



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

FIFTH SECTION

DECISION

Application no. 37042/20
S.S.
against Poland

The European Court of Human Rights (Fifth Section), sitting on 10 September 2026 as a Committee composed of:

María Elósegui, *President*,

Gilberto Felici,

Diana Sârcu, *judges*,

and Sophie Piquet, *Acting Deputy Section Registrar*,

Having regard to:

the application (37042/20) 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 25 August 2020 by a Tajikistani national, Mr S.S. (“the applicant”), who was born in 1995, lives in Türkiye and was represented by Ms M. Jąźwińska, a lawyer practising in Warsaw;

the decision not to have the applicant’s identity disclosed;

the decision to give notice of the complaint under Article 13 of the Convention in conjunction with Article 3 and on Article 1 of Protocol No. 7 to the Convention, concerning the lack of effective remedy with a suspensive effect to appeal against the decision ordering the applicant’s return to Tajikistan 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, and to declare the remainder of the application inadmissible;

the decision of 27 August 2020 to indicate an interim measure to the respondent Government under Rule 39 of the Rules of Court ordering that the applicant not be removed to Tajikistan until the end of the proceedings before the Court and the subsequent decision of 9 February 2021 lifting the interim measure following the information provided by the applicant’s lawyer that the applicant had left Poland and moved to Türkiye;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The case concerns the immediately enforceable decision of the Minister of the Interior of 4 May 2020 which ordered the applicant's return to Tajikistan and prohibited him from entering Poland and the Schengen zone for five years. The applicant complained, under Article 13 of the Convention in conjunction with Article 3 and Article 1 of Protocol No. 7 to the Convention, that he had no effective remedy with a suspensive effect to appeal against the decision in question.

2. On 6 September 2022 the Supreme Administrative Court quashed the impugned decision of the Minister of the Interior and remitted the case for review.

3. Independently and prior to the decision on the merits of the applicant's cassation appeal mentioned in the previous paragraph, the Supreme Administrative Court granted, on 16 April 2021, the applicant's request and suspended the execution of the impugned decision of the Minister of Interior.

4. On 15 May 2023 the Court decided to give notice to the Government of the applicant's complaints detailed above while the proceedings before the Minister of the Interior were still pending (see paragraph 2 above).

5. On 16 August 2023 the applicant's lawyer informed the Court that the Minister of the Interior had given a decision on 24 July 2023 by which the proceedings had been discontinued. The Minister had found that the proceedings had lost their purpose on account of the applicant's voluntary departure from Poland.

6. Even though the decision to discontinue the proceedings was subject to appeal, the applicant did not lodge one, leading to the decision becoming final. In his submissions to the Court, the applicant did not explain the reasons for his inaction. He nevertheless informed the Court that he wished to pursue his application before it.

7. In their observations, the Government submitted that by not appealing against the discontinuation decision, the applicant had failed to exhaust the domestic remedy designed to review his grievances. In response, the applicant argued that the Minister of the Interior should have continued to examine the case and notably the risks faced by the applicant if removed to Tajikistan, irrespective of the applicant's departure from Poland.

THE LAW

8. At the outset, the Court observes that the Government raised several preliminary objections, including non-exhaustion of domestic remedies (see paragraph 7 above). However, for the reasons outlined below the Court does not find it necessary to rule on the objections raised by the Government.

9. The Court considers it important to note the following points:

(i) the applicant obtained provisional protection against his removal from Poland on two separate occasions and from two separate authorities: initially from this Court (as noted in the initial part of the present decision) and subsequently from the Supreme Administrative Court of Poland (see paragraph 3 above);

(ii) after being granted an interim measure by this Court, the applicant voluntarily left Poland for Türkiye and apparently established his residence there (and has resided there ever since), which prompted the domestic authorities to discontinue the proceedings;

(iii) the applicant, represented by a lawyer throughout the domestic proceedings, did not appeal against the decision to discontinue the proceedings concerning his forced return to Tajikistan.

10. The Court will therefore ascertain whether the applicant's departure from Poland and his apparent unwillingness to pursue the domestic proceedings for the review of the return decision may lead it to decide to strike the application out of its list of cases in application of Article 37 § 1 of the Convention, the relevant parts of which provide as follows:

“The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

...

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

11. The Court enjoys a wide discretion in identifying grounds for striking out an application on this basis, it being understood, however, that such grounds must reside in the particular circumstances of each case (see, for example, *Association SOS Attentats and de Boery v. France* (dec.) [GC], no. 76642/01, § 37, ECHR 2006-XIV, and *Zahtila and Koletic v. Croatia* (striking out), no.n63344/17, § 7, 7 November 2023).

12. The Court notes that it has struck previous applications out of its list of cases on the basis of Article 37 § 1 (c) of the Convention because of, among other reasons, lack of diligence on the part of the applicants and/or their lawyers (see *Shanidze v. Georgia* (dec.), no. 56080/10, § 20, 30 June 2015, and the case-law cited therein).

13. Against that background, and in the light of the observations made in paragraph 9 above, the Court finds that the applicant freely chose to leave Poland and live elsewhere, even though he had obtained two separate interim decisions protecting him from being forcibly removed from the respondent State.

14. Furthermore, the Court does not consider it warranted to assess the validity of the decision by the domestic authorities to discontinue the relevant proceedings (see paragraph 5 above) since the applicant himself has refrained from appealing against it (see paragraph 6 above). Therefore, the Court finds it difficult to interpret the applicant's decision not to appeal against the impugned decision as anything other than its acceptance. In this context, the arguments made by the applicant in his observations (see paragraph 7 above) would appear to contradict his own actions.

15. Consequently, the Court finds that the applicant himself prevented comprehensive review of the decision ordering his return and the adoption of a final decision on the merits in his case (compare *Goryachev v. Russia* (dec.), no. 34886/06, § 42, 9 April 2013, and *Tkheldze v. Georgia* (dec.) [Committee], no. 72475/10, § 27 *in fine*, 2 September 2021). Therefore, he failed to demonstrate necessary diligence.

16. In view of the considerations above, the Court concludes that it is no longer justified to continue the examination of the application within the meaning of Article 37 § 1 (c) of the Convention. Furthermore, there are no particular reasons regarding respect for human rights as defined in the Convention which would require the Court to continue its examination of the case under Article 37 § 1 *in fine*. It is therefore appropriate to strike the case out of the Court's list of cases.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 1 October 2026.

Sophie Piquet
Acting Deputy Registrar

María Elósegui
President