



## ECHR gives notification to Poland of cases concerning an alleged lack of independence of the Supreme Court

The European Court of Human Rights decided on 5 June 2020 to communicate<sup>1</sup> to the Government of Poland the applications **Reczkowicz and two Others v. Poland** (application nos. 43447/19, 49868/19 and 57511/19), and requested that it submit observations.

The applications concern complaints brought by a barrister and two judges that the Polish Supreme Court, which decided on cases concerning them, was constituted in breach of the law following changes to the judiciary introduced in 2017.

They complain in particular that the two chambers which now make up the Supreme Court were constituted on the recommendations of the National Council of the Judiciary ("the NCJ"), the constitutional organ in Poland which safeguards the independence of courts and judges, which has been the subject of controversy since the entry into force of new legislation providing that its judicial members are no longer elected by judges but by the Sejm (the lower house of Parliament).

A [statement of facts](#) submitted to the parties, with questions from the Court, is available in English on the Court's website. The Court's ruling in the case will be made at a later stage.

See also previous press releases concerning issues related to the judiciary in Poland in the cases [Grzęda v. Poland](#) (no. 43572/18), [Xero Flor w Polsce sp. z o.o. v. Poland](#) (no.4907/18), [Broda v. Poland and Bojara v. Poland](#) (nos. 26691/18 and 27367/18), [Żurek v. Poland](#) (no. 39650/18) and [Sobczyńska and Others v. Poland](#) (nos. 62765/14, 62769/14, 62772/14 and 11708/18).

The applicants, Joanna Reczkowicz, Monika Joanna Dolińska-Ficek and Artur Ozimek, are Polish nationals, who were born in 1980, 1979 and 1966. They live in Gdynia, Siemianowice Śląskie and Lublin.

Ms Reczkowicz is a barrister. She was suspended for three years following several incidents when she was representing a client. She appealed the decision before the courts. Her case was ultimately dismissed in 2019 by the Disciplinary Chamber of the Supreme Court, one of the two new chambers created following the changes to the judiciary.

The other two applicants are district and regional court judges who applied for posts elsewhere. The NCJ decided not to recommend their candidatures in 2018 and they lodged appeals with the Supreme Court. The Chamber of Extraordinary Control and Public Affairs, the other newly created chamber following the changes to the judiciary, gave judgment in the judges' cases in 2019.

The applications were lodged with the European Court of Human Rights on 6 August 2019, 12 September 2019 and 22 October 2019.

Relying on Article 6 (right to a fair trial) of the European Convention of Human Rights, all the applicants complain that the chambers of the Supreme Court which examined their cases did not constitute an "independent and impartial tribunal established by law" because they were composed of judges recommended by the NCJ. They referred in particular to proceedings before the Court of Justice of the European Union which ended in a ruling of 19 November 2019 and subsequent rulings by the Polish Supreme Court finding that the judges of the Supreme Court appointed in the procedure involving the NCJ were not a court constituted in accordance with domestic law.

<sup>1</sup> In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges or the President of a Section may decide to bring to the attention of a Convention State's Government the fact that an application against that State is pending before the Court (the so-called "communications procedure").

## Press Release

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The second two applicants additionally allege under Article 6 that the NCJ, which dealt with their cases, was not an independent and impartial authority, pointing out in particular various procedural and legal controversies around it.

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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.