HELSINKI FOUNDATION FOR HUMAN RIGHTS

LANDMARK HUMAN RIGHTS CASES 2017

STRATEGIC LITIGATION IN THE AREA OF HUMAN RIGHTS

About strategic litigation:

One of the types of the Foundation's activities is strategic litigation, understood as participation in court or administrative proceedings before national courts or international bodies with a view to obtaining ground-breaking judgments, which change practices or laws on specific issues that raise serious human rights concerns. Strategic litigation complements interventional, educational and advocacy activities.

Strategic litigation activities:

- taking part in court proceedings as a third party intervener;
- ensuring that clients are represented in court and receive legal assistance from Foundation lawyers or outside counsel working pro bono;
- submitting amicus curiae briefs on behalf of the Foundation, in which we present human rights issues that are relevant from the perspective of constitutional and comparative law but do not directly refer to the facts of a case;
- popularising the application of developed standards (through amicus curiae briefs, general statements, opinions on proposed legislation, general interest and academic papers);
- submitting requests for extraordinary complaints in cassation to the Polish Ombudsman, Commissioner for Human Rights.

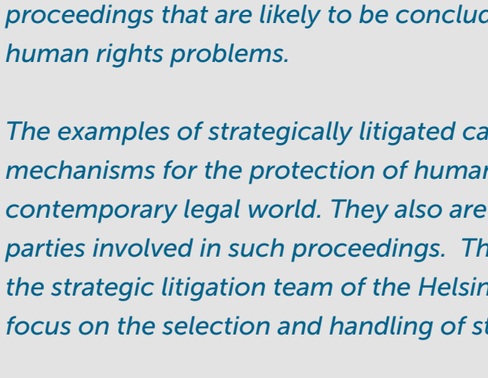
Members of the public are invited to follow our current activities at www.hfhr.pl.

Lawyers and human rights defenders will remember 2017 above all as a time of struggle for the foundations of a democratic state governed by law. Defence of the rule of law and independence of courts and judges, as well as freedom of action for the civil society and the media, have been at the heart of the initiatives we pursued.

The report, which you are about to read, contains a summary of strategic litigation activities undertaken by the Helsinki Foundation for Human Rights. These activities were a reaction to the phenomena occurring in the social and legislative spheres and a response to the problems reported to the Foundation by persons in need of assistance. In this report, we present a list of landmark decisions of national and international bodies, which were made in 2017. A separate chapter is also devoted to proceedings that are likely to be concluded in 2018 and create a new approach to human rights problems.

The examples of strategically litigated cases given in this report prove that judicial mechanisms for the protection of human rights play an important role in the contemporary legal world. They also are a testament to the great responsibility of all parties involved in such proceedings. The above conclusions are fully embraced by the strategic litigation team of the Helsinki Foundation for Human Rights and drive our focus on the selection and handling of strategic human rights cases.

However, our work could not have been possible without the stalwart commitment of many experts and practitioners. We would like to express our special thanks to the attorneys who work with us on a pro bono basis. They provide their expertise to people in need who turn to the Foundation for help. We are pleased that we have already built up a network of long-term collaborators and even more satisfied by the fact that new lawyers are still joining the team. Together, we can better defend fundamental rights and freedoms and help victims of human rights violations.



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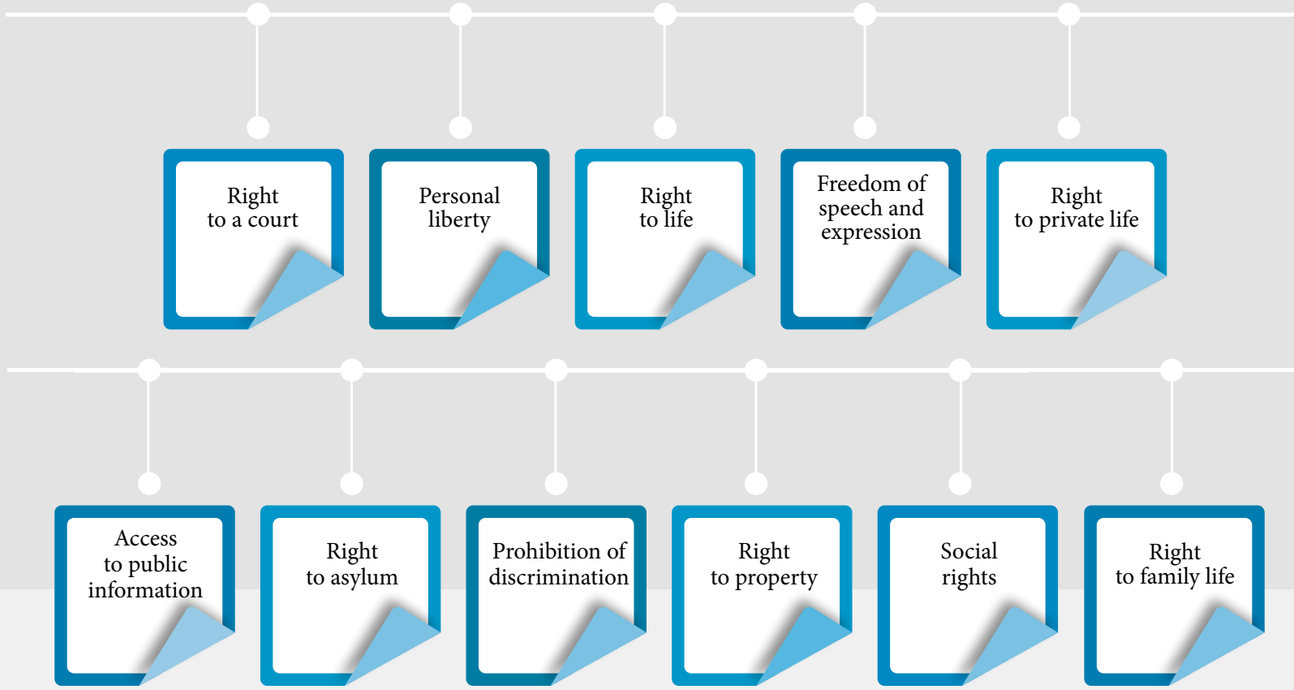
2017 in numbers

- In 2017, we prepared amicus curiae briefs in **24** cases before the European Court of Human Rights, common and administrative courts.
- We represented clients in **32** cases before the European Court of Human Rights.
- We prepared **18** applications and complaints to international courts.
- We appeared in **28** cases as a social organisation.
- We procured pro bono representation for clients in **51** cases.

