

Warsaw, 6 July 2023

In today's judgment in case *Tuleya v. Poland* (Application nos. 21181/19 and 51751/20), the European Court of Human Rights ruled, by a vote of 6 to 1, that there had been a violation of:

- right to a fair trial (Article 6 § 1 of the European Convention on Human Rights);
- right to respect for private life (Article 8 of the European Convention on Human Rights);
- freedom of expression (Article 10 of the European Convention on Human Rights).

The case is related to changes in the rules of disciplinary responsibility for judges in Poland introduced in 2018. The basis of the judge Tuleya's applications was the repression he suffered from speaking out in defense of the rule of law, asking preliminary questions and his judicial activity.

In particular, the Applicant alleged that the Disciplinary Chamber had revoked his immunity, suspended him from office, and reduced his salary, for more than two years. The Applicant also claimed that, as a result of the proceedings initiated against him, he became the target of a defamation campaign in the public media, where derogatory or deprecatory information about him was published or disseminated.

The applications to the European Court of Human Rights were filed on April 10, 2019 and November 24, 2020, respectively. The Court found it appropriate to deal with both complaints together in a joint case.

The Court ruled, as it had in one of its previous rulings (*Reczkowicz v. Poland*), **that the Disciplinary Chamber** - which decided to revoke Judge Tuleya's immunity - **was not an "independent and impartial court established by law"** within the meaning of the Convention.

It also stated that the measures taken against Judge Tuleya lacked an adequate legal basis and had a significant impact on his private life. They were aimed at **intimidating or even silencing the judge and imposing a "chilling effect"** on the entire judicial community.

The Court paid particular attention to the consequences of the judge's asking a preliminary question as well as the decision to revoke his immunity and suspend him from office. The Court found that these measures, which undermined his integrity as a judge and his professional reputation and prevented him from performing his official duties for more than two years, had a significant impact on his private life.

The Court also attached great importance to the CJEU's findings in its July 15, 2021 judgment stating that the new disciplinary system for Polish judges was incompatible with the European Union law. In that judgment, the CJEU found that the very fact that a disciplinary spokesperson investigates requests for preliminary rulings puts pressure on judges and undermines their independence.

According to the Court, disciplinary liability for judicial rulings can only be used as an exceptional measure. The interference with Judge Tuleya's right to respect for his private life was, therefore, not "lawful" within the meaning of Article 8.

The Court stressed that Judge Tuleya's case must be seen in a broader context, in particular that he is one of the most outspoken critics of judicial reform in Poland.

The Court once again noted **that the entire sequence of events in Poland has clearly demonstrated that successive judicial reforms have been aimed at undermining judicial independence, starting with serious irregularities in the selection of Constitutional Tribunal judges in December 2015, followed in particular by the remodeling of the National Council of the Judiciary and the creation of new chambers in the Supreme Court, while expanding the Minister of Justice's control over the courts and increasing his role in matters of judicial discipline.**

The Court granted the judge just satisfaction in the amount of €30,000.

The attorneys for Judge Igor Tuleya were: attorney Sylwia Gregorczyk-Abram, attorney Michał Wawrykiewicz, Maria Ejchart and attorney Jacek Dubois