



## Interim measures in the case of Polish Supreme Court judge's immunity

The European Court of Human Rights has today decided to indicate an interim measure in the case **Wróbel v. Poland** (application no. 6904/22).

The Court asked that the Government ensure that the proceedings concerning the lifting of Mr Wróbel's – a Supreme Court judge – 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 applicant, Włodzimierz Wróbel, is a Polish national who was born in 1963. He is a judge and well-known critic of the Government's judicial reforms.

Mr Wróbel has been a judge in the Criminal Chamber of the Supreme Court of Poland since 2011.

In 2020 Mr Wróbel 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 in the procedure for appointment of judges to that Chamber.

On 16 March 2021 the State Prosecutor's Office sought the removal of Mr Wróbel's immunity with a view to prosecuting him on charges of criminal negligence in relation to a judicial decision given in a criminal case. The judgment was given by a panel of three judges of the Criminal Chamber of the Supreme Court in which the applicant 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 is scheduled for 9 February 2022.

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On 4 February 2022 Mr Wróbel made a request to the European Court under Rule 39 of its Rules of Court to have suspended the ongoing actions against him in the Disciplinary Chamber of the Supreme Court until the Government fully implemented the order of the Court of Justice of the European Union of 14 July 2021 (case no. C-204/21R) and the judgment of that court of 15 July 2021 (case no. C-791/19) or appointed a panel of the Supreme Court judges recommended by the NCJ operating before 6 March 2018 to hear his case. He argued that a ruling against him could lead to his suspension, damage his reputation, result in the imposition of restrictive preventive measures and create a chilling effect towards other judges. He also referred to the ongoing rule-of-law crisis in Poland. He relied on Articles 6 (right to a fair trial) and 8 (right to respect for private and family life).

The Court today decided to indicate to the Government that the respondent State ensure that the proceedings concerning the lifting of Mr Wróbel's judicial immunity comply with the requirements of “fair trial” as guaranteed by Article 6 § 1 of the Convention, in particular the requirements of an “independent and impartial tribunal established by law” (see [Reczkowicz v. Poland](#), no. 43447/19), and that no decision in respect of his immunity be taken by the Disciplinary Chamber until the final determination of his complaints by the Court.

The Court also decided to give immediate notice of the measure adopted to the Committee of Ministers.

The applicant has one month to submit an application under Article 34 (right of individual petition) of the Convention.

Measures under Rule 39 of the [Rules of Court](#) are decided in connection with proceedings before the Court, without prejudging any subsequent decisions on the admissibility or merits of the case. The Court grants such requests only on an exceptional basis, when the applicant would otherwise face a real risk of irreversible harm. For further information, see [the factsheet on interim measures](#).

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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.