

# D.G. v. Poland

The European Court of Human Rights

(Application no. 45705/07)



<http://disabilityrights.law.hku.hk>



## Quick Facts

**Applicant:** D.G.

**Member State:** Poland

**Court:** European Court of Human Rights

**Date Decided:** 22 January 2013

**Issue:** Whether the treatment of the applicant while in detention, in particular overcrowding conditions, the lack of daily facilities easily accessible to the physically disabled, and insufficient medical care, was incompatible with his physical challenges, including paraplegia and other newly-developed ailments, and thus violated the right not to “be subjected to torture or to inhuman or degrading treatment or punishment”

under Article 3 of the European Convention on Human Rights.

**Case Synopsis:** The applicant, a paraplegic individual who is confined to a wheelchair, was sentenced to 8 years of imprisonment. He complained that during his three terms of detention, prison conditions were not adequate to accommodate his state of health. In particular, he alleged that the prison facilities were not adapted to wheelchair use, incontinent pads were not sufficiently supplied, and the cell was overcrowded and dirty. The applicant claimed that these conditions subjected him to inhuman treatment or punishment under Article 3 of the Convention.

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## Procedural Background

The application was submitted to the Court on 20 September 2007; this was communicated to the Polish Government on 23 January 2012. The Court also unanimously declared the complaint of the compatibility of the applicant's health with the material conditions of detention and quality of care admissible, while the remainder of the application was declared inadmissible.

## Case Summary

During the applicant's three terms of detention - in January and February 2001, from September 2003 to May 2004 and from September 2005 to June 2008 – the applicant had been transferred between Siedlce Prison and Warszawa-Mokotow Remand Centre. The applicant alleged that the conditions of the prison were not adapted to prisoners with disabilities mainly regarding the accessibility of facilities, such as the complications of using wheelchairs, and the insufficient supply of incontinent pads. Also, the applicant claimed not to have received adequate medical care for the new ailments he developed due to the conditions of the prison.

The court found that the applicant's independence was affected by the fact that the facilities in Siedlce Prison were not adapted for persons in wheelchairs. There were no special arrangements made to alleviate the hardships. The sanitary conditions were found to be inappropriate. For a certain period, the applicant was not allowed to have daily showers even when suffering from incontinence. For the whole time the applicant needed the help from his fellow untrained inmates which gave anxiety to the applicant and put him in an inferior position.

The applicant had to undertake a dangerous manoeuvre to access his bunk. Heaving up from the wheelchair made him fall once and the applicant was sent to the hospital. The court also found that he was put in cells with multiple occupants, and these overcrowded cells were shared with smokers, which was against the doctor's explicit advice that he be placed in a single-occupancy cell. Besides, the applicant had restricted access to showers and he was unable to do independent rehabilitation exercises and move around in his wheelchair, while

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the doctor advised otherwise. As for the supplies provided by the prison, the incontinence pads and catheters were either insufficient or sometimes not supplied at all, which worsened his health by giving him new ailments such as bedsores, repeated inflammations of the urethra and acute bacterial infections.

Regarding the adequacy of medical care, several specialists examined the applicant on many occasions. His bedsores, which were incurable, were treated with superficial relief in supportive nature until on March 2007 when he had the chance to remove it. But, the applicant refused to do the surgery at the hospital of Remand Centre, though a laser procedure was eventually performed on April 2007. He also received intravenous antibiotic treatment for the urinary infection on January 2006, and a surgery to remove the bladder stones on April 2007 and another surgery for his spinal disorder on January 2008.

When the health of the applicant deteriorated, the authorities took measures to transfer him to Lodz Prison which was equipped for prisoners with disabilities. He received round-the-clock care from nurses and paramedics and was regularly monitored by specialists and authorities, who treated his bedsores and provided him with physiotherapy. To this regard, the authorities did not act against the requirements of the Convention.

The court held that detaining the applicant was not incompatible with his health condition. However, detaining him for 10 months in a prison unsuitable for persons with physical disabilities and not making enough efforts to reasonably accommodate his special needs was incompatible, which falls below the standard required under Article 3 of the Convention.

## Context

The case concerns a country-specific issue in Poland, where prisoners with disabilities were notoriously subjected to great distress and hardship in terms of accessibility to facilities in prison. This is a recent case that follows the court's case law, such as *Price v UK* and *Vincent v France* (full judgment available only in French). It consolidates the legal framework of disability rights in Europe in that the link between the failure to provide reasonable accommodation and inhuman treatment depends on the context of treatment and individual circumstances.

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## Cases and Resources

- ***D.G. v Poland*** (Application no. 45705/07)
- Press release by *International Disability Alliance (IDA)*
- A report made by *Prison Observatory* about the prison conditions in Poland
- A commentary by the *Europe of Human Rights* –  
<http://humanrights.blogactiv.eu/2013/03/19/the-rights-of-disabled-prisoners---d-g-against-poland/>