

The European Court of Human Rights and life imprisonment¹

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Abstract

This paper is focused on analysing and discussing the standards established by the European Court of Human Rights (ECtHR) concerning prisoners serving life sentences. The article begins by outlining the general standards for implementing life imprisonment established over the years by the ECtHR, based on complaints from life-sentenced prisoners across all Council of Europe countries. In the second part, the article examines 23 specific cases of Polish prisoners serving life sentences who have lodged complaints against Poland. The analysis addresses the causes of violations of specific articles of the European Convention on Human Rights (ECHR) and considers the number of damages awarded under Article 41 of the ECHR, as well as the length of time the Court took to process complaints from Polish prisoners serving life sentences.

Keywords: life imprisonment, human rights, European Court of Human Rights, European Convention on Human Rights, life-sentenced prisoners.

¹ This article is the result of research that has been done as part of a PhD thesis titled *The Execution of Long-Term Prison Sentences*, for a chapter focusing on European standards for the treatment of long-term prisoners. The theorems contained in the text will also be presented in a broader context (supplemented with additional data) in a forthcoming monograph scheduled for 2025, A. Polak-Kruszyk, *Wykonywanie długoterminowych kar pozbawienia wolności*.

1. Introduction

The European Convention on Human Rights (ECHR or Convention) is an important international treaty, signed on 4 November 1950 in Rome. It came into effect in 1953 and has been ratified by all 46 member states of the Council of Europe.² This Convention ensures the most basic human rights and freedoms for every citizen from the member states within their jurisdiction. The European Court of Human Rights (ECtHR or Court) is specialized legal institution of the Council of Europe that has the authority to adjudicate on individual or state applications claiming violations of the rights specified in the ECHR. This Court has addressed numerous cases involving local and regional authorities. The ECtHR's judgments elaborate on the rights outlined in the Convention and impact the development of human rights protection standards in Europe. The standards for the treatment of prisoners, as established by the judgments of the ECtHR, are formulated after reviewing individual complaints lodged by prisoners under Article 34 of the ECHR.

The Convention's impact on national law appears to be partly attributed to the Court's authoritative role and the interpretative mechanisms and techniques it has developed in its case law. The Court's jurisdiction covers all matters related to the interpretation and application of the Convention.³ National courts often reference the ECtHR's case law, and their argumentation in fundamental rights cases increasingly corresponds with the standards established by the Court. Thus, the impact of the Court's rulings on the Polish criminal justice system, particularly the penitentiary system, is significant.⁴ In recent years, the ECtHR has shown growing concern regarding the treatment of sentenced prisoners

² European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, amended by Protocols nos. 3, 5, and 8, and supplemented with Protocol no. 2, Journal of Laws of 1993 no. 61, item 284.

³ J. Gerards, J. Fleuren, *Implementation of the European Convention on Human Rights and of the Judgments of the ECtHR in National Case Law. A Comparative Analysis*, 2014, pp. 1–2, <https://www.corteidh.or.cr/tablas/29815-1.pdf> (accessed: 14.06.2024).

⁴ A. Kwieciński, "Przegląd orzecznictwa Europejskiego Trybunału Praw Człowieka w sprawach polskich z zakresu prawa karnego wykonawczego," *Przegląd Prawa i Administracji* 120, 2020, no. 2, pp. 131–132.

serving life imprisonment, especially concerning the review of the length of sentence and the possibility of its reduction.⁵

Scholars argue that the right to individual complaint is the most important legal instrument for safeguarding the rights of individuals who allege violations of their freedoms guaranteed by the European Convention.⁶ The purpose of this study is to present the standards for the treatment of life-sentenced prisoners based on ECtHR judgments. The judicates referenced below were searched for in the HUDOC⁷ database of the European Court and on Polish government websites.⁸

The first part outlines the general standards for implementing life imprisonment established by the Court over the years, based on complaints from prisoners serving life sentences against all countries of the Council of Europe. The second part examines 23 cases of Polish inmates serving life sentences who lodged complaints against Poland. This analysis examines the reasons for violations of specific articles of the Convention, while also considering the number of damages awarded under Article 41 of the ECHR and the time taken by the Court to process complaints from Polish prisoners serving life imprisonment.

2. Life-sentenced prisoners across all Council of Europe states

Life-sentenced prisoners are a category of prisoners to which the ECtHR has paid special attention. This focus has resulted in the

⁵ Judgment of the ECtHR, 12 February 2008, case of *Kafkaris v Cyprus*, (Application no. 21906/04); Judgment of the ECtHR, 9 July 2013, case of *Vinter and others v UK* (Applications nos. 66069/09, 130/10 and 3896/10); both cases were adjudicated by the Grand Chamber of the ECtHR and have been designated as *key cases*, meaning they are among the most significant cases handled by the Court.

⁶ B. Gronowska, “Skuteczność prawa do skargi do Europejskiego Trybunału Praw Człowieka w toku postępowania karnego oraz w warunkach izolacji więziennej,” *Ius novum* 10, 2016, no. 4, pp. 52–53.

