



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

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FIRST SECTION

Applications nos. 78030/14 and 23669/16

Tomasz SZYPUŁA against Poland

and

Jakub URBANIK and Jose Luis ALONSO RODRIGUEZ against Poland

lodged on 11 December 2014 and 22 April 2016 respectively

STATEMENT OF FACTS

The applicants are Polish nationals. The names and personal details of the applicants are set out in the attached Annex.

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

A. The applicant in the case no. 78030/14

On 20 October 2010 the applicant applied for a marriage eligibility certificate confirming lack of impediments for a Polish national to conclude a marriage abroad. He indicated that he intended to marry his partner in Spain.

On 27 December 2010 the Warsaw Civil Status Office refused to issue the certificate finding that it would be contrary to the Polish law according to which marriage could only be concluded between a man and a woman.

On 5 January 2012 the Warsaw-Praga District Court upheld the decision of the civil status office.

On 6 March 2013 the Warsaw Regional Court dismissed the applicant's appeal.

The applicant's lawyer lodged a cassation appeal.

On 24 June 2014 the Supreme Court rejected the cassation appeal. The court analysed domestic law and practice and concluded that the cassation appeal had not been available in cases of this kind. In particular, it disagreed with the arguments presented in the applicant's cassation appeal that the case concerned personal rights law where cassation appeal had been available. The decision was sent to the applicant on 5 August 2014.

B. The applicants in the case no. 23669/16

On 24 July 2015 the first applicant applied for a marriage eligibility certificate confirming lack of impediments for a Polish national to conclude a marriage abroad. He indicated that he intended to marry the second applicant in Spain.

On 7 August 2014 the Warsaw Civil Status Office refused to issue the certificate finding that it would be contrary to the Polish law according to which marriage could only be concluded between a man and a woman.

On 17 March 2015 the Warsaw-Śródmieście District Court upheld the decision of the civil status office.

On 28 October 2015 the Warsaw Regional Court dismissed the applicant's appeal.

COMPLAINTS

The applicants complain under Article 8 of the Convention about the Polish authorities' refusal to issue the marriage eligibility certificate that would enable them to get married in Spain. They complain that Polish law does not allow any other form of recognition of their relationship. The applicants complain that by requiring the first applicant to indicate the name and the gender of his future spouse the authorities breached their rights protected by Article 8 of the Convention.

The applicants complain that the situation amounted to a breach of Article 12 of the Convention in that they were prevented from getting married in Spain. Finally, they complain that they were discriminated against, on the basis of their sexual orientation, in breach of Article 14 taken together with Article 8 of the Convention.

QUESTIONS TO THE PARTIES

1. Was the interference with the applicants' right to respect for their private and family life, namely the refusals to issue the applicant in the case no. 78030/14 and the first applicant in the case no. 23669/16 with a marriage eligibility certificate for the purpose of contracting a marriage in Spain, in accordance with the law and necessary in terms of Article 8 § 2?

2. Has there been a violation of the applicants' right to respect for their private and family life, contrary to Article 8 of the Convention, in particular in so far as they had no other possibility to have their relationship recognised by law?

3. In what specific ways are the applicants disadvantaged by the lack of any legal recognition of their relationship?

4. Have the applicants suffered discrimination in the enjoyment of their Convention rights on the ground of their sexual orientation, contrary to Article 14 of the Convention in conjunction with Article 8 and/or Article 12 of the Convention in respect of their inability to (i) receive the marriage eligibility certificate and (ii) enter into any other type of civil union recognising their relationship in Poland?

5. Has there been a violation of the applicants' right to marry, contrary to Article 12 of the Convention?

Reference is made to the cases of *Orlandi and Others v. Italy*, nos. 26431/12 and 3 others, 14 December 2017, and *Oliari and Others v. Italy*, nos. 18766/11 and 36030/11, 21 July 2015?

SZYPUŁA v. POLAND AND OTHER APPLICATIONS –
STATEMENT OF FACTS AND QUESTIONS

APPENDIX

No.	Application no.	Lodged on	Applicant name date of birth place of residence	Represented by
1.	78030/14	11/12/2014	Tomasz SZYPUŁA 1980 Warsaw	Marcin GÓRSKI
2.	23669/16	22/04/2016	Jakub URBANIK 1975 Warsaw José Luis ALONSO RODRIGUEZ 1969 San Sebastian	Paweł MARCISZ