



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

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FIRST SECTION

Application no. 14272/26
R.A. against Poland
and 2 other applications
(see list appended)
communicated on 27 August 2026

SUBJECT MATTER OF THE CASE

The applications concern the proceedings for the applicants' removal from Poland to Afghanistan and their detention in that connection.

The applicants, Afghan nationals, entered Poland irregularly from Belarus on various dates in 2025. They were detained shortly thereafter, between June and August 2025, following unsuccessful attempts to enter Germany. The applicants contend that, despite their repeated requests, the domestic authorities have been refusing to receive and process their applications for international protection relying on the amendments introduced by the Act of 21 February 2025 amending the Act on Granting Protection to Foreigners within the Territory of the Republic of Poland (*ustawa z dnia 21 lutego 2025 r. o zmianie ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej*) which entered into force on 27 March 2025 and allowed for a temporary restriction on lodging applications for international protection.

Proceedings for the applicants' return (*postępowanie w przedmiocie zobowiązania do powrotu*) were instituted following their detention. Between July and August 2025, they received decisions ordering their return.

The applicants in applications nos. 14272/26 and 14306/26 lodged appeals against those decisions outside the statutory time-limits. The applicant in case no. 14323/26 appears to have failed to lodge an appeal altogether.

All applicants contend in that connection that: (i) they lacked access to professional legal assistance at the relevant time and did not have the financial means to retain private counsel, (ii) they do not know Polish and the appeal had to be submitted in that language, (iii) the statutory time-limit of 7 days was too short. Some of the applicants instituted proceedings aimed at the restoration of the time-limits for lodging appeals, some of which appear to be still pending.

The return decisions were immediately enforceable notwithstanding the appeals. The applicants' removal, scheduled for 10 April 2026, was suspended following the indication of interim measures by the Court on 9 and 10 April 2026. The applicants remain in detention in Poland.

The applicants complain that their removal to Afghanistan would give rise to violations of their rights guaranteed by Articles 2 and 3 of the Convention in that they would face a real risk of death, torture or inhuman or degrading treatment or punishment if returned to their home country. They submit that this risk arises from the combination of the current general situation in Afghanistan and their individual circumstances.

They further complain, under Article 3 in conjunction with Article 13 of the Convention, that they were deprived of an effective remedy, with automatic suspensive effect, by which their applications for international protection could be properly examined. The applicants submit in this respect that they were effectively denied access to the asylum procedure on the basis of the 2025 legislative amendment.

The applicants in application no. 14306/26 also complain, under Article 5 § 1 of the Convention, that their continued detention is unlawful owing to the lack of requisite protection against arbitrariness.

Additionally, applicant M.H. in application no. 14306/26, who claims to be a minor (see appended table), complains that the authorities failed to comply with their positive obligations under Article 8 by treating him as an adult without conducting a reliable age-assessment procedure and without applying the presumption of minority.

QUESTIONS TO THE PARTIES

Questions concerning all applicants

1. Have the applicants exhausted effective domestic remedies, as required by Article 35 § 1 of the Convention, in connection with all their complaints raised before the Court?

2. In the light of the applicants' claims and the documents which have been submitted, do they face a real risk of being subjected to treatment in breach of Articles 2 and 3 of the Convention in the event they are removed to Afghanistan?

The Government are requested to provide copies of all documents submitted by the applicants in the relevant domestic proceedings.

3. Before ordering the applicants' return, did the Polish authorities carry out an adequate and rigorous assessment of their claims concerning the risk of ill-treatment in their country of origin, as required under Article 3 of the Convention (see *F.G. v. Sweden* [GC], no. 43611/11, §§ 117-22 and 125-27, 23 March 2016; *J.K. and Others v. Sweden* [GC], no. 59166/12, §§ 87-105, 23 August 2016, and *K.I. v. France*, no. 5560/19, §§ 117-25, 15 April 2021)?

4. Did the applicants have at their disposal an effective domestic remedy for their complaint under Article 3, as required by Article 13 of the Convention (*M.K. and Others v. Poland*, nos. 40503/17 and 2 others, § 220, 23 July 2020; *A.D. and Others v. Turkey*, no. 22681/09, 22 July 2014; *Auad v. Bulgaria*, no. 46390/10, 11 October 2011; and *Gebremedhin [Gaberamadhien] v. France*, no. 25389/05, ECHR 2007-II)?

Additional question concerning the applicants in application no. 14306/26:

5. Does the applicants' detention comply with the requirements of Article 5 § 1 (f) of the Convention? Could it be said that their detention is in line with the purpose of protecting the individual from arbitrariness (see, *inter alia*, *A. and Others v. the United Kingdom* [GC], no. 3455/05, § 164, ECHR 2009, and *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 88, 15 December 2016 and *Liu v. Poland*, no. 37610/18, §§ 96-97, 6 October 2022)?

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QUESTIONS

Additional question concerning applicant M.H. in application
no. 14306/26:

6. Did the age-assessment procedure to which M.H. was subjected comply with the procedural safeguards inherent in Article 8 of the Convention (see *Darboe and Camara v. Italy*, no. 5797/17, 21 July 2022)?

Information request

The applicants are requested to submit factual information on the status of the proceedings, if any, concerning the restoration of statutory time-limits for lodging their appeals against the decisions ordering their return.

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APPENDIX (anonymity has been granted)

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Nationality	Represented by
1.	14272/26	R.A. v. Poland	09/04/2026	R.A. , 1998, Afghan	Daniel CETLICER
2.	14306/26	M.H. and Others v. Poland	09/04/2026	M.H. , 2009 (as claimed by the applicant), Afghan S.F. , 2003, Afghan A.K. , 1999, Afghan M.M. , 2003, Afghan	Radosław TYBURSKI
3.	14323/26	S.M. v. Poland	09/04/2026	S.M. , 1997, Afghan	Daniel CETLICER