

Poland

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

➔ *Actions of security forces and effective investigations*

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

Enhanced supervision
Status of execution

Excessive use of force by the Police during the applicants’ arrest in February 2015 and ineffective investigation in the circumstances of this incident.

Kuchta and Mętel (76813/16)
 Judgment final on 02/12/2021

Enhanced supervision
Status of execution

Expulsion on national security grounds based on not disclosed classified information.

Poklikayew (1103/16)
 Judgment final on 06/11/2023

Enhanced supervision
Status of execution

➔ *Degrading treatment*

Refusal of border guards to receive asylum application and summary removal to a third country with a risk of refoulement to and ill-treatment in the country of origin. Collective expulsion of aliens in a wider state policy of refusing entry to foreigners coming from Belarus. Lack of effective remedy with a suspensive effect. Non-compliance with interim measures under Rule 39.

M.K. and Others (40503/17)
 Judgment final on 14/12/2020

Enhanced supervision
Status of execution

➔ *Functioning of justice - tribunal established by law*

Tribunal not established by law due to the participation in of an irregularly appointed judge of the Constitutional Court in a panel that rejected the applicant’s company constitutional complaint.

Xero Flor w Polsce sp. z o.o.
 (4907/18)
 Judgment final on 07/08/2021

Enhanced supervision
Status of execution

Tribunal not established by law due to the fact that the judges of the various chambers in the Supreme Court that dealt with the applicants’ cases were appointed “in an inherently deficient procedure” on the motion of the National Council of the Judiciary lacking independence from the legislature and the executive.

Reczkowicz group (43447/19)
 Judgment final on 22/11/2021

Enhanced supervision
Status of execution

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

Functioning of justice - access to a court

Lack of access to a court to challenge premature termination of the terms of office of vice-presidents of a regional court, dismissed on the basis of temporary legislation, providing no safeguards against arbitrariness.

Broda and Bojara (26691/18)
Judgment final on 29/09/2021

Enhanced supervision
Status of execution

Lack of access to a court to challenge premature *ex lege* termination of the mandate of a judicial member of the National Council of the Judiciary.

Grzęda (43572/18)
Judgment final on 15/03/2022

Enhanced supervision
Status of execution

Refusal to authorise continuation of judicial duties after reaching retirement age without providing reasons and without judicial review.

Pajk (25226/16)
Judgment final on 24/01/2024

Enhanced supervision
Status of execution

Functioning of justice – non-enforcement of final judgments

Reversal of a final judgment in the procedure incompatible with principle of legal certainty and by a body not complying with the requirement of a court established by law.

Wałęsa (50849/21)
Judgment final on 23/02/2024

Enhanced supervision
Status of execution

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

Enhanced supervision
Status of execution

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

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

Enhanced supervision
Status of execution

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

Enhanced supervision
Status of execution

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.

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

Enhanced supervision

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

	Status of execution
Restriction of grounds for lawful abortion based on the judgment of the Constitutional Court not complying with the rule of law.	M.L. (40119/21) Judgment final on 14/03/2024 Enhanced supervision Status of execution

Disciplinary and other measures applied against judges

Application of measures against a judge , judicial member and spokesperson of National Council of the Judiciary, in connection with his views expressed in defence of the rule of law and judicial independence.	Żurek (39650/18) Judgment final on 10/10/2022 Enhanced supervision Status of execution
Suspension of a judge from exercising judicial duties within disciplinary procedure on manifestly unreasonable and unforeseeable grounds applied by a body which was not a tribunal established by law.	Juszczyszyn (35599/20) Judgment final on 30/01/2023 Enhanced supervision Status of execution
Lifting of judicial immunity by a body that cannot be considered an independent and impartial tribunal established by law, that together with disciplinary inquiries into the applicant requesting preliminary ruling from the Court of Justice of the EU and participating in public meetings and TV programmes affected his private life and freedom of expression	Tuleya (21181/19) Judgment final on 06/10/2023 Enhanced supervision Status of execution

Respect for private life – recognition of same-sex relationship

Lack of formal recognition of same-sex relationship.	Przybyszewska and Others (11454/17) Judgment final on 12/03/2024 Enhanced supervision Status of execution
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Respect for private life – secret surveillance

Disclosure of a recording of telephone conversation and retention of data obtained during a covert surveillance operation.	Kaczmarek (16974/14) Judgment final on 22/05/2024 Enhanced supervision Status of execution
Insufficient guarantees against arbitrariness and abuse as regards secret surveillance, retention and access to communications data.	Pietrzak and Bychawska-Siniarska (72038/17) Judgment final on 28/08/2024 Enhanced supervision Status of execution