⁷ European Court of Human Rights, *HUDOC*, <https://hudoc.echr.coe.int/eng> (accessed: 21.06.2024).

⁸ *Orzecznictwo Europejskiego Trybunału Praw Człowieka*, <https://etpcz.ms.gov.pl/>; <https://arch-bip.ms.gov.pl/pl/prawa-czlowieka/europejski-trybunal-praw-czlowieka/orzecznictwo-europejskiego-trybunalu-praw-czlowieka/> and <https://www.gov.pl/web/sprawliwosc/etpcz> (accessed: 21.06.2024).

development of specific guidelines for the execution of this penalty. Regarding cases involving life-sentenced prisoners across all Council of Europe states, the following standards should be highlighted:

1) Life-sentenced prisoners should not be subject to any specific restrictions that are unnecessary for maintaining order, security, and discipline within the prison. The level of security measures applied should be proportional to each individual's risk. They should not be routinely segregated from other sentenced prisoners and must be provided with appropriate material conditions, activities, and human interaction on the same grounds as the general prison population.⁹

2) It is crucial that every person sentenced has the possibility to apply for conditional release after serving a certain minimum of their sentence. In its legal rulings, the ECtHR has established that sentences in the form of a “whole life sentence” without any possibility of reduction violate Article 3 of the ECHR.¹⁰ What is more, the Court maintains that imprisoning a person for life without any real prospect of release is, in its view, inhuman. Two fundamental rights stem from the Court's jurisprudence: there must be both a prospect of release for the prisoner and a possibility of review.¹¹

3) According to the ECtHR's case law, the purpose of a life sentence should not be solely to isolate individuals, but also to prepare them for eventual reintegration into society.¹²

⁹ Judgment of the ECtHR, 15 July 2002, case of *Kalashnikov v Russia* (Application no. 47095/99), §§ 93–95; Judgment of the ECtHR, 2 June 2005, case of *Novoselov v Russia* (Application no. 66460/01); Judgment of the ECtHR, 19 April 2001, case of *Peers v Greece* (Application no. 28524/95).

¹⁰ Judgment of the ECtHR, 20 May 2014, case of *László Magyar v Hungary* (Application no. 73593/10); Judgment of the ECtHR, 15 September 2015 (final: 15 December 2015), case of *Kaytan v Turkey* (Application no. 27422/05); Judgment of the ECtHR, 26 April 2016, case of *Murray v Netherlands* (Application no. 10511/10); Judgment of the ECtHR, 13 March 2019 (final: 9 September 2019), case of *Petukhov v Ukraine* (Application no. 41216/13); Judgment of the ECtHR, 13 June 2019, case of *Marcello Viola v Italy* (Application no. 77633/16).

¹¹ Judgment of the ECtHR, 12 February 2008, case of *Kafkaris v Cyprus* (Application no. 21906/04); Judgment of the ECtHR, 9 July 2013, case of *Vinter and Others v UK* (Applications nos. 66069/09, 130/10, and 3896/10).

¹² Judgment of the ECtHR, 13 June 2019, case of *Marcello Viola v Italy* (Application no. 77633/16).

4) The Court notes that applying high-security regimes, such as solitary confinement or the so-called “dangerous prisoners’ regime,” to life-sentenced prisoners—regimes that involve a single cell, constant monitoring, and increased supervision of the prisoner’s movement within and outside the facility—must be exceptional and used only in justified cases.¹³ An analysis of ECtHR case law shows that the prison administration must fully justify the continuation of such a regime.¹⁴ The Court has considered the prolonged use of such restricted conditions in closed prisons to be inhumane.¹⁵

5) The possibility of imposing life imprisonment on the accused cannot justify an excessive length of pre-trial custody. The Court has repeatedly held that the seriousness of the charges cannot, by itself, justify long periods of pre-trial detention; the authorities must provide relevant and sufficient reasons for any further extensions.¹⁶ Additionally, the ECtHR emphasizes that the duration of criminal proceedings against life-sentenced prisoners must not exceed a reasonable time.¹⁷

6) The ECtHR considers the importance of maintaining family contact for life-imprisoned prisoners to be indisputable. National authorities are obligated to prevent the breakdown of family ties and to ensure that life-sentenced prisoners have a reasonably good level of contact with the outside world and their families, organizing visits as frequently as possible. Prohibiting visits or telephone calls for life-sentenced prisoners constitutes a violation of Article 8 of the ECHR.¹⁸

¹³ Judgment of the ECtHR, 2 June 2020, case of *N.T. v Russia* (Application no. 14727/11).

¹⁴ Judgment of the ECtHR, 7 January 2010, case of *Onoufriou v Cyprus* (Application no. 24407/04); Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Decision of the ECtHR, 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13).

¹⁵ Judgment of the ECtHR, 4 November 2014 (final: 4 February 2015), case of *Manolov v Bulgaria* (Application no. 23810/05).

