (Latvia), *ad hoc judge*,  
 Lətif Hüseynov (Azerbaijan),  
 Péter Paczolay (Hungary),  
 Anne Louise Bormann (Denmark),  
 Davor Derenčinović (Croatia),  
 Juha Lavapuro (Finland), *substitute judges*,

and also Johan Callewaert, *Deputy Grand Chamber Registrar*.

## Representatives of the parties

### Government

Henryka Mościcka-Dendys, *Undersecretary of State, Ministry of Foreign Affairs*,  
 Agnieszka Kozińska-Makowska, *Agent*,  
 Agata Rogalska-Piechota, *Co-Agent*,  
 Marta Kaczmarska, Anita Łuczyńska, Paweł Wierdak, Paweł Dąbrowski and Iwona Szczygieł,  
*Advisers*;

### Applicants

Agata Bzdyń and Małgorzata Jaźwińska, *Counsel*,  
 Julia Zelvenska, Maja Łysienia and Patrick Radzimirski, *Advisers*.

## Third parties

### Government of Finland

Krista Oinonen, *Agent of the Government of Finland before the European Court of Human Rights*,  
 Satu Sistonen and Pilvi Rämä, *Advisers*;

### The Council of Europe Commissioner for Human Rights

Michael O'Flaherty,  
 Christian Mommers and Charlotte Piveteau, *Advisers*.

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.