

# ECtHR: Disciplinary Chamber of the Polish Supreme Court in Breach of the ECHR



## News

**András Csúri**

On 22 July 2021, the ECtHR held in a chamber judgment in [Reczkowicz v. Poland](#) that the Disciplinary Chamber of the Polish Supreme Court is not a tribunal established by law within the meaning of the ECHR. The case is one of 38 applications against Poland, lodged between 2018-2021, concerning various aspects of the reorganisation of the Polish judicial system initiated in 2017.

The applicant in this case was a Polish national and barrister suspended for three years following several incidents when she was representing a client. She appealed the decision before the Polish courts, with her case ultimately being dismissed in 2019 by the Disciplinary Chamber of the Supreme Court – one of the two new chambers created following the changes to the judiciary.

The applicant argued that her case had not been heard by an “independent and impartial tribunal established by law” (Art. 6 § 1 ECHR). The Disciplinary Chamber is composed of judges appointed by the President of Poland on the recommendation of the National Council of the Judiciary (“the NCJ”). The NCJ is the constitutional organ in Poland that safeguards the independence of courts and judges, which has been the subject of controversy since the entry into force of new legislation stipulating, among other things, that its judicial members be elected by the Sejm (the lower house of Parliament).

The ECtHR found that the appointment procedure for judges was unduly influenced by the legislative and executive branches of government. In particular, the 2017 Amending Act deprived the judiciary of the right to elect judicial members of the NCJ, a right it had had under the previous legislation. This, in effect, meant that the legislative and executive powers were able to directly or indirectly interfere with the appointment of judges. It constituted a fundamental irregularity, which adversely affected the entire procedure and jeopardised the legitimacy of the Disciplinary Chamber of the Supreme Court examining the applicant’s case. According to the ECtHR, the Disciplinary Chamber therefore lacks the attributes of a “tribunal established by law” within the meaning of the European Convention on Human Rights.

### AUTHOR

**András Csúri**

Vienna University of Economics and Business

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