¹⁶ Judgment of the ECtHR, 13 March 2019 (final: 9 September 2019), case of *Petukhov v Ukraine* (Application no. 41216/13).

¹⁷ Judgment of the ECtHR, 26 July 2001, case of *Ilijkov v Bulgaria* (Application no. 33977/96).

¹⁸ Judgment of the ECtHR, 30 June 2015, case of *Khoroshenko v Russia* (Application no. 41418/04); Judgment of the ECtHR, 19 October 2021, case of *Danilevich v Russia* (Application no. 31469/08).

3. Polish prisoners sentenced to life imprisonment and the ECtHR

Regarding the complaints from Polish prisoners serving life sentences, it is important to highlight that there have been 23 such cases.¹⁹ The purpose of this analysis is to examine the most common arguments in the ECtHR's judicial decisions and to elucidate the Court's standards on this issue. Furthermore, this section of the article discusses the overall duration of proceedings at the ECtHR and the compensation amounts awarded by the Court under Article 41 of the ECHR.

¹⁹ Judgment of the ECtHR, 25 April 2006 (final: 25 July 2006), case of *Golek v Poland* (Application no. 31330/02); Judgment of the ECtHR, 4 March 2008 (final: 4 June 2008), case of *Hołowczak v Poland* (Application no. 25413/04); Judgment of the ECtHR, 1 July 2008 (final: 1 October 2008), case of *Kowalczyk v Poland* (Application no. 44131/05); Decision of the ECtHR, 11 May 2010, case of *Chmiel v Poland* (Application no. 39620/08); Judgment of the ECtHR, 1 June 2010, case of *Bieniek v Poland* (Application no. 46117/07); Judgment of the ECtHR, 22 February 2011 (final: 22 May 2011), case of *Raducki v Poland* (Application no. 10274/08); Decision of the ECtHR, 8 March 2011, case of *Kuźlak v Poland* (Application no. 6484/08); Decision of the ECtHR, 5 July 2011, case of *Jordan v Poland* (Application no. 59320/09); Judgment of the ECtHR, 3 May 2011 (final: 3 August 2011), case of *Bielski v Poland and Germany* (Application no. 18120/03); Decision of the ECtHR, 29 November 2011, case of *Gawel v Poland* (Application no. 33635/11); Judgment of the ECtHR, 21 February 2012 (final: 21 May 2012), case of *Ruprecht v Poland* (Application no. 39912/06); Decision of the ECtHR, 11 December 2012, case of *Ciesielski v Poland* (Application no. 76536/11); Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Decision of the ECtHR, 16 June 2015, case of *Sobala v Poland* (Application no. 36615/09); Decision of the ECtHR, 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13); Decision of the ECtHR, 22 September 2015, case of *Stabosz v Poland* (Application no. 26802/13); Decision of the ECtHR, 13 October 2015, case of *Zalewski v Poland* (Application no. 53674/12); Decision of the ECtHR, 15 December 2015, case of *Chechłacz v Poland* (Application no. 43898/14); Decision of the ECtHR, 8 March 2016, case of *Soliński v Poland* (Application no. 59085/14); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02); Decision of the ECtHR, 27 June 2017, case of *Chowaniec v Poland* (Application no. 54952/14); Decision of the ECtHR, 17 October 2017, case of *Dudek v Poland* (Application no. 20811/15); Judgment of the ECtHR, 4 June 2020, case of *Labudek v Poland* (Application no. 37245/13).

The Court's rulings were issued between 2006 and 2020, with the earliest case filed in 2000²⁰ and the most recent in 2015.²¹ Agreements with the Polish government were reached in 15²² out of 23 cases. It is noteworthy that in 14 cases, the complaints concluded under Article 39 of the ECHR, meaning they were resolved through a decision following the Court's approval of a settlement with the Polish government. The *Klibisz v Poland* case was the longest pending complaint among those reviewed here. It was initiated in 2000 and awaited a decision for nearly 16 years, with the judgment issued on 4 October 2016, and the final judgment on 4 January 2017.²³ The most recent complaint involving a Polish prisoner sentenced to life imprisonment was concluded in 2020 (*Łabudek v Poland*)²⁴ and in this case, the proceedings lasted seven years (the complaint was filed in 2013).

