

## Poland

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| Membership to the Council of Europe  | 26 November 1991   |
| Entry into force of the European Convention on Human Rights                                    | 19 January 1993  |
| First case under supervision of execution  | <b>Belziuk</b> (23103/93)<br>Judgment final on 25 March 1998 |
| Total number of cases transmitted for supervision since the entry into force of the Convention | 1735   |
| Total number of cases closed by final resolution   | 1646   |

### MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION\*

#### > Actions of security forces – specific situations

**Secret “rendition” operation to CIA agents:** secret detention and ill-treatment of two persons in a CIA facility under US authority in Poland and their transfer from Poland to the USA despite the risk of a denial of justice before US military commissions using evidence obtained under torture and the risk of death penalty.

**Al Nashiri** (28761/11)  
**Husayn (abu Zubaydah)** (7511/13)  
Judgments final on 16/02/2015

**Status of execution**  
Enhanced supervision

#### > Lawfulness of detention and related issues

**Unlawful deprivation of liberty of a juvenile** in correctional proceedings without specific court order and adequate judicial review.

**Grabowski** (57722/12)  
Judgment final on 30/09/2015

**Status of execution**  
Enhanced supervision

#### > Length of judicial proceedings

**Excessive length of civil and criminal proceedings** and lack of an effective remedy, principally on account of:

- **the domestic courts’ failure to take into account the entirety of proceedings** when evaluating their duration;
- **disproportionately low amounts of compensation** awarded by domestic courts.

**Bqk group** (7870/04)  
Judgment final on 16/04/2007

**Majewski group** (52690/99)  
Judgment final on 11/01/2006

**Rutkowski and Others** (72287/10+)  
Judgment final on 07/10/2015

**Status of execution**  
Enhanced supervision

**Excessive length of proceedings before administrative bodies and courts.**  
Absence of an effective remedy.

**Beller group** (51837/99)  
Judgment final on 06/06/2005

**Status of execution**  
Enhanced supervision

\* Detailed information concerning the Committee of Ministers’ supervision of the execution of judgments and decisions of the European Court of Human Rights, notably the distinction between enhanced and standard supervision, are available on [the website of the Department for the Execution of Judgments](#).

> **Respect for private life - abortion and procreation**

**Lack of effective access to reliable information on the conditions and procedures for a lawful abortion;** unwarranted disclosure of personal data to the public by the hospital eventually carrying out lawful abortions and unjustified detention in a juvenile shelter to convince not to abort.

***P. and S.*** (57375/08)  
Judgment final on 30/01/2013

**Status of execution**  
Enhanced supervision

**Absence of an adequate legal framework** for the exercise of the right to therapeutic abortion in the event of disagreement between the patient and the specialist doctor.

***Tysięc*** group (5410/03)  
Judgment final on 24/09/2007

**Status of execution**  
Enhanced supervision

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

## &gt; Protection against ill-treatment

**Reform of the legal framework governing police officers' powers** with regard to measures of direct coercion and firearms in 2013 and organisation of training activities devised in the 2013-2015 Police Strategy for the development of the human rights protection system.

An Ordinance on medical examinations of persons apprehended by the Police was issued by the Minister of Internal Affairs in 2012. Guidelines of the Prosecutor General 2014 covered the conduct of proceedings into crimes resulting in deprivation of liberty or ill-treatment caused by police officers or public officers. A special body within the Ombudsman's office competent to examine complaints on police and other services' actions was created.

*Dzwonkowski* group (46702/99+)  
Judgment final on 12/07/2007

Final Resolution  
CM/ResDH(2016)148

## &gt; Conditions of detention

**The scope and responsibility of competent authorities for the provision of health care in prisons** was clarified in several Regulations on health care services in prisons (2010-2016). **Infrastructure to ensure better sanitary and living conditions in prisons** was improved, in particular for special groups of inmates (e.g. disabled persons, pregnant women...).

**Decrease of the occupancy rates in penitentiary institutions:** reinforcement of the legal framework on the minimum accommodation area per detainee; and creation of new accommodation units.

*Kaprykowski* group (23052/05)  
Judgment final on 03/05/2009

Final Resolution  
CM/ResDH(2016)278

*Orchowski* group (17885/04)  
Judgment final on 22/01/2010

Final Resolution  
CM/ResDH(2016)254

## &gt; Lawfulness of detention and related issues

**Extensive reforms (2000-2014) limiting recourse to detention on remand** and its duration and providing adequate possibilities for appealing detention decisions.

