



Justice under pressure

– repressions as a means of attempting
to take control over the judiciary
and the prosecution in Poland.
Years 2015–2019

Edited by
Jakub Kościerzyński

Prepared by:
sędzia SA Michał Bober
sędzia SO Piotr Gąciarek
sędzia SR Joanna Jurkiewicz
sędzia SR Jakub Kościerzyński
prokurator PR Mariusz Krasoń
sędzia SR Dorota Zabłudowska

The report was drawn up by judges from the Polish Judges' Association "Iustitia" and by a prosecutor from the "Lex Super Omnia" Association of Prosecutors.

"Iustitia" is the largest association of judges in Poland. It is fully independent, apolitical and self-governing, with over 3500 members, which is over 1/3 of the total number of judges. Our main mission is to defend the principles of a democratic state of law: freedom, rights and civil liberties, which are the cornerstone of democratic Poland. We are active in many fields not only throughout Poland but also in the international arena as a member of international associations of judges (IAJ, EAJ, MEDEL).

"Lex Super Omnia" is fully independent, apolitical and self-governing. It brings together more than 200 prosecutors. The main goal of the association is to strive for establishing an independent prosecution, the position of which is defined in the Polish Constitution.

Spis treści

Introduction	7
Part I. Judges	9
Chapter I. List of judges against whom the disciplinary prosecutor of common courts, judge <i>Piotr Schab</i> and his deputies, judges: <i>Michał Lasota</i> and <i>Przemysław W. Radzik</i> , have launched investigations or initiated disciplinary proceedings in connection with judicial and extrajudicial activities. The list was drawn up on the basis of source documents and face-to-face interviews with judges (HARD REPRESSIONS)	11
1. Olimpia BARAŃSKA-MAŁUSZEK – Judge of the District Court in Gorzów Wielkopolski	11
2. Anna BATOR-CIESIELSKA – Judge of the District Court in Warsaw	14
3. Włodzimierz BRAZEWICZ – Judge of the Court of Appeal in Gdańsk.....	17
4. Barbara du Chateau – Judge at the Court of Appeal in Lublin	20
5. Monika CIEMIĘGA – Judge of the Opole District Court.....	20
6. Dominik CZESZKIEWICZ – Judge at the Suwałki District Court	24
7. Alina CZUBIENIAK – Judge of the District Court in Gorzów Wielkopolski.....	25
8. Monika FRĄCKOWIAK – Judge of the District Court Poznań-Nowe Miasto and Wilda in Poznań	26
9. Piotr GAĆCIAREK – Judge of the District Court in Warsaw	32
10. Kamil JAROCKI – Judge of the District Court in Gorzów Wielkopolski	33
11. Sławomir JĘKSA – Judge of the District Court in Poznań	33
12. Paweł JUSZCZYSZYN – Judge of the District Court in Olsztyn	36
13. Katarzyna KAŁWAK – Judge at the Oleśno District Court	39
14. Arkadiusz KRUPA – Judge of the District Court in Łobez.....	42
15. Magdalena LEWANDOWSKA – Judge of the District Court in Oborniki	42
16. Dorota LUTOSTAŃSKA – Judge of the District Court in Olsztyn	43
17. Ewa MACIEJEWSKA – Judge of the District Court in Łódź	44
18. Rafał MACIEJEWSKI – Judge of the District Court in Łódź.....	45
19. Krystian MARKIEWICZ – Judge of the District Court in Katowice	46
20. Dariusz MAZUR – Judge of the District Court in Kraków	53
21. Ewa MROCZEK – Judge of the District Court in Działdowo	54

22. Artur ONDEREK – Judge of the District Court in Miechów	55
23. Bartłomiej PRZYMUSIŃSKI – Judge of the District Court Poznań-Stare Miasto in Poznań	56
24. Bartłomiej STAROSTA – Judge of the District Court in Sulęcín	57
25. Jerzy STĘPIEŃ – retired Judge of the Constitutional Tribunal	63
26. Igor TULEYA – Judge of the District Court in Warsaw	63
27. Piotr WANGLER – Judge of the District Court in Starogard Gdański	65
28. Dorota ZABŁUDOWSKA – Judge of the District Court Gdańsk–Południe in Gdańsk	66
29. Waldemar ŻUREK – Judge of the District Court in Kraków	67
30. Judges of the District Court in Kraków: Rafał LISAK, Kazimierz WILCZEK, Wojciech MACZUGA	70
31. Judges of the Court of Appeal in Katowice, Aleksandra JANAS and Irena PIOTROWSKA	73

Chapter II. The actions of representatives of the executive, law enforcement agencies (including the Prosecutor’s Office), the body acting as the National Council of the Judiciary, court presidents nominated by the Minister of Justice as a result of the amendment of the law regulating the judicial system, which violates the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms, which targeted the independence of courts and the independence of judges (SOFT REPRESSIONS)

1. Judge Łukasz BILIŃSKI	75
2. Judge Monika FRĄCKOWIAK	76
3. Judge Alicia FRONCZYK	77
4. Judge Justyna KOSKA-JANUSZ	78
5. Judge Marta KOŻUCHOWSKA-WARYWODA	79
6. Judge Wojciech ŁĄCZEWSKI	80
7. Judge Irena MAJCHER	80
8. Judge Tomasz MARCZYŃSKI	81
9. Judge Alexandra MAREK-OSSOWSKA	82
10. Judge Kristian MARKIEWICZ	84
11. Judge Andrzej OLSZEWSKI	84
12. Judge Agnieszka PILARCZYK	85
13. Judge Bartłomiej PRZYMUSIŃSKI	86
14. Judge Adam SKOWRON	87
15. Judge Igor TULEYA	87
16. Judge Monika ZIELINSKA	88
17. Judges: Agnieszka POŚWIATA, Michał KARCZEWSKI, Kinga MISIUKIEWICZ, Monika ORZECZOWSKA	89
18. Judges: Wojciech MERTA, Alina BOJARA, Mariusz BRODA	90
19. Judges: Maria LESZCZYŃSKA and Wojciech BORODZIUK	91
20. Judges Of The Republic Of Poland	92

Chapter III. The list of judges and persons who have actively engaged in activities supporting the change in the shape of the constitutional bodies of the State listed in Chapter VIII of the Constitution of the Republic of Poland “Courts and tribunals”, initiated in 2015. In this section, the report covers judges and persons aspiring to the profession of judge.....	93
Persons connected with the functioning of the Constitutional Court after 2015.	94
The judges who nominated themselves in February 2018 to replace the constitutional body – the National Council of the Judiciary – and were not elected by the Polish Parliament.....	99
Judges who were elected by the Sejm of the Republic of Poland as members of the body which in April 2018 replaced the constitutional body – the National Judicial Council	100
The disciplinary prosecutor and deputies of the disciplinary prosecutor for common court judges	109
Judges who, according to media reports, stood behind the 2018 and 2019 hate campaign and discredited judges criticising the changes in the justice system introduced by the United Right coalition in power.	111
The remaining persons who submitted their candidacies for the positions of judges of the Disciplinary Chamber of the Supreme Court and after a competition held before the body that replaced the constitutional body – the National Council of the Judiciary – were recommended to take up this function and appointed to perform it by the President of Poland.....	118
Persons who have submitted their candidacies for the positions of judges of the Disciplinary Chamber of the Supreme Court and have not been recommended for appointment*	126
Chapter IV. Public statements of representatives of the highest state authorities of the Republic of Poland, slandering judges on the national and international arena	171
Part II. Prosecutors	181
1. List of prosecutors degraded under the regulations shaping the prosecutor’s office adopted by the Act of 28 January 2016 – Law on the Public Prosecutor’s Office (Journal of Laws of 2016, item 177, as amended; henceforward LPPO), and in particular the Act of 28 January 2016 – Introductory provisions – Law on the Public Prosecutor’s Office (Journal of Laws of 2016, item 178 as amended).	184
2. Lists of prosecutors against whom their superiors took other actions.....	190

Introduction

In 2017, as part of a package of legal changes to the judiciary, a disciplinary system was created in Poland to ensure that judges were subservient to the political will of the authorities. *Piotr Schab* and his deputies, *Przemysław W. Radzik* and *Michał Lasota*, the disciplinary prosecutor of common court judges, appointed by the Minister of Justice and Prosecutor General, almost from the moment of their appointment, have targeted judges who opposed unconstitutional changes in the judiciary. There can be many pretexts: a public statement, putting on a T-shirt with the inscription “Constitution”, asking the Court of Justice of the European Union for a preliminary ruling, or a verdict which does not in line with the intention of the prosecution or political authority. Disciplinary proceedings are by no means the only repressions that affect judges who demand that other authorities respect the rule of law in Poland. Such judges either have their departments closed or the scope of their activities is changed so that they have to rule on cases with which they have not previously been in contact. It is easier in such a situation to make a mistake and give a pretext for disciplinary proceedings. This is a report which is a compilation of the most blatant cases of repression against Polish judges. Each repression has two sides – there is a victim, but there is also a perpetrator. Repressions have specific faces, and behind each of them stands a person. That is why we decided that these faces should be shown to the public. We present not only the people who have fallen victim to repression by the disciplinary and official apparatus, but also public officers – judges, prosecutors, who are responsible for using various methods of pressure and harassment.

This report presents not only information about the investigations and disciplinary proceedings, but also the so-called soft repressions, consisting, among other things, in the exercise of the powers vested in court presidents, which bear features of harassment or mobbing (legal harassment). An example is the unjustified transfer to another department where a judge has never ruled, or administrative supervision of all cases from a judge’s unit, which makes it necessary to continuously write reports on the course of cases. A specific repression that has been revealed in recent months is the action of discrediting and using hate speech against judges online and offline. As reported in the

media, these actions have been instigated and managed by officers connected with the political power of the Ministry of Justice, by the so-called National Council of the Judiciary, or by deputy disciplinary prosecutors of common court judges. The report also contains examples of blatant public statements by representatives of the highest state authorities of the Republic of Poland slandering and denigrating judges in the national and international arena.

The study consists of two parts – the first part concerns judges and the second part concerns prosecutors. The part concerning judges was divided into four chapters: the first one is dedicated to the presentation of investigations and disciplinary proceedings (so-called hard repression), the second – other types of repression (so-called soft repression), the third – perpetrators of repression and persons whose described behaviour, in the opinion of the authors of the report, should be carefully assessed whether they do not constitute a misappropriation of professional ethics by participating in the process of abolishing the independence of the judiciary, and the fourth part – public statements by representatives of political authorities defaming judges. The second part is devoted to the repressions of independent prosecutors. The report is not an exhaustive study, it contains only the most blatant examples of repression and pressure on independent judges and prosecutors. Some cases of repression have not been included, either due to a lack of sufficient data or because the harassment of repressed judges and prosecutors has not been disclosed.

In the future, we will expand and complete the report with further cases. In our opinion, however, it gives some idea of the scale of the harassment that affects judges for one reason only, namely that they demand that the other authorities respect the Polish Constitution. Those who own the courts have absolute power. As judges, we stand guard over the civil rights and freedoms enshrined in the Constitution. We pay a high price for this already, but we are ready to pay even the highest. We do not and will not agree to politicize the courts. We will not allow citizens to be deprived of their right to a fair trial before an impartial and independent court.

But what happens when we're gone?

The Polish Judges

Part I.

Judges



Chapter I.

List of judges against whom the disciplinary prosecutor of common courts, judge *Piotr Schab* and his deputies, judges: *Michał Lasota* and *Przemysław W. Radzik*, have launched investigations or initiated disciplinary proceedings in connection with judicial and extrajudicial activities. The list was drawn up on the basis of source documents and face-to-face interviews with judges (HARD REPRESSIONS).

1. Olimpia BARAŃSKA-MAŁUSZEK – Judge of the District Court in Gorzów Wielkopolski

Judge of the District Court in Gorzów Wielkopolski *Olimpia Barańska-Małuszek* is a member of the Association of Polish Judges “Iustitia”, which has repeatedly criticised the changes introduced by those in power in the area of Justice. The judge has repeatedly, publicly expressed critical opinions about the actions of the legislative and executive authorities in the area of the rule of law, human rights and justice. Judge *Olimpia Barańska-Małuszek*, together with other judges from the SSP “Iustitia” took part in the Pol’and’Rock Festival in Kostrzyn nad Odrą. The judges met with the participants of the festival, conducted simulations of court hearings and organized numerous debates, during which they explained the rules of the courts to the citizens in an accessible way. The aim of this initiative was to educate the public in law and to stimulate the development of legal and civic awareness of society, especially among young people.

The civic activity of the judge and her activities for the defence of the rule of law were met with a reaction of the disciplinary prosecutor, who, among other things, audited the judicial work of the judge going back several years.

In a letter of 11.10.2018, the deputy disciplinary Prosecutor of the judges of common courts, Judge *Przemysław Radzik*, called on the Judge of the District Court *Olimpia Barańska-Matuszek* to submit a written statement on disciplinary offenses, involving the use of offensive terms against other judges and the Minister of Justice during a public performance at the Pol'and'Rock Festival in August 2018 in Kostrzyn nad Odrą. In the opinion of the disciplinary prosecutor, such behaviour of a judge violated the seriousness of the office held and was an insult to the dignity of a judge. In addition, the disciplinary prosecutor called on Judge *Olimpia Barańska-Matuszek* to submit a written statement on the untimely preparation in 2016–2017 of a total of 26 written grounds for the judgments issued in excess of the statutory deadline.

As a result of these actions, the deputy disciplinary Prosecutor of the judges of common courts, Judge *Przemysław Radzik*, on 17.1.2019, initiated disciplinary proceedings against the judge of the District Court, *Olimpia Barańska-Matuszek*, and presented the judge with 10 charges of disciplinary offences, consisting in the untimely preparation of a total of 10 written grounds for the judgments issued in 2016–2017. The initiation of disciplinary proceedings was preceded by a request to make available the results of the effectiveness adjudicating performance of Judge *Olimpia Barańska-Matuszek* sent by the deputy disciplinary prosecutor of judges of common courts, Judge *Przemysław Radzik* to the president of the competent court where the judge serves.

On 29.1.2019, *Jan Majchrowski*, a Judge of the Supreme Court, performing at that time the duties of the President of the Supreme Court directing the work of the Disciplinary Chamber, appointed the disciplinary panel at the Court of Appeal in Lublin which will hear the disciplinary case of the judge of the District Court of *Olimpia Barańska-Matuszek* in the first instance.

Source: Letter from the deputy disciplinary Prosecutor of judges of common courts, Judge *Przemysław Radzik*, 11.10.2018, RDSP 714-61/18, calling for a written statement within 14 days; decision of the deputy disciplinary prosecutor of judges of common courts judge *Przemysław Radzik* of 17.1.2019 issued in the case of RDSP 711-1/19 on the commencement of disciplinary proceedings against the Judge of the District Court *Olimpia Barańska-Matuszek* and presentation of charges of disciplinary offences; Report of the Committee for the Defence of Justice: “The Punishing State”; Order of Supreme Court Judge *Jan Majchrowski* of 29.1.2019, DO 5/19.

Finally, the deputy disciplinary Prosecutor of the judges of common courts, Judge *Przemysław Radzik* discontinued the disciplinary proceedings initiated against Judge *Olimpia Barańska-Matuszek*, withdrawing from the charges.

In addition, in August 2019, the deputy disciplinary Prosecutor for judges of common courts *Przemysław W. Radzik* initiated disciplinary proceedings against a Judge of the District Court in Gorzów Wielkopolski *Olimpia Barańska-Matuszek* and accused her of not complying with the injunction of restrained use of social media. The disciplinary prosecutor accused the judge of not exercising restraint in the use of social media, and that using the social network site Twitter she had slandered a selected prosecutor of the

National Prosecutor's Office, saying that as a person aspiring to the position of a Supreme Court judge in the Disciplinary Chamber he had no experience and had violated human rights. In addition, the disciplinary prosecutor accused Judge *Olimpia Barańska-Matuszek* of not exercising restraint in the use of social media and that on the social networking site Twitter she had slandered Minister of Justice *Zbigniew Ziobro* by saying that, as a minister, he “produced a scandal” and is “responsible for creating a corrupt system in courts and prosecutors’ offices, making the judiciary subservient to political will”.

On 15 November 2019, the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik* submitted a request to the disciplinary court to consider the disciplinary case on the above mentioned charges. In the opinion of the disciplinary prosecutor, Judge *Olimpia Barańska-Matuszek* abused the right to express her opinion, violated the good manners of the judiciary and thus undermined the good name of the Judiciary. Moreover, the deputy disciplinary prosecutor of the judges of common courts *Przemysław W. Radzik* submitted a request to the same disciplinary court to suspend Judge *Olimpia Barańska-Matuszek* in her professional activities and reduce her remuneration in the scope of 25% to 50% of her salary.

In fact, the Judge of the District Court in Gorzów Wielkopolski, *Olimpia Barańska-Matuszek*, speaking on the Twitter social networking site about important matters in the area of justice, exercised her freedom of expression and opinion guaranteed by Article 54(1) of the Constitution of the Republic of Poland, Article 10(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 11(1) of the Charter of Fundamental Rights of the European Union. The right of a judge to criticise actions taken by the legislative and executive authorities in the area of justice, which may pose a threat to the independence of the judiciary, was confirmed in the *Baka v Hungary* judgment of 27.5.2014. (Application No 20261/12). Also the European Network of Councils for the Judiciary (ENCJ), in a Sofia Declaration adopted on 7.6.2013, confirmed the obligation for a judge to oppose government proposals that may *inter alia* compromise the independence of judges or councils. Point VII of the Declaration states that the common custom of judges not to speak out on political controversies should not apply where the integrity and independence of the judiciary is threatened. Judges across Europe today have a common obligation to express unambiguous and convincing opposition to government proposals that may compromise the independence of judges or the judiciary. The criticism voiced by the Judge of the District Court in Gorzów Wielkopolski, *Olimpia Barańska-Matuszek*, referred to the situation in the judiciary which arose after the so-called reforms introduced by the ruling power and to the competition procedure for the highest judicial post, the legality of which is challenged at both national, international, and EU levels. On the other hand, the motion of the deputy disciplinary prosecutor for judges of common courts, *Przemysław W. Radzik*, to suspend Judge *Olimpia Barańska-Matuszek* from her duties and reduce her salary in the range of 25% to 50%, due to the nature of the charge (abuse of the right to freedom of expression) constitutes a political activity on the part of the disciplinary prosecutor, who prosecutes independent judges daring to criticise unconstitutional changes introduced in the area of Justice by those in power.

Source: Communiqué of the Disciplinary prosecutor of common court judges *Piotr Schab* on the initiation of disciplinary proceedings against judges who do not comply with the restraining order of social media; order of the deputy disciplinary prosecutor of common court judges, *Przemysław W. Radzik* of 28.8.2019, RDSP 711-105/19; announcement of the disciplinary prosecutor of the judges of common courts *Piotr Schab* on the request to suspend Judge *Olimpia Barańska-Matuszek* in his official activities; announcement of the Disciplinary prosecutor of the judges of common courts *Piotr Schab* on the conclusion of disciplinary proceedings against Judge *Olimpia Barańska-Matuszek*.

2. Anna BATOR-CIESIELSKA – Judge of the District Court in Warsaw

Judge *Anna Bator-Ciesielska* adjudicates in the 10th Criminal Division of the District Court in Warsaw. On 30.8.2019 and 16.9.2019, the judge referred two questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling concerning the status of judges delegated from a lower court to a higher court by the Minister of Justice. On 30.8.2019, Judge *Anna Bator-Ciesielska* was adjudicating in a panel with was a judge at the Krosno Odrzańskie District Court, *Przemysław W. Radzik*, who also serves as deputy disciplinary prosecutor for judges of common courts, and who was delegated for an indefinite period of time to adjudicate at the Warsaw District Court to the 10th Appeal Division. Furthermore, on 16.9.2019, Judge *Anna Bator-Ciesielska* sat on the adjudicating panel with judge of the District Court in Nowe Miasto Lubawskie, *Michał Lasota*, who at the same time served as deputy disciplinary prosecutor of common court judges and was also delegated for an indefinite period of time to adjudicate in the District Court in Warsaw to the 10th Appeal Division. Judge *Anna Bator-Ciesielska* twice asked the Court of Justice of the European Union (CJEU) whether the fact of being a member of the collegial composition of the court of Judges (*Przemysław W. Radzik* and *Michał Lasota*) delegated to the District Court in Warsaw on the basis of a single-member decision of the Minister of Justice from a court located one level lower in the hierarchy, in the absence of knowledge of the criteria followed by the Minister of Justice when delegating those judges, and in a situation where national law does not provide for judicial review of such a decision and allows the Minister of Justice to remove a judge from the delegation at any time, infringes Community law, and in particular the principle of effective judicial protection and the principle of judicial independence. According to media reports, *inter alia*, *Gazeta Wyborcza*, TVN24, the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik* and *Michał Lasota* belonged to the KASTA group, which operates on WhatsApp. This group was also to include judges delegated to the Ministry of Justice and members of the new National Judicial Council. Some members of this group were to plan hate attacks on judges and take part in a systemic campaign of denigration of judges who opposed the changes in the area of justice introduced by the political authorities in recent years in direct violation of constitutional, international and community standards and bravely defended the rule of law.

Judge *Anna Bator-Ciesielska*'s decision was met with immediate reprisals by the disciplinary prosecutor of common court judges *Piotr Schab*. On 3.9.2019, the disciplinary prosecutor undertook investigative activities with respect to Judge *Anna Bator-Ciesielska* of the Warsaw District Court in order to determine whether the manner of proceeding, the judge's statements and decisions could constitute a disciplinary offence. At the same time, the disciplinary prosecutor called upon the judge to submit a written statement within 14 days. In the opinion of the disciplinary prosecutor, Judge *Anna Bator-Ciesielska*, by her decision, inter alia, prevented judge *Przemysław W. Radzik* from participating in the examination of a case at the hearing, and also publicly questioned the composition of the adjudicating panel appointed which was, in the opinion of the disciplinary prosecutor, in accordance with the applicable law. In fact, contrary to the disciplinary prosecutor's assertions, Judge *Anna Bator-Ciesielska* did not intend to prevent Judge *Przemysław W. Radzik* from adjudicating in the case with his participation, but to verify whether the delegation of a judge by the Minister of Justice – who is at the same time a politician, for an indefinite period of time and without clear criteria for such a decision, as well as completely outside the control of the court, and with the possibility of immediate dismissal of the judge – is compliant with European law as reviewed by the Court of Justice of the European Union (CJEU).

Judge *Anna Bator-Ciesielska*'s representative sent a letter to the disciplinary prosecutor, *Piotr Schab*, in which he indicated that his client would not give the prosecutor any written statement and would not take part in any activities undertaken by the prosecutor. The letter indicated that the so-called central disciplinary prosecutor is not entitled to undertake investigative actions nor conduct disciplinary proceedings against judges of district courts. However, such competence is vested in the disciplinary prosecutor acting at the court of appeal, who has not yet undertaken any actions against Judge *Anna Bator-Ciesielska*. The disciplinary prosecutor for judges of common courts may only take over a case already conducted by the deputy disciplinary prosecutor attached to a regional court or appeal court. However, in the case of Judge *Anna Bator-Ciesielska*, the disciplinary prosecutor acting at the court of appeal in Warsaw did not undertake investigative activities, and thus the actions of the disciplinary prosecutor of judges of common courts taken against the judge are contrary to the principle of legalism.

On 23.9.2019 Judge *Anna Bator-Ciesielska* once again referred two questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling, which concerned the status of judges delegated from a lower court to a higher court by the Minister of Justice. On that day, Judge *Anna Bator-Ciesielska* was on a panel with a judge of the District Court in Krosno Odrzańskie, *Przemysław W. Radzik*, who at the same time serves as deputy disciplinary prosecutor for judges of common courts and had been delegated for an indefinite period of time to adjudicate in the District Court in Warsaw to the 10th Appeal Division. The reasons for making such a decision were analogous to those of the previous preliminary questions.

On 6 December 2019, the disciplinary prosecutor of common court judges, Judge *Piotr Schab*, initiated disciplinary proceedings against Judge *Anna Bator-Ciesielska* and presented her with five disciplinary charges. The first charge consisted in the fact that,

in the opinion of the disciplinary prosecutor, the judge presented her own view on the existence of additional grounds for postponing the hearing, and also publicly questioned the composition of the panel by questioning the independence and sovereignty of the specific judge (namely Judge *Przemysław W. Radzik*), denying his right to participate in this composition of the court, and omitted to deliberate on this decision. In the opinion of the disciplinary prosecutor, Judge *Anna Bator-Ciesielska* thus prevented *Przemysław W. Radzik*, a member of the adjudicating panel, from participating in the consideration of the case. Another three charges brought by the disciplinary prosecutor, *Piotr Schab*, consisted in the fact that Judge *Anna Bator-Ciesielska*, on days respectively: 16.9.2019, 23.9.2019, 10.10.2019, exceeded her powers in such a way that, as President of the formation of the Court, she, in addition to two other members of that formation, issued an order to refer questions to the Court of Justice of the European Union for a preliminary ruling and then suspended the proceedings on that ground. In the opinion of the disciplinary prosecutor, the judge thus unlawfully interfered in the composition of the court, which was detrimental to the public interest, as expressed in the proper functioning of the justice system. In the opinion of the disciplinary prosecutor *Piotr Schab*, these three charges constitute offences of abuse of power. In addition, the disciplinary prosecutor accused Judge *Anna Bator-Ciesielska* of breaching the rules of professional ethics of judges, breaching the obligation to act in accordance with the oath of a judge and breaching the ban on publishing cases related to the office by granting, in the period 3–25.9.2019 in Warsaw, interviews in the mass media, including television, press and Internet portals, in which she questioned the status of two judges (*Michał Lasota* and *Przemysław W. Radzik*) and their authority to hold the office of a judge, as well as their independence and sovereignty, and the manner in which the Vice-President of the Regional Court in Warsaw exercised her powers. The disciplinary prosecutor accused the judge of publicly expressing her views on pending cases in which she was one of the members of the adjudicating panel.

In fact, contrary to the disciplinary prosecutor's assertions, Judge *Anna Bator-Ciesielska* did not intend to prevent Judges *Przemysław W. Radzik* and *Michał Lasota* from adjudicating in cases involving them, but to have the compliance with European law the judge's delegation, as provided for by Polish law, by the Minister of Justice. The Polish Minister of Justice is at the same time the General Prosecutor and an active politician who has the power to delegate a judge for an indefinite period of time, without clear criteria for such a decision, completely outside the control of the court, and with the possibility of immediate dismissal of the judge. Such a situation may lead to real influence of a representative of the executive on the judiciary, as the Minister of Justice may decide to dismiss a judge in a specific case, e.g. when the judge in question is ruling contrary to the expectations of the authority, or when he or she issues decisions that are inconvenient for the legislature or the executive. The Minister of Justice has already exercised this power and made political decisions to remove Judges *Paweł Juszczyszyn* and *Justyna Koska-Janusz* from the delegation without any substantive basis.

The disciplinary prosecutor is also not competent to initiate disciplinary proceedings against regional and district court judges. In cases of judges of district and regional

courts, disciplinary proceedings may be initiated only by the deputy disciplinary prosecutor acting at the regional court. On the other hand, the disciplinary prosecutor of common court judges may only take over a case conducted by the deputy disciplinary prosecutor acting at a regional court. Meanwhile, the competent deputy disciplinary prosecutor acting at the regional court in Warsaw did not conduct any case against Judge *Anna Bator-Ciesielska*.

Source: Communiqué of the Disciplinary prosecutor for common court judges *Piotr Schab* of 3.9.2019, RDSP 714-103/19; letter of the Disciplinary prosecutor for common court judges *Piotr Schab* of 3.9.2019, RDSP 712-66/19; extract from the order of the Disciplinary prosecutor for common court judges *Piotr Schab* of 3.9.2019, RDSP 712-66/19; personal interview with Warsaw District Court Judge *Anna Bator-Ciesielska*; letter of 23.9.2019 from judge *Anna Bator-Ciesielska*'s proxy to the Disciplinary prosecutor of common courts' judges *Piotr Schab*; communication of 6.12.2019 from the Disciplinary prosecutor of common courts' judges *Piotr Schab*. (no signature given) in the case of initiating disciplinary proceedings against Judge *Anna Bator-Ciesielska*.

3. Włodzimierz BRAZEWICZ – Judge of the Court of Appeal in Gdańsk

On 28.9.2018, at the European Solidarity Centre in Gdańsk, the judge of the Court of Appeal in Gdańsk, *Włodzimierz Brazewicz*, chaired a meeting open to the public with *Igor Tuleya*, Judge of the District Court in Warsaw. During the meeting, the independence of the judiciary and judicial impartiality were discussed. The meeting was also attended by other judges. Meanwhile, the deputy disciplinary prosecutor of common court judges, Judge *Przemysław Radzik*, arbitrarily decided that this was a political meeting, although he himself did not attend it and was only informed about it by the media. Consequently, the disciplinary prosecutor called on Judge *Włodzimierz Brazewicz* for questioning. The judge was questioned on 6 November 2018 as a witness in a case involving the participation of judges on 28 September 2018 at the European Solidarity Centre in Gdańsk in a meeting of an allegedly political nature with the participation of politicians, including those taking part in local government elections. Such action by the disciplinary prosecutor constitutes a gross violation of the law. A judge cannot be questioned as a witness, let alone a defendant, in the course of the disciplinary prosecutor's investigations. In addition, the disciplinary prosecutor did not initially even instruct Judge *Włodzimierz Brazewicz* about the right to refuse to answer the question if the answer could expose the judge or the person closest to him to liability for an offence or a fiscal offence (Article 183 § 1 of the Code of Criminal Procedure). The deputy disciplinary prosecutor of judges of common courts did not allow Judge *Włodzimierz Brazewicz*'s proxy to participate in the hearing, removing him from the room where the hearing took place. Judge *Włodzimierz Brazewicz* did not receive a transcript of his testimony, although the deputy disciplinary prosecutors, *Michał Lasota* and *Przemysław Radzik*, who questioned him, undertook to send the transcript, as recorded in the minutes. In connection with the meeting at the

European Solidarity Centre in Gdańsk, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik*, also called on Judge *Igor Tuleya* to make a written statement concerning his participation in the meeting. The prosecutor asked, among other things, whether politicians, including those taking part in local government elections, also took part in that meeting.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik*, 8.10.2018, RDSP 712-12/18; direct interview with Judge *Włodzimierz Brazewicz* of the Court of Appeal in Gdańsk; legal opinion from Professor *Katarzyna Dudka* on the material scope of application of Article 114 § 2 of the Act of 27.7.2001 – Law on the Common Courts Organisation (unified text: Journal of Laws of 2018, item 23); Letter of the deputy disciplinary prosecutor of the Common Courts Judge *Przemysław Radzik* of 8.10.2018, RDSP 712-12/18, calling for a written statement within 14 days.

Subsequently, the deputy disciplinary prosecutor of the judges of common courts Judge *Michał Lasota* requested the President of the Court of Appeal in Gdańsk to make available the information on the effectiveness of the performance of Judge *Włodzimierz Brazewicz*'s judicial work, including statistical data, and to send an official opinion on the judge, as well as information on whether disciplinary actions had been taken against the judge in 2002–2007. These actions of the prosecutor were aimed, as in other cases, at seeking reasons that would justify initiating disciplinary proceedings against the judge.

As a consequence, in a letter of 30 October 2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota* called on Judge *Włodzimierz Brazewicz* to make a written statement concerning his untimely preparations of grounds for judgments and his notifying the media in connection with him being called for an interview as a witness. The disciplinary prosecutor for judges of common courts *Piotr Schab* did not explain to Judge *Włodzimierz Brazewicz* the reasons why information was being collected about the efficiency of the judge's judicial work, including statistical data, or the request to send an official opinion about the judge, and information whether disciplinary actions had been taken against the judge in 2002–2009.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts judge *Michał Lasota* of 30.10.2018, RDSP 712-18/18; Letter from the disciplinary prosecutor for judges of common courts Judge *Piotr Schab* of 10.1.2019, RDSP 712-18/18; Letter from the judge of the Court of Appeal in Gdańsk, *Włodzimierz Brazewicz* to the Disciplinary prosecutor of the judges of common courts, Judge *Piotr Schab*, dated 10.12.2018; Letter from the judge of the Court of Appeal in Gdańsk, *Włodzimierz Brazewicz* to the Disciplinary prosecutor of the judges of common courts, Judge *Piotr Schab*, dated 10.12.2018.

By means of a decision of 29.10.2019, the deputy disciplinary prosecutor of the judges of common courts, Judge *Michał Lasota* initiated disciplinary proceedings against Judge *Włodzimierz Brazewicz*, accusing him of presenting his own assessment of the situation concerning the summoning of him as a witness in another case to a person preparing texts for Onet.pl. In addition, the disciplinary prosecutor accused Judge *Włodzimierz Brazewicz* of presenting to media representatives his own assessment of the course of the hearing, in which he himself participated and testified as a witness. Judge *Włodzimierz*

Brazewicz was also accused of presenting to the media representatives his own assessment of the activities of the deputy disciplinary prosecutor of common court judges.

In fact, a judge of the Court of Appeal in Gdańsk, *Włodzimierz Brazewicz*, in an interview given after his hearing by the disciplinary prosecutor, criticised the course of that hearing, indicating that the disciplinary prosecutor did not even instruct him on the right to evade the answer to a question if the answer could expose a judge or the person closest to him to liability for an offence or a fiscal offence (Article 183 § 1 of the Code of Criminal Procedure), if the circumstances of the hearing so required. Judge *Włodzimierz Brazewicz* stated in an interview that he had instructed himself about his rights since the disciplinary prosecutor could not do so properly. Finally, Judge *Włodzimierz Brazewicz* informed journalists that the deputy disciplinary prosecutors of judges of common courts did not allow the judge's attorney to participate in the hearing, removing him from the room where the hearing took place. In his interview to the media, Judge *Włodzimierz Brazewicz* spoke about important cases in the area of justice concerning the functioning of the disciplinary system of judges. In this respect, he exercised the freedom of expression and opinion guaranteed by Article 54(1) of the Constitution, Article 10(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 11(1) of the Charter of Fundamental Rights of the European Union. The right of a judge to criticise actions taken by legislative and executive authorities in the field of justice which may constitute a threat to the independence of the judiciary was confirmed in the judgment. *Baka v Hungary* of 27.5.2014 (Application No 20261/12). Also the European Network of Councils for the Judiciary (ENCJ), in the Sofia Declaration adopted on 7.6.2013, confirmed the obligation for a judge to oppose government proposals that may inter alia compromise the independence of judges or councils. Point VII of the Declaration states that the common custom of judges not to speak out on political controversies should not apply where the integrity and independence of the judiciary is threatened. Judges across Europe today have a common obligation to express unambiguous and convincing opposition to government proposals that may compromise the independence of judges or the judiciary. Criticism of Judge *Włodzimierz Brazewicz* of the Court of Appeal referred to the analysis of the functioning of the disciplinary system in practice, which was created as a result of so-called reforms introduced by the ruling power. On 3.4. 2019 The European Commission launched infringement proceedings against Poland for the adoption of a new disciplinary system for common court judges. Subsequently, on 10.10.2019 The European Commission has launched a complaint against Poland concerning the new disciplinary system for common court judges in order to protect judges from political control. In its explanatory memorandum, the European Commission indicated that the new system of disciplinary measures does not ensure the independence and impartiality of the Disciplinary Chamber attached to the Supreme Court, which is composed exclusively of judges elected by the National Council of the Judiciary, which was appointed by the Parliament in a procedure of a political nature. The actions taken by the deputy disciplinary prosecutor of judges of common courts, Judge *Michał Lasota*, against Judge *Włodzimierz Brazewicz* of the Court of Appeal are an example of the instrumental use of the provisions of disciplinary proceedings to suppress

criticism of harmful, unconstitutional and contrary to Community law, changes in law to which judges are not only entitled but also obliged.

Source: Order of the deputy disciplinary prosecutor for Common Court Judges of Judge *Michał Lasota* of 29.10.2019, RDSP 711-23/19; direct interview with Judge *Włodzimierz Brazewicz*; <https://iustitia.pl/postepowania-dyscyplinarne/3392-do-tsue-wplynela-skarga-ke-ws-systemu-dyscyplinarnego-dla-sedziow-w-polsce>.