²⁰ Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

²¹ Decision of the ECtHR, 17 October 2017, case of *Dudek v Poland* (Application no. 20811/15)

²² Decision of the ECtHR, 11 May 2010, case of *Chmiel v Poland* (Application no. 39620/08); Decision of the ECtHR, 8 March 2011, case of *Kuźlak v Poland* (Application no. 6484/08); Decision of the ECtHR, 5 July 2011, case of *Jordan v Poland* (Application no. 59320/09); Decision of the ECtHR, 29 November 2011, case of *Gawel v Poland* (Application no. 33635/11); Decision of the ECtHR, 11 December 2012, case of *Ciesielski v Poland* (Application no. 76536/11); Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Decision of the ECtHR, 16 June 2015, case of *Sobala v Poland* (Application no. 36615/09); Decision of the ECtHR, 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13); Decision of the ECtHR, 22 September 2015, case of *Ślabosz v Poland* (Application no. 26802/13); Decision of the ECtHR, 13 October 2015, case of *Załęski v Poland* (Application no. 53674/12); Decision of the ECtHR, 15 December 2015, case of *Chechlacz v Poland* (Application no. 43898/14); Decision of the ECtHR, 8 March 2016, case of *Soliński v Poland* (Application no. 59085/14); Decision of the ECtHR, 27 June 2017, case of *Chowaniec v Poland* (Application no. 54952/14); Decision of the ECtHR, 17 October 2017, case of *Dudek v Poland* (Application no. 20811/15); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

²³ Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

²⁴ Judgment of the ECtHR, 4 June 2020, case of *Łabudek v Poland* (Application no. 37245/13).

Furthermore, according to the data from Table 1, the average duration of proceedings for complaints from Polish convicts serving life imprisonment was three years and eight months.

Table 1. The duration of complaint processing for Polish prisoners at the ECtHR

Case	Date of submitting the complaint	Date of the ECtHR's decisions and judgments	Final decision or judgment	Length of time taken to process the complaint
<i>Case of Gawel v Poland</i>	7.04.2011	29.11.2011	—	7 months
<i>Case of Ciesielski v Poland</i>	30.11.2011	11.12.2012	—	1 year and 1 month
<i>Case of Soliński v Poland</i>	2.10.2014	8.03.2016	—	1 year and 5 months
<i>Case of Chechłacz v Poland</i>	27.05.2014	15.12.2015	—	1 year and 6 months
<i>Case of Chmiel v Poland</i>	11.08.2008	11.05.2010	—	1 year and 9 months
<i>Case of Jordan v Poland</i>	2.11.2009	5.07.2011	—	1 year and 8 months
<i>Case of Nowak v Poland</i>	8.01.2013	2.07.2015	—	2 years and 5 months
<i>Case of Ślabosz v Poland</i>	15.04.2013	22.09.2015	—	2 years and 5 months
<i>Case of Dudek v Poland</i>	15.04.2015	17.10.2017	—	2 years and 6 months
<i>Case of Kowalczyk v Poland</i>	30.11.2005	1.07.2008	1.10.2008	2 years and 7 months
<i>Case of Bieniek v Poland</i>	6.10.2007	1.06.2010	—	2 years and 8 months
<i>Case of Chowaniec v Poland</i>	29.07.2014	27.06.2017	—	2 years and 11 months
<i>Case of Kuźlak v Poland</i>	29.01.2008	8.03.2011	—	3 years and 2 months
<i>Case of Raducki v Poland</i>	15.02.2008	22.02.2011	22.05.2011	3 years

Case of <i>Załęski v Poland</i>	13.08.2012	13.10.2015	—	3 years and 2 months
Case of <i>Golek v Poland</i>	3.08.2002	25.04.2006	25.07.2006	3 years and 9 months
Case of <i>Hołowczak v Poland</i>	15.06.2004	4.03.2008	4.06.2008	3 years and 9 months
Case of <i>Kwiek v Poland</i>	6.02.2011	10.02.2015	—	4 years
Case of <i>Ruprecht v Poland</i>	29.08.2006	21.02.2012	21.05.2012	5 years and 6 months
Case of <i>Sobala v Poland</i>	19.06.2009	16.06.2015	—	6 years
Case of <i>Łabudek v Poland</i>	15.04.2013	4.06.2020	—	7 years and 1 month
Case of <i>Bielski v Poland</i>	15.05.2003	3.05.2011	3.08.2011	8 years
Case of <i>Klibisz v Poland</i>	14.12.2000	4.10.2016	4.01.2017	15 years and 11 months

Source: Compiled based on the analysis of ECtHR judgments published in the HUDOC database.

It should be noted that the highest number of complaints were registered between 2008 and 2014 (15 complaints). This is because there was a significant increase in complaints after 2008 followed by a decrease since 2014. This trend can be attributed to several crucial judgments issued by the Court in favour of Polish prisoners. In the case of *Kwiek v Poland*,²⁵ the applicant had an easier path to Strasbourg due to the precedents set by two well-known judgments in cases *Horych v Poland* and *Piechowicz v Poland*.²⁶

²⁵ Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11).

²⁶ Judgment of the ECtHR, 17 April 2012, case of *Horych v Poland* (Application no. 13621/08); Judgment of the ECtHR, 17 April 2012, case of *Piechowicz v Poland* (Application no. 20071/07).

Table 2. Violated articles of the ECHR (violations found by the Court or acknowledged by the Polish government)

The article of the ECHR that the Court found to have been violated	The right that was violated	Overall number of violations	Percentage in relation to all violations found by the Court	Percentage of all complaints lodged by Polish life-sentenced prisoners
Art. 3	Prohibition of torture	15	43%	65%
Art. 5(3)	Right to be brought promptly before a judge	11	34%	48%
Art. 6(1)	Right to a fair trial	6	19%	26%
Art. 10	Right to freedom of expression	1	3%	4%
Art. 13	Right to an effective remedy	2	6%	9%
Total:		35	100%	—

Source: Compiled based on analysis of ECtHR judgments published in the HUDOC database.

