



## FLASH NEWS

02/22

# EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 07/02 TO 18/03/2022

### PL / GRZEŃDA v. POLAND [GC]

**Right to a fair trial - Right of access to a court - Premature termination of the term of office of a judge belonging to the National Council of the Judiciary (NCJ) - Independence of members of the judiciary - Judicial reform in Poland**

**Infringement** of Article 6 §1 (right to a fair trial) of the ECHR.

In 2016, the applicant, a Polish judge, was elected to the NCJ for a 4-year term. As part of the reorganisation of the Polish judicial system, pursuant to the amending law adopted in 2017, this term of office was shortened, before it expired. The applicant complained that he had no effective remedy by which to challenge the alleged arbitrary termination of his term of office. He stressed that the NCJ plays an essential role in the checks-and-balances mechanism and that the autonomy of its members cannot be subjugated by undue external or internal influences. The applicant also alleged that the premature termination of his term of office had financial consequences for him.

Judgment of 15/3/2022 (application No 43572/18) ([FR/EN](#))

Press release ([FR/EN](#))

See also, in this respect, the judgments of the Court of 6 October 2021, *W.Ż.* (Chambre de contrôle extraordinaire et des affaires publiques de la Cour suprême – Nomination) ([C-487/19](#), [EU:C:2021:798](#)), of 15 July 2021, *Commission v. Poland* (Régime disciplinaire des juges) ([C-791/19](#), [EU:C:2021:596](#)) and of 2 March 2021, *A.B. and others* (Nomination des juges à la Cour suprême – Recours) ([C-824/18](#), [EU:C:2021:153](#)).

### PL / NIKOGHOSYAN AND OTHERS v. POLAND

**Right to liberty and security - Asylum seekers - Automatic detention of the family with children for 6 months following irregular entry into Poland - Lack of individual assessment of the family's particular situation and needs**

**Infringement** of Article 5 §1(f) (right to liberty and security) of the ECHR.

**Inadmissibility** of the complaints alleging infringement of Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life) of the ECHR on account of their untimely submission [Article 35 §§1 and 4 of the ECHR].

In November 2016, the applicants, a family of Armenian nationals with three children, had been sent to a guarded centre for foreigners after they had tried to cross the Polish-Ukrainian border and had repeatedly applied for international protection on the grounds that they were threatened with persecution in their home country because of the political involvement of one of them. They complained that the decision regarding their automatic detention was disproportionate and did not take into account their individual situation and the welfare of their children, one of whom was a newborn. In their view, the length of detention was also too long.

Judgment of 3/3/2022 (application No 14743/17) ([EN](#))  
Press release ([FR/EN](#))



## CH / COMMUNAUTÉ GENEVOISE D'ACTION SYNDICALE (CGAS) v. SWITZERLAND

**Freedom of assembly and association - General anti-COVID measures prohibiting public demonstrations for a considerable period of time - Lack of effective review of the contested measures by domestic courts - Lack of use of measures provided for in the Convention to derogate from the obligations set out therein**

**Infringement** of Article 11 (freedom of assembly and association) of the ECHR.

The applicant, an association under Swiss law whose purpose is to defend the interests of workers and its member organisations, complained that the general ban on demonstrations, which took effect for two and a half months at the start of the COVID-19 pandemic and was based on a simple order of the Swiss government (without parliamentary approval), was manifestly excessive and did not have sufficient legal basis. It also considered that the penalty for non-compliance with this prohibition, namely 3 years' imprisonment or a fine, in view of their seriousness and dissuasive effect, represented an extremely serious interference with the exercise of this freedom.

Judgment of 15/3/2022 (application No 21881/20) ([FR](#))  
Press release ([FR/EN](#))

## MEASURES TAKEN BY THE ECtHR FOLLOWING RUSSIAN MILITARY AGGRESSION ON UKRAINIAN TERRITORY

**Urgent interim measures in an application concerning Russian military operations on Ukrainian territory (application No 11055/22, Ukraine v. Russia [X])**

Press release ([FR/EN](#))

**Temporary measures in the context of individual applications relating to Russian military operations on Ukrainian territory**

Press release ([FR/EN](#))

**Measures to be applied in cases where Ukraine is a respondent or applicant government**

Press release ([FR/EN](#))

**Measures applied in all cases concerning Russia due to disruptions in the postal service**

Press release ([FR/EN](#))

**Emergency interim measures in the case concerning the Russian daily newspaper Novaya Gazeta (application No 11884/22, ANO RID Novaya Gazeta and others v. Russia)**

Press release ([FR/EN](#))

## OTHER INFORMATION

### Judicial reform in Poland - Interim measures - Proceedings concerning the lifting of the judicial immunity of a judge of the Polish Supreme Court - Suspension

On 9 February 2022, the ECtHR decided to indicate an interim measure in the case of **Wróbel v. Poland** (application No 6904/22), under Article 39 of the [Regulations](#) of the ECtHR. The Court asked the Polish Government to ensure that the procedure concerning the lifting of the judicial immunity of Mr Wróbel, who has been a judge of the Polish Supreme Court since 2011, complies with the requirements of a 'fair trial', in particular the requirement of an 'independent and impartial tribunal established by law', and that no decision on this immunity is taken by the Disciplinary Chamber of the Supreme Court until the Court has given a final ruling on the complaints lodged by the person concerned.

This case concerns the independence of the Disciplinary Chamber of the Supreme Court, which is also the subject of several cases before the Court, including the pending case C-204/21.

See also, in this respect, the judgment of the Court of 19 November 2019, A. K. and others (Indépendance de la chambre disciplinaire de la Cour suprême) ([C-585/18](#), [C-624/18](#) and [C-625/18](#), [EU:C:2019:982](#)), the order of the Vice President of the Court of 14 July 2021, Commission/Pologne ([C-204/21](#), [EU:C:2021:593](#)) and the judgment of the Court of 15 July 2021, Commission v. Poland (Régime disciplinaire des juges) ([C-791/19](#), [EU:C:2021:596](#)).

### THE RUSSIAN FEDERATION IS EXCLUDED FROM THE COUNCIL OF EUROPE

At an extraordinary meeting on 16 March 2022, the Committee of Ministers decided, under the procedure initiated under Article 8 of the Statute of the Council of Europe, that the Russian Federation shall cease to be a member of the Council of Europe, 26 years after its accession.

**Resolution CM/Res(2022)2** ([FR/EN](#))

**Press release** ([FR](#) / [EN](#))

Following the Resolution of the Committee of Ministers whereby the Russian Federation shall cease to be a member of the Council of Europe as from 16 March 2022, the ECtHR has decided to suspend the examination of all applications against the Russian Federation, pending consideration of the legal consequences of this Resolution on the work of the Court.