We conducted cases related to:



We litigated cases involving the following thematic areas:

The prohibition of torture and inhuman or degrading treatment and punishment

- The admissibility of extradition
- Unjustified detention of foreign victims of torture and violence in immigration detention centres
- Inadequate medical care for persons with mental disorders in penitentiary facilities
- A failure to provide treatment for persons suffering from chronic pain
- No access to treatment at the level consistent with the current medical knowledge in public healthcare facilities

Right to liberty and security of a person

- The use of protective measures imposed on persons with a mental disorder
- The application of post-release detention
- Placement at nursing homes
- Compensation for the moral injury caused by mistaken imprisonment
- Unlawful detention of migrants and asylum seekers
- Court-ordered extensions of mandatory stay at youth shelters

Right to a court and effective remedy

- Limits of independence of courts and judges
- Admissible criticisms directed at a judge by members of the executive
- Right to appeal against a decision refusing a judicial appointment
- The absence of facilities for persons with intellectual disabilities in court procedures
- A pardon issued before a final judgment is passed
- Right to have one's case heard within a reasonable time
- The rights of defence in cases of foreigners deemed to be a national security threat and deprived of access to information on the subject matter of the proceedings

Right to family and private life

- Respect for the memory of a late relative
- Right to say goodbye to a dying inmate of a penitentiary facility
- Right to protection of the public image of an acquitted defendant
- Protection of rights of crime victims
- Protection of rights of victims of domestic abuse
- Right to register a same-sex union concluded abroad
- Refusal of a residence permit on the grounds of national security
- Designation of the cause of a disability in disability certificates
- Protection of the personal data of adopted children
- Compensation for a moral injury for a person mistakenly recognised as dead
- Access to legal abortion

Freedom of expression

- Suppression of criticism in cases of major public interest
- Freedom of expression in the social media
- Blocking online content, obligation to register websites as daily newspaper or magazines
- The responsibility of Internet intermediaries for content added by users
- The responsibility of online corporations for activities that interfere with human rights, the right to be forgotten
- Surveillance of journalists and protection of journalistic sources of information
- The politicisation of personnel policy and biased reporting in public media outlets
- Protection of journalists against violence and their freedom to report on parliamentary work, demonstrations, social protests and other events of major public interest
- Freedom of the media at a local level (negative effects of publishing newspapers by local authorities, protection of local media organisations against pressure from local authorities
- Protection of whistleblowers and freedom of speech in the workplace
- Limits of the right to privacy and protection of the image of public officials
- Freedom of expression for members of civil society organisations and the legal professions

Freedom of assembly

- Right to organise a peaceful assembly
- Right to appeal against a ban on conducting a demonstration

Discrimination

- **Discrimination on the grounds of disability:**
  - declaring a person legally incapacitated contrary to national and international standards of respect for the dignity and autonomy of persons with disabilities
  - accessibility of medical services for persons with disabilities moving with assistance dogs
  - the absence of a legal basis for the complete or partial payments of a nursing allowance to the carers of persons with disabilities who have a fixed right to an old-age pension, despite the fact that the old-age pension is significantly lower than the nursing allowance
  - irregularities during administrative proceedings related to the assessment of the degree of a person's disability
  - a failure to ensure reasonable workplace accommodations for persons with disabilities
- **Discrimination for trade union activities**
- **Discrimination based on national and ethnic origin religious convictions:**
  - the beating of an academic teacher who spoke German while riding a tram
  - a bus driver's refusal to accept a black passenger
  - racist beatings and assaults
- **Discrimination based on gender or sex:**
  - dismissal of a group of female workers who were pregnant or recently gave birth
- **Discrimination based on sexual orientation:**
  - a printing business' refusal to print a banner for an LGBT organisation
  - attacks against offices of an LGBT organisation
  - the unequal treatment of persons living in a civil partnership resulting from the absence of a statutory regulation that would recognise non-heterosexual unions
- **The situation of stateless persons**
  - difficulties in regulating the legal status of stateless persons in Poland
- **Right to asylum**
  - entry refusal decisions issued to foreigners who want to make application for international protection at eastern border of Poland

A SUMMARY OF THE MOST IMPORTANT CASES

> ***Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms***
> ***No one shall be subjected to torture or to inhuman or degrading treatment or punishment.***

Revocation by the Court in Warsaw a decision denying international protection to a victim of torture

The Provincial Administrative Court in Warsaw has decided a case of a Chechen citizen of Russian Federation who has been seeking international protection in Poland. Even though a psychologist's report describes that the man suffers from psychological disorders, possibly resulting from torture, Polish authorities failed to investigate the issue properly and refused to grant him international protection.

In the course of asylum proceedings, the foreign national submitted that he is a member of a family who filed an application to the European Court of Human Rights, alleging human rights violations on the part of Chechen authorities. He also argued that he had been persecuted and tortured on suspicion of aiding Chechen rebels.

PAC in Warsaw ruled that the Council for Foreigners had not sufficiently addressed the arguments presented by the foreigner but merely disregarded his explanations as not credible, thereby committing a violation of rules of the administrative procedure.

Judgment of Warsaw PAC of 8 December 2017, case file no. IV SA/Wa 2116/17

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Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms
1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty...

Patient involuntarily placed in nursing home released after 15 years

We are especially proud of securing the release from a nursing home of one of our clients in 2017. In 2001 he was fully incapacitated and in 2002 placed at a nursing home at the request of his legal guardian. Owing to the deficiencies of the Mental Health Protection Act the man had no legal possibility to demand in court that he be released. In 2012, during proceedings pending before the ECtHR, in which our client was represented by the HFHR's lawyer, the Court found that there had been a violation of his right to protection of personal liberty (Article 5 of the ECHR). However, it was not until June 2017 that the man was finally released and it was only after the HFHR informed the management of the nursing home that any grounds for his stay in the facility were no longer valid as his incapacitation order had been amended from total to partial incapacitation. In 2017, the HFHR became also successful in two other cases involving nursing homes. The first one concerned an incapacitated person's stay in a nursing home and was concluded with the ECtHR's decision approving a unilateral declaration stating that there had been a violation of Article 5 of the ECHR In the other case we managed to prevent the placement at a nursing home of a young man with Asperger's syndrome. The involvement of the HFHR in cases involving nursing homes coincided with an important amendment to the Mental Health Protection Act, which eventually enabled the enforcement the judgments of the ECtHR and Constitutional Tribunal that related to the problem in question. It is worth noting that during the legislative process, the HFHR submitted a legal opinion on the draft amendment and many of the Foundation's comments were taken into account.

Supreme Court' judgment on an unlawful placement of vulnerable asylum seekers in a detention centre

The case involves a family of foreigners (a mother with two minor children) who experienced violence in their country of origin. During their stay in the detention centre in Przemyśl, the family lodged an application for international protection. Despite the fact that the family informed authorities about violence they experienced, they were not properly assessed and immediately released from the guarded centre, which is a clear violation of law. Eventually the family was granted refugee status.

In light of the above, lawyers of the HFHR brought a motion for compensation for moral injuries caused by unlawful detention. During the proceedings both the Regional Court in Warsaw and the Court of Appeal in Warsaw awarded insufficient amounts of compensation, failing to consider all circumstances of the case, including the fact that one of the children had been hit by another foreigner during stay in detention centre. In connection with the above, a complaint in cassation was submitted to the Supreme Court. The Supreme Court reversed the judgement of the Court of Appeal in Warsaw and remanded the case for reconsideration.

In the statement of reasons, the Supreme Court held that a court that determines how unlawful detention affects the mental state of a foreigner is obliged to call expert witnesses and may not make any such findings of fact on its own.

According to the HFHR, this statement should also apply to proceedings for the placement of a foreigner at a guarded centre. The court should always call an expert witness in order to determine the status of a foreigner who is likely to have been a victim of violence or is a person with a disability, especially when there are psychological evaluation reports prepared outside the criminal proceedings or if the very appearance of a foreigner suggests medical problems. In such a situation, a foreigner can not be placed in a detention centre. Nevertheless, courts often order the placement of foreigners in guarded centres based exclusively on Border Guard documents that confirm the absence of medical counter indications to detention, even if opinions drafted by psychologists from non-governmental organisations show conclusions to the contrary.

In the statement of reasons, the Supreme Court also stated, relying on the jurisprudence of the European Court of Human Rights, that foreigners placed in a detention centre are under the full control of the Polish state and this is why the state is responsible for their safety and health. Therefore, it is the state who is responsible for violence inflicted on a detained child by another foreigner.