Table 2 shows that a total of 35 Convention violations were found in 23 cases. Most of these cases (15 violations) involved breaches of Article 3 of the ECHR, accounting for 65% of the complaints received by the Court from Polish prisoners sentenced to life imprisonment.

1) In eight cases,²⁷ a violation of the prohibition of torture was found on account of the overcrowding and the failure to provide adequate living conditions in prison.

²⁷ Decision of the ECtHR, 8 March 2011, case of *Kuźlak v Poland* (Application no. 6484/08); Decision of the ECtHR, 29 November 2011, case of *Gawel v Poland* (Application no. 33635/11); Decision of the ECtHR, 11 December 2012, case of *Ciesielski v Poland* (Application no. 76536/11); Decision of the ECtHR, 16 June 2015, case of *Sobala v Poland* (Application no. 36615/09); Decision of the ECtHR, 22 September 2015, case of *Slabosz v Poland* (Application no. 26802/13); Decision of the ECtHR, 13 October 2015, case of *Załęski v Poland* (Application no. 53674/12); Decision of the ECtHR,

2) The second reason for the violation of Article 3 of the Convention was the prolonged classification of life-sentenced prisoners as “dangerous” (eight cases).²⁸

In one case (*Sobala v Poland*), the Court found a violation of Article 3 ECHR on both grounds. What is more, the Polish prisoners serving life sentences who have been classified as “dangerous” for the longest periods of time were noted in the following cases:

1) *Kwiek v Poland*. The applicant spent 18 years in a maximum-security regime in a “ward for dangerous prisoners.” As a result, he received 9,000 EUR in damages.

2) *Chowaniec v Poland*. The applicant spent 16 years in a maximum-security regime in a “ward for dangerous prisoners.” As a result, he received 12,000 EUR in damages.

3) *Dudek v Poland*. The applicant spent 15 years in a maximum-security regime in a “ward for dangerous prisoners.” As a result, he received 12,000 EUR in damages.

4) *Sobala v Poland*. The applicant spent six years in a maximum-security regime in a “ward for dangerous prisoners.” As a result, he received 7,000 EUR in damages.

In all four cases,²⁹ the Polish government admitted to the violations and agreed to pay damages as specified in settlement agreements.

15 December 2015, case of *Chechłacz v Poland* (Application no. 43898/14); Decision of the ECtHR, 8 March 2016, case of *Soliński v Poland* (Application no. 59085/14).

²⁸ Judgment of the ECtHR, 22 February 2011 (final: 22 May 2011), case of *Raducki v Poland* (Application no. 10274/08); Judgment of the ECtHR, 21 February 2012 (final: 21 May 2012), case of *Ruprecht v Poland* (Application no. 39912/06); Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Decision of the ECtHR, 16 June 2015, case of *Sobala v Poland* (Application no. 36615/09); Decision of the ECtHR, 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02); Decision of the ECtHR, 27 June 2017, case of *Chowaniec v Poland* (Application no. 54952/14); Decision of the ECtHR, 17 October 2017, case of *Dudek v Poland* (Application no. 20811/15).

²⁹ Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Decision of the ECtHR, 16 June 2015, case of *Sobala v Poland* (Application no. 36615/09); Decision of the ECtHR, 27 June 2017, case of *Chowaniec v Poland* (Application no. 54952/14); Decision of the ECtHR, 17 October 2017, case of *Dudek v Poland* (Application no. 20811/15).

Article 5(3) of the ECHR was violated 11 times³⁰ because prisoners were held in pre-trial detention for an unjustifiably long period and the criminal proceedings took excessively long to complete. Violations of this article of the Convention account for 48% of the complaints filed by prisoners sentenced to life imprisonment. The longest periods of detention (from arrest to final conviction) were recorded in the following cases:

- 1) *Bielski v Poland*: seven years and ten months,
- 2) *Ruprecht v Poland*: seven years and eleven months,
- 3) *Raducki v Poland*: five years and three months.