4. *Barbara du Chateau* – Judge at the Court of Appeal in Lublin

The Judge of the Court of Appeal in Lublin, *Barbara du Chateau*, is the spokesperson of the Court of Appeal in Lublin.

In a letter dated 18.6.2019, the deputy disciplinary prosecutor of the judges of common courts, *Michał Lasota* called on the judge of the Court of Appeal in Lublin, *Barbara du Chateau*, to submit a written statement on a possible disciplinary offence, consisting of unreliable statements for TVN24, concerning Judge *Jerzy Daniluk*, which were broadcast on 3.9.2018 and 15.2.2019. The summons did not contain any justification. Judge *Barbara du Chateau* in the “Czarno na Białym” show aired on TVN24, criticized Judge *Jerzy Daniluk*’s transfer from the Regional Court in Lublin to the Regional Court in Siedlce, which made it possible to pay this judge a housing allowance of over PLN 2,000 per month. The judge of the Court of Appeal in Lublin, *Barbara du Chateau*, assessed that the transfer of Judge *Jerzy Daniluk* to the District Court in Siedlce was not reasonably justified.

The Management Board of the Lublin Branch of the CST “Iustitia” in its resolution No 4/2019 expressed its deep disapproval of the actions of the deputy prosecutor of judges of common courts *Michał Lasota* towards the judge of the Court of Appeal in Lublin *Barbara du Chateau*. The resolution points out that the conduct of the deputy disciplinary prosecutor clearly fits in with the recent noticeable actions of the disciplinary prosecutor of judges of common courts under various pretexts against judges boldly expressing their views in defending primarily the foundations of judicial independence as well as upholding democratic values, which are anchored in the Constitution of the Republic of Poland.

Source: Letter from the deputy disciplinary prosecutor of common court judges *Michał Lasota* of 18.6.2019, RDSP 711-61,62,63/19, calling for a written statement within 14 days; Resolution of the Management Board of the Lublin Branch of the CST “Iustitia” No 4/2019.

5. *Monika CIEMIĘGA* – Judge of the Opole District Court

Judge *Monika Ciemięga* was the Vice President of the District Court in Opole and was dismissed during her term of office on the basis of the amended provisions of the Law

on the Common Court System, which are in conflict with the Constitution. The information about her dismissal from the position of vice-president reached her by fax. Judge *Monika Ciemięga* is the Vice-President of the Opole branch of the Association of Polish Judges “Iustitia”. Judge *Monika Ciemięga*, together with other judges from the Iustitia Association of Polish Judges, took part in the Pol’and’Rock Festival in Kostrzyn nad Odrą. The judges met with the participants of the festival, conducted trial simulations and organized numerous debates, during which they explained the rules of the courts to citizens in an accessible way. Judge *Monika Ciemięga* is a co-organizer of the Opole Legal Café, where, during regular meetings, lawyers present legal issues to the public in an accessible way. Judge *Monika Ciemięga* has repeatedly, publicly expressed criticism of the actions of the legislative and executive authorities in the area of the rule of law, human rights and justice. The judge has participated in the “Chains of Light” – civil demonstrations in defence of the independence of the judiciary.

Judge *Monika Ciemięga* received a summons from the Office of the Disciplinary prosecutor for Judges of Common Courts dated 9.9.2019 to be heard as a witness in a case conducted by the disciplinary prosecutor concerning a violation of the dignity of the office by organising and posting on communicators and social networking sites entries that violate the rules of ethics of judges, including the principle of restrained use of social media. The summons was delivered to the judge on 16.9.2019 by e-mail and the date of the hearing was set for 20.9.2019 in Warsaw.

Judge *Monika Ciemięga*, like other judges, refused to appear on the summons of the disciplinary prosecutor, arguing that there was evidence to suggest that a group of haters operating on the @KastaWatch profile on the Twitter social networking site, have illegally obtained data from judges’ personal files, including details from the hearings of judges conducted by disciplinary prosecutors. In addition, the judge also noted the links between the disciplinary prosecutors of common court judges and the Minister of Justice, which in turn determines the political nature of the actions they take against judges who oppose the politicisation of the judiciary. Judge *Monika Ciemięga* pointed out that the disciplinary prosecutors of common court judges exceed their powers as they are not authorised to initiate proceedings against district and regional court judges.

By order of 8 November 2019, the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik* initiated disciplinary proceedings against Judge *Monika Ciemięga*, accusing her of violating the dignity of her office by not appearing for the hearing.

Source: 9.9.2019 summons to appear as a witness issued in case RDSP 712-69/19; statement by Judge *Monika Ciemięga* of 16.9.2019 explaining the reasons for not appearing for the summons by the disciplinary prosecutors; statement by the disciplinary prosecutor of common court judges *Piotr Schab* on the initiation of disciplinary proceedings against five judges for unjustified failure to appear for questioning.

**Statement by *Monika Ciemięga*, Judge of the District Court in Opole,
member of the Audit Committee of the CST "Iustitia"**

By letter dated 9.9.2019 and delivered to me via e-mail on 16.9.2019, I was summoned the seat of the prosecutor on 20.9.2019 under the threat of disciplinary proceedings by the Disciplinary Prosecutor of the Judges of the Common Courts to be heard as a witness in the case of, inter alia, violation of the dignity of the office by organizing and posting in communicators and social networking sites entries violating the ethical conduct of judges.

Sympathizing with the attitude of Professor *Krystian Markiewicz* – President of the Association of Polish Judges "Iustitia" of 12.9.2019. (<https://www.iustitia.pl/3313-prezes-stowarzyszenia-sedziow-polskich-iustitia-prof-krystian-markiewicz-nie-bede-stawial-sie-przed-rzecznikami>), who has decided not to submit to the summons of the disciplinary ombudsmen in the face of their politicisation and violation of the law, I declare that I share the arguments and legal assessment of the judge and the values he has set out and therefore I cannot submit to the summons of the Disciplinary Ombudsman for Judges of Common Courts.

In my opinion, the above summons is inspired by the tweets of the <https://twitter.com/KastaWatch> hater account of 8.9.2019. (<https://twitter.com/KastaWatch/status/1170808110275055617>) and 3.9.2019. (<https://twitter.com/KastaWatch/status/1168880980083560453?s=19>), where entries are posted which violate the personal rights of judges as private individuals, and are insulting to the part of the judiciary that opposes the politicisation of the justice system. The content of the entries of persons related to the @Kastawatch profile allows us to believe that these persons have illegally obtained data from judges' personal files as well as details of hearings conducted by disciplinary prosecutors.

Persons connected with the disciplinary division of common courts remain in official dependence on the Minister of Justice and the actions taken result from politicisation of these functions. It is common knowledge today that the former Deputy Minister of Justice and right-hand man of *Zbigniew Ziobro*, *Łukasz Piebiak*, who himself called himself "Deputy Ziobro", was involved in arranging and controlling the action to discredit the President of "Iustitia" (<https://wiadomosci.onet.pl/tylko-w-onecie/sledztwo-onetu-farma-trolli-w-ministerstwie-sprawiedliwosci-czyli-za-czynienie-dobra/j6hwp7f>). *Przemysław W. Radzik* was one of the judges described by "Gazeta Wyborcza" as being involved in the haters' scandal (among others <http://wyborcza.pl/7,75398,25173295,rzecznik-radzik-nie-zaknebluje-wyborczej-sad-nie-zgodzil.html>).

However, the disciplinary prosecutors are not eager to try and investigate the scandal, and instead escalate their "investigative" actions towards judges who oppose the subordination of the courts to the executive power. According to Mr. *Piebiak*, he influenced the choice of the disciplinary prosecutors (<https://www.rp.pl/Sadownictwo-dyscyplinarne/304279975-Piebiak-na-rzecznikow-dyscypliny-wybralismy-najlepszych.html>), which also undermines their impartiality.

Regardless of the above argumentation, the disciplinary prosecutors exceed their powers, as they are not authorised to initiate proceedings concerning district and regional court judges (Article 112 § 2 in conjunction with Article 112a § 1a of the Law on the Common Court System). Initiating such proceedings constitutes an abuse of power and I perceive it as harassment of judges defending the judiciary. At the same time, sending summonses by e-mail a few days before the hearing shows a lack of respect for their duties which have been planned much earlier, and thus also for the parties to court proceedings.

I hereby declare that I am aware of the importance of my decision. However, I am guided by the need to choose between values such as the rule of law and judicial independence, and blind obedience to arbitrarily issued acts (see: subpoena of 9.9.2019), which, in my opinion, violate these highest values. My position is also dictated by the fact that the Court of Justice of the European Union is about to decide on the disciplinary system, including the status of disciplinary prosecutors. I also declare that I will appear at the request of the deputy disciplinary ombudsman attached to the district court and the request of the court.

Opole, September 11, 2019

6. Dominik CZESZKIEWICZ – Judge at the Suwałki District Court

The judge of the District Court in Suwałki, *Dominik Czeszkiewicz*, is a typical line judge, adjudicating in criminal and misdemeanour proceedings. His duties also include being on arrest duty. During such duty, the judges interrogate, among others, victims of sexual crimes, including children. The judge acquitted activists of the Committee for the Defence of Democracy (KOD) of the charge of disturbing public order when they protested against the presence of three politicians, i.e. *Mariusz Błaszczak*, *Jarosław Zieliński* and *Anna Maria Anders* at the opening of an exhibition devoted to General *Władysław Anders* in Suwałki. The acquittal of KOD activists was openly criticized by *Jarosław Zieliński*, Deputy Minister of Internal Affairs and Administration, who supervised the police. The decision issued by Judge *Dominik Czeszkiewicz* became a pretext for the disciplinary prosecutor to take action.

On 13.4.2018, the deputy disciplinary prosecutor at the District Court in Suwałki, Judge *Maciej Romotowski* initiated disciplinary proceedings against Judge *Dominik Czeszkiewicz* of the District Court in Suwałki. The disciplinary prosecutor's accusations concerned the delay in setting a deadline for interviewing a child and the low level of jurisprudence in joint judgment cases. In the opinion of the disciplinary prosecutor, Judge *Dominik Czeszkiewicz* set the date of the hearing of the child too late (10 days from the receipt of the prosecutor's motion). As to the allegation of a low level of jurisprudence, the disciplinary proceedings were initiated based on information obtained from the deputy chairman of the Second Criminal Division of the District Court in Suwałki and an analysis of the decisions passed in eight cases.

Finally, on 28 May 2018, the deputy disciplinary prosecutor at the Regional Court in Suwałki, Judge *Maciej Romotowski* discontinued disciplinary proceedings against Judge *Dominik Czeszkiewicz*. The grounds for the decision indicated that the judge's proceedings did not deviate from the practice in the Suwałki District Court, where the same judge adjudicated. The disciplinary prosecutor also considered that it was the district prosecutor who did not perform his duties properly. In addition, the disciplinary prosecutor drew attention to the poor organisation of work in the Second Penal Department of the Suwałki District Court. In connection with the above, the consequences were borne by the District Prosecutor in Suwałki and the President of the 2nd Criminal Division of the District Court in Suwałki. Judge *Dominik Czeszkiewicz* was released from all charges.

Source: Decision of the deputy disciplinary prosecutor at the Suwałki District Court Judge *Maciej Romotowski* of 13.4.2018 on commencing disciplinary proceedings, issued in case SD 2/18; Decision of the deputy disciplinary prosecutor at the Suwałki District Court Judge *Maciej Romotowski* of 28.5.2018 on discontinuing disciplinary proceedings, issued in case SD 2/18; Report of the Committee for the Defence of Justice: "The state that punishes"; direct interview with Suwałki District Court Judge *Dominik Czeszkiewicz*.

7. Alina CZUBIENIAK – Judge of the District Court in Gorzów Wielkopolski

The judge of the District Court in Gorzów Wielkopolski *Alina Czubieniak* was sentenced to disciplinary action by the judges of the new Disciplinary Chamber of the Supreme Court for issuing a correct, fair and constitutionally compliant decision. With this verdict, the Disciplinary Chamber of the Supreme Court grossly violated the rule of law by entering the judiciary sphere of the judge, which is in principle excluded from the assessment of the disciplinary prosecutor. The case concerned a 19-year-old man detained on charges of sexual harassment of a minor girl. The suspected man was mentally handicapped, illiterate, unable to read and write. After being detained during the interrogation in the prosecutor's office, the suspect did not have a lawyer, he was given only a file of documents written in legal language and was informed about his rights and obligations. The law enforcement authorities considered that the illiterate man had thus been properly instructed. The district court placed the 19-year-old under temporary arrest. At the meeting the suspect did not have a lawyer. It was only after this precautionary measure was taken that the suspect was appointed a defender, who immediately challenged the decision on provisional arrest. The case was then sent to the District Court in Gorzów Wielkopolski to the division of Judge *Alina Czubieniak*. The judge overturned the decision on temporary arrest, considering that both the Constitution of the Republic of Poland and the European Convention for the Protection of Human Rights and Fundamental Freedoms guarantee everyone's right to a defence. Judge *Alina Czubieniak* considered that the suspect's right of defence had been clearly violated and the pre-trial detention hearing should be repeated, providing the suspect with a proper defence guaranteed at the constitutional and conventional level. When the case was reconsidered, the suspect was already represented by his defence counsel and a preventive measure in the form of pre-trial detention was applied. At a later stage of the case, it became apparent that the perpetrator was completely insane, with the result that the proceedings were discontinued and the suspect was sent for treatment and electronic supervision.

The deputy disciplinary prosecutor for the Court of Appeal in Szczecin, *Piotr Brodniak*, initiated disciplinary proceedings against Judge *Alina Czubieniak* and charged her with a disciplinary offence, which consisted in revoking the decision on temporary arrest of the suspect. In the opinion of the disciplinary prosecutor, the judge's decision was wrong and resulted in the release of the suspect, who was exercising this freedom for 15 days. Moreover, the disciplinary prosecutor accused Judge *Alina Czubieniak* that she erroneously considered that the suspect should have had a lawyer at the first hearing by the prosecutor.

The Court of Appeal – Disciplinary Court in Wrocław in a judgment of 23.1.2018 acquitted Judge *Alina Czubieniak* of the disciplinary offence charged by the disciplinary prosecutor. The justification of the acquittal decision indicated that the charge of the disciplinary prosecutor was completely unfounded and the judge made a just decision to revoke the provisional detention of the suspect. The Disciplinary Court confirmed

the rightful decision of Judge *Alina Czubieniak* that the suspect was deprived of his rights of defence at the meeting where the decision on his provisional detention was made. The case was then of interest to Minister of Justice *Zbigniew Ziobro*, who together with the central judge's disciplinary prosecutor appealed against the decision of the Wrocław Court of Appeal. The appeal was lodged with the new Disciplinary Chamber of the Supreme Court. In March 2019. The Disciplinary Chamber of the Supreme Court, composed of three members (notary, legal adviser and juror) changed the acquittal of the Court of Appeal in Wrocław and punished Judge *Alina Czubieniak* with a warning. The session on the verdict lasted 15 minutes. The judge appealed to another member of the same Disciplinary Board and announced a possible appeal to the European Court of Human Rights.

The first date of the appeal hearing before the Disciplinary Chamber of the Supreme Court, which was scheduled for 24.9.2019, was cancelled and the next one was scheduled for 21.11.2019. On 21.11.2019. On 21.11.2019, the Supreme Court Disciplinary Chamber found Judge *Alina Czubieniak* guilty of a disciplinary offence and waived punishment. In an interview with the media, Judge *Alina Czubieniak* stressed that it was clear from both European and national legislation that the right to defence is one of the fundamental human and civil rights of Poland. The judge added that if a similar case happens to her again, her decision will be identical.

On 5.12.2019 The Chamber of Labour and Social Security of the Supreme Court stated that the Supreme Court Disciplinary Board is not a court within the meaning of EU law, and thus is not a court within the meaning of national law. Furthermore, the Supreme Court in the Chamber of Labour and Social Insurance stated that the current National Council of the Judiciary is not an impartial body independent of the executive and legislative authority and added that the interpretation contained in the CJEU judgment of 19.11.2019 concerning the criteria for assessing the status of the Disciplinary Chamber and the National Council of the Judiciary is binding on every court in Poland as well as on every state authority.

Source: Judgment of the Court of Appeal – Disciplinary Court in Wrocław of 23.1.2018 acquitting judge *Alina Czubieniak*; statement of the judges of the CST “Iustitia” of 28.3.2019 on the communication of the disciplinary prosecutor of Judge *Piotr Schab* of 27.3.2019; <https://oko.press/izba-dyscyplinarna-nie-odpuscila-sedzi-czubieniak>; judgment of the Supreme Court of the Chamber of Labour and Social Insurance of 5.12.2019 issued in case III PO 7/18.

8. Monika FRĄCKOWIAK – Judge of the District Court Poznań-Nowe Miasto and Wilda in Poznań

Judge of the District Court Poznań-Nowe Miasto and Wilda in Poznań *Monika Frąckowiak* is a member of the Association of Polish Judges “Iustitia”, which criticized the changes introduced by those currently in power in the area of justice. The judge has repeatedly defended the principles of the democratic rule of law, and in particular the

constitutional principles of judicial independence and the impartiality of judges, publicly criticising the actions of the legislative and executive authorities in the area of the rule of law, human rights and the judiciary. Judge *Monika Frąckowiak* is also involved in activities for the benefit of civil society and the development of legal awareness of society. Judge *Monika Frąckowiak* also remains an active representative of SSP “Iustitia” in international organisations such as, among others, MEDEL.

Judge *Monika Frąckowiak* actively participated in the Poznań Chains of Light, i.e. civic demonstrations in defence of judicial independence and impartiality of judges. During these demonstrations, the judge made public statements about the Constitutional Tribunal, including the illegal appointment of three persons to this body. In addition, Judge *Monika Frąckowiak* publicly criticised Deputy Minister of Justice *Lukasz Piebiak* on one of the television stations and commented on the words of Minister of Justice *Zbigniew Ziobro* in the European Parliament.

Judge *Monika Frąckowiak*'s civic activity was met with a reaction of the disciplinary spokesmen.

The an investigation towards Judge *Monika Frąckowiak* were undertaken by deputy disciplinary prosecutor for the District Court in Poznań, Judge *Antoni Luczak*. It all started with a denunciation of the judge, which was received by the new National Judicial Council. The denunciation referred to the public and media statements of Judge *Monika Frąckowiak* during the Poznań Chain of Light, the public criticism of Deputy Minister of Justice *Lukasz Piebiak* on one of the television stations, as well as the statement of the judge in the European Parliament concerning the Minister of Justice *Zbigniew Ziobro*.

Source: direct interview with *Monika Frąckowiak*, Judge of the District Court Poznań-Nowe Miasto and Wilda in Poznań.

Judge *Monika Frąckowiak*, together with other judges from the Association of Polish Judges “Iustitia”, took part in the Pol’and’Rock Festival in Kostrzyn on the Oder. The judges met with the participants of the festival, conducted simulations of the hearings and organized numerous debates, during which they explained the rules of the courts to the citizens in an accessible way. The aim of this initiative was to educate the public in law and to stimulate the development of legal and civic awareness of society, especially among young people. Also this activity of Judge *Monika Frąckowiak* was of interest to the disciplinary prosecutor.

In a letter dated 11.10.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik* called upon Judge *Monika Frąckowiak* of the District Court to submit a written statement. In the opinion of the disciplinary prosecutor, the judge violated the dignity of the office held at the Pol’and’Rock Festival music festival by using, in the course of her trial, a parody of an official dress in the form of a toga and chain with the image of an eagle. The disciplinary prosecutor treated the judge’s educational activities as an insult to the dignity of the judge, and called the simulation of the trial a parody. Ultimately, no disciplinary charges were brought against the judge in this case. On 17.1.2019, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik* notified judge *Monika Frąckowiak* of the end of her activities

in the case of there being a suspicion that the judge had committed disciplinary offences consisting in violation of the dignity of his office during a public performance at the Pol'and'Rock Festival in August 2018 in Kostrzyn nad Odrą.

Source: Letter from the deputy disciplinary prosecutor of judges of common courts of judge *Przemysław Radzik* of 11.10.2018, RDSP 714-61/18, calling for a written statement within 14 days; Letter from the deputy disciplinary prosecutor of judges of common courts of judge *Przemysław Radzik* of 17.1.2019, RDSP 714-61/18.

The activities carried out by the deputy disciplinary prosecutor in connection with Judge *Monika Frąckowiak's* participation in the Pol'and'Rock Festival have become an excuse to review the judge's jurisprudence only to find any deficiencies that would allow disciplinary charges to be brought. To this end, on 11.10.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik* demanded that the President of the District Court Poznań-Nowe Miasto and Wilda in Poznań make available the results of the efficiency of the adjudicating performance of Judge *Monika Frąckowiak*. The prosecutor demanded an official opinion, information on: the stability of the body of judgments, timeliness of drafting the grounds for judgements, average number of cases in the division, timeliness of assigning cases with an indication of possible delay in this respect, as well as information on whether the judge questioned the orders of her superiors or the organisation of the work of the court or department in which she served, with an indication of the forms of such behaviour. Finally, the disciplinary prosecutor requested information on possible cases of protractedness of proceedings in the cases considered in Judge *Monika Frąckowiak's* division. Such actions of the prosecutor are referred to as a judge's "division trawling" in order to find grounds for charging him/her.

As a result of an inspection of the work of Judge *Monika Frąckowiak*, the deputy disciplinary prosecutor of judges of common courts, judge *Przemysław Radzik* initiated disciplinary proceedings against the judge on 17.1.2019. The prosecutor presented to the judge 172 allegations of disciplinary misconduct, consisting in exceeding the statutory time limits for drafting written justifications for judgments, making protracting proceedings in civil cases and causing invalidity of the proceedings due to procedural errors.

Source: Letter of the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik*, 11.10.2018, RDSP 714-61/18, calling on the President of the District Court Poznań-Nowe Miasto and Wilda in Poznań to make available the results of the efficiency of judicial work of Judge *Monika Frąckowiak*, Decision of the deputy disciplinary prosecutor of the judges of common courts of Judge *Przemysław Radzik* of 17.1.2019, RDSP 711-2/19; Report of the Committee for the Defence of Justice, "The Punishing State".

In September 2019, Judge *Monika Frąckowiak* received a summons from the Office of the Disciplinary prosecutor for Judges of Common Courts to be heard as a witness in a case conducted by the prosecutor concerning violation of the dignity of the office by organising and posting in communicators and social networking sites entries that violate the rules of ethics of judges, including the principle of restrained use of social media. The hearing was scheduled for 18 September 2019 in Warsaw.

District Court Judge *Monika Frąckowiak* refused to appear on the summons of the disciplinary prosecutor, arguing that there was much to suggest that the prosecutors themselves were involved in systemic denigration of judges. The judge pointed out that documents from disciplinary proceedings as well as from the judges' personal files submitted to the prosecutors were regularly sent to Twitter's hater accounts. In the judge's view, the prosecutors have not yet addressed this issue, which gives rise to suspicion that they themselves have made these documents available. Judge *Monika Frąckowiak* also pointed out that the disciplinary prosecutors *Piotr Schab*, *Michał Lasota* and *Przemysław W. Radzik* once again exceeded their powers, as they were not authorised to initiate proceedings against judges of district and regional courts. She added that in cases directly affecting her person, the disciplinary prosecutors have repeatedly violated the rights of the defence, manipulated facts in official communications, and used "extra-trial" means of pressure. Judge *Monika Frąckowiak* stated that *Przemysław W. Radzik* informally made a proposal to her that if she agreed to a deal and voluntarily submitted to punishment, her disciplinary proceedings could only end in reprimand. This information was to be provided to Judge *Monika Frąckowiak* by the president of the court where the judge is ruling.

By order of 8.11.2019, the deputy disciplinary prosecutor of the judges of common courts *Przemysław W. Radzik* initiated disciplinary proceedings against Judge *Monika Frąckowiak*, accusing her of violating the dignity of her office by not appearing for the hearing.

Source: direct interview with Judge *Monika Frąckowiak* of the District Court Poznań-Nowe Miasto and Wilda in Poznań; summons to appear as a witness of 3.9.2019 issued in the case of RDSP 712-69/19; statement by Judge *Monika Frąckowiak* of 16.9.2019. explaining the reasons for not appearing at the summonses of the disciplinary prosecutors; communication of the disciplinary prosecutor of judges of common courts, Judge *Piotr Schab*, regarding the initiation of disciplinary proceedings against five judges in connection with unjustified failure to appear for hearings.

Statement by Judge *Monika Frąckowiak* in connection with the call for questioning by the Disciplinary Prosecutor

In a letter delivered to me on 11 September 2019, I was summoned by the Disciplinary Prosecutor of the Common Judges (although the letter only mentions the name of the secretary) to appear at the seat of the Prosecutor's office in Warsaw on 18 September 2012 to question me as a witness. As it appears from the letter, the case concerns a violation of the dignity of the office by organising and posting entries in communicators and social networking sites that violate the rules of ethics of judges.

I hereby declare that I fully share the arguments cited by Prof. *Krzystian Markiewicz* – President of the Association of Polish Judges *Iustitia* in his statement of 12 September 2019 – <https://www.iustitia.pl/3313-prezes-stowarzyszenia-sedziow-polskich-iustitia-prof-krzystian-markiewicz-nie-bede-stawial-sie-przed-rzecznikami>.

I will not appear on the call of the prosecutors, who, as many point out, are themselves engaged in systemic defamation of judges. Disciplinary proceedings as well as the personal files of judges were regularly sent to TT hater accounts. The prosecutors have not yet made any public reference to this issue, which may give rise to suspicion that they themselves have made these documents available. The names of *Michał Lasota* and *Przemysław Radzik* also appear in the screenshots made available by *Emilia Szmydt*, which indicates that they were members of the Kasta group. All three disciplinary spokesmen also owe their function to *Łukasz Piebiak*, who is the main suspect in the case (<https://www.rp.pl/Sadownictwo-dyscyplinarne/304279975-Piebiak-na-rzecznikow-dyscypliny-wybralismy-najlepszych.html>).

The circumstances mentioned above mean that the prosecutors should be exempted from prosecuting the "haters scandal". Moreover, it is the advocates who should be heard on the occasion of possible participation in the procedure revealed in the so-called *Piebiak* scandal. It is also significant that in the case in which I was summoned, the object of interest of the prosecutors were not the main suspects, but the victims of the hate campaign (*Krzystian Markiewicz, Katarzyna Kałwak, Olimpia Barańska-Matuszek*). It is also significant that the prosecutors perform the activities suggested earlier by the authors of the "Kasta Watch" hater account.

Moreover, I point out that the disciplinary prosecutors *Schab, Lasota* and *Radzik* once again exceed their powers in conducting the proceedings in question, as they are not entitled to initiate proceedings concerning district and regional judges https://www.iustitia.pl/images/pliki/stanowisko_Zarz%C4%85du_ws_rzecznik%C3%B3w_dyscyplinarnych.docx.pdf.

Prosecutors *Schab, Lasota* and *Radzik* regularly violate the rules of the Polish Penal Code, and the proceedings which they conduct take the form of harassment of judges openly defending the rule of law in Poland. At the same time, the prosecutors seem to protect people who should be subject to disciplinary

proceedings (e.g. the case of *Jacek Sz.* from SR in Kluczbork, who over a year ago was validly convicted for sexual harassment of his assistant; prosecutor *Radzik* initiated disciplinary proceedings against the disciplinary prosecutor at the Regional Court in Opole after she started disciplinary proceedings against judge *Jacek Sz.*, at the same time – together with the Vice-President of the National Court Register – supported *Jacek Sz.*'s position on further suspension of the disciplinary proceedings in his case; as a result, the judge, who has been validly convicted of a disgraceful act for a year, still has the status of a judge and receives remuneration of over PLN 4,000 without performing any work).

In the case of proceedings conducted against my person, statutory deadlines were ignored, the rights of defence were violated (as pointed out by the Disciplinary Court in Lublin), facts were manipulated in official announcements, "non-prosecutorial" measures of pressure were used. And so *Przemysław Radzik* informally "offered" me the possibility of ending my disciplinary proceedings with a reprimand if I voluntarily submit to punishment. The information was passed on to me indirectly, through the president of the court in which I adjudicate, who called me to his office to convey the "offer". *Przemysław Radzik* presented this proposal on the occasion of sitting together with the president of my court in the examination committee of advocates in Poznań.

To sum up, being aware of the significance of my decision, I will not appear on the summons of the disciplinary spokesmen of *Schab*, *Lasota* and *Radzik*. My position is all the more justified as the Court of Justice of the European Union is about to decide on the disciplinary system, including the status of disciplinary ombudsmen.

Poznan, September 16, 2019

9. Piotr GAÇIAREK – Judge of the District Court in Warsaw

The judge of the District Court in Warsaw *Piotr Gąciarek* is a member of the Warsaw Branch of the Association of Polish Judges “Iustitia”. The judge has actively participated in the public debate on the state of the rule of law in Poland and in his statements he has always boldly defended the independence of the courts, the independence of judges and the principles of a democratic state under the rule of law, openly criticising the unconstitutional changes introduced in the area of justice by those currently in power. Thanks to the courage and determination of Judge *Piotr Gąciarek*, the Irish court, deciding on the surrender of a Polish citizen on the basis of the European Arrest Warrant (Celmer case), and thus also the legal world of the whole of Europe, received clear and precise information, coming directly from the judge-practitioner, about the threats to the independence of courts and the independence of judges, which result from the analysis of changes introduced in recent years in the Polish legal system. The judge regularly meets with citizens in the framework of meetings devoted to the rule of law, independence of courts, independence of judges, principles of a democratic state of law and human rights. With his presence, both at the seat of the National Council of the Judiciary and during the hearings before the disciplinary court, Judge *Piotr Gąciarek* supports judges and prosecutors against whom action has been taken by the disciplinary prosecutor. Judge *Piotr Gąciarek* is the author of an online blog entitled “The Eye of the Judge” in which he critically and humorously describes the reality of the justice system after the changes introduced by the current ruling party as they undermine the independence of courts and the independence of judges. The judge’s blog is very popular because of the accurate comparison of the described reality with the canons of film, art or philosophy. Recently, the judge’s texts have also been published in foreign press in English and French.

In a letter of 29.11.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota* called on Judge *Piotr Gąciarek* to make a written statement concerning his response to the Irish court concerning the assessment of the rule of law in Poland. The case concerned a European Arrest Warrant issued for a Polish citizen who was in Ireland and was wanted in Poland. Judge *Piotr Gąciarek* described to an Irish judge what the changes introduced by the ruling camp in the judiciary consisted of, criticising all those regulations which pose a threat to the rule of law. The judge then informed the media about his response, as the President of the Warsaw District Court had previously provided the Irish judge with false information on the state of the rule of law in Poland. Judge *Piotr Gąciarek*’s response to the Irish court, and making the fact public, was intended to provide reliable information on the situation in the Polish judiciary after the changes introduced by the ruling power. In the opinion of the disciplinary prosecutor, Judge *Piotr Gąciarek* may have committed a disciplinary offence with such behaviour.

In the spring of 2019, the TVN24 television channel aired a piece describing the figure of the Vice-President of the District Court in Warsaw, *Dariusz Drajewicz*. The reportage drew attention to his numerous additional activities (lecturing at the National School of the Judiciary and Public Prosecution, examination of applicants, participation in the so-called KRS proceedings) combined with many days’ absence from work. The

programme also included statements by judges of the District Court in Warsaw: *Piotr Gąciarek*, *Marek Celeja* and *Małgorzata Kluziak*, former president of this court. These judges were critical of both the work of vice-president *Dariusz Drajewicz* and the fact that he became vice-president of the District Court, delegated to the Court of Appeal in Warsaw, while he did not judge any case himself at the level of the District Court. In the TV programme, the judges emphasised the lack of qualifications of *Dariusz Drajewicz* to perform the function of vice-president of the district court and his appointment as a result of rather unclear social ties with vice-minister *Łukasz Piebiak*.

On 6.6.2019, judge *Piotr Gąciarek* received a letter from the deputy disciplinary prosecutor for judges of common courts, *Michał Lasota*, calling on him to submit a written statement within 14 days on the suspicion of violation of the dignity of the judge's office by statements in the said programme. Similar calls were received by judges *Marek Celej* and *Małgorzata Kluziak*.

Source: Letter from the deputy disciplinary prosecutor of common court judges *Michał Lasota* of 29.11.2018, RDSP 712-20/18, calling for a written statement within 14 days; analysis of the “Eye of the Judge”; interview with *Piotr Gąciarek*, judge of the Warsaw District Court.

10. **Kamil JAROCKI – Judge of the District Court in Gorzów Wielkopolski**

Kamil Jarocki, a judge at Gorzów Wielkopolski District Court, is one of three judges of common courts who in 2018 referred questions to the Court of Justice of the European Union for a preliminary ruling on the compatibility of Polish regulations in the area of justice with European Union law. The disciplinary prosecutor described such a judge's conduct as a judicial excess. In a letter dated 29 November 2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota* called on Judge *Kamil Jarocki* to make a written statement concerning a possible “judgmental excess” based on the District Court in Gorzów Wielkopolski referring a request to the Court of Justice of the European Union for a preliminary ruling against the conditions of Article 267 of the Treaty on the Functioning of the European Union.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota*, 29.11.2018, RDSP 712-8/1-18, calling for a written statement within 14 days.

11. **Sławomir JĘKSA – Judge of the District Court in Poznań**

The judge of the District Court in Poznań, *Sławomir Jęksa*, acquitted the wife of the Mayor of Poznań, *Joanna Jaśkowiak*, of the charge of using obscene words in a public place, i.e. the phrase “I'm f**g angry” during a public demonstration in Poznań – the International Women's Strike. Judge *Sławomir Jęksa* decided that the act was provoked

by the situation in the country to which the demonstration referred. In an oral justification, the judge stated that “the defendant used vulgar words that were heard by children, which is an obvious evil, but a much greater evil is what is happening in Poland. We have a series of violations of the Polish Constitution related to limiting the freedom of assembly, taking over constitutional institutions such as the Constitutional Tribunal, the National Council of the Judiciary or the Supreme Court, violation of the principle of the division of powers, refusal to publish the rulings of the Constitutional Tribunal, application of the right of grace in ongoing criminal proceedings, introduction of unauthorized persons into the Constitutional Tribunal” – said the judge during the verbal justification of the acquittal.

On 7.2.2019, the deputy disciplinary prosecutor of common court judges, Judge *Przemysław Radzik* initiated disciplinary proceedings against the judge of the Poznań District Court, *Ślawomir Jęksa*, and presented him with two charges. The charges concerned a violation of the dignity of the judge’s office by the fact that the judge gave an oral and then a written justification of the verdict, a political manifesto, concerning his views and assessments related to the activities of the constitutional organs of the state. In the opinion of the disciplinary prosecutor, by pronouncing the judgment, the judge praised the act of the accused, thus violating the principle of non-politicity of judges, an obligation to act in accordance with the oath of a judge.

The disciplinary prosecutor intervened in the case of judge *Ślawomir Jęksa*.

Source: Recordings of the oral reasoning of a judge delivered in case IV Ka 818/18, publicly available in the media; Order of the deputy disciplinary prosecutor of judges of common courts, Judge *Przemysław Radzik* of 7.2.2019, RDSP 712-10/18, RDSP 711-10/19, issued in the matter of initiating disciplinary proceedings and presenting disciplinary charges to Judge *Ślawomir Jęksa* of the District Court in Poznań.

In the letter of 21.2.2019, the deputy disciplinary prosecutor of the judges of common courts, Judge *Michał Lasota* called on Judge *Ślawomir Jęksa* to submit a written statement concerning a possible disciplinary misdemeanour, consisting in violation of the dignity of the office by submitting in the course of investigative activities on 19.10.2018 a statement containing arrogant and defamatory content. In fact, Judge *Ślawomir Jęksa* in his letter of 19.10.2018 addressed to the disciplinary prosecutor, exercising his right of defence, criticised the conduct of the deputy disciplinary prosecutor, Mr *Przemysław W. Radzik*, pointing, inter alia, to the formal and substantive flaws in the letter of that prosecutor, which made it difficult to take a factual position and thus limited the right of defence of the judge in the course of the investigative activities. A clear example of these shortcomings was the imprecise description of the disciplinary offence allegedly committed by Judge *Ślawomir Jęksa* in the disciplinary charge, which significantly hindered the defence of the judge in disciplinary proceedings. It is difficult to defend against the accusation, which is incorrectly, imprecisely described. It is then unclear of what the disciplinary prosecutor really accuses the judge and thus in what direction the defence should be conducted. Judge *Ślawomir Jęksa* emphasised that the exercise of the right of defence cannot give rise to his separate responsibility, while the deputy disciplinary prosecutor prosecutes the judge for the content of the written

statement through which Judge *Sławomir Jęksa* exercised his right of defence in the course of the investigation.

