



ECHR gives notification to Poland of fifth case concerning changes in the judiciary

The European Court of Human Rights decided on 14 May 2020 to communicate¹ to the Government of Poland the application **Żurek v. Poland** (application no. 39650/18), and requested that it submit observations.

The case concerns the premature termination of a judge's mandate as a member of the National Council of the Judiciary ("the NCJ"), the constitutional organ in Poland which safeguards the independence of courts and judges, his dismissal as spokesperson for that organ, and the alleged campaign to silence him.

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.

The applicant, Waldemar Żurek, is a Polish national, who was born in 1970 and lives in Rzeplin (Poland).

He is a judge of the Cracow Regional Court and was the court's spokesperson. He was also a member of the NCJ, first elected in 2010 and then re-elected in 2014 for a second four-year term of office.

In 2014 he was appointed the NCJ's spokesperson, and, as such, became one of the main critics of the changes to the judiciary initiated by the legislative and executive branches of the new Government which had come to power in 2015. He pointed in particular to the threat to judicial independence stemming from the Government's proposals.

His mandate as a member of the NCJ was, however, prematurely ended in 2018, following the entry into force of new legislation in the context of wide-scale reform to the judiciary.

In particular, the Act Amending the Act on the NCJ of 2017 provided that judicial members of the NCJ would no longer be elected by judges but by the Sejm (the lower house of the Parliament), and that the newly elected members would immediately replace those elected under the previous legislation. Thus, when the Sejm elected 15 judges as new members of the NCJ on 6 March 2018, the applicant's mandate was terminated. He did not receive any official notification. In consequence, he also ceased to act as the NCJ's spokesperson.

Earlier in 2018 the applicant had also been removed from his position as Cracow Regional Court's spokesperson.

The bill amending the legislation on the NCJ was criticised at national and international level. The adoption by Parliament of this bill, together with bills on the Supreme Court and on the ordinary courts, sparked large public protests in July 2017. Several national bodies issued opinions stating that the amendments violated the Constitution because they allowed the legislature to gain control over the NCJ, contrary to the principle of the separation of powers.

The application was lodged with the European Court of Human Rights on 6 August 2018.

Relying on Article 6 § 1 (right of access to court) and Article 13 (right to an effective remedy) of the European Convention on Human Rights, Mr Żurek alleges that he was denied access to a tribunal and

¹ 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").

that there was no procedure, judicial or otherwise, to contest the premature termination of his mandate.

Also relying on Article 10 (freedom of expression), he alleges that his dismissal as spokesperson for the regional court and the NCJ, combined with the authorities' decisions to inspect his and his wife's financial declarations and tax returns in 2017, were intended to punish him for expressing criticism of the Government's legislative changes and warn other judges from doing the same. He submits in particular that it was no accident that the authorities' actions coincided with intense public debate on the judiciary and his active involvement in it as the NCJ's spokesperson.

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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.