



## Interim measures amended in cases concerning judges' immunity

The European Court of Human Rights decided on 5 and 9 August 2022 to amend interim measures previously indicated in the cases of four judges facing disciplinary proceedings and at risk of imminent suspension from their judicial functions.

In particular, in the case *Wróbel v. Poland* (application no. 6904/22), on 9 August 2022, the Court decided to amend the wording of the interim measure previously granted on 8 February 2022, which now covers any body competent under the domestic law to deal with the applicant's case.

The Court took this decision in the light of new developments, namely that the Disciplinary Chamber of the Supreme Court referred to in the previous interim measure (of [8.02.2022](#)) in the case has recently been replaced by a new Chamber of Professional Responsibility of the Supreme Court (*Izba Odpowiedzialności Zawodowej Sądu Najwyższego*).

The Court has also amended the wording in the interim measures (of [22.03.2022](#)) indicated in the cases concerning three other Polish judges, namely *Synakiewicz v. Poland* (no. 46453/21), *Niklas-Bibik v. Poland* (no. 8687/22) and *Piekarska-Drażek v. Poland* (no. 8076/22).

The applicants in the four cases are Włodzimierz Wróbel, Adam Synakiewicz, Agnieszka Niklas-Bibik and Marzanna Anna Piekarska-Drażek. They are all Polish nationals. Mr Wróbel has been a judge in the Criminal Chamber of the Supreme Court of Poland since 2011, while the other applicants are judges in the Częstochowa Regional Court, the Słupsk Regional Court and the Warsaw Court of Appeal, respectively.

The removal of Mr Wróbel's immunity has been sought by the State Prosecutor's Office with a view to charging him with criminal negligence in relation to a judicial decision given in a criminal case.

The other three judges all risk suspension for having applied, in their judicial decisions, the European Court's case-law and the rulings of the Court of Justice of the European Union relating, in particular, to the Disciplinary Chamber of the Supreme Court and the National Council of the Judiciary (NCJ).

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All four judges lodged their requests for interim measures, under Rule 39 of the Rules of Court, with the European Court in February 2022. They asked, among other things, to have suspended the ongoing actions against them 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 their cases.

Mr Wróbel alleges in particular that the charges brought against him were the result of his criticism of the judicial reforms taking place in Poland, which are seen by many to have caused a rule-of-law crisis in that State. He relies on Articles 6 (right to a fair trial), 8 (right to respect for private and family life), 10 (freedom of expression) and 18 (limitation on use of restrictions on rights).

On 8 February 2022 the Court decided to indicate to the Government that the respondent State ensure that the proceedings concerning the lifting of Mr Wróbel's judicial immunity comply with the requirements of "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.

On 22 March 2022 the Court indicated interim measures in the cases concerning the other three judges. It decided, in the interests of the parties and the proper conduct of the proceedings before it, to indicate to the Government of Poland that they should inform the Court and the applicant of the date of any hearing (*rozprawa*) or *in camera* session (*posiedzenie*) scheduled in the applicant's case before the Disciplinary Chamber of the Supreme Court 72 hours before the date set for such hearing or session.

The Government of Poland have since been given notice of all four applications, with questions from the Court. See [press release](#) of 20 April 2022 in the Wróbel case and the [statement of facts](#) in the other three cases.

On 9 August 2022 the Court amended the wording of the previously indicated interim measure in the Wróbel case. It decided, in the light of new developments, to restate as follows the interim measure indicated on 8 February 2022:

“...in the interests of the parties and the proper conduct of the proceedings before it, to indicate to the Government of Poland, under Rule 39 of the Rules of Court, that the Respondent State ensure that the proceedings concerning the lifting of the applicant's judicial immunity comply with the requirements of “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, 22 July 2021, §§ 225-284) and that they should inform the Court and the applicant of the date of any hearing (*rozprawa*) or *in camera* session (*posiedzenie*) scheduled in the applicant's case before any body competent under the domestic law to deal with the applicant's case at least 72 hours before the date set for such hearing or session;

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On 5 and 9 August 2022 the Court amended the wording of the previously indicated interim measures in the three remaining cases, requesting the Government to:

“inform the Court and the applicant of the date of any hearing (*rozprawa*) or *in camera* session (*posiedzenie*) scheduled before any body competent under the domestic law to deal with the applicant's case at least 72 hours before the date of such hearing or session.”

In all four cases the Government were also requested to inform the Court and the applicants of: the composition of the panel which is to examine their case; and, the manner in which members of that panel were appointed to judicial office.

The Court also decided to give immediate notice of the amended measure adopted in Mr Wróbel's case to the Committee of Ministers.

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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.