



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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FIRST SECTION

Application no. 7424/22
Andrzej MATKIEWICZ
against Poland
lodged on 18 January 2022
communicated on 15 February 2023

SUBJECT MATTER OF THE CASE

The application concerns the applicant's right to have his disciplinary case heard by an "independent and impartial tribunal established by law".

At the relevant time the applicant was a judge of the Kętrzyn District Court.

In October 2018 he was apprehended by the Police when driving under the influence of alcohol. The disciplinary officer at the Białystok Court of Appeal instituted disciplinary proceedings against the applicant. He charged the applicant with the criminal offence of drunken driving (Article 178a § 1 of the Criminal Code) and the disciplinary offence of compromising the dignity of the office of judge under section 107(1) of the Act of 27 July 2001 on the Organisation of Ordinary Courts.

The applicant retired on 16 May 2019.

On 16 December 2019 the Disciplinary Chamber of the Supreme Court ("DCSC"), sitting as the first-instance court, in a formation of two judges (Jacek Wygoda and Piotr Sławomir Niedzielak) and one lay judge (Michał Lesień), found the applicant guilty as charged. It sentenced him to a penalty of deprivation of his retirement rights (*pozbawienie prawa do stanu spoczynku wraz z prawem do uposażenia*).

The applicant appealed, contesting the validity of appointment of the judges who had examined his case at the first instance and alleging a gross disproportionality of the imposed penalty.

On 16 November 2021 the DCSC, sitting as the second-instance court, in a formation of two judges (Ryszard Witkowski and Andrzej Tomczyński) and one lay judge (Arkadiusz Sopata), upheld the impugned judgment.

All the judges dealing with the applicant's case were appointed to the Supreme Court pursuant to recommendations of the National Council of the Judiciary (*Krajowa Rada Sądownictwa*, “the NCJ”) as established under the Act of 8 December 2017 Amending the Act on the NCJ and certain other acts (*ustawa z dnia 8 grudnia 2017 r. o zmianie ustawy o Krajowej Radzie Sądownictwa oraz niektórych innych ustaw*).

The applicant complains that his right to an “independent and impartial tribunal established by law”, as guaranteed by Article 6 § 1 of the Convention, was violated on account of his disciplinary case being heard by the DCSC, which cannot be considered an “independent and impartial tribunal established by law”.

QUESTIONS TO THE PARTIES

1. Was Article 6 § 1 of the Convention under its civil or criminal head applicable to the proceedings in the present case?

2. Did the proceedings before the Disciplinary Chamber of the Supreme Court violate the applicant's right to be heard by an independent and impartial tribunal established by law as guaranteed by Article 6 § 1 of the Convention (see *Reczkowicz v. Poland*, no. 43447/19, §§ 225-284, 22 July 2021)?