
Poland: ECHR, Disciplinary Chamber of Supreme Court is not a “tribunal established by law within the meaning of the European Convention”

“The Court found that the procedure for appointing judges had been unduly influenced by the legislative and executive powers. That amounted to a fundamental irregularity that adversely affected the whole process and compromised the legitimacy of the Disciplinary Chamber of the Supreme Court, which had examined the applicant’s case”. This is the judgment issued today by the European Court of Human Rights (ECHR) in one of the 38 cases filed against Poland in the 2018-2021 period, concerning various aspects of the reorganisation of the Polish judicial system initiated in 2017. Today in particular, the European Court ruled on the case of a Polish barrister, Ms. Reczkowicz, who brought a claim against Poland arguing that the Disciplinary Chamber of the Polish Supreme Court, which had decided on a case concerning her, had lacked impartiality and independence for it is composed of judges appointed by the President of Poland on the recommendation of the National Council of the Judiciary, whose members in turn are elected by the Sejm (the lower house of Parliament). The Disciplinary Chamber, one of the two new chambers of the Supreme Court created following the changes to the Polish judicial system, is not a “tribunal established by law within the meaning of the European Convention”, the judgment reads. Poland will have to pay €15,000 euros in respect of non-pecuniary damage and €420 in respect of costs and expenses.

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