# European Court of Human Rights: *Morawiec v. Poland*

**IRIS 2026-4:1/17**

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On 5 February 2026, the European Court of Human Rights (ECtHR) found that Poland violated Articles 6(1), 8 and 10 of the European Convention on Human Rights (ECHR) by lifting the immunity of Beata Morawiec, a judge at the Krakow Regional Court, and suspending her from office. At the heart of the case was a decision taken by the Polish Disciplinary Chamber of the Supreme Court (DCSC) against the applicant, who had been a vocal critic of the reorganisation of the Polish judiciary.

## Background of the case

The applicant served as the President of the Judges' Association, Themis, an organisation that took an active role in the public debate surrounding the controversial judiciary reforms in Poland initiated in 2017. The organisation protested the reforms and openly criticised the then Minister of Justice. In November 2017, the applicant was dismissed from her position as President of the Krakow Regional Court. The applicant lodged and won a civil lawsuit against the state, following which the Minister of Justice was ordered to publish an apology to her.

In September 2020, the Internal Affairs Department of the State Prosecutor's Office petitioned the DCSC to waive the applicant's immunity in order to lodge a criminal case against her. The allegations included abuse of power by a public official, misappropriation of funds and bribery. Finding that there was a "reasonable suspicion" that the applicant had committed the offences, the DCSC lifted her immunity, suspended her from judicial duties and reduced her salary in October 2020. In June 2021, a second-instance decision taken by the DCSC overturned the first-instance decision, reinstated the applicant's immunity, paid back her withheld salary and lifted her suspension. The applicant brought a complaint to the ECtHR, arguing that her rights under Article 6(1) (right to a fair trial), Article 8 (right to private life), and Article 10 (right to freedom of expression) were violated by the DCSC.

## Article 6(1)

First, the applicant argued that her right to fair trial, in particular her right to be heard by "an independent and impartial tribunal established by law", was violated because the relevant decision was taken by a politically compromised body. The

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Court first addressed the admissibility of the case. With regard to exhaustion of domestic remedies, the Court found that although a constitutional complaint could have been possible, there was no genuine prospect for effective redress, as the Polish Constitutional Court "was essentially determined to preserve the new judicial appointment procedure". As for the victim status of the applicant, while the second-instance decision of the DCSC overturned the adverse consequences of the first-instance decision, such a favourable measure "is not, in principle, sufficient" to deprive the applicant of her victim status. Because the complaint concerned the independent status of the DCSC, the second-instance decision had no material consequences for this. Turning to the merits of the case, the Court cited its judgments in *Reczkowicz v. Poland*, *Juszczyszyn v. Poland* and *Tuleya v. Poland*, where it had already established that the DCSC was not an independent and impartial body. In light of this, the Court found a violation of Article 6(1).

**Article 8**

Second, the applicant argued that the DCSC's first-instance decision had undermined her reputation and had led to a hate campaign that had caused her permanent stress, in violation of her right to private life. The Court dismissed the exhaustion and victim status objections for similar reasons to those presented under the previous Article. With respect to the applicability of Article 8, the Court stressed that the applicant's "suspension deprived her of the opportunity to continue her judicial work and to inhabit a professional environment where she could pursue her goals of professional and personal development". In this light, the measures impacted her right to private life "to a very significant degree".

The Court then proceeded to analyse whether this interference was prescribed by law. Polish law stipulates that only a court order can authorise the lifting of a judge's immunity and her suspension. Referring back to its findings in relation to Article 6(1), the Court found that the DCSC could not be considered a "court" for the purposes of the ECtHR. Consequently, the interference was not based on a "law" that afforded sufficient safeguards against arbitrariness, and the interference with Article 8 was not justified.

**Article 10**

Last, the Court turned to assessing the applicant's claim regarding Article 10. The applicant argued that the DSCS's decision was retaliation for her public criticism of the judiciary reforms and her lawsuit against the Minister of Justice, and thus it violated her right to freedom of expression. The Court pointed out that the DCSC's decisions were not explicitly based on the applicant's public expressions. However, the Court insisted that the applicant's claim had to be assessed in light of the systematic overhaul of the judiciary. The fact that the DCSC's decision against the applicant was issued just a month apart from a very similar decision against another judge, underscored the need to consider the claim as part of a

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broader strategy to weaken judicial independence. Looking at the "sequence of events in their entirety", the Court found "prima facie evidence of a causal link between the applicant's exercise of her freedom of expression and the DCSC's decision". Given the applicant's vocal role in the public debate surrounding judicial reforms, the DCSC's decision could be characterised as a "disguised sanction for the applicant's exercise of her freedom of expression".

The Court found that such an interference could not have been justified because it was not prescribed by law. It cited the same reasons as in the context of the Article 8 violation: the DCSC could not be considered a "court" and thus the decisions were not court-approved, as required by Polish law. Although the Court had already established the violation of Article 10, it still considered it "important" to examine the legitimacy of the interference. Reiterating its finding in *Żurek v. Poland*, the Court emphasised that judges not only have a freedom to comment on matters relating to the functioning of the judiciary, they also have a "corresponding duty to speak out in defence of the rule of law and judicial independence when those fundamental values come under threat". Taking into consideration the context of the case, the applicant's suspension and immunity removal could be understood as "a strategy aimed at intimidating (or even silencing) the applicant". As a silencing measure, the decision "undoubtedly had a 'chilling effect'" that not only discouraged the applicant, but also others from participating in public debate. As such, the interference could not have pursued a legitimate aim in the eyes of the Court.

Accordingly, the Court found in favour of the applicant, unanimously upholding all three claims.

***Morawiec v. Poland, No. 46238/20, 5 February 2026***

https://hudoc.echr.coe.int/?i=001-248208

***Reczkowicz v. Poland, No. 43447/19, 22 July 2021***

https://hudoc.echr.coe.int/eng?i=001-211127

***Juszczyszyn v. Poland, No. 35599/20, 6 October 2022***

https://hudoc.echr.coe.int/eng?i=001-219563

***Tuleya v. Poland, Nos. 21181/19 and 51751/20, 6 July 2023***

https://hudoc.echr.coe.int/eng?i=001-225672

***Żurek v. Poland, No.  39650/18, 16 June 2022***

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