



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF I.W. v. POLAND

(Application no. 17271/21)

JUDGMENT

STRASBOURG

3 September 2026

This judgment is final but it may be subject to editorial revision.

In the case of I.W. v. Poland,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Davor Derenčinović, *President*,

Artūrs Kučs,

Anna Adamska-Gallant, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 17271/21) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 17 March 2021 by a Polish national, I.W. (“the applicant”), who was born in 1972 and lives in Gdynia, and, having been granted legal aid, was represented by Mr M. Drzewicki, a lawyer practising in Gdańsk;

the decision to give notice of the application to the Polish Government (“the Government”), represented by their Agent, Mr J. Sobczak and, subsequently, by Ms A. Kozińska-Makowska, of the Ministry of Foreign Affairs;

the decision not to disclose the applicant’s name;

the parties’ observations;

Having deliberated in private on 2 July 2026,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The case concerns the refusal to grant the applicant an exemption from the payment of a court fee, which led to the rejection of her civil action.

2. In December 2019 the applicant lodged a civil action against her former employer. She sought 250,000 Polish zlotys (PLN – equivalent to approximately 58,700 euros (EUR)) in compensation and an apology for the damage allegedly caused by harassment in the workplace, which she claimed to have suffered for four years, and her resulting inability to work. She applied for legal aid and for an exemption from the applicable court fee of PLN 12,500 (approximately EUR 3,000). In support, she submitted her declaration of means showing that she had no income and had debts amounting to approximately PLN 70,000 (approximately EUR 16,400), together with certificates confirming that she was unemployed and ineligible for unemployment benefits.

3. On 5 February 2020 the Gdańsk Regional Court (*Sąd Okręgowy*) ordered the applicant to provide additional information. Among other things, she was requested to indicate whether she had already received the PLN 45,000 (approximately EUR 10,600) awarded to her in a separate set of proceedings against the former employer.

4. The applicant replied that she was receiving a monthly stipend of PLN 700 (approximately EUR 165) from her studies, occasional private loans and support from her parents and her son. She confirmed that in March 2019 she had received the award mentioned by the Regional Court, but that she had already spent it to repay part of her debts.

5. On 5 April 2020 the Regional Court dismissed the applications for legal aid and exemption from court fees, considering that the applicant had failed to provide exhaustive information. It noted that she had indicated no income in her declaration of means, whereas her expenses (which did not include, *inter alia*, food and clothing) amounted to approximately PLN 1,050 (approximately EUR 250) per month and there had been no reasonable explanation of how these expenses had been covered. The Regional Court was not convinced that the applicant and her husband lived only off of loans, which were also not indicated in her declaration, given by her parents. The Regional Court also held that the applicant had sufficient qualifications to find employment and that she had failed to explain why her allegedly ill husband had not applied for incapacity benefits. It also noted that the applicant had informed it of the stipend only after the request for additional information and concluded that it might be the case that she had also failed to disclose other sources of income.

6. As regards the previous award, the Regional Court considered that the applicant should have saved a part of it and, referring to her debts, stated that the State Treasury could not assume the obligation to pay court fees for those who had decided to improve their standard of living by taking out loans.

7. The applicant appealed, arguing that she had no regular income. She added that only recently the local social welfare authority had granted her and her husband a social assistance benefit (*zasilek stały*) and food assistance (amounting to a total of PLN 728 (approximately EUR 170) per month).

8. On 28 August 2020 the Regional Court dismissed the appeal, stating that despite her difficult situation, the applicant could afford to pay the fee. It held that the most important factor was her failure to save a part of the previous award. While acknowledging that she had been granted benefits addressed to those unable to work, it raised doubts as to why she and her husband had not applied for other benefits financed by social insurance.

9. On 23 November 2020 the Regional Court returned the applicant's claim as unpaid.

10. Before the Court, the applicant complained that the dismissal of her application for an exemption from the court fee had resulted in the disproportionate restriction of her right of access to court, as guaranteed by Article 6 § 1 of the Convention.

THE COURT'S ASSESSMENT

11. The Government submitted that the applicant had failed to exhaust domestic remedies by not appealing against the decision to return her claim (see paragraph 9 above). The Court reiterates that applicants are only required to have recourse to remedies which are capable of remedying directly the impugned state of affairs and offer reasonable prospects of success (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 73, 25 March 2014). In the present case, the Court observes that the applicant availed herself of a domestic remedy by appealing against the decision of 5 April 2020 to dismiss her request for exemption from court fees (see paragraph 7 above).

12. As regards a possibility of appealing against the subsequent decision to return her claim, the Court is not persuaded that such appeal would have been effective, since the appellate court would not be in a position to re-examine the refusal to exempt the applicant from court fees, that question having been already determined by the final decision of 28 August 2020 (see paragraph 8 above). It follows that this preliminary objection must be dismissed.

13. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

14. The general principles concerning access to court have been summarised in *Zubac v. Croatia* ([GC], no. 40160/12, §§ 76-79, 5 April 2018) and, in the context of failure to pay court fees, in *Kreuz v. Poland* (no. 28249/95, §§ 52-57, ECHR 2001-VI).

