



Interim measure in case concerning charges brought against Kraków Regional Court judge for applying the European Court's case-law

The European Court of Human Rights has decided to indicate an **interim measure** in the case **Głowacka v. Poland** (application no. 15928/22).

The applicant, Anna Głowacka, is a Polish national who was born in 1962. She is a judge in the Kraków Regional Court (*Sąd Okręgowy*). Ms Głowacka risks suspension for having applied, in a judicial decision, the European Court's case-law relating, in particular, to the Disciplinary and Civil Chambers of the Supreme Court and the National Council of the Judiciary (NCJ)¹.

Earlier this week, Ms Głowacka lodged an application with the European Court under Article 34 of the European Convention on Human Rights. Yesterday, 30 March 2022, the Court decided to indicate to the Government of Poland, under Rule 39 of the Rules of Court, that they should give it and the applicant 72 hours' notice of the date of any hearing (*rozprawa*) or in camera session (*posiedzenie*) scheduled in her case before the Disciplinary Chamber of the Supreme Court. The Court rejected the remainder of her requests for interim measures.

This interim measure follows closely in the wake of those indicated to the Polish Government on [22 March 2022](#).

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 applicants would otherwise face a real risk of irreversible harm. For further information, see [the factsheet on interim measures](#) and interim measures issued recently in the case of [Wróbel v. Poland](#) (no. 6904/22).

Ms Głowacka has been a judge for 30 years. In a judicial decision of 22 February 2022, she refused to grant an enforcement clause for operative parts of a final judgment of the Kraków Court of Appeal (*Sąd Apelacyjny*). Referring to the European Court's judgments in [Reczkowicz v. Poland](#) (no. 43447/19) of July 2021 and [Advance Pharma Sp. z o.o. v. Poland](#) (no. 1469/20) of February 2022, the applicant concluded that the "judgment" of the Kraków Court of Appeal was not actually a judgment (*sententia non existens*) since it had been delivered by a judicial formation that could not be considered a "court" under Article 6 § 1 of the European Convention. In short, the single judge who had participated in the delivery of the "judgment" had been appointed upon the recommendation of the new National Council of Judiciary (NCJ), whose independence was no longer guaranteed.

Three days later, an order for an "immediate break" in Ms Głowacka's judicial functions (*natychmiastowa przerwa w czynnościach służbowych*) was issued by the President of the Kraków Regional Court (and member of the new NCJ) for a period of one month. She accused her of having overstepped her authority by assessing the lawfulness of the judgment of the Kraków Court of Appeal and contesting the legitimacy of judicial appointments ordered by the President of Poland.

A few days after that, disciplinary charges were pressed by the deputy disciplinary representative for judges of ordinary courts (*Zastępca Rzecznika Dyscyplinarnego Sędziów Sądów Powszechnych*). Ms Głowacka was charged with one disciplinary offence (contesting the validity of judicial appointment and infringement of the dignity of office) and also faces charges involving abuse of power, a criminal offence liable to a sentence of up to three years' imprisonment.

¹ Judgments of the European Court in cases concerning various aspects of the reorganisation of the Polish judicial system initiated in 2017. See, for example, [Reczkowicz v. Poland](#) (no. 43447/19) of July 2021.

Since 25 March 2022, Ms Głowacka has been able to resume her official duties. However, the Disciplinary Chamber may at any time issue a resolution suspending her judicial functions until the final ruling in her case has been given.

Suspension of a judge's judicial functions "automatically" results in a 25-50% reduction of salary. Resolutions on suspension may be given at an in camera session rather than at a public hearing, and notification is not necessarily given beforehand. The proceedings against the applicant are being conducted before the Disciplinary Chamber of the Supreme Court. No other body may review the Disciplinary Chamber's resolutions, and no cassation appeal against the final decision will be available. If the applicant is suspended, the suspension will be immediately enforceable, an appeal to the second-instance Disciplinary Chamber having no suspensive effect (section 131(4) of the 2001 Act (as amended in 2019)).

Relying in particular on Article 6 § 1 (right to a fair hearing), Ms Głowacka lodged her request for interim measures with the European Court on 29 March 2022. She asked, among other things, for the ongoing actions against her and against other judges in the Disciplinary Chamber of the Supreme Court to be suspended until the Court has issued a judgment in her case, or until a panel of the Supreme Court judges recommended by the NCJ before 6 March 2018 is appointed to hear her case. She complains about her *de facto* suspension against which no effective remedy was available, and argues that her case will be heard by the Disciplinary Chamber of the Supreme Court, thus denying her the right to be heard by a "tribunal established by law". She alleges that there is a serious risk that she will be suspended indefinitely, such a suspension leading to further erosion of the rule of law in Poland.

On 30 March 2022 the Court decided to indicate to the Government of Poland, under Rule 39 of the Rules of Court, that they should give it and the applicant at least 72 hours' notice 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.

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Press contacts

echrpres@echr.coe.int | tel: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Jane Swift (tel: + 33 3 88 41 29 04)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Neil Connolly (tel: + 33 3 90 21 48 05)

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.