



## Notice given of case involving lifting of Polish Supreme Court judge's immunity

The European Court of Human Rights has given notice<sup>1</sup> to the Government of Poland of the application **Wróbel v. Poland** (application no. 6904/22) and requested that they submit their observations.

The case concerns the lifting of the immunity of Mr Wróbel, a Supreme Court judge, with a view to charging him with criminal negligence. Mr Wróbel alleges that this was a result of his criticism of the judicial reforms taking place in Poland, which are seen by many to have caused a rule-of-law crisis in that State.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

The applicant, Włodzimierz Wróbel, is a Polish national, who was born in 1963 and lives in Cracow. He is a well-known judge and academic involved in defending the rule of law in Poland.

Mr Wróbel has been a judge in the Criminal Chamber of the Supreme Court of Poland since 2011. In 2020 he was co-rapporteur in a resolution delivered by the Polish Supreme Court which held, among other things, that the Disciplinary Chamber of the Supreme Court was not "an independent tribunal established by law", given the involvement of the "new" National Council of the Judiciary, which was found to lack independence, in the procedure for appointment of judges to that Chamber.

On 16 March 2021 the State Prosecutor's Office sought the lifting of Mr Wróbel's judicial immunity with a view to prosecuting him on charges of criminal negligence in relation to a judicial decision given in a criminal case. That judgment had been given by a panel of three judges of the Criminal Chamber of the Supreme Court in which the applicant had participated. The panel quashed the contested judgment and remitted the case. According to the State Prosecutor, the applicant had failed to fulfil an obligation to verify whether the accused had already been serving his prison sentence – which had resulted in his being unlawfully detained. That request was dismissed by the Disciplinary Chamber of the Supreme Court on 31 May 2021.

However, the State Prosecutor's Office appealed. The appeal hearing was scheduled for 9 February 2022.

[Interim measures](#) were indicated by the Court on 8 February 2022, asking that the Government ensure that the proceedings concerning the lifting of Mr Wróbel's judicial immunity comply with the requirements of a "fair trial" as guaranteed by Article 6 § 1 of the European Convention on Human Rights, in particular the requirement of an "independent and impartial tribunal established by law", and that no decision in respect of his immunity be taken by the Disciplinary Chamber of the Supreme Court until the final determination of his complaints by the European Court.

The hearing scheduled for 9 February 2022 was cancelled on the same day.

The case has taken place in the context of the general reorganisation of the Polish judicial system which has been carried out by the Polish Government since 2016. The related events have been characterised as leading to a rule-of-law crisis. Those events were explained in more detail in the Grand Chamber judgment [Grzęda v. Poland](#) (no. 43572/18)

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<sup>1</sup> Under Rule 54 § 2 (b) of the Rules of Court: "the Chamber or the President of the Section may decide to give notice of the application or part of the application to the respondent Contracting Party and invite that Party to submit written observations thereon and, upon receipt thereof, invite the applicant to submit observations in reply."

The application was lodged with the European Court of Human Rights on 4 February 2022.

Relying on Articles 6 § 1 (right to a fair trial), 8 (right to respect for private and family life), 10 (freedom of expression) and 18 (limitation on use of restriction of rights) of the Convention, and with reference to the Court's case-law including the [Reczkowicz](#) (no. 43447/19) judgment, Mr Wróbel complains that the Disciplinary Chamber, which examined the application for lifting his immunity at first instance, is not "an independent and impartial tribunal established by law". He complains that the initiation of proceedings for the lifting of his immunity adversely affected his professional reputation and had a chilling effect on other judges, and that the proceedings initiated against him were related to his public criticism of the Government's judicial reforms and were not "necessary in a democratic society". Furthermore, the proceedings concerning the lifting of his immunity did not have a legitimate interest, but had merely been a form of harassment directed at him.

On 8 April 2022 the Government of Poland were given notice of the application, with questions from the Court. A statement of facts on the case has been submitted to the Government. It is available only in English on the Court's website ([link](#)). At the same time, the Court decided to grant the case priority under Rule 41 of the Rules of the Court.

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.