



Interim measures in case of Polish military judge's immunity

The European Court of Human Rights has decided to indicate an interim measure in the case **Raczkowski v. Poland** (application no. 33082/22).

The Court asked that the Polish Government ensure that the proceedings concerning the lifting of Mr Raczkowski's – a military judge – judicial immunity comply with the requirements of a "fair trial" as guaranteed by Article 6 § 1 of the European Convention on Human Rights, and that no decision be taken until the final determination of his complaints by the European Court.

The case is similar to those of two Supreme Court judges, Włodzimierz Wróbel and Andrzej Stęпка, who were granted interim measures concerning proceedings to lift their immunity by the European Court on 8 February 2022 (see [press release](#)) and 14 April 2022 (see [press release](#)), respectively.

The applicant, Piotr Raczkowski, is a Polish national who was born in 1961. He is a military judge and critic of the current Government's judicial reforms. He was also vice-president of the National Council of the Judiciary (NCJ) from 2014 to 2018. The NCJ is the constitutional body in Poland which safeguards the independence of courts and judges. It has been the subject of controversy since the entry into force of new legislation in 2017 providing, among other things, that its judicial members are no longer elected by judges but by the *Sejm* (the lower house of Parliament).

On 17 March 2021 the State Prosecutor's Office applied to the Disciplinary Chamber of the Supreme Court seeking the removal of Mr Raczkowski's immunity with a view to prosecuting him on charges of abuse of power.

The Disciplinary Chamber of the Supreme Court, acting as a first-instance court, was scheduled to examine the Prosecutor's request for lifting the applicant's immunity on 11 July 2022.

On 8 July 2022 Mr Raczkowski 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).

On the same day the Court decided to indicate to the Government that the respondent State ensure that the proceedings concerning the lifting of Mr Raczkowski'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 decision in respect of his immunity be taken by the Disciplinary Chamber until the final determination of his complaints by the Court.

The applicant has until 2 September 2022 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.