Subsequently, the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik*, in a letter of 30.7.2019, called on Judge *Sławomir Jęksa* to submit a written statement concerning a possible disciplinary offence consisting in a violation of the dignity of the office by refraining from submitting a motion to exclude himself from consideration of the case, despite the existence of factual circumstances which could raise reasonable doubt as to his impartiality in consideration of the case in the appeal proceedings registered under number IV Ka 818/18, concerning the wife of the Mayor of Poznań *Joanna Jaśkowiak*. Significantly, the disciplinary prosecutor did not indicate what facts would allegedly justify Judge *Sławomir Jęksa*'s lack of impartiality in the consideration of the case in question. In fact, such circumstances never existed.

In response to the call of the deputy disciplinary prosecutor, Judge *Sławomir Jęksa*, in his letter of 21.8.2019, in the exercise of his rights of defence, stated that the charges brought against him by the deputy disciplinary prosecutor of judges of common courts, *Przemysław W. Radzik*, are of a political nature and constitute an example of misuse of powers by that prosecutor. In the same way, Judge *Sławomir Jęksa* assessed the charge brought by the second deputy disciplinary prosecutor of judges of common courts, *Michał Lasota*. Judge *Sławomir Jęksa* assessed the conduct of both deputy prosecutors as a political hunt for him, in which facts and law are of no importance. To sum up, the judge stated that in the case under consideration, concerning the wife of the Mayor of Poznań, *Joanna Jaśkowiak*, he has nothing to blame himself for and is calmly awaiting the attempts made in bad faith by the disciplinary prosecutor to discredit the ruling issued in this case. The conduct of the deputy disciplinary prosecutors *Michał Lasota* and *Przemysław W. Radzik* in the case concerning a judge of the District Court in Poznań *Sławomir Jęksa* is a clear example of investigative activities and disciplinary proceedings being launched on political motivation, and concern prosecution of the judge for the content of the correct verdict and its justification, as well as for exercising his right of defence in disciplinary proceedings, which has a constitutional and conventional dimension.

On 7.10.2019, the deputy disciplinary prosecutor of the judges of common courts *Przemysław W. Radzik* put an additional disciplinary charge against Judge *Sławomir Jęksa* in that he did not exclude himself from examining the case of the accused *Joanna Jaśkowiak*, although, in the opinion of the deputy disciplinary prosecutor, there were grounds for this.

Source: direct interview with *Sławomir Jęksa*, Judge of the District Court in Poznań; letter of the deputy disciplinary prosecutor of the judges of common courts *Michał Lasota* of 21.2.2019, RDSP 712-15/19, calling for a written statement within 14 days; letter of 18.3.2019 from *Sławomir Jęksa*, judge of the District Court in Poznań; letter of 18.3.2019 to the deputy disciplinary prosecutor of common court judges *Michał Lasota*; letter of 30.7.2019 from the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik*, RDSP 711-10/19, calling for a written statement within 14 days; letter of Poznań District Court Judge *Sławomir Jęksa* of 21.8.2019 addressed to the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik*; communication of the Disciplinary prosecutor of common court judges *Piotr Schab* of 8.10.2019 in case RDSP 711-10/19.

12. Paweł JUSZCZYSZYN – Judge of the District Court in Olsztyn

Judge *Paweł Juszczyzyn* is a judge of the District Court in Olsztyn, who by virtue of the decision of the Minister of Justice was delegated to adjudicate in the District Court in Olsztyn, where, among other things, he considered appeals against decisions issued by district courts. During the examination of the appeal against the ruling in one of the cases (IX Ca 1302/19), Judge *Paweł Juszczyzyn* decided to examine the legal status of the judge who issued the ruling in the first instance. To this end, he asked the Head of the Chancellery of the Sejm to present the originals or officially certified copies of documents in the form of applications submitted to the Chancellery of the Sejm (...) of candidates and lists of citizens and lists of judges supporting the candidates to the National Council of the Judiciary, subsequently elected to the National Council of the Judiciary by virtue of the resolution of the Sejm of 6 March 2018 (M.P. item 276). In addition, Judge *Paweł Juszczyzyn* asked the Head of the Chancellery of the Sejm to present the originals or officially certified copies of documents in the form of statements by citizens or judges about the withdrawal of support for these candidates. According to the judge's decision, the aforementioned documents should be sent to the Regional Court in Olsztyn and attached to the case file registered under case number IX Ca 1302/19 upr within one week of delivery to the Chancellery of the Sejm of a copy of the order under pain of a fine in the event of an unjustified refusal to provide access to all requested documents. The said documents were to be used by Judge *Paweł Juszczyzyn* to assess, among other things, the legal status of the body acting as the National Council of the Judiciary in terms of meeting the criteria indicated in the judgment of the CJEU of 19 November 2019 in the joint A.K. cases: (C-585/18), CP (C-624/18) and DO (C-625/18). Thus, in applying for the above-mentioned documents to the Chancellery of the Sejm, Judge *Paweł Juszczyzyn* acted on the basis and within the limits of the law, applying the CJEU judgment of 19 November 2019, which he was obliged to do.

Paweł Juszczyzyn was the first Polish judge to take responsibility for the implementation of the CJEU judgment of 19 November 2019, which was met with the immediate reaction of the closed disciplinary and official system created by the politicians in power in Poland, which from the very beginning had one goal – to take control of the courts. First, the Secretary of State at the Ministry of Justice, *Michał Wójcik*, publicly threatened, on TV, judge *Paweł Juszczyzyn* with disciplinary proceedings. Later, the Minister of Justice immediately dismissed judge *Paweł Juszczyzyn* from his delegation to the District Court without any substantial justification, which is *de facto* his demotion.

On 28.11.2019, the deputy disciplinary prosecutor of judges of common courts, *Michał Lasota*, initiated disciplinary proceedings against judge *Paweł Juszczyzyn*, accusing him of committing an offence of abuse of power. In the opinion of the deputy disciplinary prosecutor, Judge *Paweł Juszczyzyn*, demanding documents from the Chancellery of the Sejm in order to assess the status of the new National Council of the Judiciary, exceeded his powers by granting himself the competence to assess the correctness, including legality, of the election of members of the National Council of the Judiciary and, consequently, by granting himself the competence to assess the decision of the

President of Poland to appoint a judge. In addition, the deputy disciplinary prosecutor for common court judges accused Judge *Paweł Juszczyzsyn* of presenting to the media his own assessment of the situation consisting in his delegation to the Regional Court in Olsztyn and his removal from that delegation. Finally, the deputy disciplinary prosecutor accused Judge *Paweł Juszczyzsyn* of stating untruthful facts in his requests for exclusion from participation in two other criminal proceedings.

In addition, the President of the District Court in Olsztyn, *Maciej Nawacki*, and at the same time a member of the body acting as the National Council of the Judiciary, whose status the Olsztyn judge wanted to examine, ordered an immediate interruption of Judge *Paweł Juszczyzsyn*'s official activities. At the same time, the government media and the government-beneficial media started a media campaign to present Judge *Paweł Juszczyzsyn* in the worst possible light in the public perception.

The example of Judge *Paweł Juszczyzsyn* shows how efficiently a kind of a closed system works, i.e. a created disciplinary and clerical system, which from the very beginning had one goal – to take control over courts and prosecutor's office and to cause a freezing effect in the judicial environment. The means to achieve this goal included repression and harassment of those judges who courageously defend the values of the rule of law, democracy, independence of the courts, the independence of judges and the independence of the prosecution.

District Court Judge *Paweł Juszczyzsyn* had not only the right, but also the obligation to examine the legal status of a judge who was appointed to this office with the participation of the new National Council of the Judiciary, as is clear from the content of the CJEU judgment of 19 November 2019 concerning the criteria for assessing the status of the Disciplinary Chamber and the National Council of the Judiciary, issued in the joint A.K. cases: (C-585/18), CP (C-624/18) and DO (C-625/18). On 5.12.2019, the Chamber of Labour and Social Security of the Supreme Court held that the Disciplinary Board of the Supreme Court is not a court within the meaning of EU law and therefore not a court within the meaning of national law. Furthermore, the Supreme Court in the Chamber of Labour and Social Insurance stated that the current National Council of the Judiciary is not an impartial body independent of the executive and legislative authority, and indicated that the interpretation contained in the CJEU judgment of 19.11.2019 is binding on every court in Poland, as well as every state authority. Therefore, it was the duty of the Regional Court in Olsztyn to examine the legal status of the judges in connection with the Supreme Court challenging the impartiality and independence of the National Council of the Judiciary from the legislative and executive authorities. However, the action of the deputy disciplinary prosecutor, *Michał Lasota*, is unacceptable and fits in with the general trend observed in prosecuting judges for the content of rulings that are inconvenient for those in power, as well as for the application by judges of European law, including respect for CJEU judgments. The General Assembly of the Judges of the Olsztyn District in its resolutions of 2 December 2019 gave full support to Judge *Paweł Juszczyzsyn*, demanding, among other things, his immediate reinstatement, and condemned the actions of the political authorities, the disciplinary prosecutors and the president of the Olsztyn District Court, demanding the immediate dismissal

of the disciplinary prosecutors: *Piotr Schab*, *Michał Lasota*, *Przemysław W. Radzik*, the dismissal of the president of the District Court in Olsztyn *Maciej Nawacki*. Judges all over Poland have supported Judge *Paweł Juszczyszyn* in various ways, condemning the political activities of the disciplinary prosecutors.

On February 4th 2020 the Disciplinary Chamber residing in the building of the Supreme Court, in composition of three judges, decided to suspend judge *Paweł Juszczyszyn* in official duties with a reduction of the remuneration of 40% for the duration of this suspension.

Thereby people taking seats on the Disciplinary Chamber changed the previous decision taken by the former formation of judges of this chamber, which didn't let to move *Paweł Juszczyszyn* away from adjudication. It should be reminded that on December 5th 2019 the Supreme Court in the Chamber of Labor and Social Security found that the Disciplinary Chamber of the Supreme Court is not a court within the meaning of EU law, and thus is not a court within the meaning of national law. In addition, on January 23rd 2020 the Supreme Court, adjudicating in a formation of joint chambers: the Civil, the Criminal and the Labour & Social Insurance ones, passed the resolution according to which the Supreme Court, inter alia, confirmed that the Disciplinary Chamber residing in the building of the Supreme Court does not satisfy the criteria for a court neither within the meaning of EU law nor within the meaning of national law. Due to that, decisions taken by judges adjudicating in the Disciplinary Chamber may be effectively negated regardless of time of taking them.

The defenders of Justice *Paweł Juszczyszyn*, despite the fact that they were present in the building of the Supreme Court on February 4th, 2020, did not enter the courtroom as it would mean legitimising the Disciplinary Chamber and people who take seats on it.

The next day Judge *Maciej Nawacki*, who is a member of the politicised body acting as the National Council for the Judiciary (neokrs) and at the same time is the president of the Olsztyn District Court carrying out this position from the political award of the Minister of Justice, declared that he would execute the aforementioned decision of the Disciplinary Chamber.

On February 5th, 2020 *Maciej Nawacki*, in the presence of TVN24 reporters, signed an order under which he withheld an assignment of cases to Judge *Paweł Juszczyszyn* for the duration of his suspension. Moreover, Judge *Maciej Nawacki* blocked access of *Paweł Juszczyszyn* to the court's information systems, blocked the security cards allowing entrance within the court building and its zones, except the access to the judge's room assigned to *Paweł Juszczyszyn*. He also prohibited to give to the judge any keys to court premises and access to the court out-of-working hours of the court. In addition, the cases previously assigned to *Paweł Juszczyszyn* were relocated to other judges in the Court.

Judges all over Poland have provided various support to Judge *Paweł Juszczyszyn*, condemning political activities of disciplinary spokesmen and the President of the District Court in Olsztyn *Maciej Nawacki*.

Source: Communiqué of the Disciplinary prosecutor of common court judges *Piotr Schab* on initiating disciplinary proceedings against Judge *Paweł Juszczyszyn*; judgment of the Supreme Court of 5.12.2019 issued in case III PO 7/18; judgment of the CJEU of 19.11.2019 in joined cases

A.K: (C-585/18), CP (C-624/18) and DO (C-625/18); resolutions number 1, 2, 3 of the General Assembly of Olsztyn District Judges of 2.12.2019; direct interview with Judge *Paweł Juszczyzyn*.

13. *Katarzyna KAŁWAK* – Judge at the Oleśno District Court

Judge *Katarzyna Kałwak* was the President of the District Court in Oleśno and was dismissed during her term of office on the basis of the amended provisions of the Law on the system of common courts, which are in conflict with the Constitution. The judge learned about the dismissal by e-mail. Judge *Katarzyna Kałwak* is president of the Opole branch of the Association of Polish Judges “Iustitia”. Judge *Katarzyna Kałwak* together with other judges from the SSP “Iustitia” took part in the Pol’and’Rock Festival in Kostrzyn nad Odrą. The judges met with the participants of the festival, conducted simulations of court hearings and organized numerous debates, during which they explained the rules of the courts to citizens in an accessible way. Judge *Katarzyna Kałwak* also provides organizational support for the Opole Legal Café, where lawyers regularly meet and explain legal issues to the public in a comprehensible manner. Judge *Katarzyna Kałwak* has repeatedly publicly expressed criticism of the actions of the legislative and executive power in the area of the rule of law, human rights and justice.

Judge *Katarzyna Kałwak* received a summons from the Office of the disciplinary prosecutor for judges of common courts dated 9.9.2019 to be heard as a witness in a case conducted by the disciplinary prosecutor, concerning the violation of the dignity of the office by organizing and posting in communicators and social networking sites entries that violate the rules of ethics of judges, including the principle of restrained use of social media. The hearing was scheduled for 20 September 2019 in Warsaw.

Judge *Katarzyna Kałwak*, like other judges, refused to appear on the summons of the disciplinary prosecutor, arguing that there is evidence to demonstrate links between the Twitter account and the disciplinary prosecutors, whose participation in the KASTA group, operating on WhatsApp communicator, was not explained. In view of this fact, according to Judge *Katarzyna Kałwak*, the disciplinary prosecutors should be excluded from activities related to organizing and posting in communicators and social networking sites slandering judges.

By order of 8.11.2019, the deputy disciplinary prosecutor of judges of common courts *Przemysław W. Radzik* initiated disciplinary proceedings against Judge *Katarzyna Kałwak*, alleging a violation of the dignity of the office by not appearing for the hearing.

Source: Call to appear as a witness of 9.9.2019 issued in case RDSP 712-69/19; statement by Judge *Katarzyna Kałwak* of 16.9.2019. explaining the reasons for not appearing at the summonses of the disciplinary prosecutors; announcement of the disciplinary prosecutor of the judges of common courts, judge *Piotr Schab*, in case of initiation of disciplinary proceedings against five judges in connection with unjustified failure to appear at the hearings; decision of the deputy disciplinary prosecutor of the judges of common courts, *Przemysław W. Radzik*, 8.11.2019, RDSP 711-132/19 to initiate disciplinary proceedings against Judge *Katarzyna Kałwak*.

Statement by Judge *Katarzyna Katwak*

I am a judge of the Republic of Poland. I perform my duties in the Opole region. In one of the courts there, there still appears on the list of judges the name of a perpetrator judge who has been convicted of sexual harassment against his assistant (the sentence became final in June last year, and the cassation from him was dismissed in the Supreme Court in April 2019). The Deputy Disciplinary prosecutor for common court judges did not want any disciplinary proceedings to take place against the judge guilty of criminal offence. He supported his complaint before the Supreme Court that the disciplinary proceedings should be suspended (order of February 22, 2019, file I DSK 7/18). The judge guilty of criminal offence has been receiving remuneration (reduced) for more than a year and does not perform his duties as a judge, he is suspended in his judging activities for the duration of disciplinary proceedings.

I am currently called upon to testify to the authority which supports the judge guilty of criminal offence. I received a summons from 9 September 2019 to appear as a witness on 20 September 2019. The identity of the judge in whose case I am being summoned to appear as a witness has been undisclosed to me. I was only informed that the disciplinary prosecutor is investigating an act under Article 107 § 1 of the Act – Law on the organization of common courts and that the act consists in "violating the dignity of the office by organizing and posting on communicators and social networking sites entries violating § 23 of the Professional Code of Ethical Conduct for Judges and Assessors".

I am a victim of a hate campaign on a Twitter account of the so called "Kasta Watch". Among other things I am being mocked about the beginnings of my professional career, when at the start of my apprenticeship I worked as a court janitor in the court where I now adjudicate (the data is available in my personal file). The analysis conducted after the media had reported the situation shows that the administrators of the "Kasta Watch" account had links with the disciplinary prosecutors whose participation in the "Kasta" group on WhatsApp has never been clarified. A September 8, 2019 entry on the Kasta Watch account: "And we have evidence of a troll farm in togas: *Frąckowiak, Barańska, Strumiński, Starosta, Świst, Katwak*. These are some of the judges from the farm." (link) I have also been informed that the disciplinary prosecutors have also issued summonses to other judges listed in this entry.

The disciplinary prosecutors *Schab, Radzik, Lasota* should therefore be excluded from taking action in cases "related to organizing and posting in communicators and social networking sites posts defaming judges".

It is also important that the disciplinary system, including the status of the disciplinary prosecutors, is soon decided on by the Court of Justice of the European Union.

I fully share the arguments and values cited in the statement of Professor *Krzysztof Markiewicz* – President of the Association of Polish Judges "Iustitia" of

12.09.2019, who decided not to appear on the summons of *Piotr Schab, Michał Lasota* and *Przemysław Radzik*.

Being aware of the significance of my decision, I declare that I will not appear on 20 September 2019 at the summons of the disciplinary spokesmen *Schab, Lasota* and *Radzik*. I will appear at every call of the deputy disciplinary prosecutor at the county court.

Olesno, 16 September 2019

14. Arkadiusz KRUPA – Judge of the District Court in Łobez

Judge *Arkadiusz Krupa* is a columnist of the monthly magazine of Szczecin's legal circles "InGremio", and in his free time he creates satirical drawings with which he describes the reality of the legal and political world, often stigmatizing the absurdities of both. The judge's drawings are published, among others, on Facebook's "Blind Eye of Themis" profile and in national newspapers. Judge *Arkadiusz Krupa* participated in the Pol'and'Rock Festival in Kostrzyn nad Odrą, where, among other things, he conducted a simulation of a court trial for educational purposes. This behaviour drew the attention of the disciplinary prosecutor.

On 5.9.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik* demanded from the President of the District Court in Łobez that the results of the efficiency of the judicial work of Judge *Arkadiusz Krupa* be made available. The prosecutor demanded that an official opinion be sent, information concerning: the stability of the case law, the timeliness of drafting grounds for verdicts, the average number of cases in the division, the timeliness of assigning cases with an indication of any delay in this respect, as well as information whether the judge challenged orders from his superiors, the organisation of the work of the court or department in which he serves, with an indication of the forms of such behaviour. Finally, the disciplinary prosecutor requested information on possible cases of protractedness of proceedings in the court division of Judge *Arkadiusz Krupa*.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik*, 5.9.2018, RDSP 714-61/18.

In addition, in a letter of 11.10.2018, the deputy disciplinary prosecutor of common court judges, Judge *Przemysław Radzik* called on Judge *Arkadiusz Krupa* of the District Court to submit a written statement on a possible disciplinary offence. According to the prosecutor, a judge at the Pol'and'Rock Festival conducted a parody of a court hearing in an official costume, which violated the seriousness of his office and was a disgrace to his dignity. In fact, Judge *Arkadiusz Krupa* conducted a simulation of the trial for festival participants to show them how the court works.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik*, dated 11.10.2018, RDSP 714-61/18, calling for a written statement within 14 days; Facebook profile analysis – "Blind Eye of the Themis".

15. Magdalena LEWANDOWSKA – Judge of the District Court in Oborniki

By letter of 19.2.2019, the deputy disciplinary prosecutor of Common Court Judges, Judge *Przemysław Radzik* called upon *Magdalena Lewandowska*, Judge of the District Court in Oborniki, to appear in the Office of the Disciplinary prosecutor of Common

Court Judges for questioning as a witness. The Disciplinary prosecutor indicated that he is carrying out an investigation regarding the resolutions adopted by the assemblies of judges of the Kraków Appellate Court on 12 October 2018 and the General Assembly of judges of the District Court in Poznań on 3 January 2019. In the opinion of the Disciplinary prosecutor, in the content of these resolutions, the judges included inadmissible and dishonest statements and assessments concerning the activities of constitutional state bodies, including the President of the Republic of Poland, the National Council of the Judiciary and public authorities, and calling on judges to disobey the legal order.

The deadline for hearing a judge as a witness was set at 11.3.2019.

Hearing a judge as a witness in the course of investigative activities constitutes a gross violation of the law. A judge may not be heard as a witness, let alone a defendant, in the course of an investigation carried out by the disciplinary prosecutor.

Source: Letter of the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik* of 19.2.2019, RDSP 712-1/19; legal opinion of Prof. *Katarzyna Dudka* on the subject scope of application of Article 114 § 2 of the Act of 27.7.2001 – Law on the common courts system (t. one: Journal of Laws of 2018, item 23).

16. *Dorota LUTOSTAŃSKA* – Judge of the District Court in Olsztyn

Judge of the District Court in Olsztyn *Dorota Lutostańska*, on the occasion of the 100th anniversary of Poland's independence, photographed herself with a group of other judges on a commemorative photo in a T-shirt with the inscription "Constitution". On 23.11.2018. The Olsztyn District Court in the person of judge *Dorota Lutostańska* upheld the decision of the lower court concerning refusal to initiate proceedings for an offence under Article 63a § 1 of the Code of Civil Procedure. The defendants in this case were those who hung T-shirts with the inscription 'Constitution, Jędrrek' on the sculptures of the Prussian Women in Olsztyn. Judge *Dorota Lutostańska* decided that putting T-shirts with the inscription Constitution on the sculptures of the Prussian Women was not socially harmful, and the guilty wanted to manifest their views in a public debate on the respect of constitutional standards in Poland. This ruling resulted in the reaction of the disciplinary spokesman, who decided that since the judge, during a commemorative photo, was wearing a T-shirt with the inscription "Constitution", she should not rule on putting on T-shirts with the inscription "Constitution" on the sculptures of the Prussian Women. In the opinion of the disciplinary spokesman, the judge was not impartial and should not rule in this case. Therefore, in a letter dated 23.1.2019, the deputy disciplinary prosecutor of the judges of common courts, Judge *Michał Lasota* called on Judge *Dorota Lutostańska* to submit a written statement in which the judge was to explain why she did not make a request for exclusion from participation in a criminal case concerning wearing T-shirts with the inscription 'Constitution' on the sculptures of the Prussian Women. According to the spokesman, the judge should not rule in this case because she was wearing a T-shirt with such an inscription.

The judge was defended by other judges of the Olsztyn District Court who, in a resolution of the General Assembly of Olsztyn District Judges of 21 February 2019, expressed their disapproval of the actions of the deputy disciplinary prosecutor for judges of common courts, judge *Michał Lasota*. The judges pointed out that the actions of the disciplinary prosecutor towards the judge concern the sphere of independence and cannot be assessed by the prosecutor. The judges of the Olsztyn district also stated in their resolution that the fact that Judge *Dorota Lutostańska* wore a T-shirt with the inscription ‘Constitution’ was only a symbolic expression of her attachment to constitutional values.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts of Judge *Michał Lasota* of 23.1.2019, RDSP 712-4/19; Resolution No. 1 of the General Assembly of Olsztyn District Judges of 21.2.2019.

On 24.2.2019, the deputy disciplinary prosecutor of judges of common courts, Judge *Michał Lasota* initiated disciplinary proceedings against Judge *Dorota Lutostańska* and charged her with the disciplinary offence of suspending T-shirts with the inscription “Constitution, Jędrzek” on the sculptures of Prussian Women in Olsztyn, in a situation where she had previously photographed with a group of other judges on a commemorative photo in a T-shirt with the inscription “Constitution”. In the opinion of the disciplinary spokesman, such a situation could raise doubts about the impartiality of the judge who was wearing a T-shirt with the same symbol as the one on the sculptures of the Prussian Women. In the justification of the decision to bring charges, the deputy disciplinary prosecutor of the judges of common courts, Judge *Michał Lasota* explicitly stated that the T-shirt with the inscription ‘Constitution’ is clearly connected with the social and political movement. The prosecutor did not, of course, specify the movement.

Then, the President of the Supreme Court, who headed the work of the new Disciplinary Chamber, appointed the Disciplinary Court at the Court of Appeal in Łódź as competent to hear the disciplinary case of Judge *Dorota Lutostańska*.

Source: Order of the deputy disciplinary prosecutor of judges of common courts of judge *Michał Lasota* of 24.2.2019, RDSP 711-19/19; order of the President of the Supreme Court directing the work of the Disciplinary Chamber of 21.3.2019, ref.

17. *Ewa MACIEJEWSKA* – Judge of the District Court in Łódź

The deputy disciplinary prosecutor for Common Court Judges, Judge *Michał Lasota*, considered that a question referred by a Polish court to the Court of Justice of the European Union for a preliminary ruling on the compatibility of Polish regulations in the area of justice with European Union law may constitute grounds for initiating disciplinary proceedings. The disciplinary prosecutor called such proceedings of a judge an adjudicatory excess. One of the judges who submitted such a question to the Court of Justice of the European Union for a preliminary ruling was *Ewa Maciejewska*, a judge

at the Regional Court in Łódź. Consequently, the deputy disciplinary prosecutor called the judge for a hearing.

On 20.9.2018, Judge *Ewa Maciejewska* was heard as a witness by the disciplinary prosecutor on a question referred by the Regional Court of Łódź to the Court of Justice of the European Union for a preliminary ruling. The prosecutor also wanted to establish whether other persons had influenced the judge's decision. Hearing a judge as a witness in the course of an investigation constitutes a flagrant breach of law. A judge cannot be heard as a witness, let alone a defendant, in the course of the investigations carried out by the disciplinary prosecutor.

Source: direct interview with *Ewa Maciejewska*, Judge of the District Court in Łódź; legal opinion of Prof. *Katarzyna Dudka* on the material scope of application of Article 114 § 2 of the Act of 27 July 2001 – Law on the common courts system (t. one: Journal of Laws of 2018, item 23).

In addition, on 29.11.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota* called on Judge *Ewa Maciejewska* of the Regional Court in Łódź to submit a written statement concerning a possible “judicial excess”. In the prosecutor's view, the request for a preliminary ruling to the Court of Justice of the European Union by a Polish court, contrary to the conditions of Article 267 of the Treaty on the Functioning of the European Union, constitutes a case lawsuit. Furthermore, the disciplinary prosecutor requested information about the case law of Judge *Ewa Maciejewska* of the District Court of Łódź in the last three years.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts judge *Michał Lasota* of 29.11.2018, RDSP 712-8/1-18, calling for a written statement within 14 days; Report of the Committee for the Defence of Justice: “The Punishing State”.

18. Rafał MACIEJEWSKI – Judge of the District Court in Łódź

The judge of the District Court in Łódź *Rafał Maciejewski* wrote an article entitled “The case of Department X” on the website <https://sedziowielodzcy.pl/>. In this article, he criticized the case of the lack of efficiency of the president invented for the purposes of the court's article and the lack of quality in managing the court. Judge *Rafał Maciejewski* accused the president of the invented court of not responding to personnel problems in the department of this court and also criticized the so-called National Judicial Council. The deputy disciplinary prosecutor for common court judges, Judge *Przemysław Radzik*, found that Judge *Rafał Maciejewski* described the situation in the Łódź District Court, although in no part of the article did the judge suggest that it was one of the departments of the Łódź District Court.

The judge's article met with the reaction of the disciplinary prosecutor.

By letter of 18 April 2019, the deputy disciplinary prosecutor of common court judges, Judge *Przemysław Radzik* initiated disciplinary proceedings against Judge *Rafał Maciejewski* and presented him with two allegations of disciplinary misconduct.

The first charge concerned the fact that the judge in the article entitled “The role of the judge in the proceedings”. The first charge was that the judge, in an article entitled “The case of Department X”, published on the <https://sedziowielodzcy.pl/> website, described the situation and functioning of one of the departments of the District Court in Łódź, including staffing problems. In the opinion of the deputy disciplinary prosecutor, Judge *Rafał Maciejewski*, by making the above information public, did not follow his professional path, as he should have addressed the President of the Regional Court in Łódź in cases concerning problems with the functioning and staffing of the department, and also violated the rules of professional ethics of judges. In fact, Judge *Rafał Maciejewski* officially reported the problem in the department to the President of the District Court in Łódź in an official letter, a month before the article was written. The second charge concerned the refusal to perform the tasks of the President of the 10th Commercial Division of the Regional Court in Łódź on 1–7.4.2019. Judge *Rafał Maciejewski* refused to execute the order of the President of the District Court and appealed against the decision of the President of the District Court to the National Council of the Judiciary. Despite this appeal, the disciplinary prosecutor did not wait for the appeal to be considered and charged Judge *Rafał Maciejewski*. The behaviour of the deputy disciplinary prosecutor of common court judges, Judge *Przemysław Radzik*, is an example of censorship and suppression of criticism of solutions in the area of justice, to which judges have an unquestionable right. The attitude of the disciplinary prosecutor indicates that he expects the statements of judges to be censored by superior authorities, such as the president of the court. In this way, the disciplinary prosecutor is allowed to suppress criticism of the activities of those in charge of the court. The conduct of the disciplinary prosecutor is contrary to the constitutional and conventional rights of freedom of expression and opinion and of information dissemination.

Source: Decision of the deputy disciplinary prosecutor of judges of common courts, judge *Przemysław Radzik* of 18.4.2019 issued in the case RDSP 711-39/19 on commencement of disciplinary proceedings against the judge of the District Court *Rafał Maciejewski* and presentation of charges of disciplinary offences; “Czarno na Białym” programme of 17.6.2019 entitled “A married couple of judges target by the disciplinary prosecutor”.

19. **Krystian MARKIEWICZ – Judge of the District Court in Katowice**

Judge *Krystian Markiewicz* is the President of the Association of Polish Judges “Iustitia”, which is an independent, apolitical and self-governing association associating nearly one third of the total number of judges in Poland (over 3500 members). Judge *Krystian Markiewicz* has repeatedly, both at home and abroad, spoken in public debate on the state of the rule of law in Poland and has always boldly defended the independence of courts, the independence of judges and the principles of a democratic state under the

rule of law, openly criticizing unconstitutional changes introduced in the area of justice by those currently in power.

In August 2018, judges from the SSP “Iustitia” took part in the Pol’and’Rock Festival in Kostrzyn nad Odrą. The judges met with the participants of the festival, conducted trial simulations and organized numerous debates, during which they comprehensibly explained to citizens the principles of functioning of courts free from political influence and pressure. The aim of this initiative was to educate the public in law and to stimulate the development of legal and civic awareness of society, especially among young people. The judges explained to the festival participants why courts must remain independent of other authorities, including politicians, what judicial independence and the rule of law is. This civic activity of the judges became inconvenient for the ruling camp, which, under the guise of reforms in the area of the judiciary, introduced a number of regulations that were directly unconstitutional and contrary to Community and international law, whose sole purpose was to subjugate the judiciary to the executive and legislative authorities, including in particular through the direct influence of the Minister of Justice on the activity of the courts (politicization of the judiciary). Many judges openly and publicly criticised these changes, which was met with the reaction of the disciplinary prosecutor for common court judges. This prosecutor and his two deputies have started to systematically undertake actions aimed at creating a freezing effect on the judiciary. To this end, the prosecutors made instrumental use of the provisions on disciplinary responsibility of judges. As part of these activities, the disciplinary prosecutors, under the guise of an investigation within the framework of disciplinary proceedings, called on the judges who participated in the Pol’and’Rock Festival to be heard as witnesses and to make written statements about the educational activities carried out during the festival. On 21 September 2018, judge of the District Court in Katowice, *Krystian Markiewicz*, was questioned as a witness by the disciplinary prosecutor in connection with a meeting with participants of the Pol’and’Rock Festival in August 2018 in Kostrzyn nad Odrą.

In June 2019, the deputy disciplinary prosecutor of judges of common courts, *Michał Lasota*, sent a summons to judge *Krystian Markiewicz* to submit, within 14 days, a written statement concerning a possible disciplinary offence consisting in unreliable statements in TVN24 concerning judge *Jerzy Daniluk*.

Source: Direct interview with *Krystian Markiewicz*, judge of the District Court in Katowice, letter of the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik* of June 2019, RDSP 711-61, 62, 63/19.

In August 2019, Judge *Krystian Markiewicz* received a letter from which it appeared that he was to appear as a witness in the office of the disciplinary prosecutor for judges of common courts in Warsaw on 12.9.2019. The letter did not indicate what the case was about, nor did it contain the signature of any disciplinary prosecutor. Instead, the letter contained the following wording: ‘The Secretariat of the Disciplinary prosecutor of the Judges of Common Courts calls upon you to appear as a witness in the office of the Disciplinary prosecutor of the Judges of Common Courts’.

As the letter sent from the secretariat of the deputy disciplinary prosecutor of Common Court Judges did not meet the elementary criteria for a summons, Judge *Krystian Markiewicz* did not appear at the office of the prosecutor.

It was only in another letter of 13 September 2019 that the deputy disciplinary prosecutor of common court judges explained that he was carrying out an investigation concerning a possible disciplinary misdemeanour involving an illegal transfer of another judge, *Lukasz Biliński*, from the criminal division to the family and juvenile division. In the same letter, the prosecutor threatened judge *Krystian Markiewicz* with initiation of disciplinary proceedings in case of failure to appear on call.

Source: Direct interview with judge *Krystian Markiewicz*; Letter sent from the secretariat of the deputy disciplinary prosecutor for judges of common courts of 8.8.2019, RDSP 712-50/19; summons to appear as a witness of 13.9.2019 issued in case of RDSP 712-50/19.

In August 2019, the Onet.pl website (<https://onet.pl>) revealed that for several years there has been an organised group of people, including senior civil servants of the Ministry of Justice, whose aim was to systematically and intentionally slander, defame, insult, humiliate and humiliate judges who publicly, courageously speak out in defence of the constitutional order, defence of the rule of law, defence of the independence of courts, defence of the independence of judges, defence of the independence of the prosecutor's office and publicly criticising legislative and organisational activities undertaken by the current management of the Ministry of Justice and executive and legislative authorities. According to media reports, there was an organised group of people who, using their functions in the Ministry of Justice, the National Council of the Judiciary, the functions of presidents of common courts, the functions of disciplinary prosecutors of common court judges, as well as having access to personal data, including those contained in the files of official proceedings, the collections of the Ministry of Justice and connections with journalists, created a false image of judges who were indicated as targets of the slander campaign. These activities also created false information, false evidence, which was then the basis for initiating explanatory or disciplinary proceedings against judges. In addition, officials of the Ministry of Justice, gathered in the discussion forum "KASTA" for criminal purposes – carrying out a planned action of defamation of judges with disclosure of information to an unauthorised person, used the knowledge they gained in connection with their functions and work in the Ministry of Justice (the so-called professional secrecy). The false, unreliable information and anonymous information disseminated by members of the KASTA group through all available media channels often resulted in common court investigations and disciplinary proceedings being initiated by disciplinary prosecutors of judges. Disciplinary prosecutors *Michał Lasota* and *Przemysław W. Radzik* had to be aware, either because of their participation in a group called "Kasta" on the WhatsApp communicator or because they obtained information in this respect from people who acted in this discussion group, that documents, including anonyms, which were to form the basis of their actions, were deliberately produced in order, among other things, to prosecute judges for alleged disciplinary offences.

