



ECHR gives notification to Poland of case concerning judicial reform in Poland

The European Court of Human Rights decided on 9 July 2019 to communicate¹ to the Government of Poland the application [Grzęda v. Poland](#) (application no. 43572/18), and requested it to submit their observations.

The case concerns judicial reform in Poland, which resulted in the mandate of a Supreme Administrative Court Judge elected to the National Council of the Judiciary being terminated before the end of its four-year term.

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, Jan Grzęda, is a Polish national, who was born in 1956 and lives in Piła (Poland).

He is a judge of the Supreme Administrative Court, and in January 2016 was elected for a four-year term as a member of the National Council of the Judiciary (the NCJ), a constitutional organ which safeguards the independence of courts and judges.

However, his mandate as a member of the NCJ was ended prematurely in 2018, following the entry into force of new legislation in the context of wide-scale judicial reform. In particular, the Act Amending the Act on the NCJ of 2017 ("the 2017 Amending Act") 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.

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 4 September 2018.

Relying on Article 6 § 1 (right of access to court) of the European Convention of Human Rights, Mr Grzęda alleges that he was denied access to a tribunal to contest the premature termination of his mandate. In his view, the 2017 Amending Act was in reaction to the NCJ's criticism of the judicial reform undertaken by the legislative and executive branch which, it alleged, aimed to undermine the independence of the judiciary.

He also complains under Article 13 (right to an effective remedy) of the European Convention that there was no procedure, judicial or otherwise, for him to contest the premature termination of his mandate.

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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").

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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.