Judgment of the Supreme Court of 2 March 2017, case no. II KK 358/16.

Compensation for imprisonment caused by a judicial error

In October 2017, a very important judgment was issued in a case involving unlawful imprisonment. Tomasz spent 81 days in prison for the sole reason that another person with the same name had committed an offence during the period of his conditional release. The man has won a personal interests case brought against the State Treasury in a court of the first instance and is to receive 120,000 zloty in compensation for moral injury. It all started in December 2012, when a district court sentenced Tomasz for a prison term of 14 months, conditionally suspending the execution of the sentence

for four years. Later, in June 2014, another district court sentenced a person bearing the same name as Tomasz for 12 months of imprisonment, suspending the sentence for three years. After some time, the third district court obtained information from the National Criminal Register that a man with the same name as Tomasz had received a criminal sentence. The court decided that the sentence concerned Tomasz and, since it was handed down during the probation period, ordered his committal to prison. As a result, Tomasz was held in prison unlawfully between 2 January and 23 March 2015. He was not released until the prison received a written explanation from the third court that notified that Tomasz' sentence was enforced due to an obvious omission. In both cases, only the names of convicted persons matched but other details were different. Considering the above, Tomasz decided to bring an action for the protection of personal interests. Although the judgment is not final the court of the first instance pointed out that the amount of compensation was not grossly excessive, especially given the fact that in this case, it was difficult to evaluate the value of the sustained loss and moral injury. The regional court also emphasised that its decision was influenced by the attitude of representatives of the State Treasury who had been convinced that no violation occurred and did not want to resolve the dispute, neither in conciliatory proceedings nor in court-ordered mediation.

Judgment of the Regional Court in Gliwice of 19 October 2017, case no. IV CSK 247/16. The judgment is not yet final.

> ***Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms***
> ***1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...***

Admissibility of a pardon before the passing of a final judgment

One of the most landmark decisions made this year, and perhaps even in recent years at all, was undoubtedly the resolution of the Supreme Court on the admissibility and legal consequences of pardoning the convicted person by the President. In this resolution, the Supreme Court ruled that the President may exercise his prerogative to grant a pardon only in relation to persons who have been lawfully convicted. A different interpretation would lead to unacceptable interference with the independence of the judiciary, as the Head of State would acquire the competence to administer justice (annulment of invalid judgements), which is the exclusive domain of the courts. Pardoning persons whose conviction is not yet final would interfere with the presumption of innocence principle. It is worth noting that a similar view was presented by the HFHR in its legal opinions drafted in November 2015 and May 2017.

Resolution of seven judges of the Supreme Court dated 31 May 2017, case no. I KZP 4/17.

Reasonable procedural accommodations for persons with intellectual disabilities

Another significant case was the case of M.P. v. Poland involving the issue of reasonable procedural accommodations for persons with intellectual disabilities in criminal proceedings. The application to the ECtHR was submitted by the mother of a person with a disability who claimed he had been raped by his therapist. The defendant was acquitted in the criminal proceedings but the applicant argued that it was mainly for the reason that her son had not been properly interviewed, that is in a manner accounting for his disability. Unfortunately, in this case, the ECtHR did not issue a judgment, but only a decision approving the unilateral declaration made by the Polish government. However, the government's official acknowledgement that a failure to adapt criminal proceedings to the specific needs and abilities of people with disabilities was in breach of Article 3 ECHR can be of great importance and contribute to legal and factual changes.

The HFHR presented an amicus curiae brief in the case before the ECtHR.
The ECtHR's decision in the case of *M.P. v. Poland*, application no. 20416/13.

> ***Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms***
> ***1. Everyone has the right to respect for his private and family life, his home and his correspondence.***

Compensation for moral injuries for a teen victim of rape

A middle school student was raped by three pupils of the same school. In a case heard by a regional court, she won PLN 250,000 in compensation for moral injuries to be paid by the perpetrators.

The incident occurred in 2008 when the claimant was still under 15. The perpetrators were too young to be tried for a criminal offence and a guardianship court sentenced

them to a young offender institution but suspended their convictions for a probation period. In 2012, the victim and her mother submitted an application to the European Court of Human Rights. The proceedings in this case ended with Poland's unilateral declaration admitting violations of ECHR Articles 3, 8 and 13.

In 2015, the woman brought a court action against the perpetrators of rape, requesting PLN 350,000 in compensation for moral injuries. In 2017, a regional court ruled that the perpetrators should pay her PLN 250,000 together with interest. While pronouncing the judgment, the court emphasised that is had taken into consideration the drastic circumstances of the case and the fact that the perpetrators have never expressed remorse or apologised to the victim. On the contrary, during the trial, the perpetrators attempted to undermine the victim's credibility and suggested that she freely consented to a sexual intercourse and no rape had, in fact, taken place.

The judgment of the regional court is not final. The claimant was represented pro bono by Mr Adam Kempa, Ms Małgorzata Surdek, Mr Adam Jodkowski and Mr Marcin Zbytniewski, attorneys of CMS Cameron McKenna.

ECtHR: states must respect same-sex partnerships registered abroad

The European Court of Human Rights has delivered the judgment in a case that involved a refusal of registration of same-sex civil unions from abroad in Italy. The Court found that the laws which prevent domestic recognition of such unions violated the right to respect for private life. In the judgment, the ECtHR referred to the amicus curiae brief submitted in the case by the Helsinki Foundation.

The application in this case was brought by 11 Italian citizens and a Canadian national, all married in countries that legally acknowledge same-sex marriages. After they returned to Italy, they applied for the registration of these marriages to Italian authorities who refused their requests claiming that a registration would contravene public order. The applicants emphasised that such decisions constituted discrimination based on sexual orientation.

The Court emphasised that member states were free to choose whether to accept same-sex marriages or not; however, the states are obliged to guarantee the legal recognition and protection of same-sex couples. As the Court noted, the majority of members of the Council of Europe (27 out of 47 states) recognise same-sex relationships in the form of civil unions, which is an institution comparable to marriage and is generally a measure sufficiently respecting ECHR standards. However, until a new law on same-sex unions entered into force in 2016, Italian law had not provided same-sex couples with any legal protection. The ECtHR held that this situation was not justified by any rational arguments, which led to a violation of Article 8 of the Convention (right to protection of privacy and family life).

The judgment in the case *Orlandi and Others v. Italy*, applications nos. 26431/12, 26742/12; 44057/12, 60088/12.

Right to say goodbye to dying person as personal interest

The family of a deceased prisoner has brought a lawsuit against a prison that prevented them from saying goodbye to their dying relative. The claimants requested that the prison issued an apology and compensated them for moral injuries. Already in 2016, the first-instance court noted that the right to say goodbye to a dying prisoner is a personal interest within the meaning of the Civil Code, which must be afforded legal protection. Such an interpretation is derived from a number of sources, including the Constitution of the Republic of Poland, the court argued. The court ruled that the prison administration is obliged to notify the family of an inmate of their deteriorating health if an inmate is unable to do so or if a notification cannot be delivered in due time. Consequently, the court ordered the prison to issue an official apology and ruled that the State Treasury should pay compensation to the deceased's family members. Both the claimants and the State Treasury Solicitors' Office have appealed against the first-instance judgment. In September 2017 the second-instance court issued a judgment, in which it noted that the right to say goodbye to a dying prisoner is a personal interest. The Court indicated that an obligation to notify family members of a critical health condition of an inmate was one of a prison's legal obligations. However, this obligation applied only to the wife, as the closest family member of the deceased, and rested on the state that operated as a healthcare entity. The court stressed that there had been a direct violation of personal interests of the deceased's wife and an indirect violation of personal interests of other relatives. Moreover, the court pointed out that the provisions of the Constitution and Article 8 of the European Convention on Human Rights had been violated. An important point, which was stressed by the court of the second instance, is that the provisions of the Constitution should be applied directly, especially when the case concerns citizens' rights.