In its judgments, the Court pointed out the defective nature of the justifications for decisions extending the applicants' detention. The domestic courts often repeated the wording of the decisions previously given, in which the main reason was the severity of the anticipated penalty and the commission of a crime within an organized criminal group. The Court has held that "the gravity of the charges cannot by itself serve to justify long periods of detention on remand."³¹

Article 6(1) of the ECHR was violated in six cases³² due to the failure to hear the cases within a reasonable time. In one case (*Nowak v Poland*),

³⁰ Judgment of the ECtHR, 25 April 2006 (final: 25 July 2006), case of *Golek v Poland* (Application no. 31330/02); Judgment of the ECtHR, 4 March 2008 (final: 4 June 2008), case of *Hołowczak v Poland* (Application no. 25413/04); Judgment of the ECtHR, 1 July 2008 (final: 1 October 2008), case of *Kowalczyk v Poland* (Application no. 44131/05); Decision of the ECtHR, 11 May 2010, case of *Chmiel v Poland* (Application no. 39620/08); Judgment of the ECtHR, 1 June 2010, case of *Bieniek v Poland* (Application no. 46117/07); Judgment of the ECtHR, 22 February 2011 (final: 22 May 2011), case of *Raducki v Poland* (Application no. 10274/08); Judgment of the ECtHR, 3 May 2011 (final: 3 August 2011), case of *Bielski v Poland and Germany* (Application no. 18120/03); Decision of the ECtHR, 5 July 2011, case of *Jordan v Poland* (Application no. 59320/09); Judgment of the ECtHR, 21 February 2012 (final: 21 May 2012), case of *Ruprecht v Poland* (Application no. 39912/06); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02); Judgment of the ECtHR, 4 June 2020, case of *Łabudek v Poland* (Application no. 37245/13).

³¹ Judgment of the ECtHR, 4 June 2020, case of *Łabudek v Poland* (Application no. 37245/13).

³² Judgment of the ECtHR, 4 March 2008 (final: 4 June 2008), case of *Hołowczak v Poland* (Application no. 25413/04); Judgment of the ECtHR, 1 July 2008 (final: 1 October 2008), case of *Kowalczyk v Poland* (Application no. 44131/05); Decision of the

the Court found that the proceedings to maintain the “dangerous” prisoner status were unfairly conducted, even though the applicant had repeatedly challenged the decision under Article 7 of the Polish Executive Penal Code.³³

Article 10 of the ECHR was violated in one instance only,³⁴ which concerned limitations on the complainant’s freedom to communicate with fellow inmates. In the case of *Klibisz v Poland*, the applicant claimed that prison authorities harassed him for sharing information about ECHR case law and for assisting other inmates in drafting legal motions and complaints.

Article 13 of the ECHR was violated in two cases.³⁵ These violations occurred due to the absence of an effective remedy to challenge the Penitentiary Commission’s decision to extend the strict status of a “dangerous” prisoner, as seen in the cases of *Kwiek v Poland* and *Nowak v Poland*.

Considering judgments that found violations of Article 3 of the ECHR, it should be pointed out that three cases³⁶ cumulatively found violations of other provisions of the Convention. Alongside the prohibition of torture, the Court found violations of the detainee’s right to be brought promptly before a judge and tried within a reasonable time (Article 5(3) ECHR), the right to a fair trial (Article 6(1) ECHR), and the right to an effective remedy (Article 13 ECHR).

ECtHR, 5 July 2011, case of *Jordan v Poland* (Application no. 59320/09); Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

³³ Act of 6 June 1997, The Executive Penal Code, Journal of Laws of 2024, item 706.

³⁴ Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

³⁵ Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Decision of the ECtHR, 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13).

³⁶ Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Decision of the ECtHR, 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

It should also be noted that in judgments that found violations of Article 5(3) of the ECHR, cumulative violations of other Convention provisions were identified in four cases.³⁷ In addition to breaches of the detainee's right to be brought promptly before a judge and tried within a reasonable time, violations included the prohibition of torture (Article 3), the right to a fair trial (Article 6(1)), and freedom of expression (Article 10).

In cases where the judgments found violations of Article 3 of the ECHR (whether solely of this article or cumulatively with other articles of the ECHR), the Polish state was required to compensate the life-sentenced applicants with a total sum of 95,590 EUR.³⁸

Moreover, in cases where a violation of Article 5(3) of the ECHR was found (whether solely of this article or cumulatively with other articles

³⁷ Judgment of the ECtHR, 4 March 2008 (final: 4 June 2008), case of *Holowczak v Poland* (Application no. 25413/04); Judgment of the ECtHR, 1 July 2008 (final: 1 October 2008), case of *Kowalczyk v Poland* (Application no. 44131/05); Judgment of the ECtHR, 1 June 2010, case of *Bieniek v Poland* (Application no. 46117/07); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

³⁸ Judgment of the ECtHR, 22 February 2011 (final: 22 May 2011), case of *Raducki v Poland* (Application no. 10274/08); Decision of the ECtHR, 8 March 2011, case of *Kuźlak v Poland* (Application no. 6484/08); Decision of the ECtHR, 29 November 2011, case of *Gawel v Poland* (Application no. 33635/11); Decision of the ECtHR, 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11); Judgment of the ECtHR, 21 February 2012 (final: 21 May 2012), case of *Ruprecht v Poland* (Application no. 39912/06); Decision of the ECtHR, 11 December 2012, case of *Ciesielski v Poland* (Application no. 76536/11); Decision of the ECtHR, 16 June 2015, case of *Sobala v Poland* (Application no. 36615/09); Decision of the ECtHR, 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13); Decision of the ECtHR, 22 September 2015, case of *Ślabosz v Poland* (Application no. 26802/13); Decision of the ECtHR, 13 October 2015, case of *Zalewski v Poland* (Application no. 53674/12); Decision of the ECtHR, 15 December 2015, case of *Chechłacz v Poland* (Application no. 43898/14); Decision of the ECtHR, 8 March 2016, case of *Soliński v Poland* (Application no. 59085/14); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02); Decision of the ECtHR, 27 June 2017, case of *Chowanec v Poland* (Application no. 54952/14); Decision of the ECtHR, 17 October 2017, case of *Dudek v Poland* (Application no. 20811/15).