One of the persons who were wronged by these unlawful and unprecedented hating actions was Judge *Krystian Markiewicz*. A group of hater trolls, using information about the judge's private life, spread a false, defamatory accusation that Judge *Krystian Markiewicz* was inciting a woman to terminate her pregnancy. The dissemination of this untrue information resulted in a prosecution against judge *Krystian Markiewicz* for a disciplinary offence of inciting an illegal abortion (Article 18 § 2 of the Penal Code in connection with Article 157a § 1 of the Penal Code). On 19.8.2019, the Disciplinary prosecutor for judges of common courts *Piotr Schab* undertook investigative activities so as to determine, inter alia, whether the conduct of judge *Krystian Markiewicz* constituted a disciplinary tort, exhaustive of the offence under Article 18 § 2 of the Penal Code in connection with Article 157a § 1 of the Penal Code. In a communiqué of 19 August 2019, the disciplinary prosecutor for judges of common courts *Piotr Schab* informed the public that he launched an investigation concerning both an attempt to discredit the President of the "Iustitia" Association by judges employed at the Ministry of Justice and a possible disciplinary offence of incitement to illegal abortion. In this way, the disciplinary prosecutor *Piotr Schab* decided that in one proceeding he would investigate the behaviour of a group of haters and the wronged judge *Krystian Markiewicz*. The basis for the prosecutor's action against judge *Krystian Markiewicz* was completely false information created for the purposes of a slander campaign conducted by a group of persons connected with the Ministry of Justice. Such conduct of the disciplinary prosecutor *Piotr Schab* is an example of placing judge *Krystian Markiewicz* – wronged by the haters – on an equal footing with the perpetrators of these illegal activities.

Source: direct interview with *Krystian Markiewicz*, judge of the District Court in Katowice; communiqué of the disciplinary prosecutor of judges of common courts *Piotr Schab* of 19.8.2019.

In September 2019, Judge *Krystian Markiewicz* received a summons to appear as a witness in the office of the disciplinary prosecutor of judges of common courts in Warsaw on 17.9.2019. The summons indicated that the disciplinary prosecutor conducts an investigation concerning the disciplinary misconduct consisting in organising and posting on communicators and social networking sites entries which violate the rules of professional ethics of judges and assessors. Despite receiving a summons, Judge *Krystian Markiewicz* decided not to appear on the summons of the disciplinary prosecutors: *Piotr Schab*, *Michał Lasota* and *Przemysław W. Radzik*, due to repeated violations of the law by those prosecutors who were appointed by a politician – Minister of Justice *Zbigniew Ziobro*, as well as because the media revealed an affair involving bailing out of judges. Judge *Krystian Markiewicz* stated in a public statement that the above mentioned disciplinary prosecutors, chosen in the political procedure, according to media information, participated in the group that harassed him and his relatives. In the opinion of the President of 'Iustitia', the disciplinary prosecutors are breaking the law by initiating proceedings in cases of behaviour of judges of district and regional courts, which they are not competent to do, as well as by hearing witnesses before initiating proceedings, as indicated by legal opinions prepared for the 'Iustitia'. Judge *Krystian Markiewicz* pointed out that the personal involvement of disciplinary prosecutors in harassment of judges

fighting for the rule of law does not guarantee impartiality of such proceedings. At the same time, the judge undertook to appear before the court in disciplinary proceedings.

By order of 8 November 2019, the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik* initiated disciplinary proceedings against judge *Krzystian Markiewicz*, accusing him of violating the dignity of the office by failing to appear for questioning and calling on other persons summoned as witnesses to disregard the legal order by ignoring the obligation to appear on summons and submitting summonses.

Source: Call of the deputy disciplinary prosecutor for judges of common courts of 9.9.2019, RDSP 712-69/19; statement by judge *Krzystian Markiewicz* of 12.9.2019 explaining the reasons for not appearing at the summons of the disciplinary prosecutors; statement by the disciplinary prosecutor of common court judges *Piotr Schab* on the initiation of disciplinary proceedings against five judges in connection with unjustified failure to appear for hearings; direct interview with judge *Krzystian Markiewicz* of the Regional Court in Katowice.

On 29.5.2019, Judge *Krzystian Markiewicz*, President of the Association of Polish Judges ‘Iustitia’ sent a letter to the judges of the disciplinary courts in which he called on these judges to refrain from ruling until the CJEU has resolved doubts about the legal status of the Disciplinary Chamber operating at the Supreme Court and doubts about the construction of disciplinary proceedings in the Polish legal order. Judge *Krzystian Markiewicz* did so with concern for the public good and independence of the judiciary. This appeal by Judge *Krzystian Markiewicz* was met with the reaction of the Disciplinary prosecutor. On 3.12.2019, the deputy disciplinary prosecutor for judges of common courts *Przemysław W. Radzik* initiated disciplinary proceedings against Judge *Krzystian Markiewicz* and charged the judge with 55 charges of disciplinary misconduct. In the opinion of the deputy disciplinary prosecutor, Judge *Krzystian Markiewicz*, in his letter, issued a political manifesto in which he questioned the independence and legitimacy of the National Council of the Judiciary and challenged the constitutionality and apoliticality of the Disciplinary Chamber, as well as urged the judges of disciplinary courts not to respect the Polish legal order. The actions of the deputy disciplinary prosecutor, *Przemysław W. Radzik*, constitute illegal and unacceptable harassment aimed at creating a freezing effect on the judiciary.

On 3.4.2019 The European Commission launched infringement proceedings against Poland for the adoption of a new disciplinary system for common court judges. Subsequently, on 10.10.2019 The European Commission has launched a complaint against Poland concerning the new disciplinary system for common court judges in order to protect judges from political control. In its explanatory memorandum, the European Commission indicated that the new system of disciplinary measures does not ensure the independence and impartiality of the Disciplinary Chamber attached to the Supreme Court, which is composed exclusively of judges elected by the National Council of the Judiciary, which was appointed by the Parliament in a procedure of a political nature.

On 5.12.2019 The Supreme Court in the Chamber of Labour and Social Insurance decided that the Supreme Court Disciplinary Chamber is not a court within the meaning of EU law and thus is not a court within the meaning of national law. Furthermore, the

Supreme Court in the Chamber of Labour and Social Insurance stated that the current National Council of the Judiciary is not an impartial body independent of the executive and legislative authority and added that the interpretation contained in the CJEU judgment of 19.11.2019 (concerning the criteria for assessing the status of the Disciplinary Chamber and the National Council of the Judiciary) is binding on every court in Poland, as well as every state authority.

Source: Communication of the Disciplinary prosecutor of common courts' judges *Piotr Schab* in case of initiating disciplinary proceedings against Judge *Krystian Markiewicz* concerning 55 allegations of disciplinary offences; letter of 29.5.2019 from Judge *Krystian Markiewicz* to judges of disciplinary courts; judgment of the Supreme Court of 5.12.2019 issued in case III PO 7/18; direct interview with Judge *Krystian Markiewicz* of the Regional Court in Katowice.

**Statement by Krystian Markiewicz
– President of the Polish Judges Association “Iustitia”**

As a judge and professor, I have the duty to uphold law and to observe the highest ethical and constitutional standards. Due to repeated violations of the law by the disciplinary prosecutors appointed by a politician – Minister of Justice *Zbigniew Ziobro*, and in light of the revealed “hate campaign” scandal against judges, I was faced with one of the most difficult decisions in my professional career.

As an independent judge, I decided not to appear today on the call of the disciplinary prosecutors *Schab*, *Lasota* and *Radzik* as people who were chosen in a political procedure and, according to media reports, participated in a group that harassed both me and my family. The disciplinary prosecutors *Schab*, *Lasota* and *Radzik* did not take any significant disciplinary action to explain the so-called “hate campaign against judges” at the Ministry of Justice and did not provide a convincing explanation for the scandal in which they were to be involved. Moreover, they broke the law by initiating proceedings against the actions of district and regional court judges, which they are not competent to do, and furthermore by questioning witnesses before initiating proceedings – as has been indicated in the legal opinions prepared for the “Iustitia” Association. As they have been personally involved in the harassment of judges fighting for the rule of law, the impartiality of such proceedings cannot be guaranteed.

At the same time, I would like to express my support and solidarity with Judge *Anna Bator-Ciesielska* who, taking into account the circumstances, refused to adjudicate in the same panel with one of the deputy disciplinary prosecutors. This was met with retaliation from the prosecutors, who immediately initiated disciplinary proceedings against her.

Until the Court of Justice of the EU has ruled on the allegations of a repressive and political system disciplining judges, I will appear only in court and not in the presence of persons who exercise functions of political expediency and harass independent judges.

I hereby present this statement for consideration by all persons summoned by the above-mentioned prosecutors.

Katowice, 12 September 2019

20. *Dariusz MAZUR* – Judge of the District Court in Kraków

Judge *Dariusz Mazur* is a member of the Judges Association THEMIS and its spokesperson, as well as a member of the Polish Judges Association “Iustitia”. The judge is an eminent specialist in the field of international cooperation in criminal matters and human rights and for several years he held an important function as coordinator for international cooperation and human rights in criminal matters at the Regional Court in Kraków. The judge is a lecturer at the National School of Judiciary and Public Prosecution, and for the last eight years has also lectured throughout Europe under the “Linguistic” programme, where he trains European judges and public prosecutors in international cooperation in criminal matters, human rights protection, immigration and asylum law. Judge *Dariusz Mazur* has repeatedly, both at home and abroad, spoken in public debate on the state of the rule of law in Poland and in his statements he has courageously defended the independence of the courts, the independence of judges and the principles of a democratic state under the rule of law, openly criticising the unconstitutional changes introduced in the area of justice by the ruling camp. Moreover, as a spokesperson for the THEMIS Association, the judge repeatedly presented to the public the positions and resolutions adopted by the Association, which were critical of the direction of the so-called justice system reforms introduced by the ruling camp.

In a letter dated 18.6.2019, the deputy disciplinary prosecutor for judges of common courts, *Michał Lasota*, called on the judge of the District Court in Kraków, *Dariusz Mazur*, to submit a written statement on a possible disciplinary offence, consisting of unreliable statements for TVN24, concerning judge *Jerzy Daniluk*, which were broadcast on 3.9.2018 and 15.2.2019. The summons did not contain any justification. Judge *Dariusz Mazur* in the “Czarno na białym” program, aired on TVN24, criticized Judge *Jerzy Daniluk*’s transfer from the Regional Court in Lublin to the Regional Court in Siedlce, which made it possible to pay this judge a housing allowance of over PLN 2,000 per month. On 8.1.2019, Judge *Jerzy Daniluk* was delegated by Deputy Minister of Justice *Lukasz Piebiak* to the Court of Appeal in Lublin and appointed as Deputy President of the latter court. The seats of both these courts are located in Lublin. The Deputy Minister of Justice formally transferred Judge *Jerzy Daniluk* to the District Court in Siedlce, which enabled him to pay a housing allowance. Payment of such allowance is impossible if the seats of the court from which the judge is delegated and the court to which the judge is delegated remain the same. Judge *Dariusz Mazur* stated that if the transfer of judge *Jerzy Daniluk* was intended solely to create a basis for the payment of the housing allowance to that judge, such a situation could be assessed in terms of civil lawlessness as well as in terms of criminal liability for the offence of fraud, including with the participation of the Ministry of Justice.

In the second half of June 2019, the President of the District Court in Kraków, Judge *Dagmara Pawełczyk-Woicka*, appointed for this position by decision of the Minister of Justice, dismissed Judge *Dariusz Mazur* from the position of coordinator for international cooperation and human rights in criminal matters, motivated by the lack of possibilities for cooperation. The decision to dismiss was not based on any rational justification.

Commenting on his dismissal from the position of coordinator for international cooperation and human rights in criminal matters at the Regional Court in Kraków, Judge *Dariusz Mazur* stated that this was a form of retaliation in connection with the activity of the judge within the THEMIS association, or possibly an attempt to fill this post with a person who would act as a propaganda tube of “good change” in the justice system. The judge added that if the function of the coordinator for international cooperation and human rights in criminal matters were to be a propaganda tube of “good change” in the administration of justice, he was completely unsuitable for that.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, *Michał Lasota*, 18.6.2019, RDSP 711-61,62,63/19, calling for a written statement within 14 days; personal interview with Krakow District Court judge *Dariusz Mazur*.

21. *Ewa MROCZEK* – Judge of the District Court in Działdowo

Judge of the District Court in Działdowo *Ewa Mroczek* adjudicates in criminal cases and has repeatedly participated in civil demonstrations in defence of judicial independence and the independence of judges, including under the Supreme Court. In her statements, the judge criticised the pseudo-reforms adopted by the ruling camp. Judge *Ewa Mroczek* conducted a complicated and extensive case, registered under the number II K 614/16, which concerned many defendants and many charges and was of a media nature. The extensive indictment in this case contained numerous and serious errors, which affected the defendants’ rights of defence. In some cases, defendants were accused of acts that were significantly extended in scope compared to those covered by the charges issued in the course of the pre-trial proceedings – the indictment included other wronged parties who were not mentioned at all in those charges that were made to defendants during the pre-trial proceedings. Thus, there was no consistency and identity between the charges brought against the accused in the indictment and the charges presented to them during the preparatory proceedings. This state of affairs leads to a violation of the rights of the defence of the accused person, since he would indeed have to be liable before a court for an act other than that of the person concerned during the pre-trial proceedings. Noticing these errors, the judge of the District Court *Ewa Mroczek* discontinued the proceedings, considering that she did not have the correct accuser’s complaint and referred to the views of legal science concerning similar legal issues. As a result of the prosecutor’s complaint against this decision, the appeal court overturned the decision issued by the court composed of Judge *Ewa Mroczek*. What is important, in the justification of the reversal decision, the appellate court confirmed the reasoning of the judge on the lack of consistency between the accused’s charges in the indictment and the charges presented to them during the preparatory proceedings and did not indicate that judge *Ewa Mroczek* violated any legal regulations. The reason for the reversal of the order was only the recognition by the appellate court that in the

case of such violations of the indictment, the indictment should be returned to the prosecutor in another procedure.

In a letter of 10 July 2019, the deputy disciplinary prosecutor for judges of common courts, *Michał Lasota* called upon judge *Ewa Mroczek* of the District Court to submit a written statement on a possible disciplinary misconduct. In the opinion of the prosecutor, the judge committed a disciplinary offence consisting in discontinuing the criminal proceedings in the case registered under number II K 614/16, which resulted in the necessity to consider the case by a court in a different composition. Such actions of the disciplinary prosecutor are an example of inadmissible inclusion of an investigation in the judiciary's sphere of jurisdiction in the absence of any grounds for considering that there is a real disciplinary offence. The rulings of the court of first instance are subject to appeal review, and disciplinary proceedings may not enter the sphere of jurisdiction, especially where we are dealing with the advocacy of one of the views expressed in the science of law, as was the case in this case.

Source: Letter from the deputy disciplinary prosecutor of common court judges *Michał Lasota* dated 10.7.2019, RDSP 712-9/19, calling for a written statement within 14 days; personal interview with District Court judge *Ewa Mroczek* in Działdowo.

22. Artur ONDEREK – Judge of the District Court in Miechów

By letter of 19.2.2019, the deputy disciplinary prosecutor for Common Court Judges, Judge *Przemysław Radzik* called on *Artur Ondererek*, Judge of the District Court in Miechów, to appear in the Office of the Disciplinary prosecutor for Common Court Judges for questioning as a witness. The Disciplinary prosecutor indicated that he is conducting an investigation regarding the resolutions adopted by the meeting of judges of the Kraków Appellate Court on 12 October 2018 and the General Meeting of judges of the District Court in Poznań on 3 January 2019. In the opinion of the disciplinary prosecutor, in the content of these resolutions, the judges included inadmissible and dishonest statements and assessments concerning the activities of constitutional state bodies, including the President of the Republic of Poland, the National Council of the Judiciary and public authorities, and urging judges not to comply with the legal order.

Hearing a judge as a witness in the course of investigative activities constitutes a gross violation of procedural law. A judge cannot be heard as a witness, let alone blamed in the course of an investigation carried out by the disciplinary prosecutor.

Source: Letter of the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik* of 19.2.2019, RDSP 712-1/19; legal opinion of Prof. *Katarzyna Dudka* on the material scope of application of Article 114 § 2 of the Act of 27.7.2001 – Law on the common courts system (t. one: Journal of Laws of 2018, item 23).

23. *Bartłomiej PRZYMUSIŃSKI* – Judge of the District Court Poznań-Stare Miasto in Poznań

Judge of the Poznań-Stare Miasto District Court in Poznań *Bartłomiej Przymusiński* is a member of the main board of the Association of Polish Judges “Iustitia” and at the same time serves as a spokesman for the Association. Judge *Bartłomiej Przymusiński*, as the press spokesperson of the SSP “Iustitia”, comments in the media on an ongoing basis on the situation in the area of justice, referring to the threats to judicial independence and the independence of judges, as well as to the state of the rule of law in Poland, resulting from numerous unconstitutional reforms introduced by the current ruling power. The judge has also actively participated in the public debate on the state of the rule of law in Poland and the justice system, and in his statements has always boldly defended the independence of the courts, the independence of judges and the principles of a democratic state under the rule of law, openly criticising the constitutional changes introduced in the area of justice by those currently in power. In one of his statements to the media, Judge *Bartłomiej Przymusiński* criticised the procedure of selection of candidates for judges of the Supreme Court conducted by the new National Judicial Council, comparing it to a beauty contest. This was related, inter alia, to the fact that the politically elected National Judicial Council interrogated candidates for judges of the Supreme Court behind closed doors and the interrogation itself lasted 15 minutes, which clearly makes it impossible to assess a candidate’s ability to take such a high position in the judicial hierarchy. Judge *Bartłomiej Przymusiński* stated in his statement that the hearings of candidates for judges of the Supreme Court resemble a beauty contest and not a real recruitment procedure for the most important court in Poland.

This statement was met with the reaction of the deputy disciplinary prosecutor for judges of common courts, *Michał Lasota*, who demanded that judge *Bartłomiej Przymusiński* make a written statement on his public statements in the TV programme TVN24 concerning the new National Judicial Council and the justice system.

Source: Letter from the deputy disciplinary prosecutor for Common Court Judges *Michał Lasota* of 24.8.2018, RDSP 712-4/18 requesting a written statement within 14 days.

Subsequently, on 20.9.2018, Judge *Bartłomiej Przymusiński* was questioned as a witness by the disciplinary prosecutor on the alleged crossing of the boundaries of the judge’s freedom of public expression concerning other judges and representatives of constitutional public authorities.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław Radzik*, 5.9.2018, RDSP 714-61/18; direct interview with Judge *Bartłomiej Przymusiński* of the Poznań-Stare Miasto District Court in Poznań.

24. *Bartłomiej STAROSTA* – Judge of the District Court in Sulęcín

Judge of the District Court in Sulęcín *Bartłomiej Starosta* is a member of the Gorzów Branch of the “Iustitia” Association of Polish Judges. At the same time he is the chairman of the audit committee of SSP “Iustitia”. Moreover, since 2017 he has been the chairman of the Permanent Presidium of the Forum for Cooperation of Judges. The Forum for the Cooperation of Judges is a specific platform for communication and exchange of views, a permanent conference of judges from all levels of the judiciary from all over Poland, where changes in the area of the judiciary, the state of the rule of law, independence of courts, independence of judges are discussed. The Forum for the Cooperation of Judges also monitors the situation in the country as regards threats to the independence of judges and the independence of courts. Judge *Bartłomiej Starosta* has repeatedly spoken in public debate on the state of the rule of law in Poland and in his statements he has always boldly defended the independence of courts, the independence of judges and the principles of a democratic state under the rule of law, openly criticising unconstitutional changes in the area of justice. The judge regularly meets with citizens under the courts at citizens’ demonstrations and during these meetings he brings closer and explains to citizens the importance of independent courts in a democratic state under the rule of law. In addition, Judge *Bartłomiej Starosta* regularly uses social media (Facebook and Twitter) to comment on the situation in the judiciary, often criticising the changes introduced in the area of justice by the ruling power. Finally, Judge *Bartłomiej Starosta* has participated several times in the Pol’and’Rock Festival in Kostrzyn nad Odrą. During the festival, the judges met with its participants, conducted trial simulations and organized numerous debates, during which they explained in an accessible way to citizens the principles of functioning of courts free from political influence and pressure. The aim of this initiative was to educate the public in law and to stimulate the development of legal and civic awareness of society, especially among young people. This civic activity of judges became inconvenient for the ruling camp, which, under the guise of reforms in the area of the judiciary, introduced a number of regulations that were directly unconstitutional and contrary to Community and international law, whose sole purpose was to subordinate the judiciary to the executive and legislative authorities, including in particular through the direct influence of the Minister of Justice on the activity of the courts (politicisation of the judiciary).

By letter of 12.7.2019, the deputy disciplinary prosecutor for judges of common courts, *Michał Lasota* called on Judge *Bartłomiej Starosta* to appear as a witness in the office of the Disciplinary prosecutor for judges of common courts in Warsaw on 31.7.2019. The summons to the judge did not meet the elementary legal standards required of such a letter. It was not indicated in which case the judge was to be heard, and in particular whether the case concerns a possible misconduct committed by Judge *Bartłomiej Starosta* or by another judge. The hearing of a judge as a witness in the course of investigating his own case is inadmissible and constitutes a flagrant breach of law. A judge cannot be heard as a witness, let alone a defendant, in the course of the investigations carried out by the disciplinary prosecutor in his case.

Due to the fact that the letter of the deputy disciplinary prosecutor for judges of common courts did not meet the elementary criteria of the summons, Judge *Bartłomiej Starosta* did not appear in the prosecutor's office and at the same time informed the disciplinary prosecutor of the reasons for his failure to appear before the date of the appointed hearing.

Due to the failure to appear, Judge *Bartłomiej Starosta*, on the summons of the deputy disciplinary prosecutor of judges of common courts, *Michał Lasota*, initiated disciplinary proceedings against Judge Bartholomew the Starost on 8.8.2019 without prior investigation of what he broke the provisions of law on disciplinary proceedings. Prior to the initiation of disciplinary proceedings, the disciplinary prosecutor is obliged to carry out an investigation which constitutes a preliminary stage and is necessary to assess whether there are grounds to initiate disciplinary proceedings at all. In the course of the investigation, the judge is entitled to certain rights, such as, among others, the right to submit a written or oral statement. The disciplinary prosecutor who, without carrying out such investigation, initiated disciplinary proceedings, grossly breached the provisions of law, including the right to defend the judge in the course of explanatory activities.

Subsequently, in August 2019, Judge *Bartłomiej Starosta* received a letter which indicated that he was to appear as a witness in the office of the Disciplinary prosecutor for judges of common courts in Warsaw on 28.8.2019. The letter did not indicate what the case was about, nor did it contain the signature of any of the disciplinary prosecutors. Instead, the letter contained the following wording: "The Secretariat of the Disciplinary prosecutor of the Judges of Common Courts calls upon you to appear as a witness in the office of the Disciplinary prosecutor of the Judges of Common Courts". Like the summons of 12 July 2019 described above, this also did not meet the elementary legal standards required of such a letter.

As a subsequent letter from the deputy disciplinary prosecutor for judges of common courts also did not meet the elementary criteria of the summons, Judge *Bartłomiej Starosta* did not appear in the office of the prosecutor and at the same time informed the disciplinary prosecutor of the reasons for his failure to appear before the scheduled hearing.

This attitude of the judge met with an immediate reaction of the deputy disciplinary prosecutor of judges of common courts, *Michał Lasota*, who on 30.8.2019 initiated disciplinary proceedings against Judge *Bartłomiej Starosta* without prior investigation of what he broke the rules of disciplinary proceedings. It should be noted that, although in a communiqué of 30.8.2019, the disciplinary prosecutor *Piotr Schab* informed that the initiation of the disciplinary proceedings took place after the investigation was carried out, it is difficult to imagine that the prosecutor would carry out the investigation in two days in the light of the principles of logic and life experience. Since the alleged disciplinary misconduct was to have occurred on 28.8.2019, the initiation of disciplinary proceedings as early as 30.8.2019 indicates that the investigation referred to by prosecutor *Piotr Schab* was in fact a fiction. Before initiating disciplinary proceedings, the disciplinary prosecutor is obliged to carry out an investigation, which constitutes

a preliminary stage and necessary to assess whether there are grounds to initiate disciplinary proceedings at all. The investigation can certainly not be carried out within two days, without prejudice to the provisions of law, including the rights of the person suspected of a disciplinary offence. In the course of the investigation, the suspected disciplinary offence is subject to certain rights, such as the right to submit a written or oral statement. The disciplinary prosecutor who, without carrying out the investigation, initiated disciplinary proceedings, grossly violated the provisions of law, including the right to defend the judge in the course of explanatory activities.

Source: Letter of the deputy disciplinary prosecutor of judges of common courts judge *Michał Lasota* of 12.7.2019, RDSP 712-53/19; Decision of the deputy disciplinary prosecutor of judges of common courts judge *Michał Lasota* of 8.8.2019, RDSP 711-103/19 on commencing disciplinary proceedings against judge *Bartłomiej Starosta*; Letter of the secretariat of the deputy disciplinary prosecutor of judges of common courts of 5.8.2019, RDSP 712-53/19; Decision of the deputy disciplinary prosecutor of the judges of common courts, Judge *Michał Lasota* of 30.8.2019, RDSP 711-103-1/19 on commencement of disciplinary proceedings against Judge *Bartłomiej Starosta*; direct interview with Judge *Bartłomiej Starosta*.

By letters of 9 and 10 September 2019, Judge *Bartłomiej Starosta* was summoned to appear as a witness in the office of the Disciplinary prosecutor for judges of common courts in Warsaw on 18 September 2019. The letters of the disciplinary prosecutor concerned two different cases and this time met all formal criteria required for a summons. Nevertheless, Judge *Bartłomiej Starosta* decided not to appear on the summons of the disciplinary prosecutors *Piotr Schab*, *Michał Lasota* and *Przemysław W. Radzik* due to the fact that they were appointed by a politician – Minister of Justice *Zbigniew Ziobro*, whose role in the hating scandal revealed in this ministry was not explained, and according to media reports of the deputy disciplinary prosecutor *Michał Lasota* and *Przemysław W. Radzik* belonged to the “KASTA” group, acting on the communicator WhatsApp, which, under the leadership of the Deputy Minister of Justice, was to deal with slandering judges involved in the defence of the rule of law. In his written statement, Judge *Bartłomiej Starosta* pointed out the links between the disciplinary prosecutors and the ‘KastaWatch’ hate account on Twitter, pointing out that it was in this account that disciplinary action against judges was often announced and subsequently carried out and details of hearings conducted by the disciplinary prosecutors were disclosed. Judge *Bartłomiej Starosta* also expressed his opposition to the harassment of subpoenaing judges against the procedure, sent out shortly beforehand and even during their leave of absence. The subpoenas for questioning indicated irrational reasons for carrying out these activities, such as staying at a music festival, participating in the simulation of hearings for young people or entries on the Internet critical of the activities of the Ministry of Justice. In the opinion of the judge, such actions of disciplinary prosecutors are aimed at limiting the right of judges to express themselves and at public humiliation, as well as detaching judges from their judicial duties. Judge *Bartłomiej Starosta*, refusing to appear at the summons of the disciplinary prosecutors *Piotr Schab*, *Michał Lasota* and *Przemysław W. Radzik*, committed himself at the same time to appear at every summons.

By order of 8.11.2019, the deputy disciplinary prosecutor of judges of common courts *Przemysław W. Radzik* initiated disciplinary proceedings against Judge *Bartłomiej Starosta*, accusing him of violating the dignity of the office by not appearing for the hearing. In total, the disciplinary prosecutor charged Judge *Bartłomiej Starosta* with three charges for failing to appear at the hearing three times.

Source: summons by the deputy disciplinary prosecutor for judges of common courts of 9.9.2019, RDSP 712-69/19; summons by the deputy disciplinary prosecutor for judges of common courts of 10.9.2019, RDSP 712-67/19; statement of judge *Bartłomiej Starosta* of 16.9.2019 explaining the reasons for not appearing at the summonses of the disciplinary prosecutors; statement of the disciplinary prosecutor of the judges of common courts judge *Piotr Schab* on the initiation of disciplinary proceedings against five judges in connection with unjustified failure to appear at the hearings.

Statement by Judge *Bartłomiej Starosta* – Chairman of the Audit Committee of the Association of Polish Judges "Iustitia"

In reference to the statement made by Professor *Krystian Markiewicz* – President of the Association of Polish Judges "Iustitia" of 12 September 2019, who decided not to appear on the summons of *Piotr Schab*, *Michał Lasota* and *Przemysław Radzik*, as a judge also called by them I hereby express my solidarity with Judge Markiewicz and his position. I share the values, arguments and legal assessment indicated by him and therefore I have decided not to react to the letters of the disciplinary prosecutor. However, I am ready to appear at any court call.

It should be remembered that the disciplinary prosecutors were appointed by a politician – Minister of Justice *Zbigniew Ziobro*, whose role in the so-called "haters' scandal" has never been clarified. Moreover, according to information from the media, the deputy disciplinary prosecutors belonged to the "Kasta" group on the WhatsApp communicator, which under the leadership of the Deputy Minister of Justice was engaged in slandering judges involved in the defence of the rule of law. There are also clear links between the disciplinary prosecutors and the Twitter account "Kasta Watch". It is in this account that disciplinary action against judges was often announced and subsequently carried out, and where details of hearings conducted by disciplinary prosecutors were disclosed. The formal activities of the persons mentioned above are in line with the nature of this Twitter account.

A few days ago, the "KastaWatch" account listed the names of several judges from Iustitia, including mine, as members of the group. I later learned that the disciplinary prosecutors also called upon the judges mentioned to participate in hearings on "organising posts and posting them on communicators and social networking sites", which violated the ethical code of conduct of judges. An analysis of the past links between the administrators of the "Kasta Watch" account and the disciplinary ombudsmen, whose participation in the "Kasta" group on WhatsApp has not been explained, leads to the conclusion that the above actions are not accidental either.

I oppose the harassment which consists in calling judges by sending them summonses written in a hurry, in violation of the procedure, sent shortly in advance or even during a holiday leave, requiring their presence for interrogation for irrational reasons, such as going to a music festival, participating in the simulation of hearings presented to young people, or posting texts on the Internet which are critical of the Ministry of Justice's actions.

In my opinion, this is all intended to limit the right of judges to express themselves and to humiliate them publicly, not to mention disrupting their duties as judges.

My objection also concerns the price that will have to be paid by the citizens for the actions of the above-mentioned disciplinary prosecutors, as their cases will have to be postponed for a long time. The high cost of the prosecutors'

activities is borne by the society, while the judiciary is underfunded and trials take longer.

I would like to draw particular attention to the blatantly unequal treatment of judges, as media reports show that for four years there have not even been any clarifications in the case of the anti-Semitic entries posted by the current President of the District Court in Gorzów Wielkopolski and a member of the body that replaced the National Judicial Council, *Jarosław Dudzicz*.

I would like to again pledge that despite the harassment I shall continue to work actively for the rule of law as I have no doubt that the fate of the Polish judiciary is now at stake. Citizens can be sure that we will not give in to pressure and will continue defend our independence.

Sulęcín, September 16, 2019

25. Jerzy STĘPIEŃ – retired Judge of the Constitutional Tribunal

Former President of the Constitutional Tribunal *Jerzy Stępień* will be responsible for “active participation in the political rally on 6.5.2017. During the Freedom March, Judge *Jerzy Stępień* stated that “the rulers suspended the Constitution on a stake”. According to the disciplinary court, with these words he broke the principle of apoliticism. Judge *Jerzy Stępień* may lose part of his salary as a former judge of the Constitutional Tribunal.

In autumn 2017, Judge *Stanisław Rymar*, who is also a disciplinary prosecutor, refused to initiate proceedings against Judge *Jerzy Stępień*. The disciplinary court overturned this decision, accepting the complaint of the Vice-President of the Constitutional Tribunal, *Mariusz Muszyński*. On 12.1.2018, Judge *Stanisław Rymar* discontinued the proceedings against the former President of the Constitutional Tribunal and this decision was also the subject of a complaint. On 25.1.2018, the Disciplinary Court of the Constitutional Tribunal repealed the decision of the Disciplinary prosecutor of 12.1.2018 to discontinue the proceedings and ordered the prosecutor to present to the retired judge *Jerzy Stępień* the charge of active participation in the political rally on 6.5.2017.

Source: Media information: Polish Press Agency of 25.1.2018, 15:05; Newsweek Polska of 25.1.2018, 18:00.

26. Igor TULEYA – Judge of the District Court in Warsaw

Warsaw District Court Judge *Igor Tuleya* is a member of the Warsaw Branch of the “Iustitia” (Polish Judges Association). The judge has repeatedly spoken in public debate on the state of the rule of law in Poland and in his statements he has always boldly defended the independence of the courts, the independence of judges and the principles of a democratic state under the rule of law, openly criticising the unconstitutional changes introduced in the area of justice by those currently in power. A judge regularly meets with citizens in meetings on the rule of law, judicial independence, independence of judges, the principles of the democratic rule of law and human rights. During these meetings, Judge *Igor Tuleya* brings closer and explains to citizens the importance of independent courts in a democratic state under the rule of law, as well as the role of independent judges in protecting human rights and fundamental freedoms. Judge *Igor Tuleya* is a model of an unbroken judge who advocates for judicial independence, the independence of judges and respect for constitutional, conventional and community values. Among other things, the judge issued judgments that were unfavourable to the ruling camp, or concerned politicians from that camp. Judge *Igor Tuleya*’s educational and civic activities met with a systemic response from the disciplinary prosecutor. The judge was called several times for questioning as a witness and was also called upon to make written statements.

By letter of 9.8.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota* called on Judge *Igor Tuleya* to make a written statement

concerning his statement in the TV programme “Facts after Facts” on 17.7.2018 on TVN24. In these programmes, the judge was critical of the changes in the law concerning the National Council of the Judiciary and the judicial system.

Source: Letter from the deputy disciplinary prosecutor for Common Court Judges Michał Lasota of 9.8.2018, RDSP 712-2/18 calling for a written statement within 14 days.

In addition, in a letter dated 14.8.2018, the deputy disciplinary prosecutor of judges of common courts, Judge *Michał Lasota* called on Judge *Igor Tuleya* to make a written statement regarding the unauthorised disclosure of the information from case VIII Kp 1335/17, which the judge led.

Source: Letter from the deputy disciplinary prosecutor of common court judges Judge *Michał Lasota* dated 14.8.2018, RDSP 712-3/18 calling for a written statement within 14 days.

On 21.9.2018 Judge *Igor Tuleya* was questioned as a witness by the disciplinary prosecutor. The hearing concerned public statements by the judge about other judges and representatives of constitutional public authorities. Hearing a judge as a witness in the course of investigative activities constitutes a gross violation of procedural law. A judge may not be heard as a witness, let alone a defendant, in the course of an investigation conducted by the disciplinary prosecutor.

Source: Letter of the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik* of 5.9.2018, RDSP 714-61/18; legal opinion of Prof. *Katarzyna Dudka* on the subject scope of application of Article 114 § 2 of the Act of 27.7.2001. – Law on the common courts system (t. one: Journal of Laws of 2018, item 23).

In a letter of 8.10.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik* called on Judge *Igor Tuleya* to submit a written statement concerning the judge’s participation on 28.9.2018 in the European Solidarity Centre in Gdańsk. The prosecutor wanted to know who was the organiser of the meeting, the nature of the judge’s participation in the meeting and whether politicians, including those taking part in local government elections, also took part in the meeting.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik*, 8.10.2018, RDSP 712-12/18, calling for a written statement within 14 days.

By letter of 8.10.2018, the deputy disciplinary prosecutor of the judges of common courts, Judge *Przemysław W. Radzik* called on Judge *Igor Tuleya* to submit a written statement concerning the participation of the judge on 30.9.2018 in a meeting with citizens held in Lublin. The prosecutor wanted to know who was the organizer of the meeting, in what capacity the judge participated in the meeting and whether politicians, including those taking part in local government elections, also participated in the meeting.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik*, 8.10.2018, RDSP 712-13/18, calling for a written statement within 14 days.

On 10.10.2018, Judge *Igor Tuleya* was questioned by the Disciplinary prosecutor as a witness in the case of a question to the Court of Justice of the European Union in civil proceedings against the State Treasury by the District Court in Łódź. The hearing of a judge as a witness in the course of his investigation constitutes a gross breach of procedural law. A judge cannot be heard as a witness, let alone a defendant, in the course of the investigations carried out by the disciplinary prosecutor.