**The prevention of unjustified delays in release** was addressed in the 2015 Ordinance of the Minister of Justice on Administrative Acts concerning Execution of Pre-Trial Detention and Sentences. The new Code of Criminal Procedure 2015 reinforced the obligation to promptly bring before a court a person detained on the basis of a warrant, unless the prosecutor repeals the detention on remand or substitutes it with a non-custodial preventive measure.

**Reform in the Code of Criminal Procedure 2009 of the right to access case-files in proceedings concerning detention on remand.** In preparatory proceedings, the accused and his defence have access to evidence referred to in a motion to apply or prolong detention on remand.

*Trzaska* group (25792/94+)  
Judgment final on 11/07/2000

Final Resolution  
CM/ResDH(2014)268

*Ladent* group (11036/03+)  
Judgment final on 18/06/2008

Final Resolution  
CM/ResDH(2016)32

*Chruściński* (22755/04)  
Judgment final on 06/02/2008

Final Resolution  
CM/ResDH(2011)142

\*\* This section may also include certain major reforms already implemented in the context of cases still pending.

For a thorough overview of reforms adopted since the entry into force of Protocol No. 11 in 1998 see the [Annual Report 2015](#), Part IV "Main achievements". As regards the period 1959-1998, see the overview provided by the European Court in its special publication "Survey : 40 years of activity", section IV "Effects of judgments and decisions" – both documents, together with a number of additional ones, are available also on the website of the Department for the Execution of Judgments of the European Court of Human Rights.

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

**The right to compensation in case of unlawful detention** was inserted in the Civil Code as amended in 2004.

**Bruczyński** (19206/03)  
Judgment final on 04/02/2009

Final Resolution  
CM/ResDH(2012)43

**Monitoring of detainees' correspondence was regulated** and an effective remedy in case of a breach of privacy introduced. The Code of Execution of Criminal Sentences was amended in 2009 to eliminate arbitrariness and lacking appeal possibilities in case of refusals of family visits for detainees.

**Klamecki** group (31583/96+)  
Judgment final on 03/04/2003

Final Resolution  
CM/ResDH(2013)228

**Elimination of the automatic application of the "dangerous detainee" status** to certain categories of detainees in the Code of Execution of Criminal Sentences as amended in 2015, allowing for more flexibility, also with regard to restrictions resulting from the regime's application. Organisational and awareness-raising measures ensure a meaningful application and review of the regime by the Penitentiary Commissions and courts.

**Horych** group (13621/08+)  
Judgment final on 17/07/2012

Final Resolution  
CM/ResDH(2016)128

**The monitoring of detainees' behaviour in justified cases was made possible in 2009** to increase security and effective prevention of suicides, based on medical reasons or the need to ensure their security. Appeals against these decisions can be brought before courts. Monitoring of extraordinary incidents and extensive awareness-raising was ensured.

**Jasińska** (28326/05)  
Judgment final on 01/09/2010

Final Resolution  
CM/ResDH(2014)27

**Judicial review of the lawfulness of a placement in a social care home / legal standing in incapacity proceedings.** The Mental Health Protection Act as amended in 2018 provides for an obligation of periodic mental health examination of a person admitted to a social care home at least every 6 months as well as for a right to appeal against a decision on compulsory placement. An amendment of the Code of Civil Procedure in 2007 provided for legally capacitated persons an independent legal standing in the respective proceedings.

**Kedzior** group (45026/07)  
Judgment final on 16/01/2013

Final Resolution  
CM/ResDH(2018)228

## &gt; Fairness of judicial proceedings

**Improvement of the court fees system in civil proceedings** following the adoption of a new Law on Court Costs 2006, extending the possibilities to be exempted from such fees.

**Kreuz No. 1** group (28249/95+)  
Judgment final on 19/06/2001

Final Resolution  
CM/ResDH(2011)67

**The legal aid system was reformed** in the Code of Civil Procedure in 2010; if a request for legal aid is lodged for the first time in appellate or cassation proceedings, the appellate or cassation court can either grant the request or refer it for re-examination to the first-instance court.

