



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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FIRST SECTION

Applications nos. 44766/22 and 31966/25
Marek PIETRUSZYŃSKI against Poland
and Włodzimierz WRÓBEL against Poland
lodged on 21 September 2022 and 6 October 2025 respectively
communicated on 2 September 2026

SUBJECT MATTER OF THE CASE

The applicants are judges of the Criminal Chamber of the Supreme Court of Poland. The applications concern the criminal investigation into the applicants' alleged wrongdoings within their judicial duties and the proceedings aimed at lifting their judicial immunity. The case raises issues under Articles 6, 8, 10 and 18 of the Convention.

A. Relevant proceedings in which the applicants gave rulings as members of the Supreme Court compositions

In 2019 the applicants participated in the adoption of one Supreme Court ruling each, in two separate sets of cassation proceedings (see appended table for details of each relevant set of proceedings). At that time, the convict in each set of proceedings was serving a prison sentence on the basis of the appellate courts' final judgments.

The rulings given with the applicants' participation, if properly and timely executed, should have resulted in the convicts' immediate release from detention. However, the prison authorities were not immediately informed of the Supreme Court's rulings. Consequently, the convicts remained in detention beyond the date on which they should have been released.

B. Criminal investigations instituted into the applicants' alleged negligence

On 9 December 2020, the prosecution service instituted an investigation into the alleged criminal negligence of each applicant in connection with the relevant Supreme Court rulings and the failure to timely execute them.

The prosecution service considered that the applicants had failed to perform the duty incumbent upon them of issuing orders for the convicts' immediate release from detention which resulted in their deprivation of liberty for a period exceeding 7 days. The prosecution service sought to hold the applicants criminally liable for unintentional negligence and deprivation of liberty under Articles 231 (3) and 189 (2) of the Criminal Code.

C. Proceedings for lifting the applicants' judicial immunity

On 15 March 2021, the prosecution service applied to the Disciplinary Chamber of the Supreme Court ("the DCSC") for the lifting of the applicants' judicial immunity in order to bring criminal charges against them.

In 2021 the DCSC examined the prosecutor's applications at first instance and gave two separate resolutions. It granted the request in respect of Judge Pietruszyński and refused it in respect of Judge Wróbel, having found that any negligence of the latter could be addressed through ordinary disciplinary proceedings. Both resolutions were appealed against and did not become final.

On 15 July 2022 the DCSC was abolished, and the new Chamber of Professional Liability ("the CPL") of the Supreme Court was established in its place (for details, see *Tuleya v. Poland*, nos. 21181/19 and 51751/20, §§ 181-87, 6 July 2023). The applicants' cases were forwarded to the CPL, as the body with jurisdiction to continue their examination.

On 30 October 2024 the prosecution service discontinued the underlying criminal investigation, having considered that the applicants' actions had lacked the statutory elements of the crime in question. Notably, the prosecution service established that there were no provisions mandating that the release order be prepared by the Supreme Court judges themselves; instead, there was an established practice under which this duty fell to the secretariat staff. The prosecution service also withdrew the requests for the lifting of the applicants' judicial immunity.

In the proceedings before the CPL, Judge Wróbel requested it to refer to the Court of Justice of the European Union ("the CJEU") for a preliminary ruling the question whether the CPL was an independent and impartial tribunal established by law.

In 2025, the CPL, hearing both cases at second instance, gave final rulings by which it quashed the first-instance resolutions of the DCSC. In both cases, the CPL panel was composed of three judges appointed to the Supreme Court

between 2007 and 2012. No decision concerning Judge Wróbel's request for a preliminary ruling was given.

D. Complaints

Both applicants complain, under Article 6 § 1 of the Convention, that the proceedings for lifting their judicial immunity violated their right to be heard by an independent and impartial tribunal established by law. Concerning the first instance proceedings, they rely on the Court's case-law (that is *Reczkowicz v. Poland*, no. 43447/19, 22 July 2021; *Juszczyszyn v. Poland*, no. 35599/206 October 202; and *Tuleya v. Poland*, nos. 21181/19 and 51751/20, 6 July 2023) to challenge the DCSC. As regards the second-instance proceedings, they submit that the CPL was composed of judges of the Supreme Court assigned to adjudicate in that Chamber by the President of the Republic in a discretionary manner.

Both applicants also complain, under Article 8 of the Convention, that the impugned proceedings adversely affected their professional reputation and, in consequence, amounted to a breach of the right to respect for their private life.

Relying on Article 18 in conjunction with Article 8 of the Convention, both applicants also complain that the criminal investigation and the immunity proceedings pursued an ulterior motive to intimidate them and other judges, and to deter them from scrutinising the legality of judicial appointments.

Mr Wróbel additionally complains, under Article 6 of the Convention, about the tacit refusal of the CPL to seek a preliminary ruling of the CJEU.

He further alleges a breach of Article 10 of the Convention. In his view, the initiation of the criminal investigation and of the proceedings to lift his immunity was closely related to his public statements, made in his capacity both as a judge and as a university professor, in which he criticised the reform of the judiciary pursued by the then authorities. The applicant in question submits that the interference with his rights under Article 10 did not pursue a legitimate aim and was not necessary in a democratic society. In this connection, Mr Wróbel also cites Article 10 as relevant for his above-mentioned complaint made under Article 18.