Source: Letter of the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik* of 21.9.2018, RDSP 712-8/18; legal opinion of Prof. *Katarzyna Dudka* on the subject scope of application of Article 114 § 2 of the Act of 27.7.2001 – Law on the common courts system (t. one: Journal of Laws of 2018, item 23).

Judge *Igor Tuley* is also the author of the preliminary question to the Court of Justice of the European Union. As in the case of Judge *Ewa Maciejewska* from Łódź, the deputy disciplinary prosecutor for judges of common courts, *Michał Lasota* called on Judge *Igor Tuleya* to make a written statement concerning a possible “judicial excess”. In the opinion of the disciplinary prosecutor, the Polish court’s request to the Court of Justice of the European Union for a preliminary ruling on the compatibility of Polish law on the area of justice with European Union law may constitute grounds for initiating disciplinary proceedings.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota*, 29.11.2018, RDSP 712-8/2-18, calling for a written statement within 14 days.

27. Piotr WANGLER – Judge of the District Court in Starogard Gdański

On 6 November 2018, the disciplinary prosecutor questioned *Piotr Wangler*, judge of the District Court in Starogard Gdański, as a witness in a case concerning the participation of judges on 28 September 2018 at the European Solidarity Centre in Gdańsk in a meeting of an allegedly political nature with the participation of politicians, including those taking part in local government elections. Meanwhile, on 28.9.2018, the European Solidarity Centre in Gdańsk held a citizens’ meeting with *Igor Tuleya*, judge of the District Court in Warsaw. The meeting was chaired by *Włodzimierz Brazewicz*, judge of the Court of Appeal in Gdańsk. The Disciplinary Spokesperson of common court judges, Judge *Przemysław W. Radzik* assumed in advance that the meeting in which the judges were to participate was of a political nature, although he himself did not participate in the meeting and was informed about it by the media. Meanwhile, the meeting discussed the independence of the judiciary and judicial independence. The hearing of Judge *Piotr Wangler* as a witness is a gross violation of the law. A judge cannot be questioned as a witness, let alone a defendant, in the course of an investigation conducted by the disciplinary prosecutor.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik* of 8.10.2018, RDSP 712-12/18; legal opinion of Prof. *Katarzyna Dudka* on the material scope of application of Article 114 § 2 of the Act of 27.7.2001. – Law on the common courts system (t. one: Journal of Laws of 2018, item 23).

28. Dorota ZABŁUDOWSKA – Judge of the District Court Gdańsk-Południe in Gdańsk

Judge of the Gdańsk-Południe District Court in Gdańsk *Dorota Zabłudowska* is a member of the Association of Polish Judges “Iustitia”, which has repeatedly criticised the changes introduced by those in power in the area of justice. The judge has publicly expressed critical opinions about the actions of the legislative and executive authorities in the area of the rule of law, human rights and the administration of justice. On 9.12.2018, Judge *Dorota Zabłudowska* received the Gdańsk Equality Award from the Mayor of the City of Gdańsk, *Paweł Adamowicz*. The prize was awarded to the judge for his heroic attitude and tenacity in his efforts to observe human rights and the principles of justice. The justification also appreciated the laureate’s outstanding achievements in building the community of the City of Gdańsk, based on the values of equality, freedom and solidarity. On 14.1.2019, Mayor of the City of Gdańsk *Paweł Adamowicz* died as a result of wounds inflicted on him by an assassin during the final of the Great Orchestra of Christmas Charity. The judge witnessed this attack. On 13.1.2019 she posted a Twitter post on the social networking site: “This is how hate speech ends.” This was an expression of the feelings of Judge *Dorota Zabłudowska*.

On 30.1.2019, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik* called on Judge *Dorota Zabłudowska* to submit a written statement on the disciplinary offence, consisting in posting an entry with the following content on the social networking site Twitter on 13.1.2019: “This is how hate speech ends”.

In addition, on 23.1.2019, the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota* called on Judge *Dorota Zabłudowska* to submit a written statement on the acceptance of the Gdańsk Equality Prize by the Mayor of the City of Gdańsk, *Paweł Adamowicz*. In the opinion of the disciplinary spokesman, accepting the said award from the hands of a politician violates the dignity of the judge’s office.

On 6.6.2019, the Disciplinary prosecutor for judges of common courts *Piotr Schab* published on the website (<https://rzecznik.gov.pl>) a communication concerning the response given to the prosecutor to his inquiry concerning, among others, judge *Dorota Zabłudowska*. In the communiqué and in his letter to the prosecutor he stated that Judge *Dorota Zabłudowska* accepted a financial reward from the accused. Therefore, Judge *Dorota Zabłudowska* publicly demanded that the prosecutor’s announcement be corrected by indicating that his proceedings concerned the acceptance of the Gdańsk Equality Award from the Mayor of the City of Gdańsk.

Shortly afterwards, on 8.6.2019, the deputy disciplinary prosecutor of the judges of common courts, *Michał Lasota*, charged Judge *Dorota Zabłudowska* with a disciplinary offence under Article 107 § 1 of the Act – Law on the System of Common Courts, “by the fact that 9.12.2018 in Gdańsk, being a judge of the Gdańsk-Południe District Court in Gdańsk adjudicating in the 10th Criminal Division, she accepted a prize in the form of a cash bonus from the person being accused in the proceedings before the Gdańsk-Południe District Court in Gdańsk, including the 10th Criminal Division”.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, signed by judge *Piotr Schab* of 30.1.2019, RDSP 712-6/19; Letter from the deputy disciplinary prosecutor for judges of common courts, judge *Michał Lasota* of 23.1.2019, RDSP 712-3/19; Personal interview with *Dorota Zabłudowska*, Judge of the District Court Gdańsk-Południe in Gdańsk, letter and decision of the deputy disciplinary prosecutor of the judges of common courts *Michał Lasota* of 8.6.2019, RDSP 711-75/19.

29. Waldemar ŻUREK – Judge of the District Court in Kraków

Judge *Waldemar Żurek* was a member of the National Council of the Judiciary for two terms of office, and until March 2018 he was a spokesman for the Council. The Judge is a member of the main board of the “Themis” Association of Judges and has repeatedly spoken in public debate on the state of the rule of law in Poland, and in his statements he has always boldly defended the independence of the courts, the independence of judges and the principles of a democratic state under the rule of law, openly criticising the unconstitutional changes introduced in the area of justice by those currently in power. In January 2018, Judge *Waldemar Żurek* was dismissed from the position of the Civil prosecutor of the Regional Court in Kraków. In July 2018, Judge *Waldemar Żurek* was transferred from the 2nd Civil Appeal Division to the 1st Civil Division (1st instance), which was criticized by the Association of Judges “Themis” and the Association of Polish Judges “Iustitia”, which described this decision as politically motivated harassment of this judge and as an attempt to intimidate judges who openly act against actions aimed at political subordination to justice. Judge *Waldemar Żurek* took part in meetings with citizens, where current changes concerning the justice system, including the independence of courts and the independence of judges, were discussed.

Judge *Waldemar Żurek*'s civic activity was met with the reaction of the disciplinary prosecutor, who, among other things, began to scrutinize the professional work of the judge in order to find a reason to initiate disciplinary proceedings.

In a letter dated 8.10.2018, the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik* called on Judge *Waldemar Żurek* to submit a written statement concerning his participation in the meeting in Lublin on 30.9.2018, in particular to state who was the organiser of the meeting, in what capacity the judge participated in the meeting and whether politicians, including those taking part in local government elections, also took part in the meeting.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik*, 8.10.2018, RDSP 712-13/18.

On 22.11.2018, the deputy disciplinary prosecutor for judges of common courts, judge *Michał Lasota* initiated disciplinary proceedings against Judge *Waldemar Żurek* and presented two charges of disciplinary offences to the judge. The first charge concerned failure to file a John Deere 440 Skider sales tax return. The second charge, however, concerned the non-payment of tax on civil law transactions in connection with the sale of that tractor.

Source: The decision of the deputy disciplinary prosecutor of the judges of common courts judge *Michał Lasota* of 22.11.2018 issued in the case of RDSP 712-14/18 on the initiation of disciplinary proceedings against the judge of the District Court *Waldemar Żurek* and presentation of charges of disciplinary offences.

In addition, on 22.11.2018, the deputy disciplinary prosecutor for judges of common courts, judge *Michał Lasota* initiated disciplinary proceedings against judge *Waldemar Żurek* and presented the judge with a charge of violating the dignity of the judge's office by refusing, in the period from 1.9.2018 to 15.10.2018, to perform the judging work in the 1st Civil Department of the Regional Court in Kraków. Judge *Waldemar Żurek* was transferred to this department against his will and appealed against this decision.

Subsequently, on 7.1.2019, the deputy disciplinary prosecutor for judges of common courts, Judge *Michał Lasota* called on Judge *Waldemar Żurek* to make a written statement on the possible violation by the judge of the dignity of the office by giving false (in the opinion of the deputy prosecutor) information to journalists who published this information and to the Prosecutor of the Regional Prosecutor's Office in Warsaw in case PO 1 Ds. 1.2017 during the hearings as a witness on 20.1.2017 and 30.3.2017.

Source: Letter of the deputy disciplinary prosecutor for judges of common courts, judge *Michał Lasota* of 7.1.2019, RDSP 712-15/18.

On 26.8.2019, the deputy disciplinary prosecutor of judges of common courts *Przemysław W. Radzik* initiated disciplinary proceedings against judge *Waldemar Żurek* and accused him of being in the Law portal.pl of the interview entitled "Judge Żurek: Kamil Zaradkiewicz wants to cause chaos in the courts" delivered a political manifesto concerning his views and assessments related to the operation of constitutional state bodies, including the Constitutional Tribunal and the National Council of the Judiciary, and questioned the legitimacy of appointing *Kamil Zaradkiewicz* as a Supreme Court judge. In addition, the disciplinary prosecutor accused judge *Waldemar Żurek* of describing as a 'bill' a legal question to the Constitutional Court on the status of judges appointed on the basis of unconstitutional resolutions of the National Council of the Judiciary in 2011-2015. The disciplinary prosecutor accused Judge *Waldemar Żurek* of having told Judge *Kamil Zaradkiewicz* to act with the intention of (...) safeguarding the Court of Justice of the European Union by asking the Supreme Court, composed of Judge *Kamil Zaradkiewicz*, legal questions to the Constitutional Tribunal. According to the disciplinary spokesman,

Judge *Waldemar Żurek* has addressed to Judge *Kamil Zaradkiewicz* an illegal threat of future stigmatization and accountability for acting to the detriment of the State and citizens. In the opinion of the disciplinary prosecutor *Waldemar Żurek* has violated the principle of apoliticality of judges and the obligation to act in accordance with the oath.

On 21.10.2019, the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik* sent a request to the disciplinary court to consider the case against Judge *Waldemar Żurek* concerning the violation of the dignity of office in the above mentioned subject.

In fact, Judge *Waldemar Żurek* in an interview given to the Law.pl portal criticised the status of the Constitutional Tribunal and the body performing the function of the National Council of the Judiciary, as well as the status of a person – *Kamil Zaradkiewicz* appointed to the position of a judge of the Supreme Court with the participation of the body performing the function of the National Council of the Judiciary, whose legality is challenged at the national and international level. The legal issues raised in the press article concerned important cases in the area of justice, and Judge *Waldemar Żurek*, formulating critical assessments resulting from the constitutionally questionable so-called reforms adopted by the ruling camp, exercised the freedom of expression of his views and opinions guaranteed by Article 54 paragraph 1 of the Constitution, Article 10 paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 11 paragraph 1 of the Charter of Fundamental Rights of the European Union. The right of a judge to criticise actions taken by the legislative and executive authorities in the field of justice which may threaten the independence of the judiciary was confirmed in the *Baka v Hungary* judgment of 27.5.2014 (Application No 20261/12). Also the European Network of Councils for the Judiciary (ENCJ), in a Sofia Declaration adopted on 7.6.2013, confirmed the obligation for a judge to oppose government proposals that may inter alia compromise the independence of judges or councils. Point VII of that declaration states that the common custom of judges not to speak out on political controversies should not apply where the integrity and independence of the judiciary is threatened. Judges across Europe today have a common obligation to express unambiguous and convincing opposition to government proposals that may undermine the independence of judges or judicial councils. Judge *Waldemar Żurek's* criticism referred to the situation in the judiciary, which arose after the so-called reforms introduced by the ruling camp, and to the status of the body acting as the National Council of the Judiciary, whose legitimacy is challenged at national, international and Community level. A ruling of the Court of Justice of the European Union is expected in autumn 2019 which will address the status of the new disciplinary chamber of the Supreme Court and the status of the body acting as the National Council of the Judiciary.

Source: Communiqué of the Disciplinary prosecutor of common court judges *Piotr Schab* of 28.8.2019 on the initiation of disciplinary proceedings against judges who do not comply with the restraining order; order of the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik* of 26.8.2019, RDSP 711-20/19; Communiqué of the Disciplinary prosecutor of common court judges *Piotr Schab* on the termination of disciplinary proceedings against Judge *Waldemar Żurek*.

30. Judges of the District Court in Kraków: *Rafał LISAK, Kazimierz WILCZEK, Wojciech MACZUGA*

The District Court in Kraków, composed of the following judges: *Rafał Lisak, Kazimierz Wilczek, Wojciech Maczuga*, decided to examine the legal status of the court assessor who issued the first instance judgment. To this end, they asked the president of the District Court in Chrzanów for information when the assessor was appointed. The issue was the legality of the new National Judicial Council, whose composition was overwhelmingly shaped by political forces. The judges wanted to check whether the nomination procedure of the assessor involved the previous and legal National Judicial Council, which was abolished in violation of the Polish Constitution, or the new National Judicial Council. The check revealed that the assessor was appointed by the previous and legal National Judicial Council, which removed the doubts of the judges who proceeded to hear the case. However, the whole case has been brought to the attention of the President of the District Court in Kraków, *Dagmara Pawełczyk-Woicka*, who was nominated by the Minister of Justice *Zbigniew Ziobro* and is at the same time a member of the new National Judicial Council, whose status has recently been challenged by the Supreme Court. Judge *Dagmara Pawczyk-Woicka* reported the entire case to the disciplinary prosecutor *Piotr Schab*, who took action in this case. On 25 November 2019, the disciplinary prosecutor of the judges of common courts brought disciplinary charges against the following judges: *Rafał Lisak, Kazimierz Wilczek, Wojciech Maczuga*, consisting in exceeding their powers by granting themselves the competence to assess the proper functioning of the constitutional bodies in the scope of appointing a court assessor at the District Court in Chrzanów. In the opinion of the disciplinary prosecutor, the abovementioned judges took part in the issuance of the decision to postpone the hearing in order to determine whether there is a circumstance which could indicate an improper appointment of a court assessor, which constitutes an illegal interference in the statutory procedure of appointing judges and court assessors to adjudicating panels. Disciplinary prosecutor *Piotr Schab* considered that such a court decision is detrimental to the public interest expressed in the proper functioning of the justice system.

In fact, the judges of the District Court in Kraków: *Rafał Lisak, Kazimierz Wilczek, Wojciech Maczuga* had not only the right but also the obligation to examine the legal status of the court assessor, which is clear from the content of the CJEU judgment of 19 November 2019, concerning the criteria for assessing the status of the Disciplinary Chamber and the National Council of the Judiciary, issued in joined cases: A.K. (C-585/18), CP (C-624/18) and DO (C-625/18). On 5.12.2019. the Supreme Court of the Chamber of Labour and Social Security held that the Disciplinary Board of the Supreme Court is not a court within the meaning of EU law and is therefore not a court within the meaning of national law. Furthermore, the Supreme Court in the Chamber of Labour and Social Insurance stated that the current National Council of the Judiciary is not an impartial body independent of the executive and legislative authority, and indicated that the interpretation contained in the CJEU judgment of 19.11.2019 is binding on every court in Poland, as well as every state authority. Therefore, it was the duty of the

Regional Court in Kraków to examine the legal status of the judicial assessor in connection with the SN challenging the impartiality and independence of the National Council of the Judiciary from the legislative and executive authorities. However, the action of the disciplinary prosecutor, *Piotr Schab*, is inadmissible and fits in with the observed general trend of prosecuting judges for the content of rulings that are inconvenient for those in power, as well as for the application by judges of European law, including respect for CJEU judgments.

Source: Communiqué of the Disciplinary prosecutor for Common Court Judges *Piotr Schab* of 26.11.2019 on initiating disciplinary proceedings against *Rafał Lisak*, *Kazimierz Wilczek*, *Wojciech Maczuga*; judgment of the Supreme Court of 5.12.2019 in case III PO 7/18; judgment of the CJEU of 19.11.2019 in joined cases: A.K. (C-585/18), CP (C-624/18) and DO (C-625/18).

Apart from the above mentioned cases, the deputy disciplinary prosecutor of common court judges *Przemysław W. Radzik* directs his activity against judges who initiate resolutions adopted by general assemblies of judges and judges' representatives at district and appeal level.

On 16 January 2019, he demanded from the President of the Court of Appeal in Kraków, judge *Rafał Dzyr*, to send a photocopy of the resolutions adopted during the meeting of the representatives of the judges of the Kraków Appellate Court on 12 October 2018, a photocopy of the minutes of that meeting, as well as a photocopy of the list of judges present at the meeting of the representatives of the judges of the Kraków Appellate Court on 12 October 2018. In addition, the deputy disciplinary prosecutor requested information regarding the person or persons who took part in the drafting of the resolutions that were adopted for the said meeting, including whether these drafts were drafted before the date of the meeting and, if so, when and by whom, and whether, on whose instructions and by whom they were distributed to the judges by means of official e-mail.

The action of the disciplinary prosecutor was due to the fact that at the meeting on 12.10.2018 Representatives of the Krakow Appellate Judges adopted a number of resolutions:

- criticised the actions and omissions of the Minister of Justice and the legislature which negatively affected the functioning of the courts;
- they condemned the actions taken by the politicised disciplinary bodies of common courts, including the unfounded questioning of judges as witnesses and defendants, as well as the checking of case files conducted by judges (the so-called sweeping of papers),
- they criticised the amendments to the Acts of 8.12.2017 on the Supreme Court and of 8.12.2017 amending the Act on the National Council of the Judiciary and certain other acts which do not guarantee the transparency of the process of selecting candidates for judges of the Supreme Court and lead to politicisation of the process;
- expressed their disapproval of the decision of the current President of the District Court in Kraków, *Dagmara Pawełczyk-Woicka*, to transfer District Court judge

Waldemar Żurek to another department of the District Court without substantive grounds and in violation of the law;

- expressed their disapproval of the action taken by the President of the Republic of Poland, *Andrzej Duda*, in handing over the nominations to persons elected to the Supreme Court following a procedure that raised serious constitutional doubts and despite the safeguards applied by the Supreme Administrative Court and the ongoing proceedings before the Court of Justice of the European Union concerning the Supreme Court Act. The judges concluded that the action of the President of the Republic of Poland destabilizes the legal situation and lowers confidence in the courts and their rulings, and makes a real problem of the President's accountability to the State Tribunal;
- they criticised the solutions adopted in the Act of 8 December 2017 amending the Act on the National Council of the Judiciary and certain other acts, pointing to constitutional reservations.

Source: Letter from the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik*, 16.1.2019, RDSP 712-1/19; resolutions of the Assembly of Representatives of the Judges of Krakow Appellate Judges, 12.10.2018 (<https://iustitia.pl>).

On 16.1.2019, the deputy disciplinary prosecutor of the judges of common courts *Przemysław W. Radzik* demanded from the President of the District Court in Poznań, the judge of the Court of Appeal *Krzysztof Lewandowski* to send a photocopy of the resolutions adopted during the meeting of the Representatives of the District Court in Poznań on 3.1.2019, a photocopy of the minutes of that meeting, as well as a photocopy of the name list of judges present at the meeting on 3.1.2019. In addition, the deputy disciplinary prosecutor requested information regarding the person or persons who participated in the drafting of the resolutions that were adopted for the meeting in question, including whether these drafts had been drafted prior to the date of the meeting and, if so, when and by whom, and whether, on whose instructions and by whom they were distributed to the judges by official e-mail.

The disciplinary prosecutor's actions resulted from the fact that at the meeting on 3.1.2019 judges The Representatives of the Judges of the District Court in Poznań adopted a resolution to refrain from giving an opinion on the candidates to hold office as district court judges in the area of the District Court in Poznań until the Court of Justice of the European Union has resolved the questions referred for a preliminary ruling by the Supreme Court and the Supreme Administrative Court on the compatibility with the principles of European Union law of the process of appointing judges of the new National Council of the Judiciary and the procedure for appointing judges with the participation of that body. The judges of the Poznań district also supported the same positions expressed in previous resolutions adopted by judges in other districts at appeal and district level.

In addition, judges Representatives of District Court Judges in Poznań criticised the way in which the competition for vacant judges' positions in the District Court in Poznań was conducted, which were published in *Monitor Polski* of 2018, item 283, indicating

that the selection of the majority of candidates was made according to an extra-territorial key, which carries a high risk of violating the right to a fair trial guaranteed by Article 45 of the Constitution of the Republic of Poland, Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms or Article 47 of the Charter of Fundamental Rights.

Source: Letter of the deputy disciplinary prosecutor for judges of common courts, Judge *Przemysław W. Radzik* of 16.1.2019, RDSP 712-1/19; resolutions of the Representatives of District Court Judges in Poznań of 3.1.2019. (<https://iustitia.pl>).

31. Judges of the Court of Appeal in Katowice, *Aleksandra JANAS* and *Irena PIOTROWSKA*

Judges *Aleksandra Janas* and *Irena Piotrowska* adjudicate in the Court of Appeal in Katowice which hears appeals against decisions issued by district courts. While examining the appeal against the judgment of the Gliwice regional court in a divorce case, the judges decided to examine the legal status of a judge sitting in the court who issued the decision at first instance. To this end, on 11 December 2019, judges *Aleksandra Janas* and *Irena Piotrowska* decided to ask a legal question to the Supreme Court. The judges requested an answer to the question whether it could have been considered a duly attained court if the adjudicating judge had been appointed by the new, politicized National Council of the Judiciary. Deciding on the status of a judge issuing a ruling is crucial to resolving a case. If the composition of the adjudicating court is contrary to the provisions of law, it shall result in invalidity of the proceedings. Decision issued by judges *Aleksandra Janas* and *Irena Piotrowska* aimed to assess, among others legal status of the body performing the function of the National Council of the Judiciary in terms of meeting the criteria set out in the judgment of the CJEU of 19 November 2019, in joint cases AK (C-585/18), CP (C-624/18) and DO (C-625/18). Thus, judges *Aleksandra Janas* and *Irena Piotrowska*, by asking a legal question to the Supreme Court, acted on the basis and within the limits of the law, applying the judgment of the CJEU of 19 November 2019, to which they were obliged.

Aleksandra Janas and *Irena Piotrowska* together with judge *Paweł Juszczyzyn* are all judges who took responsibility for the implementation of the CJEU judgment of 19 November 2019, which met with an immediate reaction of a closed disciplinary/clerical system created by politicians in power in Poland, which has always had one goal – to take control over the courts.

On 15 December 2019, Deputy Disciplinary Spokesman for Judges of Common Courts *Przemysław Radzik* initiated disciplinary proceedings against judges *Aleksander Janas* and *Irena Piotrowska*, accusing them of committing the crime of abuse of power. According to the deputy disciplinary spokesperson, judges *Aleksandra Janas* and *Irena Piotrowska* exceeded their powers, granting themselves the competence to assess how the new National Council of the Judiciary works in the way of selecting some members

of this body and how to appoint a specific judge with the participation of the new National Council of the Judiciary. *Przemysław Radzik*, the deputy disciplinary spokesman, assessed the legal question directed to the Supreme Court by judges *Aleksandra Janas* and *Irena Piotrowska* as unlawful interference in the statutory manner of appointing judges to adjudication panels.

Then, on 18 December 2019, deputy disciplinary spokesperson of judges of common courts *Przemysław W. Radzik* submitted to the Disciplinary Chamber operating at the Supreme Court applications for suspension of judges *Aleksandra Janas* and *Irena Piotrowska* in official duties with a reduction of the remuneration by 25% to 50% for the duration of this suspension.

Judges of the Court of Appeals in Katowice *Aleksandra Janas* and *Irena Piotrowska* had not only the right but also the obligation to examine the legal status of a judge who was appointed to their office with the participation of the new National Council of the Judiciary, which clearly follows the judgment of the CJEU of 19 November 2019 regarding criteria for assessing the status of the Disciplinary Chamber and the National Council of the Judiciary, issued in joined cases AK (C-585/18), CP (C-624/18) and DO (C-625/18). On 5 December 2019 the Supreme Court in the Chamber of Labor and Social Security found that the Disciplinary Chamber of the Supreme Court is not a court within the meaning of EU law, and thus is not a court within the meaning of national law. In addition, the Supreme Court in the Chamber of Labor and Social Security stated that the current National Council of the Judiciary is not an impartial body independent of the executive and legislative power. Further, it indicated that the interpretation contained in the judgment of the CJEU of 19 November 2019 binds every court in Poland, as well as any state authority. Therefore, research into the legal status of judges in connection with the Supreme Court challenging the impartiality and independence of the National Council of the Judiciary from legislative and executive authorities was the responsibility of the Regional Court in Olsztyn. However, the action of the deputy disciplinary spokesman *Przemysław Radzik* is unacceptable and is part of the observed general trend of prosecuting judges for the content of issued judgments that are inconvenient for those in power, as well as for the application of European law by judges, including for respecting the judgments of the CJEU. In turn, the application for suspension of judges *Aleksandra Janas* and *Irena Piotrowska* is an example of the instrumental use of law by the deputy disciplinary spokesperson in order to cause a freezing effect in the judiciary. It is also a blatant example of the abuse of power by spokespersons for political purposes. Judges throughout Poland provided various support to judges *Aleksandra Janas* and *Irena Piotrowska*, condemning the political activities of disciplinary spokespersons.

Source: Announcements of the Disciplinary Spokesperson of the General Court Judges *Piotr Schab* on 15 and 18 December 2019 regarding the initiation of disciplinary proceedings against judges *Aleksandra Janas* and *Irena Piotrowska*; Supreme Court judgment of 5 December 2019 issued in case III PO 7/18; judgment of the CJEU of 19 November 2019 in joined cases AK (C-585/18), CP (C-624/18) and DO (C-625/18).



Chapter II.

The actions of representatives of the executive, law enforcement agencies (including the Prosecutor's Office), the body acting as the National Council of the Judiciary, court presidents nominated by the Minister of Justice as a result of the amendment of the law regulating the judicial system, which violates the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms, which targeted the independence of courts and the independence of judges (SOFT REPRESSIONS).

1. Judge *Łukasz BILIŃSKI*

COURT

District Court for Warsaw-Centre in Warsaw

DEPARTMENT

Department III Family and Minors

KIND OF REPRESSION

the transfer of a judge to another department without his consent, with features of chicanery

DATE

March 2018 – June 2019

DETAILS

The judge handed down a verdict acquitting three activists of the Polish citizens who, according to the Police, were supposed to obstruct and block the march during the Smolensk monthly and thus break the Law and Justice on Assemblies amended by the parliamentary majority. The judge handed down a few other judgments which did not appeal to the representatives of the current government.

In 2019, the District Court for Warsaw-Centre was liquidated. All the judges ruling so far in this department were transferred to the criminal division, with the exception of Judge *Łukasz Biliński*, who, by decision of the President of the District Court for Warszawa-Śródmieście in Warsaw, Maciej Mitera (a member of the body acting as the National Council of the Judiciary) was transferred to the family division (at the same time, a judge from the family division without her application was transferred to the civil division). The judge had already sought to have him transferred from the offending department to the criminal department, and to this end he improved his qualifications by undertaking postgraduate studies in commercial criminal law in 2018. The President of the Warsaw-Centre District Court promised the judge that the issue of his transfer to the penal division would be reconsidered on the occasion of the liquidation of the department dealing with the handling of misdemeanour cases.

Source: <https://siedlecka.blog.polityka.pl/2019/06/17/sedzia-bilinski-w-odstawke/>; direct interview with judge *Łukasz Biliński*.

2. Judge *Monika FRĄCKOWIAK*

COURT

District Court Poznań Nowe Miasto and Wilda in Poznań

DEPARTMENT

Civil Division V

KIND OF REPRESSION

a proposal for a deal for a judge undergoing disciplinary proceedings

DATE

April 2019

DETAILS

In 2017, a judge stated that the Constitutional Court is a farce and the Minister of Justice appoints as presidents of the courts people with a rather dubious reputation in the judicial community. Her statements led to the first disciplinary proceedings. She was also charged with going to a meeting with Danish judges during her sick leave, and was also accused of delaying the writing of her explanations. The latter charge was preceded by an examination of the judge's performance by the deputy disciplinary prosecutor (as referred to in Chapter 1).

In April 2019, the President of the District Court of Nowe Miasto and Wilda asked the above judge and informed her that he had a proposal for her from the deputy disciplinary prosecutor, *Przemysław W. Radzik*, with whom he met on the examination committee for trainee advocates. The offer was to be that if the judge admitted the disciplinary charges against her, she would receive the mildest penalty – reprimand.

Judge *Monika Frąckowiak* firmly refused to take part in the arrangement proposed to her.

Source: <https://koduuj24.pl/sedzia-monika-frackowiak-ujawnia-bulwersujace-praktyki-rzecznikow-dyscyplinarnych/>; direct interview with Judge *Monika Frąckowiak*.

3. Judge *Alicia FRONCZYK*

COURT

Court of Appeal in Warsaw

DEPARTMENT

Civil Division V

KIND OF REPRESSION

1. the vilification of a judge in the media by representatives of the legislative and executive authorities,
2. requesting the initiation of disciplinary proceedings against a judge in connection with his judicial activity.

DATE

1. April 2009
2. September 2016

DETAILS

1. The judge handed down a verdict on the Law and Justice party election spot. The court under her leadership banned the broadcasting of a commercial. *Jarosław Kaczyński*, a member of the Law and Justice party (PiS), criticised the judge for calling her a young lady, who decided that in Poland everything is decided by Brussels and the Polish government has nothing to say. The President of the Law and Justice party indicated that he would like Poles to disapprove of such people, like your judge, in the Polish state apparatus.

On 18.3.2010. President *Lech Kaczyński* signed a decision to appoint the above mentioned to the position of a district court judge;

2. *Robert Kropiwnicki*, a member of Platforma Obywatelska, a party member of the Civic Platform party, was sued before the court for the protection of his personal rights. Minister *Patryk Jaki* raised in the trial that he was protected by immunity, because his words were spoken from the parliamentary rostrum, so he should not bear any consequences. The judge refused to reject the claim, considering that the case could be the

subject of a civil trial. She added that *Patryk Jaki*'s statement had nothing to do with the work of the Sejm, which was carried out at the time. The Deputy Minister assessed that the judge's attitude was biased. *Patryk Jaki* indicated that he did not agree with the situation in which judges treat Members of Parliament selectively and recognise the immunity of a Member who appears on television, and did not recognise the immunity of a Member who speaks from the Sejm rostrum. He pointed out that this was the judge's revenge for criticising the courts. He requested disciplinary proceedings against the judge. On 22 March 2018, President *Andrzej Duda* presented the above judge with the act of appointment to the position of a judge of a court of appeal.

Source: <https://wiadomosci.dziennik.pl/polityka/artykuly/147938,kaczynski-zaatakowal-sedzie-bo-jest-mloda.html>; <https://gazetaprawna.pl/artykuly/974734,patryk-jaki-grozil-sedzi-na-rozprawie-wiceminister-sprawiedliwosci.html>; direct interview with Judge *Alicia Fronczyk*

4. Judge *Justyna KOSKA-JANUSZ*

COURT

District Court for Warsaw-Centre in Warsaw

DEPARTMENT

Section II Penal Code

KIND OF REPRESSION

the vilification of judges in the media by representatives of the legislative and executive authorities

DATE

October, 2016

DETAILS

The Minister of Justice shortened the delegation of a judge to a higher court, at the same time issuing an announcement and posting it on the Ministry's website, which indicated that the judge had shown exceptional ineptitude and had completely failed to manage to run a simple but media loud case.

The judge brought an action against the Ministry of Justice for infringement of personal rights. The judge's claim was upheld by the court, which ordered the judge to apologize and the Ministry of Justice to remove the message. On 1 October 2019, the Court of Appeal in Warsaw issued a verdict confirming that the Ministry of Justice, represented by *Zbigniew Ziobro*, must apologize to judge *Justyna Koska-Janusz*, but does not have to remove the message from the Ministry.

Years ago, *Zbigniew Ziobro* was a private prosecutor in the trial conducted by *Justyna Koska-Janusz*. *Zbigniew Ziobro* lost the trial, moreover, during the course of the trial he was punished by the court with a fine of 2,000 pln.

Source: <https://natemat.pl/234327,zbigniew-ziobro-musi-przeprosic-sedzie-justyne-koske-janusz>; <https://tvn24.pl/wiadomosci-z-kraju,3/zbigniew-ziobro-przebral-proces-z-sedzia-justyna-koska-janusz,826121.html>; <https://tvn24.pl/wiadomosci-z-kraju,3/ministerstwo-sprawiedliwosci-ma-opublikowac-przeprosiny-dla-sedzi-justyny-koski-janusz,973721.html>; direct interview with Judge *Justyna Koska-Janusz*

5. Judge *Marta KOŻUCHOWSKA-WARYWODA*

COURT

District Court for Warsaw-Wola in Warsaw

DEPARTMENT

Section VII of the Enforcement of Decisions

KIND OF REPRESSION

the vilification of judges in the media by representatives of the legislative and executive authorities

DATE

July 2018

DETAILS

The judge applied for a post at the Provincial Administrative Court. At a meeting of the body acting as the National Council of the Judiciary, on the day when the Council adopted resolutions recommending to the President the appointment of judges to positions in individual courts, one of the members of this body – a member of the Law and Justice party *Krystyna Pawłowicz* – accused the judge of being de-politicised because of her visit to the European Parliament and because of her participation in the public debate in defence of judicial independence and the independence of judges. *Krystyna Pawłowicz* presented a list of judges who, in her opinion, travelled to Brussels to “broadcast to Poland”; this list included Judge *Marta Kożuchowska-Warywoda*. The chairman of the body acting as the National Council of the Judiciary ordered that a photocopy of the list be made and submitted to all members of that body.

The candidacy of the judge did not receive a single vote of support.

Source: https://rmf24.pl/tylko-w-rmf24/tomasz_skory/blogi/news-krajowa-rada-weryfikacyjna,nId,2605310#utm_source=paste&utm_medium=paste&utm_campaign=other%20; <https://iustitia.pl/en/123-new-krs/2431-meeting-of-the-members-of-the-national-council-of-judiciary-in-poland-12th-of-july-2018>; direct interview with Judge *Marta Kożuchowska-Warywoda*.

6. Judge *Wojciech ŁĄCZEWSKI*

COURT

District Court for Warsaw-Centre in Warsaw

DEPARTMENT

Civil Division I

KIND OF REPRESSION

requesting the initiation of disciplinary proceedings in connection with the judicial activity of a judge

DATE

December, 2016

DETAILS

Judge *Wojciech Łączewski* gave an interview to *Gazeta Wyborcza* in which he explained that the conviction of *Mariusz Kamiński*, a politician from the Law and Justice party, was not handed down by him, but by a court composed of three professional judges, which he chaired. He said that the verdict in this case was unanimous.

By letter of 5.12.2016 The Minister of Justice submitted a request to the Disciplinary prosecutor to initiate proceedings against a judge, suggesting that the judge revealed the secrecy of the judge's deliberations and voting on the judgment, in violation of the provisions of the Code of Penal Procedure.

The deputy disciplinary prosecutor at the Regional Court in Warsaw refused to initiate disciplinary proceedings. The Minister submitted a complaint to the Disciplinary Court at the Court of Appeal. The Disciplinary Court at the Court of Appeal in Warsaw upheld the first instance decision.

Source: <https://oko.press/news-oko-press-bedzie-dyscyplinarki-dla-sedziego-laczewskiego-domagal-sie-minister-ziobro/>; letter from the Minister of Justice of 5.12.2016; direct interview with judge *Wojciech Łączewski*.

