



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

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FIRST SECTION

Application no. 15158/19
Paweł and Dagmara DROZD
against Poland
lodged on 9 March 2019

STATEMENT OF FACTS

The applicants, Mr Paweł Drozd and Ms Dagmara Drozd, are Polish nationals who were born in 1964 and 1967 respectively and live in Mrozów. They are represented before the Court by Mr P. Osik and Ms M. Mączka-Pacholak, lawyers practising in Warsaw.

A. The circumstances of the case

The facts of the case, as submitted by the applicants, may be summarised as follows.

The applicants are members of an informal civic movement “Citizens of the Polish Republic” (“*Obywatele RP*”) engaged in political protests and actions.

On 22 June 2017 they took part in a peaceful demonstration held in and around the grounds of the Sejm (lower chamber of the Polish Parliament). According to the procedure for access, they collected single entrance passes and were allowed to enter the Sejm grounds, together with a group of other demonstrators. As soon as they passed the entrance gate, the applicants unrolled a banner reading “Defend Independent Courts” (“*Brońcie niezależnych sądów*”). As a result, they were immediately escorted from the Sejm grounds by the parliament security services (*straż marszałkowska*).

By letters of 14 July 2017 the applicants were informed that, given that they had disturbed public order and that they had refused to comply with the instructions of the parliament security services, on 22 June 2017 the Head of the Parliament Security Service (*Komendant Straży Marszałkowskiej*) had decided to ban them from entering the Sejm until 21 June 2018.

On 30 August 2017 the applicants lodged their appeals against these decisions with the Warsaw Regional Administrative Court. In particular, they stressed that the decision of the Head of the Parliament Security Service was based on internal regulations (the Speaker's ordinance). In addition, the Speaker's ordinance was not sufficiently foreseeable as it lacked clarity and precision. Lastly, they stressed that the ban on entering the Sejm had limited their right to have access to public information.

On 22 January 2018 the Warsaw Regional Administrative Court gave two decisions and rejected the applicants' appeals as inadmissible in law. The court held that the letter of the Head of the Parliament Security Service did not constitute an administrative decision. The parliament security was a uniformed formation directly subordinate to the Sejm's Speaker (*Marszałek Sejmu*). Therefore, the Head of the Parliament Security Service was not an administrative authority and his decisions could not be challenged before the administrative courts.

The applicants lodged cassation appeals against these decisions. In particular they complained, relying on the Constitution and the Convention, that they did not have access to a court in order to challenge the decision banning them from entering the Sejm.

On 16 November 2018 the Supreme Administrative Court dismissed the cassation appeals. The court endorsed the reasoning of the Regional Court. It further noted that, according to the Rules of Procedure of the Sejm (*Regulamin Sejmu*), there was no right for members of the public to participate in parliamentary sessions and the decision in that respect was left to a competent authority.

B. Relevant domestic law and practice

1. The Constitution

Article 61 of the Constitution, in so far as relevant, provides:

“1. Each citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. Such right shall also include the obtaining of information on the activities of self-governing economic or professional organs, and other persons or organisational units, relating to the field in which they perform the duties of public authorities and manage municipal assets or property of the State Treasury.

2. The right to obtain information shall encompass the right of access to documents and entry to sittings of collective organs of public authority formed by universal suffrage, with the opportunity to make sound and visual recordings.

3. Limitations upon the rights referred to in paragraphs 1 and 2 above may be imposed by statute solely to protect the freedoms and rights of other persons ... public order, security, or important economic interests of the State.”

2. Rules of Procedure of the Sejm

Pursuant to the Rules of Procedure of the Sejm of 30 July 1992, members of the public may watch the Sejm debates from the public gallery in accordance with the rules specified by the Speaker of the Sejm.

3. Access to the Sejm buildings

On 9 January 2008 the Speaker of the Sejm issued an ordinance on access to buildings managed by the Chancellery of the Sejm and access and entry to the grounds under the management of the Chancellery of the Sejm (*w sprawie wstępu do budynków pozostających w zarządzie Kancelarii Sejmu oraz wstępu i wjazdu na tereny pozostające w zarządzie Kancelarii Sejmu*). The ordinance provides that for valid reasons, namely to maintain order and guarantee safety, the Head of the Parliament Security Service may temporarily ban access to the Sejm buildings and grounds. In particular, this may occur if the person concerned does not respect the internal regulations, disturbs order or undermines the dignity of the Sejm.

COMPLAINTS

1. The applicants complain that the restrictions imposed on their access to the Sejm buildings constitute a breach of their rights guaranteed by Article 10 of the Convention.

2. They further maintain, relying on Articles 6, 10 and 13 of the Convention, that they did not have an effective remedy in respect of their complaints under Article 10 of the Convention.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' freedom of expression and/or peaceful assembly within the meaning of Article 10 § 1 and/or Article 11 § 1 of the Convention?

2. If so, was that interference justified under Article 10 § 2 and/or Article 11 § 2 of the Convention (compare, *Tatár and Fáber v. Hungary*, nos. 26005/08 and 26160/08, 12 June 2012 and *Selmani and Others v. the former Yugoslav Republic of Macedonia*, no. 67259/14, 9 February 2017)?