QUESTIONS TO THE PARTIES

1. Questions concerning both applicants

Victim status

1. Can the applicants claim to be victims of a violation of their Convention rights in view of the fact that: (i) their judicial immunity was not lifted by any final decision, (ii) the requests for lifting their judicial immunity were withdrawn by the prosecution service and (iii) the underlying criminal proceedings were discontinued by the prosecution service?

Article 6

2. Was Article 6 § 1 of the Convention under its criminal head applicable to the proceedings in the present case in so far as the lifting of the applicants' immunity is concerned (see *Tuleya v. Poland*, nos. 21181/19 and 51751/20, §§ 277-300, 6 July 2023)?

3. Did the proceedings for lifting of the applicants' immunity, conducted – at first instance – before the DCSC and – at second instance – before the CPL, violate the applicants' right to be heard by a tribunal established by law guaranteed by Article 6 § 1 of the Convention (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, §§ 211-52, 1 December 2020; *Reczkowicz v. Poland*, no. 43447/19, §§ 216-82, 22 July 2021; and *Juszczyszyn v. Poland*, no. 35599/20, §§ 192-211, 6 October 2022))?

Article 8

4. Has there been an interference with the applicants' right to respect for their private life, within the meaning of Article 8 § 1 of the Convention, on account of the criminal investigation and the proceedings for lifting their judicial immunity (see *Denisov v. Ukraine* [GC], no. 76639/11, 25 September 2018)?

5. If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 of the Convention?

Article 18

6. Were the measures imposed by the State in the present case, purportedly pursuant to Article 8 (in respect of both applicants) and to Article 10 of the Convention (in respect of Judge Wróbel), applied for a purpose other than those envisaged by those provisions, contrary to Article 18 of the Convention (see *Juszczyszyn*, cited above, §§ 306-38)?

**Additional questions concerning Judge Wróbel (application
no. 31966/25)**

Article 6

7. Did the fact that the CPL gave no reasons for its refusal of the applicant's request to seek a preliminary ruling with the CJEU render the proceedings unfair, in violation of Article 6 § 1 of the Convention (see *Sanofi Pasteur v. France*, no. 25137/16, §§ 68-69, 13 February 2020, *Ullens de Schooten and Rezabek v. Belgium*, nos. 3989/07 et 38353/07, §§ 56-62, 20 September 2011, and *Georgiou v. Greece*, no. 57378/18, § 22-23, 14 March 2023)?

Article 10

8. Has there been an interference with the applicant's right to freedom of expression, within the meaning of Article 10 § 1 of the Convention (see *Tuleya*, [cited above](#), §§ 515-31)? Reference is made to (i) the criminal investigation and the application for the lifting of the applicant's immunity in order to prosecute him in relation to the exercise of his judicial functions and to (ii) his public statements concerning the reorganisation of the Polish judicial system.

9. If so, was that interference prescribed by law and necessary in terms of Article 10 § 2? Which legitimate aims did that interference pursue?

PIETRUSZYŃSKI v. POLAND AND WRÓBEL v. POLAND – SUBJECT MATTER OF THE CASE AND QUESTIONS

APPENDIX

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by	Relevant proceedings in which the applicants gave rulings	Proceedings for lifting the applicants' immunity
1.	44766/22	Pietruszyński v. Poland	21/09/2022	Marek PIETRUSZYŃSKI 1958 Warsaw Polish	Agnieszka HELSZTYŃSKA	The applicant was the judge rapporteur in case no. III KK 428/19 concerning a certain A.K. On 23 October 2019, acting as a single judge, the applicant gave a decision suspending execution of the prison sentence in respect of A.K. On the following day, the decision was sent to the district court competent for the execution of sentences. On 15 November 2019 A.K.'s lawyer informed the Supreme Court that his client was still in detention. On the same day the release order was sent by the Supreme Court to the remand centre. On 12 December 2019 the Supreme Court quashed the second-instance conviction and remitted the case for fresh examination by the appellate court.	<u>I instance:</u> Resolution of the DCSC of 23 September 2021 (case no. I DI 20/21) lifting the applicant's judicial immunity. <u>II instance:</u> Resolution of the CPL of 2 April 2025 (case no. II ZIZ 13/22) quashing the first-instance resolution.
2.	31966/25	Wróbel v. Poland	06/10/2025	Włodzimierz WRÓBEL 1963 Cracow Polish	Katarzyna WIŚNIEWSKA Agnieszka HELSZTYŃSKA	The applicant was the rapporteur in a three-judge panel of the Supreme Court in case no. III KK 399/18 concerning a certain P.F. On 16 October 2019 the panel gave a judgment by which it allowed the cassation appeal, quashed P.F.'s sentence and remitted the case for fresh examination by the appellate court.	<u>I instance:</u> Resolution of the DCSC of 31 May 2021 (case no. I DI 19/21) refusing to lift the applicant's judicial immunity. <u>II instance:</u> Resolution of the CPL of 6 May 2025 (case no. II ZIZ 7/22)

PIETRUSZYŃSKI v. POLAND AND WRÓBEL v. POLAND – SUBJECT MATTER OF THE CASE AND QUESTIONS

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by	Relevant proceedings in which the applicants gave rulings	Proceedings for lifting the applicants' immunity
						On 18 November 2019 the prison authorities informed the Supreme Court that P.F. was still in detention. On the same day the Supreme Court sent the prison authorities a release order.	quashing the first-instance resolution and discontinuing the proceedings.