**Tabor** group (12825/02+)  
Judgment final on 27/09/2006

Final Resolution  
CM/ResDH(2011)239

**The rules of appointment of a defence counsel were amended** in the Code of Criminal Procedure in 2015, including prerequisites for the mandatory defence and rules governing the appointment process, granting effective access to a lawyer at the initial stages of the proceedings.

**Plonka** (20310/02)  
Judgment final on 30/06/2009

Final Resolution  
CM/ResDH(2015)235

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

**Fairness of lustration proceedings was improved** in the Lustration Act 2006, notably proceedings aimed at exposing persons having worked for or collaborated with the State's security services during the communist period. Rules concerning access to classified information were amended. A new Minister of Justice Ordinance 2012 addressed the use of classified materials in the criminal proceedings.

*Matyjek* group (38184/03+)  
Judgment final on 24/09/2007

Final Resolution  
CM/ResDH(2014)172

## &gt; Excessive length of administrative proceedings

**Abolition of the practice of remittals after annulment of administrative decisions** by the 2015 amendment of the Law on proceedings before administrative courts and enhanced supervision by regional court presidents and the Bureau of the Case-law of the Supreme Administrative Court.

*Fuchs* group (33870/96)  
Judgment final on 11/05/2003

Final Resolution  
CM/ResDH(2016)359

## &gt; Protection of private and family life

**Presumed fathers may bring actions to establish paternity directly before courts** according to the Family and Guardianship Code amendments of 2004. Amendment to the Family Code introducing conditions for a prosecutor to initiate proceedings concerning paternity.

*Różański* (55339/00)  
Judgment final on 18/08/2006

Final Resolution  
CM/ResDH(2015)209

**The execution of the child contact orders was regulated** in detail in the Code of Civil Procedure as amended in 2011.

*Pawlik* group (11638/02+)  
Judgment final on 19/09/2007

Final Resolution  
CM/ResDH(2014)295

## &gt; Freedom of assembly and association

**The right to appeal against a ban on an assembly** was introduced in the new Assemblies Act 2015. Such appeal may be introduced before a regional court and the decision is to be issued before the planned assembly.

*Baczkowski and Others* (1543/06)  
Judgment final on 24/09/2007

Final Resolution  
CM/ResDH(2015)234

## &gt; Protection of property rights

**Setting up, in 2005, of a new compensation scheme for property abandoned after World War II in areas beyond the present borders of Poland**, to replace the old defective compensation system. Compensation was set at 20% of the properties' original value; claimants could seek pecuniary and non-pecuniary damages caused by the defective operation of the earlier scheme.

*Broniowski* (31443/96)  
Judgment final on 22/06/2004

Final Resolution  
CM/ResDH(2009)89

**Revocation in 2005 of rent control regulations restricting landlords' rights.** Extensive legislative reform on housing between 2005 and 2010 included possibilities for rent increases based on a system monitoring the levels of rent, lease contracts based on a freely determined rent ("occasional lease") and funding for social accommodation. It also enabled landlords to recover losses incurred with regard to maintenance.

*Hutten-Czapska* (35014/97)  
Judgment final on 19/06/2006

Final Resolution  
CM/ResDH(2016)259

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

## &gt; Protection against discrimination

**Abolition of the required minimum threshold of three interested pupils for the organisation of ethic classes** in 2014 through the Ordinance on the organisation of religious instruction in State pre-schools and schools of 1992, thereby granting each single pupil the possibility to participate in such class.

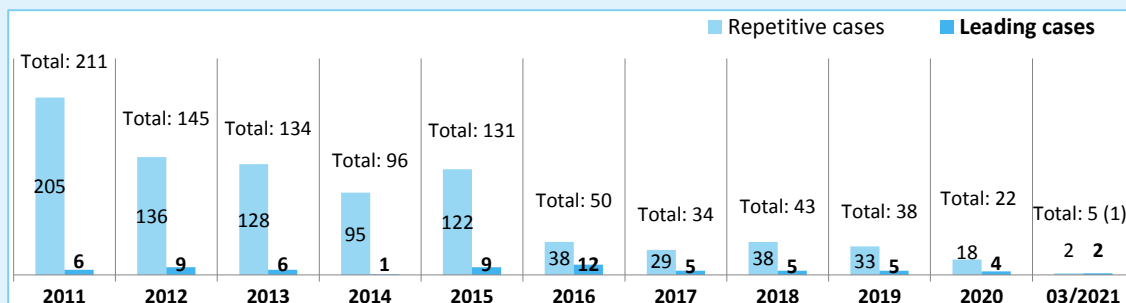
*Grzelak* (7710/02)  
Judgment final on 22/11/2010