The HFHR has filed an amicus curiae brief in this case.

Judgment of the Court of Appeal in Wrocław of 5 September 2017, case no. I ACa 863/17.

No grounds for incapacitation

We succeeded in a case involving incapacitation of a man with Down's syndrome. A prosecutor withdrew the motion for the man's incapacitation after the HFHR had joined the proceedings and presented a legal opinion on international and constitutional standards governing the treatment of persons with intellectual disabilities. This led to the dismissal of the case.

The Regional Prosecutor in Toruń submitted the motion for the total incapacitation of our client after receiving a request from the court handling the probate case of his late father. The probate court expressed concerns over whether the man may independently participate in probate proceedings and whether he understands the meaning of such proceedings.

During the trial before the Regional Court in Toruń witnesses testified that the man was self-sufficient in many activities of daily living. He has a job and commutes to work on his own. He receives support from his family and the staff and trainers from the Foundation for Persons with Disabilities Arkadia from Toruń. The witnesses underscored that although the man could not read or write, with appropriate communication support he was able to understand the meaning of his decisions and express his intent.

The Foundation joined in the proceedings and indicated in its report the need for applying the standards enshrined in the Constitution of the Republic of Poland, the Convention on the Rights of Persons with Disabilities, and the European Convention on Human Rights in proceedings that involve legal incapacitation.

> ***Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms***
> ***1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.***

A case won by the activists who displayed a pro-women rights poster based on a WW2 Resistance symbol during a demonstration

The case concerned three Green Party activists, who were accused of insulting the Anchor, a sign of Polish WW2 Underground State, by having displayed it as an element of a poster promoting women's rights. A Warsaw district court acquitted the activists on criminal infraction charges, ruling that not every modification of a legally protected symbol equals an insult of such a symbol. As the court argued, only those modifications that are intended to ridicule or debase the symbol in question have the insulting effect. In the court's opinion, linking the Anchor with other symbols that do not evoke generally negative associations cannot be interpreted as a prohibited act. Referring to freedom of expression and freedom of assembly as values protected by the Constitution of the Republic of Poland and the European Convention on Human Rights, the court pointed out that the defendants had the right to manifest their views during a public assembly also by using the protected symbol of the Polish Underground State. The court also stressed that the Anchor is a symbol common to the whole nation and therefore political views or a worldview may not be used as criteria for assessing the priority of one's entitlement to this symbol. This decision confirmed that protected national symbols (or their modifications) may be used to express different views, provided that the manner in which they are used is not an expression of contempt towards such symbols. The judgment is not yet final.

The accused activists were represented pro bono by Mr Artur Pietryka, who agreed to appear in the case at the request of the Helsinki Foundation.

Judgment of District Court for Warszawa-Śródmieście of 5 October 2017, case no. XI W 1413/17.

Reinstatement of three journalists of Polish Radio

One of the consequences of the public media "reform" carried out in 2016 was the departure of a large number of journalists, often as a result of a dismissal. Among the dismissed media professionals were three journalists working for the Polish Radio channels Two and Three, whose employment was terminated for disciplinary reasons after they expressed support for their two colleagues, who, in their opinion, were unfairly banned from the air. The dismissed journalists defended their associates as fellow journalists of the public media but first and foremost they acted within their rights as members of a trade union. The three journalists appealed against the dismissal to an employment court. Ultimately, the parties settled the case during the trial. The Polish Radio Corporation agreed to most of the demands made by the journalists in their complaint to the employment court. In particular, the journalists will return to their radio work, and they will also receive a pecuniary payment for, among other things, the period of unemployment following their dismissal. The Radio also must make a charitable donation of PLN 7,500 to the Free Speech Association. This settlement can also be treated as a quasi-admission, made by the management of the Polish Radio

Corporation, that the dismissal was groundless and inappropriate. It thus may serve as a warning to the leaders of public media outlets against engaging in similar practices in the future and, at the same time, give hope to other journalists employed in the public media that they can effectively assert their rights.

At the request of the HFHR, Agnieszka Lisiecka, an attorney with Wardyński i Wspólnicy, provided pro bono representation one of the journalists. The Foundation also joined the proceedings as a non-governmental organisation.

Freedom of online speech: no registration requirement for a "watchdog blog"

The Regional Court in Piotrków Trybunalski validly acquitted the administrator of a local blog, who was accused of publishing a periodical without registration. The court ruled that the site was not a daily newspaper or a magazine and therefore it was not subject to the registration obligation provided for in the Press Law Act. The Helsinki Foundation filed an amicus curiae brief in this case. As the HFHR emphasised, the obligation to register daily newspapers or magazines restricts freedom of speech and as such should not be interpreted extensively. In particular, creators of different amateur forms of online expression should not be surprised by information that they unwillingly create a registrable press title. In the assessment of the Foundation, the status of a given publication, including a website, should be determined on the basis of a publication's objective purpose, which means that in all cases the legal test established by the Press Law Act should be applied with a view to whole set of a publication's circumstances and characteristics. According to the Foundation, it often happens in practice that charges concerning non-compliance with the obligation to register a website as a daily newspaper or a magazine are filed against bloggers who perform the control function of a "public watchdog" in their communities, while the accusers tend to be associated with local authorities looking for a pretext to harass the authors of inconvenient online publications. The acquittal judgment is final.

Judgment of the Regional Court in Piotrków Trybunalski of 24 January 2017, case no. IV KA 759/16.

> ***Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms***
> ***1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.***

Courts protect the right to organize counter-demonstrations

The Helsinki Foundation for Human Rights joined the proceedings concerning the ban on the organisation of an assembly by the Tama association, which was to take place on 10 May 2017. A province governor prohibited the organisation of the assembly, arguing that otherwise it would coincide with a periodic assembly aimed to pay a tribute to victims of the Smolensk crash. The governor invoked a provision of an amendment to the Assemblies Act that prevents the organisation of counter-protests at the time and place of periodic assemblies. The organiser of the prohibited assembly challenged the governor's order, alleging the order was based on the incorrect interpretation of law. Having joined the case as a party, the HFHR supported the organiser during the proceedings before the Regional Court in Warsaw. The Foundation argued that the governor's order was unlawful because the provisions prohibiting assemblies do not apply to assemblies organised in the simplified procedure. Such assemblies may never be forbidden, but only subsequently dissolved if such dissolution is justified, e.g. on the grounds that an assembly presents a threat to the life or health of persons or a risk of a considerable loss to property. The Foundation also noted that the relevant amendment to the Assemblies Act could be unconstitutional and called for interpreting provisions of the Act in compliance with the standards developed in the jurisprudence of the European Court of Human Rights. In a decision issued on 10 May 2017, the Regional Court accepted the arguments raised by the Foundation and the organiser and revoked the prohibition, which allowed the organisers to hold the assembly. Unfortunately, although the decision of the Regional Court had become final, the situation repeated itself in the following month. Once again, thanks to the efforts of the organizer and the HFHR, the Regional Court revoked the governor's order. The governor appealed against the Regional Court's decision, but a Court of Appeal upheld the revocation in a decision from 2 June 2017. The Court of Appeal emphasised that since the freedom of assembly is enshrined in the Constitution, state bodies have no "ostensible" authority to prohibit a demonstration in a situation where there is no explicit legal basis for such a prohibition. Decision of the Court of Appeal in Warsaw of 2 June 2017, case no. I ACz 889/17.

