



## Notification of 12 applications concerning abortion rights in Poland

The European Court of Human Rights has given notice<sup>1</sup> to the Government of Poland of 12 applications (applications nos. 1819/21, 3682/21, 4957/21, 6217/21, 3639/21, 4188/21, 5876/21, 6030/21, 3801/21, 4218/21, 5114/21 and 5390/21) and requested that they submit their observations. The applications have been classified into three groups of four applications.

The cases concern abortion rights in Poland. Over 1,000 similar applications have been received by the Court.

Three statements of facts submitted to the parties, with questions from the Court, will be available in English on the Court's website from 8 July 2021 (see links in Hudoc : [K.B. v. Poland and 3 other applications](#), [K.C. v. Poland and 3 other applications](#) and [A.L. - B. v. Poland and 3 other applications](#)). The Court's ruling in the cases will be made at a later stage.

The applicants are 12 Polish nationals who were born between 1980 and 1993.

On 22 June 2017 a group of 104 parliamentarians applied to the Constitutional Court to have sections 4a(1)(2) and 4a(2) of the Family Planning (Protection of the Human Foetus and Conditions Permitting Pregnancy Termination) Act 1993 (*Ustawa o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży*) declared unconstitutional (case no. K 13/17). Those provisions relate to legal abortion due to foetal abnormalities. The proceedings were discontinued.

On 19 November 2019 a similar application was lodged by a group of parliamentarians (case no. K 1/20). On 22 October 2020 the Constitutional Court held that the relevant provisions were incompatible with the Constitution (that judgment came into force on 27 January 2021, after the present applications with the Court had been lodged). On the bench that day were Judges K.P., M.M., J.W. and J.A.P and J.P., the latter the president of the Constitutional Court.

The applicants allege that following that judgment certain hospitals refused to perform abortions in cases with foetal abnormalities.

Widespread, large-scale protests followed.

On 30 October 2020 the President submitted to the *Sejm* a bill amending the 1993 Act, which would allow for abortion in the case of "lethal" foetal abnormalities.

The applicants also make individual submissions as to their personal circumstances.

Relying on Article 8 (right to respect for private and family life) of the European Convention of Human Rights the applicants complain, in particular, that they are potential victims of a violation of their rights as if pregnant they would be obliged to carry the foetus to term, or as pregnant women they are obliged to carry the foetus to term, and have to adapt their conduct accordingly. They also complain that the restrictions introduced were not "prescribed by law" as the Constitutional Court was irregularly composed, given that three members (Judges M.M., J.A.P and J.W.) had been elected in breach of the Constitution, and was not impartial, given that Judge K.P. had previously been involved in case no. K 13/17 as a party while a member of parliament.

<sup>1</sup> Under Rule 54 § 2 (b) of the Rules of Court: "the Chamber or the President of the Section may decide to give notice of the application or part of the application to the respondent Contracting Party and invite that Party to submit written observations thereon and, upon receipt thereof, invite the applicant to submit observations in reply."

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complain of the distress caused by the prospect of their being forced to give birth to an ill or dead child.

### **Procedure**

The applications were lodged with the European Court of Human Rights on various dates in 2021. The Court decided to grant the cases priority under Rule 41 of the Rules of the Court.

On 1 July 2021 the President of the First Section decided to give notice of the applications to the Government of Poland, with questions from the Court. Letters informing the parties were sent on 5 July 2021. Three statements of facts of the cases submitted to the Government are available (only in English) on the Court's website from 8 July 2021 (see links in Hudoc : [K.B. v. Poland and 3 other applications](#), [K.C. v. Poland and 3 other applications](#) and [A.L. - B. v. Poland and 3 other applications](#)). The Government have until 13 September 2021 to submit their observations.

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.