15. The Court notes that the domestic decisions were essentially based on three main reasons: (i) the incompleteness and unreliability of the applicant's submissions, (ii) her failure to set aside part of her previous award, and (iii) her and her husband's failure to resume work or to apply for social insurance benefits.

16. The Court notes that the Regional Court reproached the applicant for failing to sufficiently explain her financial situation. Indeed, she declared no income in her initial submissions and the only document attached was her unemployment certificate (see paragraph 2 above). However, in her response to the request for additional information, she gave a more complex account of her situation and attached relevant documents, including her bank statements for the preceding six months, her most recent tax return and documents concerning the enforcement of her and her husband's debts (see paragraph 4 above). Nevertheless, the Regional Court found her submissions unreliable overall and concluded that it might be the case that she was concealing her income (see paragraphs 5 above).

17. Bearing in mind that it is primarily for the domestic courts to examine the evidence before them, the Court is not convinced that such reasoning was

conducive to striking the proper balance between the interests of the State in collecting court fees for dealing with claims and the applicant's interests in having her case heard by a court. The official documents in the case file, the reliability of which were not called into question, showed that the applicant was receiving social benefits for indigent persons. She was also heavily indebted and faced several sets of enforcement proceedings, some of which had been discontinued owing to the absence of any realistic prospect of recovery. The Regional Court appears not to have given adequate weight to these circumstances and provided no explanation for disregarding the documents that proved them.

18. Turning to the applicant's failure to save money beforehand, it is noted that the Regional Court expressly stated that this was the main reason for dismissing her exemption request (see paragraph 8 above). The applicant had received PLN 45,000 eight months before lodging the claim in issue (see paragraph 4 above) and it was not disputed before the Court that she had spent most of that sum on repaying her debts. The Court considers that this amount was her only significant asset and it was not reasonable to expect her to spend a substantial part of it on the payment of the court fees rather than on settling her accrued debts or on securing her basic living needs (see, *mutatis mutandis*, *Kordos v. Poland*, no. 26397/02, § 36, 26 May 2009).

19. The Court further observes that the Regional Court initially considered that the applicant had sufficient skills and experience to obtain employment. On appeal, it added that it was unclear why she and her husband had not applied for incapacity benefits from social insurance. That said, the Court cannot but find that the assessment of the applicant's situation was largely based on her hypothetical earning capacity rather than on the facts supplied (see *Jedamski and Jedamska v. Poland*, no. 73547/01, § 63, 26 July 2005).

20. In addition, the Government submitted in their observations that the high amount of the fee, calculated at 5% of the amount sought, had been a direct result of the inflated value of the applicant's claim. However, the Court notes that neither did the domestic courts raise this issue, nor did the Government submit any relevant material in support of their allegation. Consequently, it does not discern sufficient grounds to accept that it was grossly exaggerated or unrealistic (compare *Zelcer v. Poland* (dec.), no. 38774/05, 5 July 2011, and, *mutatis mutandis*, *Kupiec v. Poland*, no. 16828/02, § 47, 3 February 2009).

21. Furthermore, the Court observes that the Regional Court could have but did not opt to grant a partial exemption from the court fee (compare *Buczek v. Poland*, no. 31667/12, § 29, 14 June 2016).

22. The Court also notes that, under Polish civil procedure, the issue of court fees is normally examined at the preliminary stage of proceedings. In the present case, this led to the applicant's claim being returned at the outset by the first-instance court (see paragraph 9 above), with the result that its

merits were never examined (see *Kreuz*, cited above, § 66, and *Nieruchomości Sp. z o.o. v. Poland*, no. 32740/06, § 36, 2 February 2010).

23. Bearing in mind that restrictions of a purely financial nature which are completely unrelated to the prospects of success of the claim should be subjected to a particularly rigorous scrutiny from the point of view of the interests of justice (see *Nalbant and Others v. Turkey*, no. 59914/16, § 35, 3 May 2022), the Court concludes that, in the circumstances, the refusal to grant the applicant an exemption from the court fee impaired the very essence of her right of access to a court.

24. There has accordingly been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 58,000 – the equivalent of her rejected claim in euros – in respect of pecuniary damage. She also claimed EUR 840 in respect of costs and expenses incurred before the Court.

26. The Government contested the above claims as unsubstantiated and exorbitant.

27. The Court cannot speculate on what the outcome of the domestic proceedings would have been if the applicant's claim had been accepted for examination on the merits. It therefore rejects the claim in respect of pecuniary damage (see *Suren Antonyan v. Armenia*, no. 20140/23, § 147, 23 January 2025). However, it awards the applicant EUR 7,800 in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicant.

28. The Court further notes that, in respect of costs and expenses, the applicant did not claim any sums in excess of the lump sum of EUR 850 that her representative had already received under the Court's legal aid scheme.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months, EUR 7,800 (seven thousand eight hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a

rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 3 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Deputy Registrar

Davor Derenčinović
President