of the ECHR), the Polish state was obliged to pay the life-sentenced applicants a total sum of 33,690 EUR in damages.³⁹

In addition, in the case of *Łabudek v Poland* (Application no. 37245/13),⁴⁰ although the Court found that there had been a violation of Article 5(3) of the ECHR, it did not award damages due to the fact that the applicant did not submit a claim for “just satisfaction.”

4. Summary

The ECtHR cases and judgments discussed in the article reveal several issues with how life imprisonment is imposed and carried out, both in Poland and in other Council of Europe countries.

Specifically in the context of Polish cases, the frequent recurrence of violations indicates a pressing need for improvements in both the legal provisions and executive procedures related to long-term imprisonment. However, this also highlights that current governmental efforts to address these issues are inadequate. Violations of Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 5(3) (right to be brought promptly before a judge) of the ECHR were particularly common in cases against Poland.

The mentioned cases illustrate that the ECtHR has established high standards for human rights protection and has increasingly addressed

³⁹ Judgment of the ECtHR, 25 April 2006 (final: 25 July 2006), case of *Golek v Poland* (Application no. 31330/02); Judgment of the ECtHR, 4 March 2008 (final: 4 June 2008), case of *Hołowczak v Poland* (Application no. 25413/04); Judgment of the ECtHR, 1 July 2008 (final: 1 October 2008), case of *Kowalczyk v Poland* (Application no. 44131/05); Decision of the ECtHR, 11 May 2010, case of *Chmiel v Poland* (Application no. 39620/08); Judgment of the ECtHR, 1 June 2010, case of *Bieniek v Poland* (Application no. 46117/07); Judgment of the ECtHR, 22 February 2011 (final: 22 May 2011), case of *Raducki v Poland* (Application no. 10274/08); Judgment of the ECtHR, 3 May 2011 (final: 3 August 2011), case of *Bielski v Poland and Germany* (Application no. 18120/03); Decision of the ECtHR, 5 July 2011, case of *Jordan v Poland* (Application no. 59320/09); Judgment of the ECtHR, 21 February 2012 (final: 21 May 2012), case of *Ruprecht v Poland* (Application no. 39912/06); Judgment of the ECtHR, 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).

⁴⁰ Judgment of the ECtHR, 4 June 2020, case of *Łabudek v Poland* (Application no. 37245/13).

cases involving complainants from those serving the longest sentences. Each year, there are more complaints from life-sentenced prisoners, with an increasing emphasis on the issue of sentence reducibility.

In reference to the Court's position on absolute life imprisonment, attention should be drawn to the new Polish regulation, the Act of 7 July 2022 Amending the Criminal Code and Certain Other Acts. Among numerous changes, the deep and extensive amendment to the Polish Criminal Code adopted in July 2022⁴¹ lengthened the minimum period before inmates serving a life sentence can be considered for parole from 25 to 30 years (Amendment to the CC, Article 1, Section 26). The legislation has also established a new form of that penalty, called "the whole life sentence," without the possibility of parole (Amendment to the CC, Article 1, Section 6). Until October 2023, life-sentenced prisoners in Poland had the possibility of parole after serving a minimum of 25 years of their sentence (or any longer time specified by the court).

References

Literature

- European Court of Human Rights, *HUDOC*, <https://hudoc.echr.coe.int/eng>.
- Gerards J., Fleuren J., *Implementation of the European Convention on Human Rights and of the Judgments of the ECtHR in National Case Law. A Comparative Analysis*, <https://www.corteidh.or.cr/tablas/29815-1.pdf>, Cambridge 2014.
- Gronowska B., "Skuteczność prawa do skargi do Europejskiego Trybunału Praw Człowieka w toku postępowania karnego oraz w warunkach izolacji więziennej," *Ius Novum* 10, 2016, no. 4, pp. 52–65.
- Kwieciński A., "Przegląd orzecznictwa Europejskiego Trybunału Praw Człowieka w sprawach polskich z zakresu prawa karnego wykonawczego," *Przegląd Prawa i Administracji* 120, 2020, no. 2, pp. 125–133.
- Orzecznictwo Europejskiego Trybunału Praw Człowieka*, <https://etpcz.ms.gov.pl/>; <https://arch-bip.ms.gov.pl/pl/prawa-czlowieka/europejski-trybunal-praw-czlowieka/orzecznictwo-europejskiego-trybunalu-praw-czlowieka/>; <https://www.gov.pl/web/sprawiedliwosc/etpcz>.

