



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

Published on 30 January 2023

FIRST SECTION

Application no. 40002/22
V.M. and Others
against Poland
lodged on 10 August 2022
communicated on 10 January 2023

SUBJECT MATTER OF THE CASE

The application concerns the on-going detention of the first applicant and her two minor children (the second applicant, born in 2012 and the third applicant, born in 2015), Armenian nationals, at a guarded centre for foreigners, pending their asylum and deportation proceedings.

On 19 March 2022 the applicants arrived in Poland. The first applicant was two months pregnant with twins. On 6 April 2022 she had a miscarriage.

On the day of their arrival, the applicants were placed in administrative detention. On 20 March 2022 the Warsaw District Court issued a formal decision detaining the applicants in a Guarded Centre for Aliens in Biała-Podlaska. The measure was extended by decisions of the Biała-Podlaska District Court dated 16 May 2022 and 14 July 2022.

The first applicant appealed against all the detention decisions on the grounds of her poor mental state after the miscarriage and arguing that detention disproportionately interfered with their right to respect for family life. The Lublin Regional Court dismissed her appeals on the grounds that the applicants posed a risk of absconding and that the doctors had established that their health condition did not require their release.

It appears that the applicants are currently in detention.

On 28 June 2022 the Refugee Board refused to grant the applicants refugee status which the first applicant had sought on the grounds that she was fleeing from a violent and abusive husband. The proceedings are currently on-going

before the administrative courts, without automatic suspensive effect of appeal.

The head of the National Guard instituted deportation proceedings in respect of the applicants. The applicants applied to have the deportation proceedings stayed. It is unknown to the Court if their request has been decided. It appears that these proceedings are on-going.

The first applicant has access to an in-house psychologist in the detention centre.

Pursuant to a report issued on 19 July 2022 by a psychologist, the first applicant's mental condition has worsened since her and her children's detention; the first applicant experiences anxiety, depression and suicidal thoughts; she requires urgent and regular psychological and psychiatric therapy in detention; if she is diagnosed with depression, the first applicant should immediately be released from detention, otherwise her health and life will be in danger and any in-house therapy will be insufficient; once released, the first applicant should receive psychotherapy; the second and third applicant require urgent psychological assessment.

The applicants complain under Article 5 § 1 (f) and Article 8 of the Convention that the public authorities had detained them without giving any consideration to alternative measures, and that their protracted detention has violated their right to respect for family life.

The applicants also complain that their prolonged detention violates Article 3 of the Convention owing to the applicants' vulnerability and the first applicant's poor mental state caused by the miscarriage and her past experiences of violence.

QUESTIONS TO THE PARTIES

To the extent that the applicant and her two minor children have been committed, since 19 March 2022, to the Guarded Centre for Aliens in Biała-Podlaska:

1. Is the applicants' deprivation of liberty – insofar as it was imposed in connection with the asylum proceedings – in compliance with Article 5 § 1 (f) (see *Nikoghosyan and Others v. Poland*, no. 14743/17, §§ 61-89, 3 March 2022; *Bilalova and Others v. Poland*, no. 23685/14, §§ 68-82, 26 March 2020; and *R.M. and Others v. France*, no. 33201/11, §§ 79-88, 12 July 2016)?

2. Have the applicants been subjected to treatment contrary to Article 3 of the Convention (see *A.B. and Others v. France*, no. 11593/12, §§ 110-115, 12 July 2016 and *R.M. and Others v. France*, cited above, §§ 68-76)?

3. Has there been a violation of the applicants' right to respect for their private and family life, contrary to Article 8 of the Convention (see *Bistieva and Others v. Poland*, no. 75157/14, §§ 69-88, 10 April 2018,)?

APPENDIX

Application no. 40002/22

No.	Applicant's Name	Nationality	Place of residence
1.	V. M.	Armenian	Biała Podlaska
2.	L. B.	Armenian	Biała Podlaska
3.	M. B.	Armenian	Biała Podlaska