



## “Rule-of-law” cases against Poland are adjourned for an additional year

The processing of applications submitted in the context of the reorganisation of the judicial system in Poland – in what has been described by many observers as a “rule-of-law crisis” – has been further adjourned until 23 November 2025 to give more time to the Polish Government to adopt general measures following the *Wałęsa v. Poland* pilot-judgment.

In the [Wałęsa v. Poland](#) judgment (no. 50849/21) of 23 November 2023, the Court most notably found two violations of the right to a fair hearing (Article 6 § 1) of the European Convention on Human Rights on account of the fact that Mr Wałęsa’s case had been examined by the Chamber of Extraordinary Review and Public Affairs of the Supreme Court which had not been an “independent and impartial tribunal established by law”, and that the extraordinary appeal procedure was incompatible with the principle of legal certainty. In that case, and in the light of previous judgments concerning the judicial reform in Poland initiated in 2017 and which entailed breaches of the fundamental principles of the rule of law, separation of powers and the independence of the judiciary (see [Reczkowicz v. Poland](#), [Dolińska-Ficek and Ozimek v. Poland](#) and [Advance Pharma sp. z o.o v. Poland](#) delivered in 2021 and 2022), the Court held that the double violation had originated in the interrelated systemic problems connected with the malfunctioning of domestic legislation and practice.

Finding that the resolution of the systemic situation required rapid action which should include taking appropriate legislative and other measures at the national level in enforcement of its judgments, it decided to apply the [pilot-judgment procedure](#) in the *Wałęsa* judgment under [Rule 61 of the Rules of Court](#). It gave detailed indications as to the general measures to be taken by Poland. It also listed several interrelated systemic problems which entailed repeated breaches of the fundamental principles of the rule of law, separation of powers and the independence of the judiciary.

As a consequence, similar cases that had not yet been notified to the Government were adjourned for 12 months – until 23 November 2024 – pending the adoption of general measures by the Polish State. The Chamber also decided to adjourn over 50 notified cases concerning defective judicial appointments to ordinary courts and administrative courts with the involvement of the National Council of the Judiciary (NCJ), since these cases were also covered by the general measures indicated in the *Wałęsa* pilot judgment.

The scale of the systemic problem is large and the number of cases before the Court has increased since the adoption of the pilot judgment, with new applications constantly being submitted (and adjourned). At present, the Court’s docket contains around 700 applications, concerning the alleged breach of the right to an “independent and impartial tribunal established by law”.

The Polish Government sworn in in December 2023 have presented the Court with detailed information on the enforcement of the judgments and advancement of the structural reforms aimed at resolving the systemic problems. They have informed the Court in particular that the new Act on the NCJ has been adopted by the Polish Parliament. This Act is aimed at reversing the changes introduced as from 2017 which had deprived the members of the Polish judiciary of the right to elect judicial members of the NCJ and had enabled the executive and the legislature to interfere directly or indirectly in the judicial appointment procedure. Since the Court’s primary indication to the Polish

Government was to restore the independence of the NCJ, this is a very positive development and has been assessed as such by the Committee of Ministers<sup>1</sup>. Unfortunately, this Act has not yet come into force and the lack of independence of the recomposed NCJ continues to inherently affect the independence of judges so appointed. The Committee of Ministers has also stressed the need for a rapid finalisation of the legislative process.

The Court has taken note of the Polish Government's commitment to regularly report to the Court on progress in the enforcement of the *Wałęsa* pilot judgment. The Government have repeatedly reassured the Court of its commitment to promptly restore rule of law in Poland and introduce comprehensive reforms. In line with their obligation under Article 46 of the Convention, the Government have been cooperating with the Committee of Ministers in the enforcement of the Court's judgments, and the Committee has welcomed the positive change in the Polish authorities' position concerning their commitment to thoroughly enforce them.

The Government have underlined that given the scale of the reforms and the current political situation, adequate time is required to take effective and comprehensive action. In this context, the Court has agreed to extend the adjournment of the "rule-of-law" cases for an additional year.

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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.

<sup>1</sup> See [Committee of Ministers' decision of 19 September 2024](#).