

European Court of Human Rights, Application no. 10103/2, Sie? Obywatelska Watchdog Polska v. Poland, 21 March 2024

Member State

 Poland

Topic

accountability, freedom of expression

Sector

Freedom of Expression and Association; role of national higher courts

Deciding Court Original Language

Europejski Trybuna? Praw Cz?owieka

Deciding Court English translation

European Court of Human Rights

Registration N

Application no. 10103/2

Date Decision

21 March 2024

ECLI (if available)

ECLI:CE:ECHR:2024:0321JUD001010320

National Follow Up Of (when relevant)

Not applicable.

EU legal sources and CJEU jurisprudence

No reference to EU primary or secondary legal sources and CJEU judgments.

ECtHR Jurisprudence

Articles 8 - 11 of the Convention on Human Rights

Ladygin v. Russia (dec.), no. 35365/05, 30 August 2011; Shefer v. Russia (dec.), no. 45175/04, 13 March 2012; Gagliano Giorgi v. Italy, no. 23563/07; Korolev v. Russia (dec.), no. 25551/05, ECHR 2010; Finger v. Bulgaria, no. 37346/05, 10 May 2011; and Eon v. France, no. 26118/10, 14 March 2013; Havelka v. Czech Republic (dec.), no. 7332/10, 20 September 2011; Handyside v. the United Kingdom, 7 December 1976; Axel Springer AG v. Germany [GC], no. 39954/08, 7 February 2012; Mouvement raëlien suisse v. Switzerland [GC], no. 16354/06; Animal Defenders International v. the United Kingdom [GC], no. 48876/08; Sy?ka v. Poland, no. 19219/07 (dec.), 3 June 2014; Margulev v. Russia, no. 15449/09, 8 October 2019; Šeks v. Croatia, no. 39325/20, 3 February 2022; Magyar Helsinki Bizottság v. Hungary ([GC], no. 18030/11, 8 November 2016; Társaság a Szabadságjogokért v. Hungary, no. 37374/05, 14 April 2009; Österreichische Vereinigung zur Erhaltung, Stärkung und Schaffung v. Austria, no. 39534/07, 28 November 2013; Ro?ianu v. Romania, no. 27329/06, 24 June 2014; Lingens v. Austria, 8 July 1986, Series A no. 103; Sürek v. Turkey (no. 1) [GC], no. 26682/95; Youth Initiative for Human Rights v. Serbia, no. 48135/06, 25 June 2013; Guseva v. Bulgaria, no. 6987/07, Couderc and Hachette Filipacchi Associés v. France [GC], no. 40454/07; Steel and Morris v. the United Kingdom, no. 68416/01; Bladet Tromsø and Stensaas v. Norway [GC], no. 21980/93; Weber v. Germany (dec.), no. 70287/11, 6 January 2015; Kenedi v. Hungary, no. 31475/05, 26 May 2009; Leyla ?ahin v. Turkey [GC], no. 44774/98; Centre for Democracy and the Rule of Law v. Ukraine (dec.), no. 75865/11, 3 March 2020; Mikiashvili and Others v. Georgia (dec.), nos. 18865/11 and 51865/11, 19 January 2021; Bubon v. Russia, no. 63898/09, 7 February 2017

Subject Matter

Freedom to receive and impart information, Information necessary for exercise of right to freedom of expression and in the public interest given the political context, Failure to show refusal pursued any legitimate aim or “necessary in a democratic society”

Legal issue(s)

The case Sie? Obywatelska Watchdog Polska v. Poland concerns the Polish government's failure to provide information requested by the non-governmental organization Sie? Obywatelska Watchdog Polska. The NGO sought information related to the activities of the members of the Constitutional Court and its compliance with freedom of expression standards. The European Court of Human Rights ruled that Poland violated Article 10 of the European Convention on Human Rights, which protects the right to freedom of expression, including the right to receive information. The Court found that the lack of access to information hindered the organization's ability to perform its watchdog function in a democratic society.

Request for expedited/PPU procedures

not applicable

Interim Relief

No interim reliefs were applied.

National Law Sources

Article 61 § 1 of the Polish Constitution

Facts of the case

Sie? Obywatelska Watchdog Polska, sought access to public information related to the activities of high-ranking officials. Specifically, in 2017, the NGO requested access to the meeting diaries of the President and Vice-President of the Polish Constitutional Court, as well as records of visitors entering and leaving the Court's building. This request was motivated by media reports suggesting that these officials had met with government representatives during the consideration of a highly sensitive case involving the constitutionality of certain criminal procedure laws that could impact a government official, Mariusz Kamiński. The Constitutional Court refused to provide the requested information, arguing that meeting diaries and visitor logs were not considered public information under Polish law. The NGO challenged this decision, but both the Warsaw Regional Administrative Court and the Supreme Administrative Court upheld the refusal, classifying the requested documents as internal records rather than public information. The courts concluded that these documents did not pertain to the public sphere of the Constitutional Court's activities and therefore did not fall under the right to access public information.

Reasoning (role of the Charter or other EU, ECHR related legal basis)

The Court concluded that the refusal hindered the NGO's ability to perform its watchdog function, essential for democratic oversight. The Polish courts' classification of the requested information as "internal documents" rather than public information was found to be overly restrictive and incompatible with Article 10. The Court emphasized the importance of transparency and access to information for the functioning of a democratic society. The decision primarily referenced the European Convention on Human Rights and did not involve detailed analysis of EU legal sources or the Charter of Fundamental Rights of the European Union. The ruling reinforced the need for member states to ensure access to public information, especially when it pertains to matters of significant public interest.

Relation of the case to the EU Charter

The EU Charter was not invoked.

Relation between the EU Charter and ECHR

N/A

Use of Judicial Interaction technique(s)

proportionality

Horizontal Judicial Interaction patterns (Internal – with other national courts, and external – with foreign courts)

N/A

Vertical Judicial Interaction patterns (Internal – with other superior national courts, and external – with European supranational courts)

N/A

Strategic use of judicial interaction technique (purpose aimed by the national court)

N/A

Impact on Legislation / Policy

N/A

Notes on the national implementation of the preliminary ruling by the referring court

N/A

Did the national court quote case law of the CJEU/ECtHR (in particular cases not already referred to by the CJEU in its decision) or the Explanations?

N/A

Did the national court quote soft law instruments, such as GRECO Reports, Venice Commission, CEPEJ Reports, or CCEJ Reports?

No

Did the national court take into account national case law on fundamental rights?

No

If the court that issued the preliminary reference is not a last instance court, and the “follow up” was appealed before a higher court, include the information

N/A

Was there a consensus among national courts on how to implement the CJEU's preliminary ruling; and were there divergences between the judiciary and other state powers regarding the implementation of the preliminary ruling?

N/A

Impact on national case law from the same Member State or other Member States

N/A

Connected national caselaw / templates

Not available.

(Link to) full text

https://siecobywatelska.pl/wp-content/uploads/2024/03/SOWP_ETPCz_EN.pdf

Author

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