7. Judge *Irena MAJCHER*

COURT

District Court in Opole

DIVISION

Section VIII of the National Court Register

KIND OF REPRESSION

initiation of criminal proceedings by the prosecutor's office in connection with the judge's judicial activity

DATE

2018–2019

DETAILS

Nearly 20 years ago, the Sejm passed laws that obliged companies to register with the National Court Register, which replaced the previous Commercial Register B (RHB). The companies had a limited time to reregister, the deadline was postponed several times. Another amendment to the law introduced a deadline for transferring the company to the National Court Register by the end of 2015. Failure to do so could result in the loss of assets that were transferred to the State Treasury under the Act. However, one of the companies did not reregister within the deadline imposed by the Act and as a result lost ownership of property. The authorities of the above mentioned company therefore submitted a notification to the prosecutor's office on suspicion of committing a crime. Initially, the case was conducted by the Opole prosecutor's office, then it was taken over by the Internal Affairs Department of the National Prosecutor's Office – appointed to prosecute judges and prosecutors. In the course of the proceedings, prosecutors considered that a judge should have initiated proceedings to force the company to re-register from the RHB to the NCJ, and if it still does not do so, it should impose a fine on it. The prosecutors found that the judge, when deciding on the loss of the company's assets, committed an offence under Article 231 § of the Criminal Code. (failure to fulfil her duties) and filed a motion to the Court of Appeal in Wrocław – the disciplinary court – to waive the judge's immunity. In January 2019, the disciplinary court of first instance refused to waive its immunity. The Prosecutor's Office appealed to the Disciplinary Chamber of the Supreme Court in Warsaw. The examination of the case set for 19.9.2019 was postponed without a deadline due to formal requests of the judge's defenders.

Source: <https://oko.press/prokuratura-sciga-sedzie-z-opola/>; direct interview with Judge *Katarzyna Kałwak*.

8. Judge *Tomasz MARCZYŃSKI*

COURT

District Court in Bełchatów

DEPARTMENT

Department III Family and Minors

KIND OF REPRESSION

unjustified transfer without the consent of the judge to another department in the court and dismissal from the post of deputy head of the department

DATE

8.10.2018 – February 2019

DETAILS

Judge *Tomasz Marczyński* is Vice President of the Association of Polish Judges “Iustitia”, he ruled in the 3rd Family and Minors Department of the District Court in Bełchatów

and served as Deputy President of this department. By order of 8.10.2018. The President of the District Court in Bełchatów changed the scope of his activities in such a way that he transferred the judge, without his consent, on a part-time basis to the 1st Civil Department of the above mentioned court. He did so without providing any justification, moreover, despite the fact that a study commissioned by the Ministry of Justice on the level of employment of the family and juvenile divisions of the District Court in Bełchatów showed that the granted limit of judicial posts (3) is appropriate for the tasks of the family division of this court. The Family and Minors Division does not have a surplus of staff, and the judges of this division in all the main categories of cases are much more affected and handle more cases than the national average (in some categories even by 50–60%). In addition, Judge *Tomasz Marczyński* was dismissed from the post of Deputy President of the III Family and Minors Department at the end of February 2019.

Source: direct interview with Judge *Tomasz Marczyński*.

9. Judge *Alexandra MAREK-OSSOWSKA*

COURT

District Court in Toruń

DEPARTMENT

Section II Penal Code

KIND OF REPRESSION

unjustified transfer to another department, harassment through administrative supervision, deterioration of working conditions

DATE

May – December 2018.

DETAILS

In the period from May to December 2018, the vice-president of the District Court in Toruń, *Krzysztof Dąbkiewicz* tried four times to move the judge of the District Court in Toruń, *Aleksandra Marek-Ossowska*, from the penal department to the economic department, after 20 years of working only in the penal division.

In May, the vice-president of the District Court submitted the first motion to transfer the judge to the economic department. The College of the District Court gave an unequivocal negative opinion on this motion, considering that he is not the youngest judge in the penal division or in the previous department – the 12th penal division. The youngest seniority judge in the department was the vice-president of the District Court, who came to him 6 years later than Judge *Aleksandra Marek-Ossowska*. The College appointed a judge from the criminal enforcement department as a person who should go to the economic department and assist him. For procedural reasons this transfer did not take place.

At that time, the judge informed the members of the College that she was updating Prof. *Andrzej Marek's* manual “The Law of Offences, Material and Procedural Law” and that she started working on her interrupted doctorate in criminal law.

Despite this, the vice-president of the District Court, responsible for the penal division, in June, again proposed Judge *Aleksandra Marek-Ossowska* and another judge from the penal division to be transferred to the economic division.

Again, the Regional Court (already in a different composition after the change of regulations) gave a negative opinion on this proposal and named the latter judge and again a judge from the executive division as persons to be transferred. The College of the Court of Appeals, a day before the change of regulations, took into account their appeals.

In September, the Deputy President of the District Court for the third time submitted a motion to the College S.A. for the transfer of Judge *Aleksandra Marek-Ossowska* and the President of Section XII of the Penal Executive, Judge *Mariola Adamczyk*, justifying this by the fact that Section XII of the Penal Executive was abolished as of 1 October 2018. The College again gave a negative opinion on the proposal to transfer both judges. A negative written opinion was also expressed by the Vice-President of the District Court responsible for the penal division. Despite the negative opinion, in October 2018 Judge *Aleksandra Marek-Ossowska* and Judge *Mariola Adamczyk* from the former Department XII Penal Division were delivered new divisions of activities. The designated judges appealed against this division of activities to the NCJ.

In December 2018, while not waiting for the previous appeal to be resolved, they were delivered new divisions of actions providing for judgement in the Commercial Department in 2019. They re-submitted appeals, which in January 2019. The NCJ took note of these appeals, indicating that in such situations the youngest vertical traineeship should be transferred.

At the end of September 2018, the vice-president of the District Court ordered Judge *Aleksandra Marek-Ossowska* to leave the room she had occupied so far and moved her to a room without a telephone, internet, with wardrobes on the archive in very poor condition. At the same time, he took the secretary, with whom she had worked for over 10 years, and did not allocate a parking space. He also took administrative supervision of all 120 cases from her division, ordering her to write monthly reports on each of these cases.

Moreover, in December 2018, the Vice-President of the District Court drew her attention pursuant to Article 37 – Law on the organization of common courts, justifying this by the fact that she was not supposed to give a run for the cases remaining in her division. She made reservations from the remark, pointing out that in all the cases mentioned in the remark, a run was already given. However, the Deputy President did not take into account the judge's objections and referred the case to the disciplinary court, motivating this by the fact that the cases were not solved with sufficient solvency. In March 2018, the disciplinary court at the Court of Appeal in Gdańsk took into account the reservations of Judge *Aleksandra Marek-Ossowska* in full and overruled the attention paid.

Source: direct interview with Judge *Aleksandra Marek-Ossowska*.

10. Judge *Kristian MARKIEWICZ*

COURT

District Court in Katowice

DEPARTMENT

4th Civil Appeals Division

KIND OF REPRESSION

vilification of a judge in the media by representatives of the legislative and executive authorities, announcement of responsibility for the judiciary

DATE

December 2016

DETAILS

Judge *Krystian Markiewicz* is President of the Association of Polish Judges “Iustitia”, PhD in legal sciences, Associate Professor at the University of Silesia. The publicist of ‘Do Rzeczy’ asked the Minister of Justice about the statement of the judge, who stated that he would ignore the judgments of the Constitutional Tribunal issued in a composition contrary to the Basic Law and contradictory to the existing case law of the Constitutional Tribunal. The Minister pointed out that courts and judges are obliged to comply with the law in force in Poland and that non-compliance with the provisions and judgments of the Constitutional Tribunal is subject to disciplinary responsibility and consequences. The Minister pointed out that if a judge behaves in this way, his jurisprudence will be evaluated and he will take responsibility for his decisions.

Source: <https://dorzeczy.pl/17603/Ziobro-Dyscyplinarka-za-nieprzestrzeganie-przez-sady-wyrokow-TK.html>; <https://tvn24.pl/wiadomosci-z-kraju,3/ziobro-o-karaniu-sedziow-nieprzestrzegajacych-wyrokow-nowego-tk,701704.html>; direct interview with Judge *Krystian Markiewicz*.

11. Judge *Andrzej OLSZEWSKI*

COURT

Court of Appeal in Szczecin

DEPARTMENT

Section II Penal Code

KIND OF REPRESSION

requesting the initiation of disciplinary proceedings in connection with the judicial activity of a judge

DATE

March 2017

DETAILS

The judge ruled on the conditional early release of *Ryszard D.* Shortly afterwards, *Ryszard D.* abducted a 12-year-old girl:

- on 3.4.2017 The Minister of Justice submitted a request to the then Disciplinary prosecutor of the Judges of the Common Courts to take disciplinary action against *Andrzej Olszewski*, the reason being a gross violation of the provisions of criminal proceedings by the court's failure to reach a psychiatric opinion on the case for early release of *R. D.* before issuing a positive decision for the convicted person;
- 26.7.2017 The Disciplinary prosecutor refused to initiate disciplinary proceedings;
- The Minister of Justice challenged this order;
- 2.10.2017 Court of Appeal – Disciplinary Court in Gdańsk, the complaint was not accepted and the contested decision was upheld.

In September 2017, the Central Anti-Corruption Bureau initiated an inspection of the property statements of the judge and his wife, who is also a judge, for the last 5 years. The inspection lasted for almost 6 months. Judge *Andrzej Olszewski* was, among other things, interviewed three times for the minutes and submitted four written explanations, answering very detailed questions related to his and his wife's finances. Cash flows on bank accounts for the last 5 years were analysed very carefully. The audit concluded with the finding of an alleged minor deficiency due to the possession of the rest of the salary for December on 31.12.2017. Therefore, Judge *Andrzej Olszewski* refused to sign the control protocol on 24.4.2018. His earlier reservations to the control protocol were not taken into account by the CBA.

Source: <https://prawo.gazetaprawna.pl/artykuly/1032856,ziobro-dyscyplinarka-sedzia-przedterminowe-zwolnienie-porywacza>; direct interview with Judge *Grzegorz Kasicki* – District Court in Szczecin; direct interview with Judge *Andrzej Olszewski*.

12. Judge *Agnieszka PILARCZYK*

COURT

District Court for Kraków-Śródmieście in Kraków

DEPARTMENT

Section II Penal Code

KIND OF REPRESSION

initiation of criminal proceedings by the prosecutor's office in connection with the judge's judicial activity

DATE

February 2017

DETAILS

The judge conducted the trial concerning the death of *Zbigniew Ziobro*'s father. In the course of the proceedings, evidence from the opinion of expert doctors was admitted, who for their opinion submitted a bill in the amount of PLN 370,000. The judge issued a decision on awarding costs to experts, which was appealed against by the prosecutor and then revoked by the District Court in Kraków for re-examination as a result of an instance control.

On 3.2.2017. Regional Prosecutor's Office in Katowice – Independent Department for Medical Errors initiated an investigation (RP V Ds. 2.2017) in the case of exceeding the powers and failure to fulfil the duties of the judge presiding over the one-person composition of the District Court for Kraków-Śródmieście in Kraków in the course of proceedings under file no. XIV K 709/11/S, i.e. for the offence under Article 231 § 1 of the Code of Criminal Procedure. A copy of the decision to initiate criminal proceedings was sent by fax on the morning of the day of the hearing to the President of the District Court for Kraków-Śródmieście, concerning the death of the father of *Zbigniew Ziobro*. On this basis, the family of the deceased filed a motion to exclude the judge who was not considered.

In the case of the death of *Zbigniew Ziobro*'s father, the charges were brought by the Malopolska Regional Department of the Department for Organised Crime and Corruption of the National Prosecutor's Office in Krakow.

Source: <https://rp.pl/Sadownictwo/302079863-Krakowska-sedzia-ma-postepowanie-karne.html>; <https://krs.pl/pl/aktualnosci/d,2017,2/4618,stanowisko-krajowej-rady-sadownictwa-z-dnia-10-lutego-2017-r-w-przedmiocie-zagrozen-niezawislosci-sedziowskiej-zwiazanych-z-dzialalnoscia-prokuratury>; direct interview with Judge *Agnieszka Pilarczyk*.

13. Judge *Bartłomiej PRZYMUSIŃSKI*

COURT

District Court Poznań-Stare Miasto in Poznań

DEPARTMENT

X Economic Division

KIND OF REPRESSION

closure of the department and transfer to another department with repressive features

DATE

March 2019-April, 2019

DETAILS

The judge who was a spokesman for the SSP "Iustitia" was at the same time the president of the economic department in the Poznań-Stare Miasto District Court in Poznań. The Minister of Justice without rational justification decided to liquidate one of the economic departments, whose chairman was the spokesperson of "Iustitia", acting to the detriment of citizens, employees and organization of the above mentioned

court. In 2018, the department was the only one to have mastered the influence in the GC (these are the most important cases, trials, on the hearings) and had the best rate of speed of proceedings.

Source: <https://wiadomosci.onet.pl/kraj/poznan-bartlomiej-przymusiński-rezygnuje-z-funkcji-w-sadzie/ytv9nhg>; Ordinance of the Minister of Justice of 29.3.2019 on the abolition of certain divisions in district courts and amending the Ordinance on the establishment of divisions in district courts; direct interview with Judge *Bartłomiej Przymusiński*.

14. Judge *Adam SKOWRON*

COURT

District Court in Tarnowskie Góry

DEPARTMENT

Department III Family and Minors

KIND OF REPRESSION

requesting the initiation of disciplinary proceedings in connection with the judicial activity of a judge

DATE

April 2017

DETAILS

The judge ruled on the release from the juvenile shelter of *Weronika G.*, suspected of murder in Piekary Śląskie. The Minister of Justice asked the deputy disciplinary prosecutor to initiate disciplinary proceedings against the judge. A decision was made to refuse to initiate proceedings. The Minister filed a complaint. The Court of Appeal in Kraków did not accept the Minister of Justice's complaint and maintained the decision to refuse to initiate disciplinary proceedings against that judge.

Source: <https://plus.dziennikzachodni.pl/wiadomosci/a/zbigniew-ziobro-przegral-a-sedzia-z-tarnowskich-gor-uniknie-dyscyplinarki-ws-zabojstwa-w-piekarach,12570896>.

15. Judge *Igor TULEYA*

COURT

District Court in Warsaw

DEPARTMENT

Section VIII Penal Code

KIND OF REPRESSION

- the vilification of judges in the media by representatives of the legislative and executive authorities

- requesting the initiation of disciplinary proceedings in connection with the judicial activity of a judge

DATE

1. December 2016
2. January 2013

SPECIFICS

1. The court, which, under the leadership of the judge, examined the complaint against the prosecutor's decision to discontinue the proceedings in the case of the session of the Sejm in the Column Room, repealed the decision and ordered the prosecutor to continue the case. In an interview with wPolityce.pl, a member of the Law and Justice party *Krystyna Pawłowicz* said that the judge is an extremely jealous judge, he is known for his hatred and verbal attacks against those in power, he is so politically biased that he should be excluded from conducting political cases, because he is irremovably charged with suspicion of bias. She expressed the hope that he would be the first person to be prosecuted in the new Supreme Court's Disciplinary Chamber for his bias and political motivation.

2. The Minister of Justice submitted a motion for disciplinary proceedings against the judge who, justifying the verdict in the case of cardiac surgeon *Mirostaw G.*, criticised the actions of the Central Anti-Corruption Bureau and the prosecutor's office, comparing them to methods from the Stalinist period. The Minister pointed out that the judge conducting the case was four years old to find irregularities and pass them on to the prosecutor's office for investigation, and since he did not do so, it means that he did not find such irregularities; he concluded the case with a verdict and a justification in which he did not indicate any irregularities which he would assess as a crime. However, he resorted to polemics of a political nature, which involved the court in the current political dispute and thus damaged confidence in the office of the judge and his objectivity.

Source: <https://wpolityce.pl/polityka/372552-nasz-wywiad-prof-pawlowicz-o-decyzji-sadu-ws-glosowania-16-grudnia-sedzia-tuleya-naduzywa-swej-funkcji-do-walki-politycznej>; <https://m.deon.pl/wiadomosci/polska/art,16415,dyscyplinarka-dla-tulei-tego-chce-z-ziobro.html>.

16. Judge *Monika ZIELINSKA*

COURT

District Court in Wodzisław Śląski

DEPARTMENT

Department III Family and Minors

KIND OF REPRESSION

examination of judge's decisions by the prosecutor's office

DATE

June – December 2018

DETAILS

A few days after a judge for onet.pl gave an interview in which she commented on the current situation in the District Court in Wodzisław Śląski, including the use of bullying by the former president, to the President of the District Court, as well as to the President of the District Court in Gliwice, the following ads signed “worried residents of Wodzisław Śląski” started to be received, informing that the judge judges evaluate others and acts illegally, including accepting bribes. The presidents, on the basis of the anonyms, filed a notice of suspicion of committing an offence of insulting a judge (the investigation was discontinued due to failure to detect the perpetrator). At the same time, the District Prosecutor’s Office in Racibórz decided to check whether the judge did not commit the acts described in the anonymous letter, and thus whether he or she committed a bribery. Within the framework of these proceedings, the investigators addressed questions to the President of the District Court in Wodzisław Śląski concerning, inter alia, the judge’s judicial activity in the last five years. They wanted to know how many judgements she had made during that period were contested by the parties and in what percentage of cases they were overturned, whether there were any deficiencies in the work of the judge during inspections, visits or vetting and whether disciplinary proceedings were conducted against her, and if so, with what effect.

Source: <https://prawo.gazetaprawna.pl/artykuly/1387689,sedzia-oskarzona-o-lapowkarstwo-anonimy.html>.

17. Judges: *Agnieszka POŚWIATA, Michał KARCZEWSKI, Kinga MISIUKIEWICZ, Monika ORZECHOWSKA*

COURT

District Court Szczecin-Prawbridge and West in Szczecin

DEPARTMENT

Division VI Penal

KIND OF REPRESSION

initiation of criminal proceedings by the prosecutor’s office in connection with the judge’s judicial activity

DATE

August 2017

DETAILS

The judges of the District Court Szczecin-Prawbridge and West in Szczecin did not take into account the prosecutor’s motions to apply temporary arrest in the case of irregularities in functioning of Grupa Azoty Zakłady Chemiczne Police S.A. (so-called police scandal). In response to court decisions, since August 2017, in the Regional Prosecutor’s Office in Szczecin, and then in the Regional Prosecutor’s Office in Gdańsk, proceedings have been carried out, including both judges adjudicating on applications for the use of

arrests in the I and II Instance (RP II Ds. 19.2017). An inspection from the Ministry of Justice, carried out shortly after the decisions, did not reveal any irregularities in the appointment of the composition for consideration of individual cases. *Maciej Żelazowski* – then President of the Court of Appeal in Szczecin – in a letter addressed to the Minister of Justice on 22.9.2017 stated that he considers the conduct of preparatory proceedings by the prosecutor’s office to be a misunderstanding and the whole procedure of appointing judges to hear cases to be correct. In response, a letter was received from the Ministry of Justice, indicating that the Ministry shares the President’s arguments. However, the preparatory proceedings were continued. Both judges and their secretaries were heard as witnesses in the case. Also the judges of the 4th Criminal Appeals Department (*Gdula, Mazurek, Motak, Trzeciak, Kucharczyk, Karwacki, Zywar*) were heard as witnesses, who in different formations recognized the prosecutor’s complaints against the refusal to apply provisional detention by the first instance court and maintained these decisions. Judges of the judiciary were questioned in the case, not those in office.

Source: <https://wpolityce.pl/polityka/354427-nasz-wywiad-swieczkowski-dementuje-rewelacje-gw-o-nekaniu-sedziow-sledztwo-nie-dotyczy-decyzji-o-niezastosowaniu-aresztow-a-trybu-orzekania>; <https://siedlecka.blog.polityka.pl/2017/08/23/ziobro-zastrasza-sedziow-ale-moze-byc-pobity-wlasna-bronia/>; direct interviews with judge *Maciej Żelazowski* – Court of Appeal in Szczecin, Judge *Elżbieta Zywar* – District Court in Szczecin, Judge *Grzegorz Kasicki* – District Court in Szczecin.

18. Judges: Wojciech MERTA, Alina BOJARA, Mariusz BRODA

COURT

District Court in Kielce

DEPARTMENT

President and Vice-Presidents of the Court

KIND OF REPRESSION

dismissal from the office of governors having features of repression

DATE

January 2018

DETAILS

From 8.1.2018 The Minister of Justice without giving any reason dismissed *Wojciech Merta* from the post of President of the District Court in Kielce, *Alina Bojara* from the post of Vice-President of the District Court in Kielce, and *Mariusz Broda* from the post of Vice-President of the District Court in Kielce. As of 9.1.2018. The Minister of Justice appointed *Ryszard Sadlik* as President of the District Court in Kielce. For a long time it was impossible to find people who would agree to take up the post of Vice Presidents. None of the judges of the District Court in Kielce agreed to take up these functions. Eventually, these functions were offered to district judges, who agreed to take them.

In a communiqué issued by the Ministry after a few days, it was indicated that the changes are the result of the Ministry's review of the case registry and basic indicators for the first half of 2017. It was considered that the District Court in Kielce has great problems with controlling the impact of criminal cases, and in this respect, it ranked 40 out of 45 of all district courts in Poland. It was therefore indicated that in order to increase the efficiency of courts, personnel changes were made.

The regulations did not give judges the possibility to appeal against the decision of the minister in a situation where the dismissal was made without reason (the reason indicated by the minister was illusory), in violation of the procedures in force, by an unauthorised body, in violation of the rights of defence (no possibility to refer to the reasons for the appeal and to provide explanations), in violation of constitutional principles (security and permanence of legal relations, non-retroactivity of the law, openness of the operation of public authorities, rights of defence, triple power).

Since the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, related to the right to a fair trial and the right to a court, were violated, *Alina Bojara* and *Mariusz Broda* filed a complaint with the European Court of Human Rights. In September 2019. The Court requested detailed explanations from Poland and referred the case to the European Court of Human Rights.

Source: <https://kielce.onet.pl/minister-ziobro-odwolal-prezesow-sadow-w-kielcach-i-szczecinie/b36nbp2>; <https://echodnia.eu/swietokrzyskie/odwolani-prezesi-sadu-okregowego-w-kielcach-zlozyli-skarge-do-strasburga-jest-mocna-odpowiedz/ar/c1-14427243>; direct interviews with Edward Rzepka – judge's attorney *Alina Bojara* and *Mariusz Brody*; direct interview with Judge *Alina Bojara*.

19. Judges: *Maria LESZCZYŃSKA* and *Wojciech BORODZIUK*

COURT

District Court in Bydgoszcz

DEPARTMENT

2ND Civil Appeals Division

KIND OF REPRESSION

the transfer of a judge to another department without his consent, with features of chicanery

DATE

April 2019

DETAILS

In April 2019. The President of the District Court in Bydgoszcz *Mieczysław Oliwa* transferred judges *Maria Leszczyńska* and *Wojciech Borodziuk* to work in other departments without their consent. The judges were not even asked if they agreed to the transfer to another department. Judge *Maria Leszczyńska* was transferred to the 10th

Family Civil Department, which deals with other cases both in the first and second instance than those dealt with by the judge so far. In turn, Judge *Wojciech Borodziuk* was transferred to the 1st Civil Department, which recognizes first instance cases. The transferred judges appealed against the decision of the President of the District Court in Bydgoszcz to the National Judicial Council, but their appeals were dismissed. Judge *Maria Leszczyńska* has been ruling in the 2nd Civil Appeals Division since 2000. A similar length of service in this Division was held by Judge *Wojciech Borodziuk*. The transfer of such experienced judges as *Maria Leszczyńska* and *Wojciech Borodziuk* to work in other departments without their consent bears the features of chicanery, and the person who is responsible for this is the President of the District Court in Bydgoszcz, *Mieczysław Oliwa*, who was appointed to this post after the former President was dismissed during his term of office by the Minister of Justice without giving any reason. The provisions allowing the Minister of Justice to exchange court presidents during their term of office, without justification and without giving reasons, raise serious doubts as to their compatibility with the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Source: direct interview with Judge *Maria Leszczyńska*; direct interview with Judge *Wojciech Borodziuk*.

20. Judges Of The Republic Of Poland

KIND OF REPRESSION

absurd resolutions adopted by the body acting as the National Judicial Council:

- resolution ordering judges to use social media with restraint (resolution of 11.1.2017),
- a resolution recognising that behaviour which may undermine confidence in the independence and impartiality of a judge is the public use by the judge of infographics, symbols which are or can be unequivocally identified with political parties, trade unions, as well as social movements formed by trade unions, political parties or other organisations conducting political activities (resolution of 12.12.2018).

DATE

11.1.2017, 12.12.2018.

Source: Resolution of the National Court Register of 11.1.2017; Resolution of the National Court Register of 12.12.2018.



Chapter III.

The list of judges and persons who have actively engaged in activities supporting the change in the shape of the constitutional bodies of the State listed in Chapter VIII of the Constitution of the Republic of Poland “Courts and tribunals”, initiated in 2015. In this section, the report covers judges and persons aspiring to the profession of judge.

The report in this part includes a list of judges and persons who have actively engaged in activities supporting the change in the shape of the constitutional bodies of the State listed in Chapter VIII of the Constitution of the Republic of Poland “Courts and tribunals”, initiated in 2015. The need to assess the behaviour of all persons who have been involved in this process of modelling the justice system results from doubts as to the compatibility of the introduced political changes with the Constitution of the Republic of Poland, as well as with EU law, constantly raised by constitutionalists, by the courts within the framework of current jurisprudence, as well as in connection with questions addressed to the Court of Justice of the European Union, and also in the reservations of the Venice Commission, the European Commission and the CJEU judiciary, which is already being formed. The report covers only judges and persons aspiring to the profession of a judge. Evaluation of politicians’ behaviour remains outside the sphere of interest of this report.

The report includes judges connected with the takeover of the Constitutional Tribunal, participating in the process of taking over the Supreme Court and participating in the repression of judges, inter alia, through disciplinary proceedings.

The report below is preliminary in nature and does not cover the numerous documented cases of behaviour that does not fit in with the dignity of the profession of

judge, and which involve behaviour/events typically involving those judges who have taken up various functional positions in the judiciary since the implementation of the so-called ‘introduced reforms’ from 2017 onwards. These are behaviours that are reported by judges as forms of harassment or failure to undertake actions that these judges are required to undertake under applicable laws (e.g. refusal to make public information available). It also does not include the list of judges who, with often very doubtful professional qualifications, have received a recommendation to take up office as a judge or higher court judge from the body that replaced the National Judicial Council. It will be successively supplemented by these persons, as well as by information concerning judges and persons already mentioned in the report.

The names of the judges and other persons indicated in the report are accompanied by the function/job, without prejudice to their current duties, if there is any doubt as to whether the appointment to that function/job has sufficient legal legitimacy. The description of the behaviour of individual persons indicated those which may raise doubts as to the disciplinary responsibility of the persons mentioned. Thus, both those behaviours (usually described by the media – with reference to the source in this case) which may be seen as a disciplinary tort in the form of at least a violation of the dignity of the office (in the case of judges) and the principles of dignity of the other legal professions (in the case of candidates or those who hold positions in common courts, administrative courts and Supreme Court courts that are not judges) are listed.

Persons connected with the functioning of the Constitutional Court after 2015.

As a result of the election by the Sejm of new persons to the positions of judges of the Constitutional Tribunal for the positions already taken by persons elected by the Sejm in the previous term of office and the legally dubious appointment of *Julia Przyłębska* as President of the Constitutional Tribunal, this institution has been practically paralysed: eligible entities do not address questions to the Tribunal due to the irregularity of its composition; the activities of the Tribunal have been largely limited to confirming the constitutionality of laws at the request of the political authorities.

1. Julia PRZYŁĘBSKA – Judge of the Constitutional Tribunal

- the circumstances in which *Julia Przyłębska* was appointed to the position of President of the Tribunal raise doubts as to the legality and legal force of the decision to appoint her:

source: <https://newsweek.pl/polska/ludzie/czy-wybor-julii-przylebskiej-na-prezesa-tk-byl-zgodny-z-prawem/nlvrbj5>; <https://tvn24.pl/wiadomosci-z-kraju,3/kulisy-powolania-nowej-prezes-trybunalu-konstytucyjnego,708505.html>; <https://prawo.pl/prawnicy-sady/sn-nie-odpowiedzial-na-pytanie-ws-powolania-prezes-tk,72002.html>; <https://konstytucyjny.pl/powolanie-ktorego-nie-bylo-maciej-pach/>;

- allowed for the adjudication of persons who have been selected by the Sejm for places already properly filled:

source: <https://tvn24.pl/wiadomosci-z-kraju,3/wyrok-trybunalu-w-sprawie-sedziow-tk-wybranych-przez-poprzedni-sejm,599792.html>; <https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/8748-ustawa-o-trybunale-konstytucyjnym/>;

- made changes in the already designated adjudicating panels, although none of the provisions of the Act of 30.11.2016 on the organisation and procedure of proceedings before the Constitutional Tribunal entitles the President of the Constitutional Tribunal to make such changes:

source: <https://archiwumosiatynskiego.pl/wpis-w-debacie/coraz-czestsze-zmiany-skladow-tk/>; <https://oko.press/julia-przylebska-atakuje-raport-ktory-obnaza-manipulacje-skladami-orzekajacymi/>.

2. Mariusz MUSZYŃSKI – doctor habilitated in legal sciences, academic teacher, associate professor at Cardinal Stefan Wyszyński University in Warsaw

- the so-called body-double judge – elected to the Constitutional Tribunal, even though the position in the Constitutional Tribunal at that time was already filled by Prof. *Andrzej Jakubecki* (the Provincial Administrative Court in Warsaw when considering the case of a certain economic entity, stated in the judgment of 20.6.2018, file no. V SA/Wa 459/18, that *Mariusz Muszyński* is a person not entitled to adjudicate in the Constitutional Tribunal);
- in August 2018 he submitted his candidacy for the post of a judge of the Disciplinary Chamber of the Supreme Court (the application included candidates for 16 vacant judge positions announced in Monitor Polski in 2018, item 633 – he did not attend the meeting of the team of members of the body which replaced the National Council of the Judiciary appointed on 21 August 2018).

According to the media ounce, his candidacy was submitted by the Ministry of Justice:

source: <https://wiadomosci.dziennik.pl/polityka/artykuly/578907,muszynski-ziobro-warchol-krs-sad-najwyzszy-izba-dyscyplinarna-ministerstwo-sprawiedliwosci.html>;

- confirmed the manipulation of the composition of the TK. He wrote about this in a separate sentence to the ruling on defining the composition in situations which were not specified in the Act, such as “(...) changes made by the rapporteur as a result of the lack of acceptance of the composition as regards the submitted draft”:

source: <https://archiwumosiatynskiego.pl/wpis-w-debacie/praworzadnosc-juz-gwarantowana-procedura-z-art-7-bezzasadna-ujawniamy-nieoficjalny-rzadowy-dokument-rozsyłany-w-brukseli/>.

3. Justyn PISKORSKI – academic teacher at the Adam Mickiewicz University in Poznań

- **the so-called understudy judge** – elected to the Constitutional Tribunal, although the position in the Constitutional Tribunal at that time was already filled by Prof. Krzysztof Ślęzak (15.9.2017).

4. Jarosław WYREMBAK – academic teacher, notary public, member of the State Tribunal

- **the so-called understudy judge** – elected to the Constitutional Tribunal, although the position in the Constitutional Tribunal at that time was already filled by Prof. Roman Hauser (26.1.2018).

5. Kamil ZARADKIEWICZ – lecturer at the Institute of Civil Law of the Faculty of Law and Administration of the University of Warsaw. Director of the Constitutional Tribunal’s case law and study team until 2016

- 19.4.2016 he gave interviews in which he expressed the opinion that the Tribunal’s decisions are not always valid and final:

source: <https://rp.pl/Rzecz-o-polityce/304199890-Orzeczenia-TK-nie-zawsze-sa-ostateczne.html>;

- was appointed judge of the Supreme Court in the Civil Chamber after a competition in which his candidacy was recommended by the body that replaced the National Council of the Judiciary, elected in the part consisting of judges in violation of Article 187(1)(2) of the Polish Constitution.

Hearing the candidate at the meeting of the panel of members of the body of 22.8.2018:

“I am a scientific and didactic employee of the University of Warsaw, and I am also employed by the Ministry of Justice, in the Committee dealing with the reprivatization of Warsaw properties. Previously, I worked for 15 years at the Constitutional Tribunal, first as an assistant judge, then as a director. Tasks at the Ministry of Justice are ambitious and difficult, the work requires many decisions. Between 70 and 80 people work in the Department and above all we prepare draft verification decisions for the Commission. Since last year, I have been entered on the list of non-professionals’ attorneys, maintained by the District Bar Council in Warsaw. I believe that work in courts such as the Supreme Court and the Supreme Administrative Court, as well as in the Constitutional Tribunal, is work in bodies that are courts of law, not of fact. I am very lucky that, being employed in various positions, I could observe the work of the

Constitutional Tribunal as such a court. We also observed there various disputes over competence between the courts and the Tribunal. I started my work with practice in the district court office. I wanted to get to know the work of the court in practice before deciding on my further career path. There I saw how the civil procedure works, which was later applied in proceedings before the Constitutional Tribunal. I am a legal dogmatist. Civil law has always been my passion. I am aware of many years of disputes about whether practitioners or law theoreticians should rule in the Supreme Court. I believe that this dispute is largely illusory, as both categories are needed in courts. Of course, the Supreme Court functions on a slightly different basis, because there is a division into individual areas of law, but I believe that people with a dogmatic approach will also be needed there. The Constitutional Court also wanted to apply Article 755 of the CCP. I took the floor on this issue. Here the Tribunal was inconsistent, because the problem of security appeared several times in its jurisprudence. I remember that in one well-known case, in 2007, MP Ryszard Kalisz filed a motion to suspend the vetting proceedings, and requested the application of this provision before the Constitutional Tribunal. At that time the Tribunal consistently claimed that this provision was not applied in proceedings before it. It is not applied in proceedings before the courts of law, as its application cannot influence the actions of the legislature. A court of law cannot influence the activities of the legislature. Only on the occasion of the election of Constitutional Tribunal judges in 2015. The Tribunal issued such a decision, obliging the Polish Parliament not to make any further election to the positions of Tribunal judges. It was a takeover of the competence reserved for the Sejm of the Republic of Poland. The adequacy of the protection cannot go so far as to make the Constitutional Tribunal violate the principle of legalism. The situation is similar in the case of the latest Supreme Court ruling. First of all, the Supreme Court entered the sphere reserved for the Sejm of the Republic of Poland, because such competence simply does not exist and cannot be derived from the general wording of Article 755 of the Code of Civil Procedure. Secondly, the Supreme Court in this case applied a safeguard which did not concern the essence, the subject matter of the proceedings in this case. It is correctly argued that in this case, the Supreme Court imposed an obligation on other state authorities to refrain from exercising their constitutional and statutory powers, including the President of Poland and the National Council of the Judiciary. Even if it would appear from European jurisprudence that the court may take any protective measure, it cannot be considered to interfere with the competences of other state bodies. This would mean that any Polish court could apply any protective measure of its own, and that would be a non-systemic solution. The legitimacy of transmission in the jurisprudence of the Supreme Court is a serious problem that raises numerous doubts. It concerns the consequences of the lack of transitional provisions to the amendment introducing transmission easement. The legislator did not foresee to what extent these provisions could be applied to the facts existing at the time of entry into force of the provisions. Whether the term of possession will be added if there was no previously existing institution of transmission easement and whether such possession can be created. The second area of interpretation of these rules is whether the holdings existing before the entry into force of the legislation can be considered as existing as a transmission easement after the entry into force of the amendment. The Supreme Court held that the provisions on transmission easements can be applied to such situations. I believe that a person on whose property the installation was built before the entry into force of the provisions should be remunerated, but it is doubtful how

to determine such remuneration. Is it supposed to be a one-time or periodic benefit? Often such a property is permanently excluded from use and the question of proper valuation of such remuneration arises. Even if I take different positions from other people, whether in the form of a commentary or a voice, I only try to argue if I see a serious legal problem. In terms of improving the work of the Supreme Court, I believe that, regardless of whether you agree or are employed in an additional academic position, for a person who is called upon to adjudicate in the Supreme Court, adjudication there should be an absolute priority. In addition, a well-designed cooperation between a judge and assistants is the first way to achieve efficient adjudication. Another point is that it is very important to prepare the judicial meetings properly. The structure of decisions of the Constitutional Court and the Supreme Court is very similar. I believe, as I postulated in the Tribunal, that there is no need to refer the entire case to the historical part of the justification for the judgment, and the substantive argumentation should be limited to the essence of the problem. I remember the case of the return of real estate, which became unnecessary for a public purpose. In the justification of this ruling, the description of the administrative courts' jurisprudence in this matter occupied several pages. Sometimes this so-called ornamentation conceals also the lack of proper argumentation. As for solving the issue of foreign currency loans, and whether it is a political or judicial problem, the courts are already trying to deal with the problem of consumer loans, but without the intervention of the legislator this could lead to tragic consequences. I believe that the legislator could introduce some institutional mechanisms to relieve the burden of paying off mortgage loans. Few people are aware that this problem already existed in the inter-war period. The legislator should relieve the burden on indebted citizens institutionally. In the 1930s there was an overload of loans on agricultural property. When we were on the verge of a global crisis in 2008, I postulated a ban on the use of the institution of appropriation as collateral. The idea would be to cross out the permissible amount. Such solutions exist in some Western countries, such as Switzerland. The point is that a certain model of security transfer must not lead to the possibility of circumventing the regulations on mortgages. In 1994 The Netherlands had a similar problem. As far as another problem is concerned, both from the previous jurisprudence of the Constitutional Tribunal and from the very formula of Article 21 of the Constitution of the Republic of Poland, there is a finding that if the state expropriates property for a specific public purpose, if this purpose is not fulfilled, then the owner must be given a chance to recover it. The problem is that at some point the Constitutional Tribunal's jurisprudence started to shape the framework of the claim for return less strictly in the sense that if the property may still be used for another public purpose, even though the original purpose has fallen off, the property may not be returned. In my opinion, in such a situation, the claim for return of the property is updated, especially as it has started to be assumed that it is possible not to return the property if there is only some future purpose”:

source: <https://webcache.googleusercontent.com/search?q=cache:http://n-1-24.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/ed8a9635-0a79-4988-9b55-21165606ce63.pdf>;

- citing the position expressed by the Constitutional Tribunal in its judgment of 20.6.2017 in case K 5/17, it submitted to the Constitutional Tribunal inquir-

ies about the effectiveness of the Supreme Court's judicial appointments from 14.2.2000 to 6.6.2018 on the basis of resolutions of the National Council of the Judiciary, as set out in the Act. The Tribunal adjudicating on the case referred to by the judge was composed of two unauthorised persons who were selected for the positions already filled (*Mariusz Muszyński* and *Lech Morawski**). A number of violations of the law resulted in a request to the Disciplinary prosecutor of the Supreme Court to undertake explanatory actions in connection with the suspicion of the above mentioned official misconduct:

source: <https://sn.pl/sites/orzecznictwo/Orzeczenia3/IV%20CSK%20176-19.pdf>; <https://rpo.gov.pl/pl/content/rpo-za-umorzeniem-przez-tk-pytan-prawnych-sedziego-sn-kamilarzaradkiewicz%C2%A0>; <https://n-22-4.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/139f0874f2ded2e41b0393c4ac5644f7/b3d6c622-a6d1-4919-a6ad-0f3fcd09df48.pdf>.

