



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

FIRST SECTION

DECISION

Applications nos. 30614/22 and 30848/22
Maciej NABRDALIK against Poland
and Maciej MOSKWA against Poland
(see appended table)

The European Court of Human Rights (First Section), sitting on 17 September 2026 as a Committee composed of:

Frédéric Krenc, *President*,

Davor Derenčinović,

Alain Chablais, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having regard to the above applications 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 the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having regard to the comments submitted by the Polish Government (“the Government”),

Having regard to the third-party comments submitted jointly by Privacy International and ARTICLE 19: Global Campaign for Free Expression, which had been granted leave to intervene,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table. The applicants, two photojournalists, were represented by Mr J. Jagura, a lawyer practising in Warsaw.

The events complained of attracted some media attention in Poland back in November 2021. They concern the applicants’ apprehension which lasted for some eighty minutes and search of their clothes, car and contents of their cameras by Polish military officers (*Żandarmeria Wojskowa*), in a close vicinity of the closed area near the Polish-Belarusian border established after

the outbreak of the migration crisis. The events complained of took place outside the closed area to which nobody, including journalists or activists from charity organisations, had access.

The applicants were apprehended and searched by the military officers who, as a rule, do not have the statutory power to arrest people. The applicants' appeals against the arrest and search were not examined by the courts. Instead, they were transferred to the prosecutor, because it was held that the arrest in question had not been based on provisions of the Code of Criminal Proceedings or the Police Act. The domestic authorities did not use the term "deprivation of liberty" in relation to the events complained of; they rather generally described them referring to the "way in which operational activities had been carried out".

The applicants' complaints of being deprived of their liberty in violation of Article 5 §§ 1, 2 and 4 of the Convention and in a manner violating Articles 3 and 8 of the Convention and also constituting an infringement of their rights as journalists under Article 10 of the Convention to collect and disseminate information, as well as the complaints under Article 13 in conjunction with the above listed Articles of the Convention, were communicated to the Government.

Apart from the appeal against their arrest, the applicants also instituted proceedings to be awarded compensation for manifestly unjustified arrest. The Court's attention was drawn to that fact for the first time in the Government's observations. The applicants, in their observations, confirmed that fact but did not provide any further explanation. After the exchange of observations, the parties were asked to indicate whether there had been any developments in the case. On 12 November 2024 the Court received replies from the applicants and the Government that the applicants' claim had been granted by the Białystok Regional Court on 23 September 2024 and that the applicants had been awarded 15,000 Polish Zlotys (PLN) (3,570 euros (EUR)) each in compensation for manifestly unjustified arrest. Following the appeals lodged by both parties, by a final judgment of 31 March 2025 issued by the Białystok Court of Appeal, the compensation was reduced to PLN 10,000 (EUR 2,380) for each applicant.

In its judgment of 23 September 2024, the Regional Court held that the applicants' arrest had been undoubtedly unnecessary, in contravention with Article 5 of the Convention. The applicants suffered stress and anxiety caused not only by the arrest itself but also by the behaviour of the officers who had arrested them. The applicants were made to remain in one place and keep their hands up. Subsequently, they were handcuffed and one of the officers threatened them. The handcuffing of Maciej Moskwa caused pain and one of the officers commented that "it is supposed to hurt". This, in the Regional Court's view indicated that the officers had acted with an intention to cause pain. The applicants were forced to remove their outer clothes even though the temperature was around 2-3 centigrade Celsius. Their clothes and car

were searched. The contents of their cameras were also searched and, subsequently, the cameras were put directly on the ground which could have damaged the equipment. In the applicants' view their arrest constituted a form of repression for providing to the public information about the situation in the vicinity of the Polish-Belarusian border and a form of threat which was to discourage them from gathering information [about the migration crisis]. Taking into consideration all the above circumstances the Regional Court held that the applicants had been subjected to inhuman or degrading treatment in violation of Article 3 of the Convention. It further held that the events complained of caused the applicants' loss of confidence in the functionaries of the Polish State. In fear of possible similar events in the future, they stopped gathering press materials concerning the migration crisis. Each of the applicants also experiences mental suffering and anxiety.