⁴¹ Act of 7 July 2022, Amending the Act—The Criminal Code and Certain Other Acts, *Journal of Laws of 2022*, item 2600.

Legislation

- Act of 6 June 1997, The Executive Penal Code, Journal of Laws of 2024, item 706.
- Act of 7 July 2022, Amending the Act—The Criminal Code and Certain Other Acts, Journal of Laws of 2022, item 2600.
- European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, amended by Protocols nos. 3, 5, and 8, and supplemented with Protocol no. 2, Journal of Laws of 1993 no. 61, item 284.

The ECtHR's jurisprudence

- Decision of 11 May 2010, case of *Chmiel v Poland* (Application no. 39620/08).
- Decision of 8 March 2011, case of *Kuźlak v Poland* (Application no. 6484/08).
- Decision of 5 July 2011, case of *Jordan v Poland* (Application no. 59320/09).
- Decision of 29 November 2011, case of *Gawel v Poland* (Application no. 33635/11).
- Decision of 11 December 2012, case of *Ciesielski v Poland* (Application no. 76536/11).
- Decision of 10 February 2015, case of *Kwiek v Poland* (Application no. 12120/11).
- Decision of 16 June 2015, case of *Sobala v Poland* (Application no. 36615/09).
- Decision of 2 July 2015, case of *Nowak v Poland* (Application no. 9599/13).
- Decision of 22 September 2015, case of *Ślabosz v Poland* (Application no. 26802/13).
- Decision of 13 October 2015, case of *Zalewski v Poland* (Application no. 53674/12).
- Decision of 15 December 2015, case of *Chechlacz v Poland* (Application no. 43898/14).
- Decision of 8 March 2016, case of *Soliński v Poland* (Application no. 59085/14).
- Decision of 27 June 2017, case of *Chowaniec v Poland* (Application no. 54952/14).
- Decision of 17 October 2017, case of *Dudek v Poland* (Application no. 20811/15).
- Judgment of 23 September 1998, case of *I.A. v France* (Application no. 28213/95).
- Judgment of 19 April 2001, case of *Peers v Greece* (Application no. 28524/95).
- Judgment of 15 July 2002, case of *Kalashnikov v Russia* (Application no. 47095/99).
- Judgment of 2 June 2005, case of *Novoselov v Russia* (Application no. 66460/01).
- Judgment of 25 April 2006 (final: 25 July 2006), case of *Golek v Poland* (Application no. 31330/02).
- Judgment of 12 February 2008, case of *Kafkaris v Cyprus* (Application no. 21906/04).
- Judgment of 4 March 2008 (final: 4 June 2008), case of *Holowczak v Poland* (Application no. 25413/04).
- Judgment of 1 July 2008 (final: 1 October 2008), case of *Kowalczyk v Poland* (Application no. 44131/05).
- Judgment of 7 January 2010, case of *Onoufriou v Cyprus* (Application no. 24407/04).
- Judgment of 1 June 2010, case of *Bieniek v Poland* (Application no. 46117/07).
- Judgment of 22 February 2011 (final: 22 August 2011), case of *Raducki v Poland* (Application no. 10274/08).
- Judgment of 3 May 2011 (final: 3 August 2011), case of *Bielski v Poland and Germany* (Application no. 18120/03).
- Judgment of 17 April 2012, case of *Horych v Poland* (Application no. 13621/08).

- Judgment of 17 April 2012, case of *Piechowicz v Poland* (Application no. 20071/07).
- Judgment of 21 February 2012 (final: 21 May 2012), case of *Ruprecht v Poland* (Application no. 39912/06).
- Judgment of 9 July 2013, case of *Vinter and Others v UK* (Application no. 66069/09).
- Judgment of 20 May 2014, case of *László Magyar v Hungary* (Application no. 73593/10).
- Judgment of 3 November 2014, case of *Bodein v France* (Application no. 40014/10).
- Judgment of 4 November 2014 (final: 4 February 2015), case of *Manolov v Bulgaria* (Application no. 23810/05).
- Judgment of 30 June 2015, case of *Khoroshenko v Russia* (Application no. 41418/04).
- Judgment of 15 September 2015 (final: 15 December 2015), case of *Kaytan v Turkey* (Application no. 27422/05).
- Judgment of 26 April 2016, case of *Murray v Netherlands* (Application no. 10511/10).
- Judgment of 4 October 2016 (final: 4 January 2017), case of *Klibisz v Poland* (Application no. 2235/02).
- Judgment of 13 March 2019, case of *Petukhov v Ukraine* (Application no. 41216/13).
- Judgment of 13 June 2019, case of *Marcello Viola v Italy* (Application no. 77633/16).
- Judgment of 4 June 2020, case of *Łabudek v Poland* (Application no. 37245/13).
- Judgment of 19 October 2021, case of *Danilevich v Russia* (Application no. 31469/08).