> ***Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms***
> ***The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status...***

Granting citizenship to a stateless girl

We were successful in our attempts to secure citizenship of Viktoriia, a stateless girl from Ukraine. The President of Poland granted Polish citizenship to 26-year-old Viktoriia, who had been a stateless person for several years. Viktoriia came to Poland more than a decade ago. She lost her Ukrainian citizenship while applying for Polish citizenship, which, at the time, she was unable to obtain. She became stateless because of bad legislation and red tape.

Viktoriia and her mother began to apply for renunciation of Ukrainian citizenship, which turned out to be a difficult and long-lasting process. Before they could submit a proper application for renunciation of citizenship, the Ukrainian Embassy in Warsaw had repeatedly required that they complete various formalities, present new documents, certificates, which forced them to travel back to Ukraine many times. When at the end of 2013 Viktoriia went to Ukraine to complete formalities, her identity card was taken away.

In December 2013, the Ukrainian Embassy finally accepted her application for renunciation of citizenship. On many occasions did Viktoriia attempt to find out about the status of her case, but the only information she received was that her application was still being processed. Viktoriia knew that the two-year deadline for her to provide proof of renunciation of Ukrainian citizenship expires, so she also asked the Chancellery of the President of the Republic of Poland to grant her citizenship regardless of whether she will submit proof of renunciation of Ukrainian citizenship. The Chancellery denied her request.

In 2015, the Polish authorities refused to grant Viktoria a temporary residence permit and she had to go to Ukraine in order to obtain an entry visa to Poland. Before her journey, Viktoriia went to the Embassy of Ukraine once again, where she learned that she had lost her Ukrainian citizenship in September 2014, although at that time she was assured that her case had not yet been decided. On delivering a decision on Viktoriia's application for renunciation of citizenship her Ukrainian passport was taken away from her. She once again requested the President of Poland to grant her Polish citizenship given the predicament she found herself in. The Chancellery of the President of the Republic of Poland refused again.

The first step was to apply for a foreigner's identity document to be issued for Viktoria. This allowed us to initiate the procedure of obtaining the right of temporary residence in Poland. Only then did the Polish authorities agree to accept an application for granting Polish citizenship by the President of the Republic of Poland.

Viktoriia's case shows that the situation of stateless persons in Poland should be comprehensively regulated as soon as possible. Above all, Poland should ratify two UN conventions relating to the status of stateless persons. We are one of the four EU countries which have not ratified any of them, although it is estimated that in Poland there may be about 10,000 people who do not have any citizenship.

Viktoriia was represented by attorney Marta Kuchno, acting pro bono at the courtesy request of the Foundation.

Age should not be a ground for limiting the amount of compensation

We filed an amicus curiae brief with the Regional Court in Katowice in the case where a lower amount of compensation was awarded to an older person who had had an accident. Consequently, the Court increased the amount of compensation and ruled that age could not be the only ground for determining compensation for moral loss.

In 2012 our client was hit by a car on a pavement and underwent complicated treatment, but never regained his previous physical fitness. He became dependant on others. The victim considered the amount paid to him by the perpetrator's insurer insufficient and sued the perpetrator for compensation for a moral loss, seeking the award of PLN 50,000. However, in 2016, the District Court in Sosnowiec awarded the compensation to our client but limited its amount to PLN 10,000. In the judgment, the court acknowledged that as a result of the accident the man needed to change his everyday life and constrain his activities. However, the court ruled that the incident's consequences for the victim's mental state and loss of life prospects should be assessed differently. The court underlined that for an elderly person, they are objectively less long-lasting and severe than for a young person. In the case of a young person, the accident would result in a reduction or complete loss of the chances of life development (educational and professional) or would reduce the chances of starting a family. The court said that this will not affect the claimant, who has already had these stages of life behind him.

The Helsinki Foundation presented an amicus curiae brief during the appellate proceedings. The Foundation noted in the brief that using an injured party's age as a factor determining the amount of compensation for a moral loss may be a discriminatory practice.

Judgment of the Regional Court in Katowice of 10 May 2017, case no. III Ca 526/16.

Reinstatement of a dismissed union activist

The Regional Court in Poznań ordered the reinstatement of a client of the HFHR, a history teacher with a trade union's membership. The court also awarded the teacher the amount of the unpaid salary for the period out of work.

The man worked as a religion teacher at a school in Poznań. For several years his responsibilities included teaching history. In 2014, during his last year of service before dismissal, he was almost entirely occupied with teaching history. At the same time, he was granted special trade union protection, which prevented his dismissal without the trade union's approval. At the request of the school's headmaster, a bishop revoked the official permission to teach religion at the school granted to the HFHR client. The school administration claimed that in accordance with the provisions of the Teacher's Charter, the revocation of the teacher's delegation to teach religion obliged them to terminate his employment, irrespective of any trade union protection.

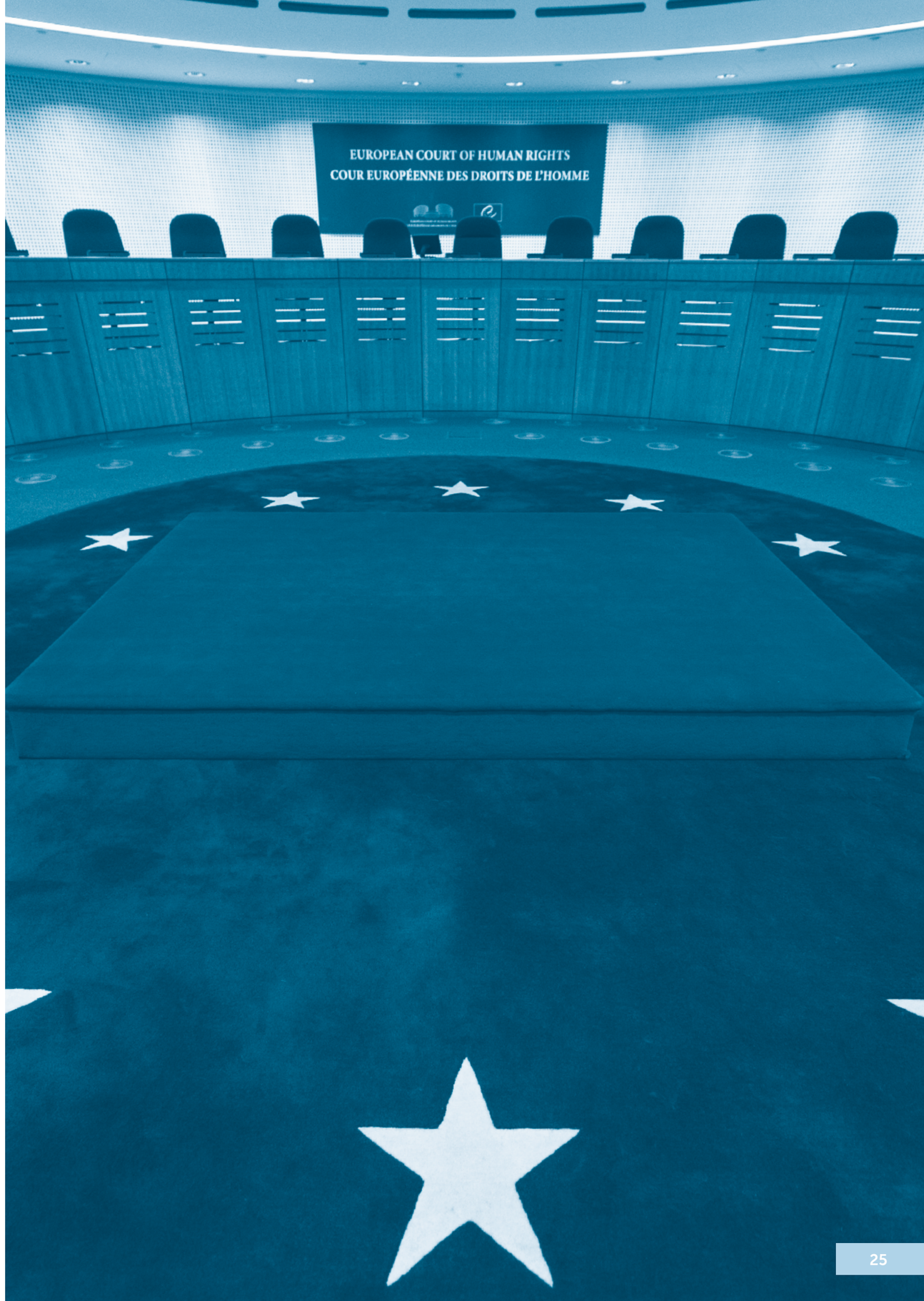
The court ruled that the dismissal had been unlawful. The Court assessed that the school administration had taken advantage of a special and simplified dismissal procedure for religion teachers in order to deprive the teacher of trade union protection and terminate his employment. The Court considered such behaviour of the employer to have been in contravention of the principles of public policy and amounted to an abuse of law.

