



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

FIFTH SECTION

CASE OF K.G. AND S.G. v. POLAND

(Application no. 62466/19)

JUDGMENT

STRASBOURG

27 November 2025

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

In the case of K.G. and S.G. v. Poland,

The European Court of Human Rights (Fifth Section), sitting 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 (no. 62466/19) 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 4 December 2019 by two Russian nationals, K.G. and S.G. (“the applicants”), who were born in 1984 and 2017 respectively, currently live in the Russian Federation and were represented by Ms I. Hnasevych, a lawyer practising in Cracow;

the decision to give notice of the complaints under Article 5 § 1 (f) and Article 8 of the Convention concerning the applicants’ detention in a guarded centre for aliens to the Polish Government (“the Government”), represented by their Agent, Mr J. Sobczak, of the Ministry of Foreign Affairs, and to declare the remainder of the application inadmissible;

the decision not to have the applicants’ names disclosed;

the parties’ observations.

Having deliberated in private on 6 November 2025,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the placement and detention of the first applicant and her minor child (the second applicant) in a guarded centre for aliens for a period of approximately nine months pending their expulsion to Russia.

I. BACKGROUND

2. In 2016 the first applicant fled from Russia to Turkey on account of alleged persecution. Whilst in Turkey she had a relationship with a Syrian national and became pregnant. She left Turkey for Poland on account of threats allegedly made by the child’s father.

3. Arriving in Poland in July 2017, the first applicant applied for refugee status. While the proceedings to that effect were ongoing the applicant left Poland for Germany, where she gave birth to the second applicant. She was then returned to Poland before later fleeing to Germany once again.

4. The applicants were transferred back to Poland for the second time on 4 March 2019 and were detained the following day.

5. On 4 December 2019 the Court decided not to indicate to the Government of Poland, under Rule 39 of the Rules of Court, the interim

measure which the applicants had sought as a way to ensure that they would not be removed from Poland.

6. On 5 December 2019 the Polish authorities deported the applicants to Russia, where they have since remained.

II. ADMINISTRATIVE PROCEEDINGS

7. The first applicant's application for refugee status was refused on 31 December 2018. She did not appeal against that decision, subsequently claiming not to have been aware of it as she had left Poland for Germany before it was delivered. Later attempts made by the first applicant to have the decision quashed were unsuccessful, as the Council for Refugees refused to reconsider the case on 21 November 2019 and the applicant failed to appeal to the Regional Administrative Court.

8. A second request for international protection, lodged on 29 August 2019, was ultimately dismissed by the Council for Refugees on 21 November 2019.

9. On 5 March 2019 a decision was issued obliging the applicants to leave Poland and banning them from re-entering the Schengen area for one year. Appeals by the applicants against that decision, as well as their requests for the suspension of its enforcement, were unsuccessful.

III. THE APPLICANTS' ADMINISTRATIVE DETENTION

10. On 5 March 2019 the Słubice District Court ordered the applicants' detention in a guarded centre for aliens in Biała Podlaska.

11. Their detention was subsequently extended by the court on 26 March, 28 June, 23 August, 26 September and 25 November 2019. The court held that administrative detention was necessary since the applicants had previously fled Poland for Germany.

12. The first applicant unsuccessfully appealed against each extension and argued, in particular, that the District Court had failed to consider the situation of the second applicant and to protect his rights and freedoms guaranteed by the Convention. In her submissions she relied on the opinions of expert psychologists and the case-law of the Court. She also submitted that she had friends in Poland who were ready to host her and her child in their home.

IV. PSYCHOLOGICAL OPINIONS

13. In June 2018 a privately commissioned expert psychological opinion found that the first applicant was suffering from post-traumatic stress disorder, depression, insomnia and an eating disorder. It recommended that she not be kept in detention, as to do so posed a risk to her life and health and could have a negative impact on her child.

14. In October 2019 another expert psychologist gave his opinion on both applicants. As regards the first applicant, he concluded that her emotional state had worsened in the detention centre and he recommended her urgent release, as well as psychological and pharmaceutical treatment. He emphasised that her placement in the detention centre posed a risk to her health. Regarding the second applicant, the expert found that the stay in the guarded centre had caused him stress and posed a risk to his health and development.

V. COMPLAINTS

15. The applicants complained, under Article 5 § 1 (f) of the Convention, that their administrative detention had not been lawful, in so far as the authorities had not verified whether their placement in the guarded centre had been a measure of last resort with no available alternative. They stressed that the first applicant had been suffering from post-traumatic stress disorder and that therefore both applicants should have remained at liberty. Moreover, they argued that the detention was not necessary in respect of the second applicant, a baby for whom it was a traumatic experience.

16. The applicants also complained under Article 8 of the Convention that their detention in a guarded facility for aliens constituted a measure which disproportionately interfered with their right to respect for their private and family life.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 5 § 1 (f) OF THE CONVENTION

17. The Government contended that the applicants had not exhausted domestic remedies because they had not lodged an action for compensation under section 407 of the Aliens Act of 12 December 2013 in respect of unjustified detention in a guarded centre (the Government referred to *Bistieva and Others v. Poland*, no. 75157/14, 10 April 2018). Nor had they brought an action under Articles 23 and 24 of the Civil Code seeking compensation for infringement of their personal rights.

18. As the applicants in the present case were detained at the time of their application and the remedies suggested by the Government, being purely compensatory, could not have led to their release even if their detention had been found to be unlawful (see *Nikoghosyan and Others v. Poland*, no. 14743/17, §§ 44-47, 3 March 2022), the Court dismisses the Government's preliminary objection.

