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COUNCIL OF EUROPE
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Date: 06/11/2026

DH-DD(2026)1488

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Meeting: 1577th meeting (December 2026) (DH)

Communication from the applicant (22/10/2026) in the case of Szmit and Others v. Poland (Application No. 31385/23) (in respect of the applicant Marek Nowak (Application no. 31385/23)) - *appendices in Polish are available at the Secretariat upon request*

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1577e réunion (décembre 2026) (DH)

Communication du requérant (22/10/2026) relative à l'affaire Szmit et autres c. Pologne (Requête n° 31385/23) (concernant le requérant Marek Nowak (Requête n° 31385/23)) ***[anglais uniquement]*** *- des annexes en polonais sont disponibles auprès du Secrétariat sur demande*

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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PART IV - COMMUNICATION TO THE COMMITTEE OF MINISTERS

RULE 9.1 - NON-EXECUTION OF THE FRIENDLY SETTLEMENT IN APPLICATION No. 3118/25

To: Committee of Ministers of the Council of Europe - Department for the Execution of Judgments of the ECHR, Just Satisfaction Section, F-67075 Strasbourg Cedex, France

E-mail: DGI-Execution@coe.int

I. Nature of the communication

This is an applicant's communication under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements. It concerns exclusively the execution of the friendly settlement endorsed by the Court in respect of application no. 3118/25.

Under Article 39 § 4 of the Convention, the Committee of Ministers supervises execution of the terms of friendly settlements. The applicant asks that this submission be registered as a formal complaint concerning payment and the required individual measure.

II. Requests to the Committee of Ministers and the Execution Department

1. register this Rule 9.1 communication in relation to application no. 3118/25 and place it on the execution file concerning the Court's decision of 26 March 2026 in Szmit and Others v. Poland;

2. record the applicant's formal objection to any information by the Polish Government describing the transfer to the enforcement officer as payment of EUR 4,200;

3. consider the friendly-settlement payment obligation unexecuted until the full amount is genuinely placed at the applicant's disposal;

4. call on the Polish Government to secure the immediate release of the funds and payment of EUR 4,200 directly to the applicant in a manner enabling free disposal;

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5. call on the Government to pay default interest from 17 July 2026 until the actual date on which the full amount becomes available to the applicant;

6. require the Government to provide the transfer date, exact amount and currency, receiving account/entity, legal basis of the attachment, present location and status of the funds/deposit, and the legal basis for treating a payment to an enforcement officer as performance of the friendly settlement;

7. require an explanation of how the attachment was considered compatible with Article 831 § 1(8) of the Polish Code of Civil Procedure and the stated legislative aim of preventing State-Treasury recovery from Strasbourg compensation;

8. do not close supervision of the payment and do not record the settlement as executed until there is evidence that the amount was genuinely available to the applicant;

9. if no prompt solution is achieved, place the matter before the Committee of Ministers at an appropriate Human Rights meeting and take the supervisory steps necessary to secure good-faith execution.

III. Core execution failure

On 16 July 2026, the final day of the three-month payment period, the Polish Ministry of Foreign Affairs transferred the attached amount to the enforcement officer in Km 367/26. The Ministry confirmed that transfer by letter of 20 July 2026, ref. DPT.731.469.2025/22. The applicant did not receive the money and had no ability to use it.

The Committee's established execution practice treats payment as placement of the sum due at the beneficiary's disposal. A State may employ various technical payment methods, but actual availability to the applicant is decisive. Here, the funds were and remain blocked outside the applicant's control.

IV. Particular significance of Polish protective legislation

Article 831 § 1(8) of the Polish Code of Civil Procedure was introduced specifically to exclude enforcement against ECtHR sums where the enforced claim belongs to the State Treasury. The legislative explanatory memorandum expressly referred to the

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danger that the Committee of Ministers could regard an ECtHR award as unexecuted and require payment again if the State Treasury attached or set off Strasbourg compensation.

In Km 367/26, the formally entitled entity was the State Treasury - Łódź Regional Court. The applicant therefore submits that the domestic authorities not only deprived the friendly settlement of practical effect but did so in circumstances falling within a specific domestic statutory protection. While the final determination of domestic legality lies with the competent authorities, the execution issue for the Committee is straightforward: the applicant never received the money and the amount was transferred into a coercive State-controlled mechanism.

V. Formal objection to any "paid" status

If Poland has reported the EUR 4,200 as "paid" on 16 July 2026, the applicant formally contests that characterisation. The date on which the Ministry transferred funds to an enforcement officer is not the date on which the cash value became available to the applicant. For supervision and default-interest purposes, the relevant date should be the future date on which the funds are actually and freely placed at the applicant's disposal.

VI. Urgency

This communication is urgent because further distribution of the funds in the domestic proceedings may make recovery more difficult. The applicant asks the Department promptly to seek clarification from the Polish authorities, establish the current location/status of the EUR 4,200, and ensure that supervision is not closed on the basis of a purely technical transfer to an enforcement officer.

Marek Nowak

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(signature)

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CZĘŚĆ V / PART V - PODSTAWY PRAWNE, ORZECZNICTWO I ZAŁĄCZNIKI

A. Podstawy konwencyjne i praktyka Rady Europy / Convention framework and Council of Europe practice

- European Convention on Human Rights: Article 37 § 2 (restoration to the list); Article 39 §§ 3-4 (friendly settlements and supervision by the Committee of Ministers).
- Rules of Court, Rule 43 § 3 (friendly-settlement decision transmitted to the Committee of Ministers for supervision of execution) and the Court's restoration practice.
- ECtHR, Szmit and Others v. Poland, decision of 26 March 2026, notified 16 April 2026, HUDOC no. 001-249889 - including application no. 3118/25, Marek Nowak, EUR 4,200.
- ECtHR, Katić v. Serbia (dec.), no. 13920/04, 20 July 2009 - failure to comply with terms of a friendly settlement; application restored to the list.
- Council of Europe, Department for the Execution of Judgments, CM/Inf/DH(2021)15, Monitoring of the payment of sums awarded by way of just satisfaction: payment means placement of the sum at the beneficiary's disposal; default interest runs until such availability where payment is late.
- Rules of the Committee of Ministers for supervision of execution, Rule 9.1 - applicant communications concerning payment of just satisfaction and individual measures.
- Council of Europe, Department for the Execution of Judgments, Frequently Asked Questions concerning just satisfaction - payment terms are binding and money must be made available to the applicant.

B. Prawo polskie / Polish law

- Kodeks postępowania cywilnego, art. 831 § 1 pkt 8 - wyłączenie spod egzekucji sum przyznanych orzeczeniem ETPC, gdy egzekwowana wierzytelność przysługuje Skarbowi Państwa.
- Kodeks postępowania cywilnego, art. 743 § 1 oraz przepisy o wykonaniu zabezpieczenia; Kodeks postępowania karnego, art. 292 § 1 - znaczenie reguł egzekucyjnych dla wykonania zabezpieczenia majątkowego.