Following the appeals lodged by both parties, in its judgment of 31 March 2025, the Court of Appeal reduced the compensation and upheld the remainder of the first-instance court's findings. It held there had been no objective reasons for the applicants' arrest; their identity had been checked at the beginning of the event, and it was clear for the military officers that the applicants were journalists who, in their professional capacity had wanted to take photographs of the military camp from the outside. Also, during their arrest the applicants stressed that they were there in their professional capacity. At that time, taking photographs of such places was not forbidden, so there could not be any suspicion that the applicants were committing any offence. There were no objective reasons to believe that they might abscond, go into hiding or tamper with evidence. Likewise, there were no difficulties with establishing the applicants' identity. The Court of Appeal further held that the course of the events and the behaviour of the military officers were disproportionate to the circumstances and amounted to deprivation of the applicants' freedom of movement. The Court of Appeal referred in particular to vulgar comments made by the officers, lack of indication of any legal or factual grounds for the arrest, presentation of physical force by armed and uniformed officers, handcuffing the applicants, making them remove their outer clothes and stand in one place while the officers were checking the contents of the applicants' cameras. At the same time, no documentation of the arrest had been done, and no information had been provided to the applicants as regards their rights.

As regards the amount of compensation, the court held that even though it accepted the Regional Court's establishment of facts of the case, it considered the compensation granted too high. It held that the arrest had lasted an hour and several minutes. Even though it must have caused stress and anxiety, their effects did not last long. The pictures taken by the applicants on that day were published on the cover of the New York Times soon afterwards and the circumstances of the arrest, which were made public by the applicants, contributed to the public debate on freedom of press. Taking all these

circumstances into consideration the court held that the compensation amounting to PLN 10,000 for each of the applicant was sufficient.

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

The Court considers that, following the final judgment issued on 31 March 2025 by the Białystok Court of Appeal, which granted the applicants compensation for manifestly unjustified arrest, the circumstances complained of by the applicants no longer obtain and the effects of a possible violation of the Convention on account of those circumstances have been redressed. Having analysed the reasoning of the Regional Court's judgment of 23 September 2024 and the final judgment of the Court of Appeal, the Court considers that all applicants' grievances have been adequately addressed and the relevant compensation granted. In particular, by establishing that the arrest was manifestly unjustified and unnecessary the domestic courts directly found a violation of the applicants' right to liberty under Article 5 of the Convention. They also expressly held that there had been a violation of the applicants' rights under Article 3 of the Convention. The Court holds that from the reasoning of their judgments presented above it may be concluded that also the applicants' rights under Articles 8 and 10 of the Convention were taken into consideration. The applicants' complaints were examined by the courts at two instances. It follows that their complaints under Article 13 of the Convention taken in conjunction with all the above-mentioned provisions were examined.

In view of the above, the Court considers that the related issues have been "resolved" within the meaning of Article 37 § 1 (b) of the Convention. The Court also reiterates that it is not required, for the purposes of Article 37 § 1 (b) of the Convention, that the national authorities acknowledge a violation of the Convention or that the applicant, in addition to having obtained a resolution of the matter, is also granted compensation (see *H.P. v. Denmark* (dec.), no. 55607/09, § 78, 13 December 2016, and *Klucińska-Głuszczyk v. Poland* (dec.) no. 33274/22, § 35, 14 October 2025).

The Court further considers that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the applications under Article 37 § 1 *in fine*.

Accordingly, the applications should be struck out of the list.

For these reasons, the Court, unanimously,

Decides to join the applications;

Decides to strike the applications out of its list of cases;

NABRDALIK v. POLAND AND MOSKWA v. POLAND DECISION

Done in English and notified in writing on 8 October 2026.

Viktoriya Maradudina
Acting Deputy Registrar

Frédéric Krenc
President

NABRDALIK v. POLAND AND MOSKWA v. POLAND DECISION

APPENDIX

List of applications raising complaints under Article 5 §§ 1, 2 and 4 of the Convention,
as well as Articles 3, 8, 10 and 13 of the Convention
(arrest and treatment during arrest)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location
1.	30614/22 08/06/2022	Maciej NABRDALIK 1980	Jarosław Jagura Helsinki Fundacja Praw Człowieka ul. Wiejska 16 00-490 Warszawa Poland
2.	30848/22 08/06/2022	Maciej MOSKWA 1982	