19. The Court notes that the 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.

20. The general principles concerning deprivation of liberty in the context of Polish guarded centres for aliens have been summarised in *Nikoghosyan and Others* (cited above, §§ 61-65) and *Bilalova and Others v. Poland* (no. 23685/14, §§ 73-76, 26 March 2020).

21. Turning to the circumstances of the present case, the Court notes that it is undisputed that the applicants' detention was prescribed by domestic law. What remains to be seen is whether that deprivation of liberty was "lawful" or "arbitrary" within the meaning ascribed to those terms in the Court's case-law (see *M.H. and Others v. Croatia*, nos. 15670/18 and 43115/18, §§ 233-34, 18 November 2021).

22. In assessing the appropriateness of the place and conditions of the applicants' detention, the Court emphasises that it has already found that the Biała Podlaska guarded centre undoubtedly constituted a place of confinement similar, in many respects, to prisons or remand centres (see *Nikoghosyan and Others*, cited above, § 85). As such, the authorities were required to verify that there were no alternatives to placing the applicants – a single mother with a child aged 19 months at the time of the initial detention – in such an establishment (see *Bilalova and Others*, cited above, § 76).

23. In that context, the Court reiterates that, as a matter of principle, the detention of young children in such facilities must be avoided and that only short-term placement in suitable conditions could be compatible with the Convention, provided, however, that the authorities establish that they took that measure as a last resort only after having ascertained that no other measure involving a lesser restriction of freedom could be implemented (*ibid.*, § 79). The total duration of nine months which the applicants spent in the guarded centre far exceeds the periods which the Court has already found to be contrary to the Convention in respect of young children (see *A.M. and Others v. France*, no. 24587/12, § 48, 12 July 2016; *R.K. and Others v. France*, no. 68264/14, § 68, 12 July 2016; *A.B. and Others v. France*, no. 11593/12, § 111, 12 July 2016; and *Bistieva and Others*, cited above, § 87).

24. Moreover, the Court notes that within the relevant domestic proceedings, the applicants substantiated their vulnerable situation and the risks associated with their prolonged detention (see paragraphs 13-14 above). Nevertheless, those submissions were dismissed by the domestic authorities on the basis of generic opinions to the contrary from psychologists employed by those authorities. The Court is thus not persuaded that due consideration was given to the state of the applicants' mental health when assessing whether there were any viable alternatives to detention in a guarded centre.

25. Furthermore, the domestic authorities appear to have completely disregarded the declaration of the third party who had explicitly offered to

host the applicants in her home and thus provide an alternative to detention in the guarded centre. Instead, by referring to the fact that the applicants had previously absconded and had no savings, they concluded that the applicants did not qualify for any alternative measure under the law. Consequently, the Court is not satisfied that sufficient reasons were provided for the applicants' nine-month detention.

26. The foregoing considerations are sufficient to enable the Court to conclude that, in the particular circumstances of the present case, the detention of both applicants for a period of nine months was not a measure of last resort for which no alternative was available (see *Nikoghosyan and Others*, cited above, §§ 86 and 88; and, *mutatis mutandis*, *R.K. and Others v. France*, cited above, § 86; *Popov v. France*, nos. 39472/07 and 39474/07, § 119, 19 January 2012; *Bilalova and Others*, cited above, § 80; and, conversely, *A.M. and Others v. France*, cited above, § 68). The Court is of the view that the fact that a child was being detained called for greater speed and diligence on the part of the authorities.

27. There has accordingly been a violation of Article 5 § 1 (f) of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

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

29. The Court reiterates that the fact of confining the applicants to a detention centre for nine months, thereby subjecting them to living conditions typical of a custodial institution, can be regarded as an interference with the effective exercise of their family life (see *Bistieva and Others*, cited above, § 73 and the references cited therein).

30. The Court agrees with the Government that the detention measure was taken in the context of the prevention of illegal immigration, in particular for the purpose of expulsion, and thus the interference pursued a legitimate aim for the purposes of Article 8 § 2 of the Convention (*ibid.*, § 76).

31. Nevertheless, referring to its findings concerning the complaint under Article 5 of the Convention (see paragraphs 22-26 above), the Court considers that placing the applicant family in detention was not proportionate to the legitimate aim pursued, having regard to (i) the nine-month duration of the detention, (ii) the vulnerable situation of both applicants, (iii) the extremely young age of the second applicant, and (iv) the apparent absence of due consideration of alternatives to detention. Accordingly, the Court finds that, even in the light of the risk that the family might abscond, the authorities failed to provide sufficient reasons to justify the applicants' detention for nine months in a guarded centre. As a result, there has been a violation of Article 8

of the Convention (see *Popov*, cited above, § 148; *A.B. and Others v. France*, cited above § 156; and *R.K. and Others v. France*, cited above, § 117).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. The applicants claimed 15,000 euros (EUR) in respect of non-pecuniary damage.

33. The Government argued that that claim was excessive and unsubstantiated. They further added that, should the Court find a violation of the Convention in the present case, the finding of a violation should be regarded as constituting just satisfaction.

34. Given the awards in similar cases against Poland, the principle of equity, as well as the circumstances of the present case – in particular, the length of the applicants’ administrative detention and the fact that the case involved a child – the Court awards the applicants jointly EUR 15,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 5 § 1 (f) of the Convention;
3. *Holds* that there has been a violation of Article 8 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicants jointly, within three months, EUR 15,000 (fifteen thousand 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; and
 - (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.

Done in English, and notified in writing on 27 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sophie Piquet
Acting Deputy Registrar

María Elósegui
President