The Regional Court confirmed that the teacher had enjoyed special trade union protection against the termination of his employment relationship of a history teacher because, despite having been formally delegated to teach religious education, he was teaching history full time.

In its opinion presented to the Regional Court, the Foundation has noted that the interpretation of law that deprives religion teachers the special protection of a stable employment relationship regardless of their union membership cannot be reconciled with the principle of equal treatment and the freedom of activities of trade unions, which is enshrined e.g. in the Polish Constitution. As long as religion teachers work in public schools they should be treated in the same way as all other teachers.

At the request of the HFHR, the client was represented pro bono by lawyers from Chajec, Don-Siemion & Żyto Sp. k., Mr Piotr Kryczek and Ms Weronika Papucewicz, and also by Justyna Klimek, a legal advisor trainee with Bartoszewska Binkowski Sp. k.

Judgment of the Regional Court in Poznań of 20 September 2017, case no. VIII Pa 47/17.



In 2018, we are awaiting further landmark decisions in the field of human rights:

The right of close persons to respect for the memory of a late relative

In 2018, the ECtHR may issue a judgment on the order of exhumation of two victims of the Smolensk crash, which was performed against the will of their families. The applicants, who are represented by the HFHR in ECtHR proceedings, claim that Polish authorities infringed their right to the protection of privacy and family life (Article 8) and the right to an effective remedy (Article 13), alleging that the exhumations which they opposed were not strictly necessary and that their position, expressed during the relevant proceedings, was completely ignored by the prosecution service. In addition, the applicants submit that Polish law does not provide for any remedies against a prosecutor's decision ordering an exhumation. The ruling to be entered in this case will undoubtedly be a landmark one, for at least two reasons. First, the ECtHR has never ruled on a case with similar facts. A ruling that confirms a violation of Articles 8 and 13 ECHR could undoubtedly set a new standard of human rights protection and would also force Polish lawmakers to amend the current wording of the Code of Criminal Procedure. Second, the ECtHR will have to decide whether the Constitutional Tribunal is currently capable of effectively exercising its powers. This is because the applicants filed their application to the Court pending the Constitutional Tribunal's review of a question of law referred by a district court, which, when examining their interlocutory appeal against the exhumation decision of a public prosecutor, asked the Constitutional Tribunal to review the constitutionality of the provisions of the Code of Criminal Procedure that effectively prevent such an appeal from succeeding. The applicants allege that the constitutional review was not necessary because, in the face of the ongoing constitutional crisis, the Constitutional Tribunal is no longer an effective body and that its ruling would not have stopped the exhumation anyway.

The standards for the use of protective measures

We hope that in 2018 the ECtHR will issue a judgment in the case of *M.B. v. Poland*. The case concerns the protective measure of psychiatric committal, which was imposed on a man suffering from schizophrenia despite the fact that after criminal proceedings were initiated, he voluntarily started a therapy that involved the use of state-of-the-art methods of treating mental disorders. In his application, drawn up by HFHR lawyers, the man claims that his right to the protection of personal liberty (Article 5 ECHR) was infringed because the psychiatric evaluation report that served a basis for his committal had become outdated before a court order his institutionalisation as it was based on the findings of a psychiatric examination carried out prior to the start of his treatment. In addition, the applicant argues that his committal was unnecessary as the voluntary therapy was very successful. The positive outcomes of the therapy resulted from the fact that it did not depend on compulsory administration of pharmaceuticals, but on making patients aware of the essence of their mental disorders, educating them on the importance of systematic self-medication and providing them with psychological training and rehabilitation in order to enable them to return to a normal life in society. The judgment in this case may be very important as it may contribute to the raising of the Strasbourg standards for the protection of the personal liberty of persons with mental disorders and to the improvement of coherence between the ECHR and the Convention on the Rights of Persons with Disabilities.

The right of persons with a mental illness to receive appropriate treatment in prison

In 2018, the ECtHR may also rule on the application the HFHR submitted on behalf of Daniel in a case concerning the conditions of incarceration. Daniel, a patient diagnosed with paranoid schizophrenia, has been reeving treatment for about 10 years. He served a custodial sentence of 9 months in a Polish prison after he was convicted for the preparation to falsify a document. Initially, he was sentenced to an electronically monitored curfew but later damaged the tagging device. According to his mother, he complained that the radiation emitted by the device might have harmed him. At the moment of his committal to prison, Daniel had a long history of psychiatric hospitalisation. In the application prepared on his behalf, we noted that Poland might have violated Articles 3 and 8 of the European Convention on Human Rights, which prohibit torture and ensure the right to respect for private and family life. According to the existing jurisprudence of the ECtHR, domestic authorities should have taken all efforts to ensure the proper conditions of Daniel's incarceration, which should have been adjusted to his medical condition. However, he served his sentence in a closed facility. In his letters to the HFHR, Daniel noted that the conditions of a closed prison were not adjusted to his mental disorder. He, therefore, felt that he was not treated in a humane way. As he argued, he stayed in his cell 23 hours a day and had only two hours of visiting time a month during which he could see his mother. He also complained about very limited access to the library. On the arrival to prison, Daniel was examined by a prison doctor who did not diagnose him with paranoid schizophrenia but preventively prescribed further medication. In the doctor's opinion, Daniel faked the condition. In actuality, Daniel was released from a psychiatric hospital only a week before his committal to prison. According to his patient discharge notice, he should receive a follow-up outpatient treatment. Daniel wrote in his letters that while staying in prison he received medication different from that he had been originally prescribed. He went on a hunger strike to protest against the improper treatment. This led to him having been transferred to a single monitored cell. We argued in the application that pharmacotherapy was only one of the elements of an effective treatment process, which means that the treatment of schizophrenia should be comprehensive and adjusted to the needs and health condition of a patient. We also argued that vocational activation is another crucial element of the rehabilitation process.

