



Interim measures in another 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 **Stępką v. Poland** (application no. 18001/22).

The Court asked that the Government ensure that the proceedings concerning the lifting of Mr Stępką'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 immediately enforceable 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 case is similar to that of Włodzimierz Wróbel, another Supreme Court judge and well-known critic of the Government's judicial reforms, who was granted an interim measure concerning proceedings to lift his immunity by the European Court on 8 February 2022 (see [press release](#)).

The applicant, Andrzej Stępką, is a Polish national who was born in 1956. He has been a judge in the Criminal Chamber of the Supreme Court of Poland since 2013.

On 15 March 2021 the State Prosecutor's Office applied to the Disciplinary Chamber of the Supreme Court seeking the removal of Mr Stępką'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 over which the applicant presided. Mr Wróbel – mentioned above – was the rapporteur in the case. 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.

The Disciplinary Chamber of the Supreme Court, acting as a first instance court, is scheduled to examine the Prosecutor's request for lifting the applicant's immunity on 22 April 2022.

On 11 April 2022 Mr Stępką 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 argues that the Disciplinary Chamber of the Supreme Court is not an "independent and impartial tribunal established by law" and that a ruling against him could damage his reputation and create a chilling effect towards other judges. He relies on Articles 6 (right to a fair trial) and 8 (right to respect for private and family life).

The Court has decided today to indicate to the Government that the respondent State ensure that the proceedings concerning the lifting of Mr Stępką's judicial immunity comply with the requirements of a "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 immediately enforceable 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.