6. *Lech Morawski* – 1.12.2015 was chosen for the place previously occupied by *Krzysztof Ślęzak*. *Lech Morawski* died on 12.7.2017, and after his death, *Justyn Piskorski* was chosen for the place occupied by *Krzysztof Ślęzak*

The Act of 8.12.2017, contrary to the Polish Constitution, shortened the term of office of 15 members of the National Council of the Judiciary by introducing rules for the election of judges to the National Council of the Judiciary by the Sejm, based on the list established by the Commission of Justice, in which the ruling party holds the majority. Due to the unconstitutional nature and extreme politicisation of this procedure, only 18 out of 10.000 judges decided to take part.

The judges who nominated themselves in February 2018 to replace the constitutional body – the National Council of the Judiciary – and were not elected by the Polish Parliament

7. *Mariusz WITKOWSKI* – Judge of the District Court in Siemianowice Śląskie

8. *Mariusz LEWIŃSKI* – Judge of the Military Garrison Court in Kraków (retired)

9. *Robert PELEWICZ* – Judge of the District Court in Tarnobrzeg

Judges who were elected by the Sejm of the Republic of Poland as members of the body which in April 2018 replaced the constitutional body – the National Judicial Council

10. Zbigniew ŁUPINA – Judge of the District Court in Biłgoraj

11. Maciej Andrzej MITERA – Judge of the District Court for Warsaw Wola in Warsaw (after being elected a member of the above mentioned body, he assumed the function of its spokesperson)

- maintained contacts, exchanging correspondence with *Emilia Szmydt* – the person responsible, as indicated by the media, with a group of judges mentioned in the report, for slandering judges who openly presented their negative assessments of political changes aimed at weakening the independence of the judiciary, as well as the exchange of staff in the courts, which boiled down to the promotion of judges who see their role as servants of other authorities. The content of this correspondence was, among other things, to arrange interviews on public television and to explain how ambiguities regarding letters of support to the successor body to the National Judicial Council should be explained on the profile responsible for the vilification of judges. At the same time, he supported the employment of *Emilia Szmydt*'s husband as head of the legal office of the National Judicial Council:

source: <https://wiadomosci.onet.pl/tylko-w-onecie/mitera-pisal-hejterce-jak-tlumaczyc-niejasnosci-dot-list-poparcia-do-kr/sbxk88my>;

- contrary to the provisions of the Law on the Common Court System and without the opinion of the College of the Court, he decided to transfer to the Family Department a judge who has so far been adjudicating in cases involving offences and associated with rulings in which he defended the right of citizens to peaceful protests. He did so under the pretext of liquidation of the Department:

source: https://wyborcza.pl/7,75398,24961889,przeniesienie-za-wszelka-cene-jak-wyciszaja-niewygodnego-sedziego.html?disableRedirects=true&fbclid=IwAR0IuBGXZhksxTIMELrxqkaRgMX_sG7HUF2yqbjxMAW76ZKMhpEXMfotjhM#S.main_topic-K.C-B.4-L.1.duzy:undefined.

12. Dariusz DRAJEWICZ – Judge of the District Court for Warsaw Mokotów in Warsaw (member of the presidium of the above mentioned body)

- indicated by the media as the person behind the organized hate campaign and discrediting judges criticizing changes in the justice system introduced by the United Right

source: <https://dorzeczy.pl/kraj/111610/Niech-szlag-jasny-trafi-kaste-Kolejne-doniesienia-o-aferze-z-Lukaszem-Piebiakiem.html>;

- has submitted his candidacy for the post of judge of the Disciplinary Chamber of the Supreme Court, which has also received a negative assessment from the Presidium of the aforementioned body:

source: <https://krs.pl/pl/aktualnosci/d,2019,8/5941,stanowisko-prezydium-krajowej-rady-sadownictwa-z-dnia-22-sierpnia-2019-r-w-sprawie-kandydowania-czlonkow-krs-na-stanowiska-sedziow-sadu-najwyzszego>.

13. Rafał PUCHALSKI – Judge of the District Court in Jarosław

- has submitted his candidacy for the post of a judge of the Disciplinary Chamber in the Supreme Court, which was also negatively evaluated by the Presidium of the aforementioned body:

source: <https://krs.pl/pl/aktualnosci/d,2019,8/5941,stanowisko-prezydium-krajowej-rady-sadownictwa-z-dnia-22-sierpnia-2019-r-w-sprawie-kandydowania-czlonkow-krs-na-stanowiska-sedziow-sadu-najwyzszego>;

- is the founder and administrator of the “Judges.net Internet Forum of Judges”, where he publishes content demonstrating his involvement in activities of a political nature that may raise doubts about the trust necessary for the exercise of the profession of judge – the drop in entries held by the authors of the report;
- before taking up his position in the body, he was also a member of a closed group on Facebook, which was called: “We support the government of *Beata Szydło* Pana Prezydenta and PiS”. Its regulations stated that “Any member and supporter of Law and Justice, supporter of the Government and the President may join the group. However, its goal was: “supporting the government of Prime Minister *Beata Szydło* and President *Andrzej Duda*.” The above must raise questions about the judge’s apoliticality already at the moment of running for office:

source: <https://prawo.gazetaprawna.pl/artykuly/1389917,sedzia-krs-dolacza-do-grupy-wspierajacej-rzad-pis.html>.

14. Teresa KURCYUSZ-FURMANIK – Judge of the Voivodeship Administrative Court in Gliwice

- juxtaposed the slogan “we will defend our courts” proclaimed as part of the so-called chains of light in 2017 by citizens opposing the law, vetoed by the President of the Republic of Poland in the wake of these protests, which destroyed the independence of the Supreme Court and put Supreme Court judges to rest, with

statements about “our judges” as servants of totalitarian power during the Stalinist terror:

source: <https://youtube.com/watch?v=tiy-vX8ywr0>.

15. **Paweł STYRNA – Judge of the District Court in Wieliczka**

16. **Dagmara PAWEŁCZYK-WOICKA – Judge of the District Court for Kraków Podgórze**

A long-time acquaintance of the Minister of Justice *Zbigniew Ziobro*, directly from the delegation to the Ministry of Justice, was nominated president of the District Court in Cracow.

As the President of the District Court in Kraków, in her actions she aimed to intimidate judges in order to subordinate them to a political factor.

These actions consisted in particular of:

- arbitrary transfer of judge *Waldemar Żurek*, who acted as a spokesperson for the National Council of the Judiciary before the exchange of staff and was known for his statements protesting the actions aimed at devastating the justice system and legal order in the Republic of Poland;
- conducting a purge, motivated by extra-territorial considerations, among the presidents of the departments of the District Court and District Courts, and their deputies, which affected judges: SSO *Agnieszka Włodyga*, SSO *Joanna Melnyczuk*, SSO *Janusz Kawalek*, SSR *Beata Donhoffner-Grodzicka*, SSR *Natasza Czarny*, and SSR *Lukasz Sajdak*. These actions, motivated by the intention to intimidate and subjugate the judicial community to a political factor, have led to a reduction in the level of expertise of the court management. Frequently, the dismissals of the functionaries were made abruptly and without any real basis, without any indication of their successors, which disorganised the activities of the departments and even threatened the continuity of the court;
- attempts to exert pressure on judges by, inter alia, threatening them with disciplinary proceedings, in order to force them to resign from their functions or, on the contrary, to force them to take up their positions;
- the obstruction of the activities of the Assembly of Representatives of the Judges of the Kraków Circuit, which took place on 26 February 2018, consisting in questioning its right to adopt a resolution in defence of the independence of the judiciary, and then refusing to publish the resolution;
- obstructing the activities of the College of the District Court in Kraków by, inter alia, making decisions without obtaining the opinions of the College required by the regulations, taking the voice of its members, not putting their motions to a vote, misleading the members of the College as to the circumstances significant

for the decisions made, refusal to accept the regulations of the work of the College, sealing the room at the time when the members of the College wanted to meet with the judges, or deliberately setting the dates of the meetings of the College in a way that prevents some members from taking part;

- presenting false information in the media, affecting the reputation of the Court of Justice as a whole, by blaming the College's Members for the crisis in the Court of Justice, such as, for example, charging the previous College's composition with not holding a session in Cases III K 71/17 and III K 205/17 when the cases were not held because the President did not comply with the written request of the College's Members to convene an additional meeting of the College for 29.1.2018;
- arbitrary, non-law-based (Article 82a of the Law on the Common Court System) restriction of the possibility for judges to improve their professional qualifications, forcing them to take annual leave to complete their training (letter of 16 January 2018, KD.SO.-140-1/18);
- forcing judges, in an unauthorised manner, to present sensitive data not subject to the president's assessment (Article 86 § 5 of the Act on the System of Common Courts), making it a condition for raising objections to their intention to take up or continue scientific and didactic employment, and forcing judges to take leave of absence also on days when additional classes are conducted after working hours (letter of 9 April 2018, KD.SO.-0210-1/18);
- introducing into the court's premises on the day of taking up the position of an undetermined officer who, without a legal basis, searched the office where, *inter alia*, the case files were located, and refusing to provide information on the reasons for such action;
- introduction in Order No 3/18 of 18.4.2018 of restrictions on access of the media to the court building, which are not based on the provisions of law and at the same time do not comply with the principle of freedom of expression and transparency of public institutions. This applies, *inter alia*, to the following measures 10, provided for in § 1(10), of the prohibition to record the image of 'the areas of the building in which the premises of the court's management staff are located, i.e. the offices and secretariats of the President, Vice-Presidents and Director', and the requirement, arising from § 7(3) of the aforementioned Ordinance, that the President of the District Court must consent to an interview or statement made by the judge on the court premises;
- unjustified revocation of the subsequent dates of the Assembly of Representatives of the Judges of the Krakow District Court, which was to be held on 17.4.2018, and then on 16.5.2018:

source: <https://wiadomosci.onet.pl/kraj/krakow-prezes-so-chce-postepowania-dyscyplinarneho-wobec-sedziego-zurka/36wm244>; resolution of the Meeting of Judges of the District Court in Cracow of 24.5.2018; <https://polsatnews.pl/wiadomosc/2018-06-25/prezes-sadu-okregowego-w-krakowie-zakaz-wywiadow-z-sedziami-w-budynku-ma-charakter-porzadkowy/>.

17. Ewa ŁAPIŃSKA – Judge of Jaworzno District Court

18. Leszek MAZUR – Judge of the District Court in Częstochowa – acting as chairman of the above mentioned body:

- according to media information, he was supposed to declare that “the NCJ will consult with the government on the CJEU decision”, which may indicate the pathology of mutual relations between the executive and the body that is to guard the independence of the courts:

source: <https://polskieradio24.pl/5/3/Artykul/2201411,Leszek-Mazur-KRS-bedzie-sie-konsultowac-z-rzadem-po-decyzji-TSUE>;

- in 112 cases, between 2015 and 2018, he was late in writing justifications for his judgments:

source: <https://wiadomosci.onet.pl/kraj/leszek-mazur-112-razy-spoznil-sie-z-uzasadnieniami-co-zrobi-rzecznik-dyscypliny/jbdlmrl>; <https://prawo.pl/prawnicy-sady/dyscyplinarka-dla-szefa-krs-za-opoznienia-w-uzasadnianiu-wyrokow,383743.html>;

- did not include in his declaration of financial interests for 2018 the income he received as Chairman of this body. This amount amounts to nearly PLN 100,000:

source: <https://czestochowa.wyborcza.pl/czestochowa/7,48725,24987852,sedzia-leszek-mazur-zapomnial-o-dochodach-z-krajowej-rady-sadownictwa.html>;

- in a telephone conversation with Judge *Arkadiusz Cichocki*, he agreed to employ in service of the office of the National Judicial Council Judge *Tomasz Szmydt* “a friend of Judge Cichocki”, “a patriot” and “a man with a heart on the right”. During this conversation, Judge Mazur explained that Mr. *Tomasz Szmydt* had already received a recommendation from Deputy Minister of Justice *Łukasz Piebiak*. Privately, *Tomasz Szmydt* was married to *Emilia Szmydt*, who was supposed to help a group of judges associated with *Łukasz Piebiak* called *Kasta* in organizing the action of destroying and discrediting judges opposing unconstitutional changes in the justice system:

source: <https://rmf24.pl/raporty/raport-batalia-o-sady/afera-hejterska/news-jak-sedzia-cichocki-zabiegal-u-szefa-krs-o-posade-dla-sedzie,nId,3224579>.

19. Maciej NAWACKI – Judge of the District Court in Olsztyn

- in a television interview on 28.8.2018, he stated that judges of the Supreme Court “commit a violation, breaking the law in Poland”. This was accompanied by the announcement that “they will meet with an adequate response in this regard” and

the statement: “if someone breaks the law, does not obey it, blatantly violates the constitutional order in Poland, then they will meet with disciplinary responsibility. In connection with the first statement, the President of the Supreme Court notified the deputy disciplinary prosecutor at the Olsztyn District Court of a possible disciplinary delicacy expressed in violation of the good name and dignity of Supreme Court judges. Such a statement is contrary to the disposition of § 2, § 5 Section II, § 10 and § 13 of the Code of Professional Conduct for Judges and Court Assessors. *Michał Lasota*, the deputy disciplinary prosecutor who conducted the case, after several months of examining the case, stated that the judge of the National Court Register did not commit any disciplinary misconduct. It should be added that *Michał Lasota* was previously *Maciej Nawacki*'s attorney, who proposed his candidacy to the body that replaced the National Judicial Council:

source: <https://monitorkonstytucyjny.eu/archiwa/5723>; <https://koduj24.pl/kolega-ocenia-kolege-sedzia-krs-nie-odpowie-przed-rzecznikiem-dyscyplinarnym/>;

- as the President of the District Court in Olsztyn, he informed the police about a meeting which the judges held before the Court in Olsztyn under the slogan “We will not let ourselves be intimidated” in order to express solidarity with judge *Alina Czubiński* from Gorzów Wielkopolski, who was punished by the Disciplinary Chamber of the Supreme Court, that she claimed the rights of a disabled 19-year-old man who is unable to write and read, and with *Dorota Lutostanska*, a judge from Olsztyn, whose disciplinary spokesman has charged her with disciplinary charges in connection with the 100th anniversary of Polish independence in November 2018., together with other judges, she took a picture in front of the court wearing a T-shirt that says “Constitution”. During the intervention, police officers wrote down the data of several judges – participants of the assembly:

source: <https://archiwumosiatynskiego.pl/wpis-w-debacie/maciej-nawacki-prezes-sadu-w-olsztynie-z-nominacji-ziobry-naslal-policje-na-swoich-sedziow/>;

- indicated by the media as the person behind the hate campaign organised in 2018–2019 and discredited judges criticising the changes in the justice system introduced by the United Right:

source: <https://krs.pl/admin/files/rp2013/osw%20s.nawackiego.pdf>;

- it was revealed that as a candidate for the body acting as the National Council of the Judiciary, he may not have received the required number of votes of support under the list of support, due to the withdrawal of support by four judges even before submitting his candidature on 24.1.2019 and one judge on 25.1.2018, when the deadline for applications expired, of which the candidate was aware, and furthermore he admitted that one of the signatures he had made himself:

source: <https://prawo.gazetaprawna.pl/artykuly/1425714,krs-nawacki-wycofanie-poparcia-dla-kandydatury-nominacje-sedziowskie.html>; <https://oko.press/czy-maciej-nawacki-zostal-legalnie-wybrany-do-nowej-krs-mogl-nie-miec-wymaganych-podpisow/>;

- in order to prevent the disclosure of the letters of support to the NCJ, he initiated questionable proceedings for the protection of personal data before the PUODO, which gave an excuse for issuing a security preventing the Chancellery of the Sejm from enforcing a final judgment of the WSA in Warsaw ordering the disclosure of the letters of support of judges under the candidates for the NCJ, as well as a group of MPs to file a complaint to the TK to examine the constitutionality of the provision of Article 11c of the Act on the NCJ as regards the secrecy of attachments. These actions actually lead to verification, and consequently may lead to the undermining of a final court judgment,

source: <https://konkret24.tvn24.pl/polska,108/przyznaje-ze-jest-autorem-skargi-do-uodopodpisalem-sie-pod-swoja-kandydatura-do-krs,957041.html>; <https://trybunal.gov.pl/sprawy-w-trybunale/art/10760-art-11c-ustawy-o-krajowej-radzie-sadownictwa-rozumiany-w-ten-sposob-ze-przepis-ten-nie-daje-pods/>.

20. Marek JASKULSKI – Judge of the District Court Poznań Old Town

- during the discussion on the social networking site Facebook posted an entry in which he criticized the attitude of the adversary, stressing that he himself “likes to publish recently what slanders Poland or calls for social unrest”. Furthermore, in further entries, he questioned the need to implement the NSA’s judgment obliging the Chancellery of the Sejm to disclose who among the judges supported the candidates for the body that replaced the National Judicial Council;
- on the Internet forum, sedziowie.net, using a pseudonym adopted and known to the participants, publishes content which shows disrespect for other judges, accusing them of “euro-ass licking and applauding the all at the peaks of power”, as well as lies and manipulations. This type of narrative should be judged to violate the dignity of the profession of judge. (snapshots from portals at the disposal of the authors of the report).

21. Jędrzej KONDEK – Judge of the District Court for the Capital City of Warsaw in Warsaw

source: <https://natemat.pl/247635,czlonek-krs-jedrzej-kondek-kloci-sie-z-obywatela-mi-rp-o-sady-w-polsce>.

22. Jarosław DUDZICZ – Judge of the District Court in Słubice

- he applied for self-exclusion of the Polish National Judicial Council when it was suspended in the European Network of Judicial Councils. This request was rejected;

- identified by the media as the person behind the bias and discredit of judges criticising the changes in the justice system introduced by the United Right:

source: <https://tvn24.pl/wiadomosci-z-kraju,3/afery-hejterska-sedziowie-maciej-nawacki-i-jaroslaw-dudzicz-zlozyli-wyjasnienia-w-krs,965223.html>; <https://rmf24.pl/raporty/raport-batalia-o-sady/fakty/news-nowe-informacje-ws-afery-hejterskiej-sedzia-dudzicz-odmowil-nId,3181628>;

- according to information provided by the media in 2015, on the Internet forum of “Dziennik Gazeta Prawna”, a user using the pseudonym “jorry123” placed an anti-Semitic entry in the content, in which the Jewish people called “a despicable, rotten nation”, as well as other entries of an anti-Semitic nature. The proceedings in this case have been conducted since 2015, but only after the media revealed the above information in September 2019. The National Prosecutor issued a statement that “the proceedings will soon move to the phase of making decisions on the direction in which it should be conducted”:

source: <https://rpo.gov.pl/pl/content/rpo-ws-antysemickich-wpisow-sedziego-dudzicza-do-krs>; <https://wiadomosci.dziennik.pl/polityka/artykuly/607929,swieczkowski-decyzja-sledztwo-wpisy-sedzia-dudzicz.html>.

The interested party himself issued a statement in this respect, which is published on the website of the body of which he is a member:

source: <https://krs.pl/pl/aktualnosci/d,2019,9/5966,oswiadczenie-sedziego-jaroslaw-dudzicza-z-16-wrzesnia-2019-r>.

23. Joanna KOŁODZIEJ-MICHAŁOWICZ – Judge of the District Court in Słupsk

- applied as a candidate to the body by her husband, the President of the Słupsk District Court, appointed on 19.12.2017 by the Ministry of Justice in place of the President dismissed by fax – that is, less than two months after he took up his duties and then recommended by the body for promotion to the Słupsk District Court. She was in the opinion-forming team of all judges of the Supreme Court’s Chamber of Extraordinary Control and Public Affairs who were recommended and then appointed to the Supreme Court. At present, these recommended judges examine appeals against the resolutions of the National Court Register, including those recommending your spouse and the judge’s proxy for promotion, as well as herself (see below):

source: <https://fakty.interia.pl/polska/news-krs-wyznaczyla-zespoły-oceniające-kandydatów-do-sn,nId,2646054>; <https://krs.pl/pl/biuletyn-informacji-publicznej/dzialalnosc/f,201,dzialalnosc-w-2018r/760,23-24-27-28-sierpnia-2018-r/5511,stanowiska-zespolow-czlonkow-krajowej-rady-sadownictwa-z-wysluchania-kandydatow-na-sedziego-sadunajwyzszego-w-izbie-kontroli-nadzwyczajnej-i-spraw-publicznych>; <https://gp24.pl/andrzej-michalowicz-nowym-prezesem-sadu-okregowego/ar/12791716>;

- submitted her candidacy for the office of judge of the District Court in Słupsk despite the disqualifying opinion of the inspector and complaints about the length of the proceedings which resulted in the need for the State Treasury to pay damages. It was positively recommended by the body in which it sits with a negative opinion towards three other candidates enjoying high and very high evaluation of the case law. The meeting of the opinion-forming panel was kept confidential:

source: <https://wiadomosci.onet.pl/tylko-w-onejcie/czlonkini-nowej-krs-chce-awansowac-wyzytator-jej-prace-ocenia-jako-dyskwalifikujaca/lk9b2t3>;

- during the meeting of the President of the American Bar Association with representatives of the legal community in Poland on 28.5.2018 at the seat of the District Bar Council in Warsaw, she herself admitted that the constitutionality of the procedure for selecting representatives to the NCJ is debatable:

source: <https://lexso.org.pl/2018/05/29/spotkanie-pani-hilarie-baas-prezydent-american-bar-association-z-przedstawicielami-srodowiska-prawniczego-w-polsce/>.

24. Grzegorz FURMANKIEWICZ – Judge of the District Court in Jasło

- candidate for the body acting as the National Council of the Judiciary proposed by a person associated with the executive, who is not a judge but the director of the Institute of Justice, which depends on the Ministry of Justice:

source: <https://koduj24.pl/kto-i-jak-zglosil-w-nocy-kandydata-do-krs/>; <https://wyborcza.pl/7,75398,23000687,kto-popiera-kandydatow-do-krs-tajemnica-moga-to-byc-sedziowie.html>;

- appointed as judge of the District Court in Krosno after the competition before the body of which he is a member. The judges of the Krosno District Court have expressed their strong opposition to the previous procedure for the evaluation of candidates for judges of the Rzeszów Appeal by the body acting as the National Council of the Judiciary. It does not allow for a reliable verification of both the substantive qualifications of the candidates and their personal predispositions necessary to occupy such positions.

source: <https://prawo.gazetaprawna.pl/artykuly/1337236,czlonек-krs-rekomendowany-do-awansu.html>; <https://iustitia.pl/79-informacje/2688-stanowisko-sedziow-sadu-okregowego-w-krosnie-z-dnia-30-listopada-2018r-w-sprawie-sposobu-opiniowania-kandydatow-na-sedziow-apelacji-rzeszowskiej-przez-organ-pelniacy-funkcje-krajowej-rady-sadownictwa-w-tym-czlonka-tego-organu-grzegorza-furmankiewicza>; <https://prezydent.pl/aktualnosci/nominacje/art,126,nominacje-sedziowskie-i-asesorskie.html>.

The disciplinary prosecutor and deputies of the disciplinary prosecutor for common court judges

Information on the initiation of harassment proceedings against those judges who, in their public statements, criticise the shape of the systemic changes in the judiciary introduced from 2015 or challenge actions which, in their opinion, undermine the independence of judges and the independence of the courts, and against those judges who have issued rulings or referred questions for a preliminary ruling criticised by the political factor currently in power is described in the section on repression of judges.

We hereby present the officials responsible for these proceedings:

source: <https://gov.pl/web/sprawiedliwosc/komunikat-dotyczacy-powolania-rzeczniaka-dyscyplinarnego-sedziow-sadow-powszechnych-oraz-jego-dwoch-zastepcow>.

25. *Piotr SCHAB* – Judge of Warsaw District Court – Disciplinary Spokesperson of the Common Court Judges

- before he became the main disciplinary prosecutor, he became famous for his ruling which accepted the pardoning by President *Andrzej Duda* of the former head of the CBA, *Mariusz Kamiński*. *P. Schab* presided over the three-member jury, which issued the ruling:

source: <https://wiadomosci.dziennik.pl/wydarzenia/artykuly/516839,mariusz-kaminski-ulaskawienie-andrzej-duda-cba-prezydent-afery-gruntowa.html>; <https://m.telewizjarepublika.pl/koniec-sprawy-kaminskiego-oraz-bylego-szefostwa-cba-sad-uchylil-wyrok-i-umorzyl-postepowanie,31440.html>;

- took over from the Poznan Disciplinary prosecutor (as competent in terms of place and subject matter) the proceedings in the case of possible disciplinary misconduct of *Przemysław W. Radzik*, who was late in writing his justification. He then decided that the disciplinary proceedings will not be implemented. As Judge *Piotr Schab* considered, his deputy was so busy with his work that no consequences for delayed justifications should meet him:

source: <https://wiadomosci.onet.pl/tylko-w-onejcie/rzeczniak-piotr-schab-zdecydowal-nie-bedzie-dyscyplinarki-dla-sedziego-przemyslawa/hgetdct>;

- made public on the homepage of the Disciplinary prosecutor for Judges of Common Courts (<https://rzecznik.gov.pl/>) his letter to the prosecutor containing, among other things, information that the judge of the Gdańsk-Południe District Court in Gdańsk “accepted a financial reward from the accused in proceedings before that Court”:

source: <https://iustitia.pl/postepowania-dyscyplinarne/3115-iustitia-zwraca-sie-o-wszczecie-postepowania-wobec-rzeczniaka-dyscyplinarnego-piotra-schaba>;

- is currently seeking promotion to the Court of Appeal in Warsaw on the positive recommendation of the body that replaced the National Judicial Council:

source: <https://oko.press/rzecznik-dyscyplinary-piotr-schab-ktory-sciga-niezaleznych-sedziow-chce-awansu-do-sadu-apelacyjnego/>; <https://prawo.gazetaprawna.pl/artykuly/1430702,sedziowie-krs-procedura-nominacyjna-zlamanie-przepisow.html>; <https://rp.pl/Sedziowie-i-sady/190729510-KRS-Piotr-Schab-awansowany-na-sedziego-sadu-apelacyjnego.html>.

26. Michał LASOTA – Judge and President of the District Court in Nowe Miasto Lubawskie (appointed in place of the previous President dismissed before the end of his term of office), deputy disciplinary prosecutor for Common Court Judges

- as President of the District Court in Nowe Miasto Lubawskie, on 1 April 2019 he evaded providing public information on statistics, including the justifications he wrote, indicating that obtaining data is highly difficult, despite the fact that the Court has software to generate data within a few minutes:

source: <https://twitter.com/ewaivanova/status/1114160271625531392>;

- he submitted a request to the disciplinary prosecutor for an inquiry against judges who found the proceedings in his case in Nowe Miasto Lubawskie to be protracted due to over a year of inactivity. The reason for filing the request was the lack of formal notice to the President of SR in Nowe Miasto Lubawskie, i.e. judge *M. Lasota* about the pending proceedings and the failure to deliver the complaint, despite the fact that he himself sent the complaint to the Regional Court to examine it, at the same time placing a note in his file explaining the alleged inactivity:

source: <https://wiadomosci.onet.pl/tylko-w-onecie/zastepca-rzecznika-dyscypliny-przez-podnad-rok-nie-podjal-czynnosci-w-prostej-sprawie/cm2b74c>; <https://oko.press/rzecznik-dyscyplinary-michal-lasota-chce-scigania-sedziow-ktorzy-orzekli-ze-za-dlugo-prowadzil-sprawie/>; https://wiadomosci.onet.pl/tylko-w-onecie/sedzia-michal-lasota-zada-dyscyplinarek-dla-sedziow-we-wlasnej-sprawie/2p1tq97utm_source=l.facebook.com_viasg_wiadomosci&utm_medium=referal&utm_campaign=leo_automatic&srcc=ucs&utm_v=2;

- in a case of rape of a minor accused of her brother, he interrogated the minor on 6.4.2018 without informing the suspect's lawyer, which resulted in his legal invalidity. During a subsequent interrogation, in August 2018, the minor refused to testify, which resulted in the legal qualification of the charge being relaxed. In this case, the Gdańsk Disciplinary prosecutor took initial investigative steps immediately after its disclosure and handed over the file to the Disciplinary prosecutor *Piotr Schab*:

source: <https://wiadomosci.onet.pl/tylko-w-onecie/rzecznik-dyscyplinary-reaguje-po-publikacji-onetu-bedzie-postepowanie-ws-michala/wzljb4r>;

- identified by the media as the person behind the 2018 and 2019 heist and the discredit of judges criticising the changes in the justice system introduced by the United Right:

source: <https://polityka.pl/tygodnikpolityka/kraj/1919568,1,gw-kasta-ziobry-spiskuje-od-lat-i-robi-zrzutki-na-walke-z-sedziami.read>;

- currently applying for promotion to the District Court on the positive recommendation of the body that replaced the National Judicial Council

source: <https://oko.press/rzecznik-dyscyplinarny-piotr-schab-ktory-sciga-niezaleznych-sedziow-chce-awansu-do-sadu-apelacyjnego/>.

27. Przemysław Wiktor RADZIK – Judge and President of the District Court in Krosno Odrzańskie, deputy disciplinary prosecutor for Common Court Judges

- he is indicated by the media as the person behind the hate campaign and discredit of judges criticizing the changes in the justice system introduced by the United Right:

source: <https://polityka.pl/tygodnikpolityka/kraj/1919568,1,gw-kasta-ziobry-spiskuje-od-lat-i-robi-zrzutki-na-walke-z-sedziami.read>; <https://wiadomosci.onet.pl/kraj/afery-hejterska-w-ministerstwie-sprawiedliwosci-kolejny-trop-prowadzacy-do/h2qnexb>;

- is applying for promotion from the District Court in Krosno Odrzańskie to the position of Judge of the Court of Appeal in Warsaw:

source: <https://wiadomosci.onet.pl/kraj/zastepca-sedziowskiego-rzecznika-dyscypliny-kandyduje-do-sadu-apelacyjnego/bwtvfsk>.

Judges who, according to media reports, stood behind the 2018 and 2019 hate campaign and discredited judges criticising the changes in the justice system introduced by the United Right coalition in power.

28. Łukasz PIEBIAK – Judge of the District Court until 20.8.2019. Undersecretary of State in the Ministry of Justice at the rank of deputy minister

- during his time in the Ministry of Justice, he led the development of unconstitutional regulations aimed at changing the systemic shape of the judiciary in the Republic and subordinating the judiciary to political power;

- as a judge, he spoke on behalf of the political formation, which can be seen as undermining confidence in the office of a judge:
source: July 2018: <https://youtube.com/watch?v=iyce-X9EHA0>;
- manifests his activity on social profiles, which demonstrates clear views aimed at supporting the political formation – Law and Justice and identifying with right-wing national views, which contradicts the principle of apoliticality of the judge:
source: <https://oko.press/co-pan-piebiak-lubi/> and information – snapshots from social networking sites Facebook and Twitter in the possession of the authors of the report;
- was pointed out by the media as the person behind the organized hate campaign and discrediting judges criticizing the changes in the justice system introduced by the United Right from 2018 to 2019 – he was also pointed out as a group leader marked in the MSII communicator and referred to as “herst”:
source: <https://tvn24.pl/wiadomosci-z-kraju,3/wiceminister-lukasz-piebiak-mial-stac-za-akcja-dyskredytowania-sedziow,962489.html>.

29. Tomasz SZMYDT – Judge of the Voivodeship Administrative Court in Warsaw

source: <https://rp.pl/Sedziowie-i-sady/190829835-Hejt-w-ministerstwie-czyli-tlo-afery-z-wiceministrem-Piebiakiem-w-roli-glownej.html>;

- wrote an open letter and gave an interview in which, in a very detailed manner, reaching into very personal intimate relations, he presented his version, a description of the course of the alleged alcoholic illness of his wife and her various behaviours, including degrading ones, which may put the wife in a definitely negative light in public opinion:
source: <https://polsatnews.pl/wiadomosc/2019-09-04/alkohol-klotnie-zdrada-list-sedziego-szmydta-meza-hejterki-emilii/>.

30. Jakub IWANIEC – Judge of the District Court for Warsaw Mokotów in Warsaw

source: [https://wiadomosci.wp.pl/afery-w-ministerstwie-sprawiedliwosci-kulisy-polowania-na-szefa-iustitii-6415805360089217a](https://wiadomosci.wp.pl/afery-w-ministerstwie-sprawiedliwosci-kulisy-polowania-na-szefa-iustitii-6415805360089217a;);

- used vulgar words in the presence of a policeman as well as security guards of the Silesian Stadium, for which he was punished in 2012 with a reprimand in discipli-

nary proceedings. The punishment was obliterated and in June 2017 he became a member of a special team for the prevention of crimes resulting from religious and racial hatred, established by the Ministry of Justice:

source: <https://nszyp.pl/aktualnosci/interwencji-policji-sedzia-odezwal-sie-wulgarnie-uziobry-zostal-ekspertem-przestepstw-mowy-nienawisci/>.