Responsibility for anonymous user's comments on a blog

On 5 November 2010, which was several weeks before the local elections, a commentary signed with a pseudonym appeared on the applicant's blog under an article concerning the conduct of the elections. The comment directly concerned then-incumbent mayor of a small Polish town, and its author unjustifiably accused the mayor and his relatives of a number of crimes. The blogger blocked the comment immediately after his friend told him about it. The comment was republished several times, but the blogger every time removed it from the site almost immediately. Despite the removal efforts, the mayor brought a claim for protection of personal interests against the blogger, using the fast-track electoral procedure. Polish courts ruled that the applicant was responsible for the blog posts made by the blog's users and was therefore responsible for the infringement of the mayor's personal interests. The applicant was obliged to publish an apology on a blog and to pay PLN 5,000 for a charitable cause. The applicant lodged an application to the ECtHR, which is now pending examination.

The key issue of this case is the legal responsibility of Internet intermediaries for content added by other users. According to the applicant, the national courts failed to take account of a provision contained in the Act on the provision of services by electronic means, which establishes a mechanism to limit the liability of, inter alia, blog administrators. The case is significant in the context of the existing ECtHR case law in this area (*Delfi v. Estonia, Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrtrom v. Hungary, Pihl v. Sweden*), which not only is ambiguous but also raises a great deal of controversy. At the same time, this will be the first such case adjudicated by the ECtHR, in which the applicant is not a professional operator (media company), but a blogger

running a non-profit website about the affairs of his city. The judgment may thus have a very significant impact on the standards of responsibility of social media users for unlawful comments made by other Internet users.

The application was prepared by HFHR lawyers, who also represent the applicant in the proceedings before the Strasbourg Court.

The case of a whistleblower drawing attention to harmful reforms in a state-owned company

The HFHR was also involved in the case of a long-standing in-house counsel of the Polish Security Printing Works (PWPW S.A.) who also served as an employee representative on the company's supervisory board. Acting in defence of the interests of the company's employees, she used the internal channels to point out the negative effects of reforms carried out in PWPW S.A. by the board appointed after the last parliamentary elections. She was dismissed from the company for disciplinary reasons for allegedly providing information about the disturbing situation in PWPW S.A. to the media (she denies contacting journalists in this matter). The lawyer appealed against the dismissal to an employment court.

The key aspects of this case are the violations of freedom of speech, the principle of equal treatment (the case concerns discrimination on the grounds of reporting irregularities in the workplace), as well as the functioning of "employee democracy" in state-owned companies. In the HFHR's opinion, claimant's dismissal is an effect of the politicisation of staffing policies employed in state-owned enterprises as it was not only at silencing criticism from the lawyer herself, but also at discouraging other employees from drawing the employer's attention to irregularities occurring in their workplace. We hope that this case will contribute to the development of relevant standards which would protect workers who are in such a situation. We also believe that it will facilitate the HFHR's advocacy activities in the area of whistleblower protection. This is all the more important in the context of the legislative works on this subject that are underway at the Chancellery of the Prime Minister and at the Ministry of Justice.

Mr Bogusław Kapłon of Domański Zakrzewski Palinka agreed to the HFHR's request for pro bono representation of the claimant in this case. The HFHR also joined the proceedings as a non-governmental organisation.

Demolition of a Roma camp in Wrocław

We hope that in 2018 the ECtHR will decide the case of Caldarar and Others v. Poland. This case concerns the demolition of a Roma camp in Wrocław. The Foundation helped the affected Roma to lodge an application with the ECtHR, which communicated the matter to the Polish Government in autumn 2017.

Let us remind our readers that the Roma camp at Paprotna Street in Wrocław was demolished on orders of Wrocław municipal authorities on 22 July 2015. At the moment of demolition, the camp comprised five structures. Roma families, comprising adults and children, had been living in the settlement since 2009. The applicants did not know about the planned demolition of their homes. The camp was torn down after they left their homes in the morning of 22 July. In the consequence of the demolition, they lost an adobe and belongings. Some things (e.g. electricity generators and heaters) were unlawfully appropriated, while the remaining property – including documents and medicines – was reduced to rubble and transported together with debris to a nearby waste dump site.

The demolition left the Roma applicants homeless. After some time, the families built new homesteads at a camp located at Kamieńskiego Street, also within the Wrocław city limits. The structures erected at the new site fell short of the safety standards. The applicants had not been given any support in finding new housing and received no psychological support. There are children and persons with disabilities among the victims of the demolition.

The Strasbourg Court will examine the case from the perspective of possible violations of the rights enshrined in the Convention's Article 3 (prohibition of torture, inhuman and degrading treatment), Article 8 (right to private and family life and home), Article 14 read in conjunction with Article 8 (prohibition of discrimination) and Article 13 read in conjunction with Article 8 (right to an effective remedy), as well as Article 1 of the Additional Protocol (right to property).

The applicants are represented in the proceedings before the ECtHR by Dr Dorota Pudzianowska, HFHR's legal expert, and Ms Sylwia Gregorczyk-Abram, an attorney of Clifford Chance Janicka, Namiotkiewicz, Krużewski sp. k.

Caldarar and Others v. Poland, application no. 6142/16.

Cases related to refugees refused entry to Poland at Terespol and Medyka border crossings

In 2017, the HFHR became involved in cases concerning decisions to refuse entry issued to refugees at the border crossing stations in Terespol and Medyka. In these cases, foreign nationals tried to submit applications for international protection, but these applications were not accepted, and the foreigners were sent back to Belarus or Ukraine. The Border Guard stated that the foreign nationals had not expressed their intent to apply for international protection, which was supposedly confirmed by memos drawn up by Border Guard officers who reported that applicants wanted to enter Poland in order to seek gainful employment.

In 4 out of 5 cases pending, the Provincial Administrative Court in Warsaw revoked the relevant decisions of the Border Guard. The judgments indicated that a memo is not sufficient evidence to establish the purpose of entry declared by a foreign national. The court ruled that in such situations a report should be drafted and signed by a foreign national, which is to confirm that it presents a true and correct account of reported events. In one of these judgments, the PAC also held that not allowing a foreigner's attorney who was already present at the border station to take part in the proceedings on refusing entry constituted an infringement of the basic principles of administrative proceedings. All the judgments were challenged by appeals now pending before the Supreme Administrative Court.

A refusal of entry at the border

In 2017, the HFHR became involved in cases concerning decisions to refuse entry issued to refugees at the border crossing stations in Terespol and Medyka. In these cases, foreign nationals tried to submit applications for international protection, but these applications were not accepted, and the foreigners were sent back to Belarus or Ukraine. The Border Guard stated that the foreign nationals had not expressed their intention to apply for international protection, which was supposedly confirmed by memos drawn up by Border Guard officers who reported that applicants wanted to enter Poland because of economic reasons.

These cases demonstrate a broader problem concerning the policy of general rejection of asylum applications made by foreign nationals at the border crossings in Terespol and Medyka. Some foreigners make dozens of attempts to submit the application, but each time are sent back from the border.

Cases before the ECtHR

The ECtHR communicated to the Polish authorities the cases brought by nationals of Chechnya (case M.K. v. Poland) and Syria (D.A. and Others v. Poland), whose applications for international protection were refused by the Border Guard at the crossing point in Terespol, which led to their removal to Belarus.

The ECtHR issued interim measures in these cases, in which it required that they should not be sent back to Belarus, but Polish authorities did not comply with these measures.