**Final Resolution**  
**CM/ResDH(2014)85**

## STATISTICS\*\*\*

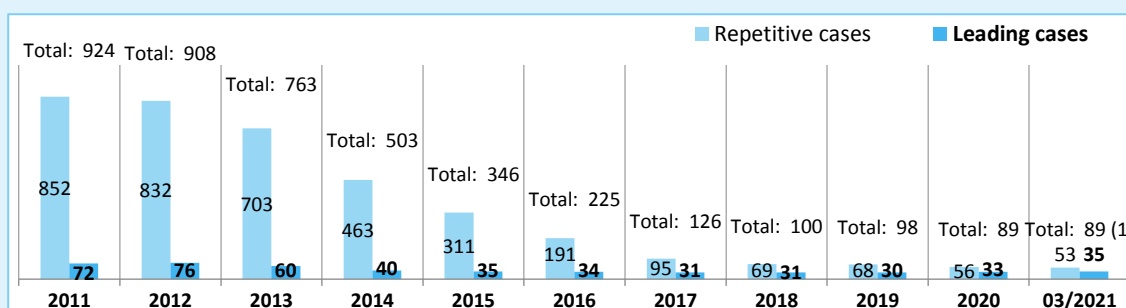
### New cases

(judgments transmitted for supervision of their execution during the year)



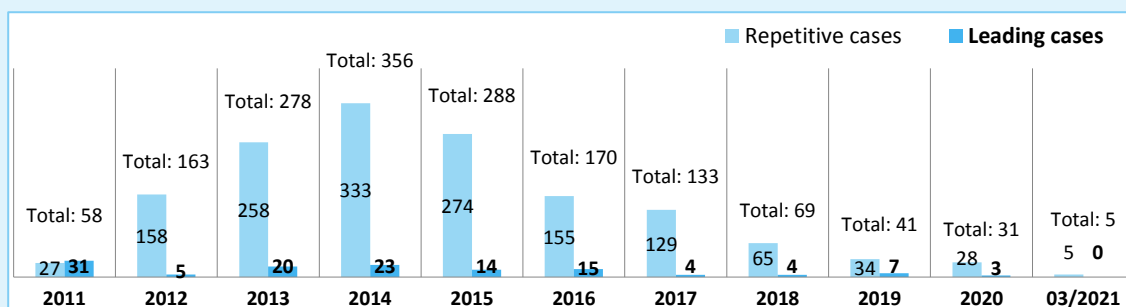
Figures bracketed correspond to the number of cases not yet classified as leading or repetitive, but they are taken into account in the total number of new cases.

### Pending cases

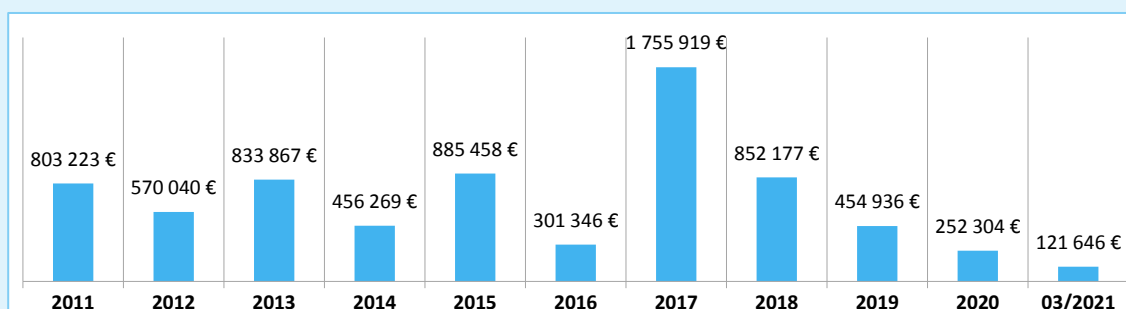


Figures bracketed correspond to the number of cases not yet classified as leading or repetitive, but they are taken into account in the total number of pending cases.

### Cases closed by final resolution



### Just satisfaction awarded by the European Court



\*\*\* Detailed statistics are available in the [annual reports](#) of the Committee of Ministers. Figures are reported as they appear in the annual report for each year.