The applications indicate that by refusing entry, Polish authorities violated the prohibition of collective expulsion of foreign nationals by ignoring applications for international protection and failing to take into account the fact that Belarus is not a safe country for refugees. The applicants also argue that the mere need to make multiple appearances at the border and the repeated refusals of entry constitute, at the very least, degrading treatment. It was also pointed out that the foreigners did not have an effective remedy against the decision to refuse entry.

The ECtHR judgements issued in those two cases will have a significant impact on the hundreds of refugees at the border who are consistently denied an opportunity of submitting asylum applications by Polish authorities and may contribute to the resolution of the current situation. These judgments will also determine whether or not Polish authorities have acted unlawfully.

Cases before domestic courts

In 4 out of 5 cases pending, the Provincial Administrative Court in Warsaw revoked the entry refusal decisions of the Border Guard. The judgments indicated that a memo prepared and signed by the Border Guard officer only is not sufficient basis to issue entry refusal decision. . The Courts stated that such memo was not authorised by the foreigner, therefore the exact course of the conversation between the foreigner and Border Guard officer was not recorder properly. Therefore there is no evidence concerning purpose of entry declared by a foreign national. The court ruled that in such situations a report should be drafted and signed by a foreign national, which is to confirm that it presents a true and correct account of reported events. In one of these judgments, the PAC also held that not allowing a foreigner's attorney who was already present at the border station to take part in the proceedings on refusing entry constituted an infringement of the basic principles of administrative proceedings.

The judgments of the Provincial Administrative Court in Warszawa:

of 2 June 2017, case no. IV SA/Wa 3021/16;
of 17 October 2017, case no. IV SA/Wa 1847/17;
of 27 October 2017, case no. IV SA/Wa 1846/17;
of 9 November 2017, case no. IV SA/Wa 1845/17;
of 21 November 2017, case no. IV SA/Wa 1829/17.
The Supreme Administrative Court upheld the PAC's judgments.

The Team of the Strategic Litigation Programme:

Programme Coordinator:

Katarzyna Wiśniewska – an attorney-at-law (adwokat), a graduate of the Faculty of Law and Administration of the Jagiellonian University of Kraków. Katarzyna Wiśniewska has extensive experience in managing EU and international projects. She is the author and a co-author of a wide range of publications on substantive criminal law, criminal enforcement law and human rights. She sits on the Legal Experts Advisory Panel and the European Council For Juvenile Justice. In 2015, Katarzyna Wiśniewska won the lawyers ranking Risings Stars – Leaders of Tomorrow compiled by national daily newspaper *Dziennik Gazeta Prawna*. Ms Wiśniewska was appointed by the Ombudsman to the Committee of Experts of the National Mechanism for the Prevention of Torture. She is an expert on juvenile justice and proceedings before the European Court of Human Rights.

Other Team members:

Jacek Białas – legal adviser (radca prawny), a graduate of the Faculty of Law and Administration at the Maria Curie-Sklodowska University in Lublin, the author of publications on refugees and migration. He is involved in human rights advocacy and the strategic litigation of cases related to the rights of refugees and migrants before national and international courts. Jacek Białas participates in works on legislative proposals concerning migrants and refugees. He is a member of the Expert Committee on Migrants advising the Polish Ombudsman and a renowned expert in immigration law.

Dorota Głowacka – a graduate of the Faculty of Law and Administration at the University of Łódź, the School of French Law by the François-Rebelais University in Tours and the Oxford Internet Institute, a summer doctoral programme at the University of Oxford. She is a PhD student at the Department of International Law and International Relations of the Faculty of Law and Administration at the University of Łódź. Dorota Głowacka is the author and a co-author of many publications on the freedom of speech. She also cooperates with international organisations, including as the coordinator of a working group for the protection of personal data and the right to privacy in the Council of Europe's Help in the 28 project. Dorota Głowacka is an expert in the field of freedom of speech and the law of new technologies.

Jarosław Jagura – a Magna Cum Laude graduate of the Faculty of Law and Administration of the University of Warsaw and a trainee attorney completing his pupillage in the Warsaw Bar Association. He started working with the Helsinki Foundation for Human Rights in 2013 and has been since involved in, among other things, Article 32 Anti-discrimination Programme and the project Raising Sensitivity of Judges and Prosecutors to Equal Treatment. Mr Jagura is an anti-discrimination expert.

Adam Klepczyński – a trainee attorney, joined the Strategic Litigation Programme of the Helsinki Foundation for Human Rights in July 2017. Previously, as part of his work at the Foundation, he was a collaborator of Article 32 Anti-discrimination Programme, Legal Intervention Programme and the project Monitoring of the Legislative Process in the Area of Justice System. Adam Klepczyński graduated from the Faculty of Law and Administration of the University of Warsaw.

Marcin Szwed – a graduate of the Faculty of Law and Administration of the University of Warsaw, he completed a programme in American law at the Center for American Law Studies, a joint undertaking of the Faculty of Law and the University of Florida Levin College of Law. He also finished an LLM programme in comparative constitutional law at the Central European University in Budapest. Mr Szwed is a PhD student at the Department of Constitutional Law of the Faculty of Law at the University of Warsaw. He has written many publications on human rights and constitutional law and was many times a prizewinner and finalist in national contests for law students. Marcin Szwed is an expert in constitutional law and international mechanisms for the protection of rights of rights of persons with a mental disability.

Experts:

Dominika Bychawska-Siniarska – a member of the Helsinki Foundation's Board, lawyer, and a graduate of the College of Europe at Natolin. Ms Bychawska-Siniarska worked at the Registry of the European Court of Human Rights. She has been leading the Helsinki Foundation for Human Rights' Observatory of the Freedom of Media in Poland since 2008. Her professional achievements in the field of freedom of speech in Poland were recognised with the Article 54 of the Constitution Journalistic Award. Dominika Bychawska-Siniarska coordinates a project for human rights defenders from countries of the former USSR, undertaken in partnership with the Netherlands Helsinki Committee. She is the author of weekly columns published in *Dziennik Gazeta Prawna* devoted to the case law of the European Court of Human Rights. She also serves as the Secretary of the Board of the European Implementation Network, an alliance of organisations working for the implementation of ECtHR judgments.

Prof. Ireneusz Kamiński PhD – an Associate Professor at the Institute of Legal Sciences of the Polish Academy of Science and a lecturer at the Jagiellonian University of Kraków, Professor Kamiński is an expert in public international law and human rights law with extensive expertise in the European Convention on Human Rights and the rules of procedure of the European Court of Human Rights; he is an expert of the Council of Europe. An ad hoc judge of the European Court of Human Rights from July 2014 to June 2015.

Dorota Pudzianowska PhD – a Doctor of Law, sociologist and an Assistant Professor at the Faculty of Law and Administration of the University of Warsaw. Since 2006, she has been collaborating with the Helsinki Foundation for Human Rights, also as the head of Article 32 Anti-discrimination Programme. In 2008-2012 she served as an alternate member of the Management Board of the EU Fundamental Rights Agency. Dr Pudzianowska also works as an expert of the Council of Europe and the EU Fundamental Rights Agency. She received the Prime Minister's award for her doctoral thesis and the F. Znaniecki Prize granted by the Polish Sociological Association. Dr Pudzianowska specialises in human rights, administrative law and migration law. Her work for the HFHR included leading the project Raising Sensitivity of Judges and Prosecutors to Equal Treatment.

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We would not have been able to operate without the support and commitment of the lawyers who helped us on a pro bono basis:

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