31. **Arkadiusz CICHOCKI – Judge of the District Court in Gliwice**

source: <https://wiadomosci.onet.pl/kraj/rmf-fm-sedzia-cichocki-do-kolegi-to-piebiak-zlecil-mi-prace-z-emilia-szmydt/2s6gx1h>; <https://natemat.pl/282497,fakt-sedzia-arkadiusz-cichocki-oplacial-emilie-s-przelewy-sa-dowodem>; <https://tvn24.pl/wiadomosci-z-kraju,3/hejt-wobec-sedziow-uchwala-kolegium-sadu-okregowego-w-gliwicach,967288.html>;

- in a telephone conversation, he sought a job for Judge *Tomasz Szmydt* from the chairman of the body that replaced the National Court Register, explaining that *Tomasz Szmydt* is worthy of taking up the post as a “patriot” and “a person with a heart on the right”:

source: <https://rmf24.pl/raporty/raport-batalia-o-sady/afiera-hejterska/news-jak-sedzia-cichocki-zabiegal-u-szefa-krs-o-posade-dla-sedzie,nId,3224579>; https://rmf24.pl/raporty/raport-batalia-o-sady/afiera-hejterska/news-jak-sedzia-cichocki-zabiegal-u-szefa-krs-o-posade-dla-sedzie,nId,3224579#utm_source=paste&utm_medium=paste&utm_campaign=chrome.

32. **Rafał STASIKOWSKI – Judge of the District Court of Katowice-Zachód**

- the author of the opinion of 2017 on the government’s draft law on foreign service, which assumed vetting of employees of the diplomatic corps – he considered it consistent with the Polish Constitution. The opinion was commissioned by *Małgorzata Gosiewska*.

source: <https://webcache.googleusercontent.com/search?q=cache:PcwBLFndOoQJ:orka.sejm.gov.pl/rexdomk8.nsf/0/9F4DD5B8E53716DBC125816000275E9E/%2524File/i1428-17A.docx+%&cd=3&hl=en&ct=clnk&gl=en>;

- being a judge, he put forward his candidacy for the position of NSA judge and after a competition held before the body that replaced the constitutional body – the National Council of the Judiciary – he was recommended to take up this position and appointed to perform it by the President of Poland (November 2018):

source: <https://krs.pl/bip/files/ostateczna%20lista%20powolanych%2069.11.pdf>;

- resolving the complaint for resumption of proceedings in case I OZ 712/19 – decision of the Supreme Administrative Court of 23 August 2019 – assessed the legality

of taking up the office of a judge by the person adjudicating on the case to which the complaint related – *Przemysław Szustakiewicz*, who took up the office of a NSA judge after the President had been sworn in in February 2019, in accordance with the resolution of 8.11.2018 of the body which replaced the National Judicial Council. In his legal deliberations, he thus assessed the compatibility of the same procedure for appointing a judge to which he himself submitted – at the same meeting of the body called the National Council of the Judiciary. A circumstance of such a nature that it could give rise to reasonable doubt as to his impartiality in a given case pursuant to Article 9 of the PPSA Act. is a premise for excluding a judge at his request, and not submitting such a request should result in the implementation of disciplinary proceedings:

source: https://orzeczenia-nsa.pl/postanowienie/i-oz-712-19/wznowienie_postepowania_sadowoadministracyjnego/23202e.html; https://krs.pl/bip/files/2018-11-0609-dzialalnosc/531_2018.pdf; https://krs.pl/bip/files/2018-11-0609-dzialalnosc/529_2018.pdf; <https://krs.pl/bip/files/ostateczna%20lista%20powolanych%2069.11.pdf>.

33. Konrad Kamil WYTRYKOWSKI – Judge of the District Court in Legnica.

- being a judge, he submitted his candidacy for the position of a judge of the Disciplinary Chamber of the Supreme Court and after a competition held before the body that replaced the constitutional body – the National Council of the Judiciary – he was recommended to take up this function and appointed by the President of Poland.

Hearing of the candidate at the meeting of the body’s team of members of 20.8.2018:

“I have been a judge since 2007. I’ve been judging for 15 years since 2003, including the assessor. I am the President of the Court of Appeal in Wrocław. I am a judge of the District Court in Legnica. I have a PhD in criminal law. I have been interested in criminal law since my apprenticeship, in total I have been in contact with criminal law since 2000. Especially the disciplinary proceedings did not work well enough to eliminate black sheep from the judiciary. The judges of the appellate court are the judges in the disciplinary courts, and in the appeal courts the judges of the Supreme Court, who, in my opinion, are detached from the reality of work in the district court. I, due to my function, cannot be a judge in a disciplinary court. For example, what a Supreme Court judge may know about how to handle a division of 800 cases, and there were convictions in such cases. Or cases where there was a statute of limitations on punishment, after all, this is bizarre, it undermined the authority of the judiciary. A judge should stand guard over the law. Of course, there is a gap in interpretation, and then the judge must decide what interpretation of the rules he will choose. Polish regulations provide for liability for a gross and obvious offence against the law, and in this respect a judge must be liable if he grossly violates the regulations, because it means that he does not know the regulations, not

because of the interpretation, but because of lack of knowledge. A manifest and gross violation of the law in Germany is a qualified offence. The competition was at the turn of 2016/2017. All the votes in favour were six for the college. At the meeting I got the second result in terms of votes for and against. Then there were two posts, one in the economic department and one in the criminal department. There were about five people for one seat. At that time, I had positive marks. As far as disciplinary proceedings are concerned, I have no judicial experience, but I defended myself in disciplinary cases with success. Not in all cases successfully.”

source: <https://n-5-9.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/0dde5ee6-dd63-4642-a7a4-9a777f48d9c6.pdf>;

- according to media reports, he was to initiate a campaign to send vulgar postcards to the First President of the Supreme Court, *Małgorzata Gersdorf*.

source: <https://wiadomosci.onet.pl/tylko-w-onecie/farma-trolli-w-ministerstwie-sprawiedliwosci-cz-3-sedziowie-organizuja-hejt-przeciwko/jg5lhx7>.

34. *Dariusz KLIŚ* – Judge of the District Court in Lubań

- he was to participate in the Kasta group on WhatsApp communicator, organizing an action of discrediting and intimidating judges who oppose unconstitutional changes in the justice system:

source: <https://wroclaw.wyborcza.pl/wroclaw/7,35771,25125092,kasta-zbigniewa-ziobry-kolejny-czlonek-z-dolnego-slaska-sedzia.html>; <https://polityka.pl/tygodnikpolityka/kraj/1919568,1,gw-kasta-ziobry-spiskuje-od-lat-i-robi-zrzutki-na-walke-z-sedziami.read>.

Since 2017, political power has not stopped in its efforts to take over the Supreme Court. Repeated attempts have been made to remove the first President of the Supreme Court, whose constitutional term expires in April 2020. Two new chambers of the Supreme Court were created – the Chamber of Extraordinary Control and Public Affairs and the Disciplinary Chamber, which is an unconstitutional extraordinary court independent of the organisational structure of the Supreme Court – the final instance in disciplinary proceedings of judges and other legal professionals. The new Supreme Court Chambers have been filled with the participation of the body that replaced the National Council of the Judiciary, mainly by persons linked to political power. For example, mainly former prosecutors, linked to the Minister of Justice *Zbigniew Ziobro*, were appointed to the Disciplinary Chamber of the Supreme Court.

The judges who, in case II DSS 2/18, punished *Alina Czubieniak*, judge of the District Court in Gorzów Wielkopolski, with a warning for her procedural decision, i.e. issuing an order annulling the arrest of a mentally disabled 19-year-old man despite a serious charge of paedophile deed, while recognizing that a sick person should from the very beginning – i.e. from the moment of police questioning – have an ex officio defence counsel

35. Paweł CZUBIK – Notary and academic teacher, doctor habilitated in legal sciences, associate professor at the Cracow University of Economics

- he submitted his candidature for the position of judge in the Chamber of Extraordinary Control and Public Affairs of the Supreme Court and after a competition held before the body that replaced the constitutional body – the National Council of the Judiciary – he was recommended to take up this function and appointed by the President of Poland.

Hearing of the candidate at the meeting of the panel of members of the body of 20.8.2018:

W. Johann: *What role, in your opinion, will the Chamber of Extraordinary Control and Public Affairs play?*

“This is a definite novelty in the system of Polish law. The Chamber has two aims – to consider an extraordinary complaint, which will probably be popular, and to resolve public matters. An extraordinary complaint is a special measure, it may turn out that its actual scope of impact will be primarily moral. In general, public interest in this institution will certainly be high.

W. Johann: *The legislator indicates that the reference to the control of jurisprudence, the benchmark, is the principle of a democratic state of law.*

“Yes, this is a fundamental limitation, but there are others as well – the reference to this principle is a certain amount of obvious. Each state is entitled to its own constitutional identity. I believe that in this dimension, purely judicial, this House has a chance to protect that identity. The Polish Constitutional Court did not protect our constitutional identity, like the Court in Germany in 2009. EU law cannot have an absolute effect”.

W. Johann: *Is the principle of the democratic rule of law not a limitation of the new chamber’s case law?*

“As a matter of principle, there was no intention to expand this complaint, there was no intention to have a second cassation. Such a limitation will make it possible to apply this complaint to the most important things.”

W. Johann: *From the point of view of the thesis you put forward in your doctoral thesis, does the ruling of the German Court refer to free trade principles?*

“I wrote about exceptions to free trade rules. I did not refer to the relationship between domestic law and EU law. I mainly wrote about the subjugation of international law. I believe that the German ruling is a model that could be used in the future. I believe that the European Union does not fully understand its role, that you cannot limit the Member States beyond what is entrusted to it.

W. Johann: *How would you describe your specialization?*

“I am a civil lawyer. For the last few years, I’ve been dealing with conflict of laws, especially the question of form in private international law.”

W. Johann: *How would you reconcile scientific work with jurisprudence?*

“I think I would combine both teaching and jurisprudence. I don’t have that much work at the University of Economics, mostly as a notary.”

P. Styrna: *You are a public notary, a profession not entirely related to disputes. So why are you running for this chamber?*

“For some time now, I have been observing, also as a member of the National Notary Council, the problems encountered by citizens. Some of them cannot be solved, even with the new institution of emergency complaints. For example, the scope of most of the entries in the land and mortgage registers in Krakow from the 1940s is wrong. This cannot be reversed. Identical situations also appeared in the mid-1990s and maybe there you will be able to use the institution of an emergency complaint. It seems to me that knowledge of this issue is a plus when applying for the appointment of a judge in this Chamber. I think I will be useful.

P. Styrna: *In which direction should the practice of this Chamber’s judicature go – in the direction of extending or narrowing interpretation?*

“From the citizen’s point of view, it should aim at the widest possible interpretation, but I think that we will tend to apply it strictly, and only in an emergency situation – broadly. I think that this legislative matter will aim for strict interpretation”.

P. Styrna: *Will you be applying for the title of full professor?*

“Yes, I’ve got the thesis already finished. But it is not a priority for me.”

- in the case in question, he was the judge rapporteur:

source: <https://archiwumosiatynskiego.pl/wpis-w-debacie/sedzia-ukarana-za-sprawiedliwe-orzeczenie-bo-chcial-tego-ziobro-precedens-w-izbie-dyscyplinarnej-sn/>; <https://rp.pl/Sedziowie-i-sady/303249997-Sedzia-Alina-Czubieniak-ukarana-przez-Izbe-Dyscyplinarna-Sadu>; <https://wiadomosci.onet.pl/tylko-w-onecie/alina-czubieniak-skazana-przez-izbe-dyscyplinarna-sn-na-kare-upomnienia/n1bf22e>.

36. Tomasz Robert PRZESŁAWSKI – legal adviser

- he has submitted his candidacy for the post of judge to the Disciplinary Chamber of the Supreme Court and following a competition before the body that replaced the constitutional body;
- The National Council of the Judiciary was recommended for this position and appointed by the President of Poland.

Hearing of the candidate at the meeting of the body’s team of members of 21.8.2018:

“I am a researcher at the Warsaw University at the Institute for Social Prevention and Resocialisation. I study issues related to responsibility, guilt and its elements, as well as the level of punishment and moral issues. My research circle also includes the penitentiary, sanctions and the institution of execution of sentence from the point of view of prison staff, as well as living conditions and possible claims of convicted persons against the State Treasury (conditions of imprisonment). I also study sets of ethical standards (recently, I studied the code of ethics in financial institutions). The question arises whether this is a declaration or whether it actually affects the operation of a given institution. I have decided to run for the Disciplinary Chamber of the Supreme Court, because my academic achievements and professional experience make

me fight against deviations from accepted standards and norms. The Supreme Court may refer a case to disciplinary consideration in the case of obvious violations of the law. This is not only a matter of media reports, but a reality in which a party can be harmed by an erroneous ruling – irreparable. In my practice, I have encountered behaviour by judges that would qualify for disciplinary action. Perhaps the judges' comments are too far-reaching and unfair, not on the substance, but on the party, offending dignity. I'm ready to take action in either Division I or Division II, I have no preferences. I deal mainly with executive criminal cases, and penitentiary solutions should include new technology. My experience would enable me to relate to specific behaviour of judges that I know from experience:

source: <https://webcache.googleusercontent.com/search?q=cache:http://n-1-17.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/907dc941-820b-47a3-b819-51fc2227dead.pdf>.

The remaining persons who submitted their candidacies for the positions of judges of the Disciplinary Chamber of the Supreme Court and after a competition held before the body that replaced the constitutional body – the National Council of the Judiciary – were recommended to take up this function and appointed to perform it by the President of Poland

37. Małgorzata BEDNAREK – prosecutor of the National Prosecutor's Office

Hearing the candidate at the meeting of the team of members of the authority of 21.8.2018:

“I am a prosecutor of the National Prosecutor's Office. In 1998 I became an assessor. I passed the prosecutor's exam with a very good grade. In 2000 I became a prosecutor of the District Prosecutor's Office in Bytom. The nomination was given to me by St. Lech Kaczyński, who was a great honour for me. In 2002 I was delegated to the District Prosecutor's Office in Katowice, to the investigative department. In 2004 I became a prosecutor of the District Prosecutor's Office in Katowice. In 2007 I became a public prosecutor of the Appellate Prosecutor's Office in Katowice. In the meantime I served as a District Prosecutor in Bielsko-Biała. Later on, I became a regional prosecutor, after which I was promoted to the position of Deputy Director of the Presidential Office. As far as my achievements are concerned, I received positive marks at every level from my superiors. Each time these grades were given on the occasion of each promotion, each nomination. I have conducted investigations on public persons. Of such more important ones, it was a successful prosecution of one of the attorneys in Silesia. He got

6 years of imprisonment. It was a person who defended Zombie people. Such a well-known figure in the world of advocacy. I conducted many proceedings against people for VAT fraud. These proceedings were very well targeted from the very beginning. I always did a lot of work. I have also supervised proceedings in the case of irregularities in the justice system in Beskid. The person who informed me about these irregularities was released from custody and only after a week came and wanted to give explanations. This material was judged differently by the judges. The Court of Appeal divided my position in the whole scope and the Supreme Court in part. The prosecutor who is not investigating is disconnected from the procedure. In the meantime, I was a member of the Association for Prosecutors “Ad Vocem”. I took part in the meetings of the Senate Committee many times. I gave my opinion on legal acts. I won a cassation in a disciplinary case. The point was that the prosecutor did not obey the order of the Chief Police Commander. What’s funny about this situation is that the first instance court sentenced him. The court of the second instance, in which the prosecutor was sitting, upheld the sentence. Only the Supreme Court shared my position. The signature of this case is in the official opinion, which is attached to the report card. As far as a particular department is concerned, I would prefer to be in the first department. This would be interesting for me because I have always been fascinated by collecting evidence and the evaluation of evidence came easily to me. There is probably a mistake there, because this should be Supreme Court Resolution 19/13. In general, a judge should not be criminally responsible, but the disciplinary rules are formulated in such a way that in some cases they allow such a circumstance. If a judge commits a gross and obvious offence against the law, he should be held liable. However, not every judgment, even in violation of the law, need not be gross. So everything depends on the facts. If a judge disagrees with the case law of the Supreme Court and makes a different ruling, but justifies it well, it is acceptable. I’m the author of one article on changes in the prosecutor’s office after 2010.”

- conducting open hearings, she asked why people who came to the courtroom as an audience were present. The inadmissibility of such interference was pointed out by the juror participating in the trial:

source: <https://prawo.pl/prawnicy-sady/sad-nie-ma-prawa-legitymowac-publicznosci-nasali-rozpraw-opinia,475141.html>.

38. Piotr Sławomir NIEDZIELAK – Judge of the Court of Appeal in Białystok

Hearing the candidate at the meeting of the panel of members of the body of 21.8.2018:

“I am applying to the Disciplinary Chamber of the Supreme Court for several reasons. Perhaps the most prosaic is that in 2006–2007 I worked, among other things, on the issue of changing the common court system, and I believe that the law is a certain reflection of that intention. The second assumption is that I have been dealing with disciplinary issues for a long time. I was an advocate on disciplinary matters. For the last two years, I was the director of

a department in the Ministry of Justice, which had disciplinary proceedings issues in its remit. As the number of complaints from citizens began to increase, I supervised this department, which was created. This also gives me a certain pool of skills and experience. In my time, I applied for the post of Disciplinary prosecutor for Common Court Judges. I did it consciously, with a recommendation, because that was the statutory formula. I did not win this competition, but my motivation at the time was that I did not like the existing line of jurisprudence of the Supreme Court in disciplinary cases. Generally, observing the judiciary for years, also working in the Ministry of Justice, I find that the line of jurisprudence of the Supreme Court is uneven and difficult to estimate. Disciplinary responses have been quite lenient in serious situations. Situations related to human handicaps were treated very severely. I was irritated by the fact that disciplinary courts were very lenient in connection with service, various acts were treated liberally, which led us judges, in public opinion, to a bad opinion about our work and service. An important element in my opinion is the question of control of disciplinary proceedings. It is about the relationship between disciplinary proceedings and the model of their supervision. There has been an attempt over the years to develop such a model, but I see that the community has not accepted it. There are no systematic visits. I have always ruled in the criminal division, which is the backbone of legal thought. I was a prosecutor before, so I also have more than average experience in this sphere. It is positive for my candidacy to work in the administrative sphere – this is also a plus from the point of view of performing my duties in this Chamber. I don't know how the faculties in the Disciplinary Chamber will be fully formed. I don't see any fundamental preferences here. I don't know how the issues will be assigned. Both are equally responsible and equally interesting. I didn't think about it that way. As far as the case is concerned, it's a difficult one. The line of jurisprudence up to now has been that the Supreme Court has only placed these offenses in a position where there has been a procedural violation. That's doubtful. It seems to me that there should be a catalogue of such offenses and their stylization. It seems to me that the legislator has created certain tools in the current state of law. The Supreme Court may initiate such proceedings in connection with a judicial proceeding”.

39. Adam Grzegorz ROCH – Prosecutor of the Regional Prosecution Office

- in 2006, he ordered a woman in advanced pregnancy to be taken into custody, and then interrogated at the delivery room. After being taken into custody, the woman was refused to change her shoes, provide hygienic measures, see her family and her lawyer. In 2013, the trial at the European Court of Human Rights ended with the Polish government reaching a settlement. The Polish government admitted that the woman was subjected to “inhuman treatment and torture”. The victim received an apology and compensation of PLN 40,000 each for her and her daughter. From the minutes of the team's interrogation of the candidate, it does not appear that, despite a broad description of the case by the media, the candidate referred to these circumstances, or was asked about them:

source: <https://wiadomosci.wp.pl/zlecił-przesluchiwanie-kobiety-podczas-porodu-prokurator-adam-roch-moze-zostac-sedzia-sn-6288792138737281a>.

Hearing of the candidate at the meeting of the team of body members of 21.8.2018:

“I have been working in the prosecutor’s office since 2001, since 2007 as an appellate prosecutor in Katowice. In 2016 I was appointed to the Regional Prosecutor’s Office in Katowice as deputy regional prosecutor. My interest in disciplinary cases results from the fact that for three terms of office I was a judge of the disciplinary court for the prosecutor’s office. I participated as a member of the composition, issuing decisions on motions to hold prosecutors criminally responsible. I was also the chairman of the disciplinary court. My work in the community seems to have been received positively. When I made my first instance decisions, I was interested in whether they would be upheld. They were not overturned in cases I presided over. The rulings made by the disciplinary courts with my participation were both acquittal and conviction. In recent years, my interest in disciplinary proceedings has manifested itself in scientific publications. I have provided training on disciplinary proceedings. I would like to continue my education, and if I become a Supreme Court judge, I could do so free of charge. As far as disciplinary liability is concerned, there would have to be a real and blatant insult to the rules. Criminal responsibility for the judiciary should be approached very carefully. Of course, I am aware that when a ruling is made with a desire to overstep powers, it would be difficult, but not impossible”.

40. Adam Rafał TOMCZYŃSKI – legal adviser

- candidate has distributed content supporting Law and Justice for TT, but also commented on recent political events and the ongoing election campaign. The most controversial are the two tweets given further by the candidate: “On 21.10.2018, I vote for whomever the Law and Justice party is signed. So much for the “division of the right” and “WarsawJAKI... don’t fuck this up...”. During the meeting of the so-called KRS (National Court Register) team, he was not asked about these issues:

source: <https://rp.pl/Sedziowie-i-sady/310169973-Kontrowersyjne-wpisy-na-TT-sedziego-Adama-Tomczynskiego-z-Izby-Dyscyplinarnej-SN.html>.

Hearing of the candidate at the meeting of the panel of body members of 21.8.2018:

“I know the courtroom from all sides, as a lecturer (from students) as well as from my own professional practice. I also have experience in case law. I was a judge, I have conducted cases in the field of bankruptcy proceedings, where it is necessary to be able to assess the legal and criminal misconduct. I was a member of supervisory boards. Thanks to this, I gained professional experience and I know several branches of law. I am aware of the discrepancies in jurisprudence – in the same case the courts can issue different judgments. My knowledge of disciplinary proceedings results from the fact that I deal with disciplinary proceedings in the Polish Football Association. I was also an arbitrator in the Polish Olympic Committee.

I know foreign languages (English, Oxford state exam, Spanish – Escuela de Idiomas Madrid). I have scientifically compared the Spanish Constitution to the Polish one. I have dealt with criminal proceedings in the Polish Football Association and the Polish Olympic Committee. In bankruptcy proceedings, where you have to manage a company, where there is civil, administrative and criminal (quasi-criminal) law, I have experience in criminal and civil liability for the actions of board members. The quasi-criminal proceedings in which I have ruled are about a ban on conducting criminal activity (several rulings). I run a law firm. I work with receivers. In my application I wrote that I choose either the Disciplinary Board or alternatively the Civil Board. I have extensive experience in cooperation with the courts. I think visiting judges should be more active. I'll give you an example of how my case has been merged with another, completely different one. The president of the court has acknowledged my complaint. At that time, the presiding judge was promoted. So as not to again have a ruling stating that a judge who had appropriated something may continue to be a judge. I don't accept that. There must be more bold disciplinary proceedings against judges in terms of protracted proceedings and rude behaviour towards participants in proceedings. As far as judgments are concerned, they should not be punished with two exceptions – if it is related to the offence (financial gain) or if the judge clearly goes beyond the limits of his or her powers, where there is no connection between the facts and the judgment. A gross offence against the law”.

41. Ryszard Jacek WITKOWSKI – Prosecutor of the National Prosecution Office

Hearing the candidate at the meeting of the team of members of the body of 21.8.2018:

“I am a prosecutor. Currently Head of the Preparatory Proceedings Department. My children come from Krakow. I wrote my master's thesis in the Department of Criminal Proceedings. After graduation I underwent military training. I did my assassination in Cracow. Then I became a prosecutor in the Military Garrison Prosecutor's Office in Cracow. Then I became a prosecutor in the District Prosecutor's Office in Warsaw. There I worked mainly on frontal positions. After the liquidation in supervision and partly in court proceedings in 2016, I got the title of a prosecutor in the National Prosecutor's Office. First, I worked in the Military Affairs Division, then I went through 2 years in the Department of Organised Crime and Corruption, and now I returned to my home Department of Military Affairs. I was appointed as the head of the department. Since 2011, I have been a judge of the Disciplinary Court at the Supreme Military Prosecutor's Office there. Since 2016 I have been the president of this court. I check myself there – and this is not only my assessment, but also that of my superiors – where there is a need to make decisions and take responsibility for those decisions. As far as decision-making is concerned, I have no problem with that. I also bet on efficiency, because the sooner the case is over, the better. Then everyone knows what the case is about and there is a possibility of appeal. We know how many years a case lasts in the courts. These cases take a long time. Currently I have a case that has been going on for 10 years and nobody really knows what the case is about. These are cases that compromise the prosecution. So we also have such cases in the

prosecutor's office that it would be better not to talk about it. It's all about responsibility for the excesses. I know of judgments where a district court judge wrote that he knows the views of the Supreme Court, but he has completely different views. On the other hand, such excesses, which have the characteristics of a crime, can be considered disciplinary responsibility. As I say, everything depends on the specific situation. I have no publications. Due to the nature of the cells in which I worked and other activities, I did not have time to publish. Besides, I live in Krakow and work in Warsaw, so family issues do not allow me to do so. I try to look home on weekends. The post-graduate studies have already put enough strain on my wife's patience”.

42. Paweł Antoni ZUBERT – Prosecutor of the Regional Prosecutor's Office

Hearing the candidate at the meeting of the body's team of members of 21.8.2018:

“I work in the financial crime department of the Regional Prosecutor's Office. I deal with cases related to criminal crime, cases of economic crime and organised criminal activity. I have appealed to the district, district and appeal courts, in appeal cases, for pardons. I use this experience in my work. From 2010 to 2016 I was a member of the disciplinary court, and since 2016 I have been a judge of the disciplinary appeal court. These are cases related to the initiation of disciplinary proceedings, reduction of remuneration, extension of suspension, consent to prosecution and crimes prosecuted ex officio. In addition, I have been conducting teaching and training activities since 2010. (training for the police, the border service, prosecutors). I take care of improving my professional qualifications, I also completed postgraduate studies in rhetoric. I believe that my knowledge and experience as a judge of disciplinary courts give me grounds to apply for a place in the Disciplinary Chamber of the Supreme Court. As for the disciplinary responsibility of judges for bad judgments, I believe that the law should not be changed if there is an obvious offence against the law, because we already have mechanisms. On the other hand, when it comes to disciplinary tort, ethics, there can be no doubt as to what is inadmissible, and here it depends on the degree of infringement. As far as the proceedings of the 231 Code of Criminal Procedure are concerned, the damage must be real. I'm far from being held accountable for any breach of the law, and that is very delicate. In some cases, you can't spend the judges with disciplinary proceedings:

source: <https://webcache.googleusercontent.com/search?q=cache:http://n-1-17.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/907dc941-820b-47a3-b819-51fc2227dead.pdf>.

43. Jan MAJCHROWSKI – academic

- before recommending, he served as an advisor to the Speaker of the Sejm, which the recommending body did not consider contraindicated to the function of a judge. It does not appear from the minutes of the hearing by the team that this issue – granted by the candidate – was the subject of any investigation or reflection.

Hearing of the candidate at a meeting of the panel of members of the authority on 22.8.2018:

“I am a Varsovian, I applied at the last minute. I took into account my application to the SN, but only to the Disciplinary Chamber, and the law excluded the possibility of combining service in the Disciplinary Chamber with any other work. On Friday I learned from the Journal of Laws that there was a change. The amendment included the possibility of combining work in the Disciplinary Chamber with work in a university with the consent of the President of the Chamber. On Monday I managed to collect all the documents and obtain certificates to apply. In my case, there is a desire to continue working at the University of Warsaw. I have been working there for almost 30 years. My experience should also be used to educate young lawyers. I am an advisor to the Speaker of the Sejm. I am a member of the NIK College. I belong to the Judicial Audit Committee. This activity enriches my teaching, expands my knowledge. I have a case law experience due to 8 years of work in CT. Possible service as a Supreme Court judge would complement my career. The main field of my activity would be the SN. It is an extraordinary thing, the reforms are an opportunity for sanitation within the judiciary and public trust professions. This is an extraordinary situation. In the area of disciplinary matters, the creation of a new Disciplinary Chamber is not only relevant to the extent that can be read in the explanatory memorandum. Raising the profile of the legal professions by increasing the efficiency of the post-disciplinary post is one thing. The SN is to ensure the uniformity of jurisprudence and disciplinary proceedings are a separate task, but in a functional way the Disciplinary Chamber in the Supreme Court will/can very effectively influence the uniformity of jurisprudence. This has not previously been the case – there will be a new chamber in the SN and, for example, Article 127 § 2 of the Prosecutor’s Office Act, which is being challenged, among others, by the prosecutor. This provision states that if a prosecutor acts solely in the public interest, he or she is not liable to disciplinary action. I do not know what the Constitutional Tribunal’s ruling will be, but the question arises as to how this provision will be interpreted in the case law. It’s the role of the SN Disciplinary Chamber. Issues concerning the interpretation of this provision will go to the Supreme Court. Fuzzy terms must take on a specific meaning. I believe that the issue of the “personal substrate” – the man in a given organ – is important. In the SC Disciplinary Board in particular, a person must have certain qualities that I believe I possess. The law allows for the appointment of a person from outside the judicial environment, which I consider to be a great advantage if it is judged in relation to an environment to which one does not belong. I lost the function of governor because I didn’t want my name to be used in certain cases. I was thinking more about the first department, because it directly concerns the Supreme Court judges and larger calibre cases. As far as the judicial excesses are concerned, in the context of the principle of the independence of judges, even a judicial criticism is such a way of dealing with such situations, i.e. when there has been a gross violation of regulations. In my opinion, the courts are independent, but not sovereign. The judicial oath is clear in this respect.

He submits a letter – a correction of a writing mistake about the habilitation (post PhD degree).

44. Jacek Stanisław WYGODA – Prosecutor of the National Prosecutor’s Office

Hearing of the candidate at the meeting of the panel of body members of 22.8.2018:
“Age 53, married, three children. I graduated from the Jagiellonian University, my first job was at the customs office in Cracow. Later I expected to be admitted to the police in 1990. I have been in the Prosecutor’s Office since 2001, I have worked, in various positions, now I am the director of one of the departments in the National Prosecutor’s Office. For any lawyer, the Supreme Court is the crowning achievement of a career, it’s like a set of gold medals at the Olympics. I am also the chairman of the disciplinary appeals court for prosecutors, which is why I decided to do so. I am the author of 11 publications. I published in the Military Law Review. The hardest thing to do is to judge yourself, your role as a judge of the Supreme Court Disciplinary Chamber would be to effectively and efficiently conduct disciplinary proceedings. They are currently characterized by their length and length. I have filed a complaint against the prosecutor’s office in a case involving my daughter’s death, I have encountered the incompetence of fellow prosecutors personally and their bad will. I would like to see the decisions making justice. The point was that my daughter was born with a severe heart defect that could be operated on. An eminent professor worked in Cracow at that time, a bad diagnosis was made, the symptoms were underestimated, no medication was administered routinely and in the second week of her life her daughter had a collapse, brain damage, she had several epilepsy per day. She died due to neurological consequences, an infection which caused pneumonia. She died of a medical malpractice. In my complaint to Strasbourg, I wrote that there were errors in the procedure. The judge should answer, but the excess is unequal. I worked for a couple of years in the IPN vetting department with the Curtain and I saw there how the judges could “turn” the case. The example of Tomasz Turowski, the judges of the Supreme Court also committed offenses. In a situation when a murderer goes out to freedom, because the judge underestimated, he should answer. The principle of independence does not mean that you are independent from criminal responsibility. It means that you are free from outside pressure, but it does not mean that I can ignore certain rules. In Germany, you have been convicted of breaking the basic rules of the trial. As far as the indictment against me by Mr. Mościcki is concerned, I don’t know what the final outcome was. I don’t know, and I didn’t see Mościcki. It was a man who was found in Strasbourg to have violated his rights of defence and he filed a motion to reopen the proceedings in the Supreme Court, because not all materials were open there. My immunity was never requested. Maybe the court hasn’t read whether it accepted it. I don’t know at what stage he refused to initiate or I don’t know, this Mr. Mościcki was no longer recognised in the resumed proceedings. Probably it was remitted, because the accuser did not ask for the waiver of his immunity”:

source: <https://n-5-4.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/751e28b1-1427-4644-9a30-f9aae4db5340.pdf>.

Persons who have submitted their candidacies for the positions of judges of the Disciplinary Chamber of the Supreme Court and have not been recommended for appointment*

The list includes all persons who have submitted their candidatures for the position of judges of the Disciplinary Chamber of the Supreme Court. In view of the existing doubts as to the legality of the appointment of this Supreme Court Chamber both in constitutional terms and in terms of its compliance with EU law, the participation of all the persons indicated in the competition procedure should be examined for possible disciplinary tort. The list includes only candidates for vacant positions in the Disciplinary Chamber of the Supreme Court in 2018, participating in the proceedings before the body that replaced the National Council of the Judiciary. However, the list excludes persons who withdrew their candidacies and who did not appear at meetings of the body (the evaluation team). The list also omits those who submitted their candidacies in the next competition in 2019. Each candidate should be given the opportunity to present his or her reasons for standing as a candidate, and without their thoroughness it would be inappropriate to make any judgments. This motivation results from the minutes of the meetings of the panels of the body recommending candidates for the office (hence the recommendation to read them carefully).

The application includes candidates for 16 vacant judge's positions announced in Monitor Polski in 2018, item 633.

45. Filip Mateusz CIEPŁY – academic employee

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"I am Doctor of Laws, specialization in criminal law, and I am a researcher at the John Paul II Catholic University of Lublin in Lublin. It seems to me that the creation of the Disciplinary Chamber is opening the door to new jurisprudence. As far as my candidacy is concerned, I decided then how three or four people came forward and they said that nobody came forward because there was a boycott against the government. That's not quite so. That is why I decided to run for office. I'm not talking about legal self-governments, but the professors made us think about whether to stand as a candidate, because this could weigh on our promotion path. I am not afraid, if I were afraid, I would not be here. I am an assistant professor in Stalowa Wola. I'm finishing 30.9.2018 and going back to Lublin. A new law is coming into force, the law in Stalowa Wola is being extinguished. There is no more recruitment for the right, the technical directions are to stay. Law, pedagogy, psychology and sociology will no longer be in Stalowa Wola. There was a moment when I wanted to make a living, because I was buying in those years and for a few years I was working with schools. I lectured on internal security, but I also taught criminology and rehabilitation. I lectured at a higher school in Mińsk Mazowiecki, in Józefów and Tarnów. Currently in the Constitutional Tribunal there is an application for a declaration of compliance of abortion with the Constitution of the Republic of Poland from the so-called

social premise 7. There is an opinion of the Sejm and here my name is quoted three times, and in the opinion of the Prosecutor General once. There is also an expert opinion in which my name is mentioned several times. "Eugenic Abortion and Disability Discrimination" – here I focused mainly on the Basic Law. Generally my work is quoted, which I enclosed. I would like to offer my doctrinal support to the Disciplinary Chamber. It seems to me that this doctrinal view of the provisions of the Act will be a support. Scientific work and jurisprudence is what I would like to do in a special way. That would interest me. The jurisprudence? I don't have an opinion here. As for the blatant and obvious insult to the law, the Supreme Court has stated that this cannot be taken as grounds for overturning the sentence, because such a situation would automatically mean disciplinary proceedings. Where there has been a violation, a distinction must be made between situations where we hold ourselves responsible and situations where we do not. This all seems to me in abstracto unanswered. There must be a specific situation. Ukrainian law has a lot to do with Polish law. I was not interested in German law. I was more interested in American, Australian and Ukrainian law. I was a bit interested in French law. Ukrainian law comes from Russian or Soviet. And this, in turn, is a German school. I took part in trials in Poland and abroad. As far as trivial matters are concerned, I liked the fact that they were dealt with at an express pace. I was at Chicago Court Gentry Criminal. As for the jury, the judge took me once for one of those people who were called to sit on the jury. The judge wanted to thank us and said that he was very fascinated by our legal system and that he is the best in the world. He was an attorney for twenty-some years and has only been a judge for a few. He said that he had to learn every day. Judicial independence is manifested by the citizen's right to a fair trial, to an impartial court, which is what is expressed in the essence of independence. At the last moment, changes were made to the fact that a disciplinary court judge can carry out scientific activities in a minimum of time and of course gets rid of the 40% allowance. I am ready to continue my scientific work, sacrificing this 40%. I have not been to Australia. The prosecutor referred to my publication when he filed a motion to the Constitutional Tribunal to declare the article on criminal prediction to be unconstitutional, i.e. to declare a very high degree of probability that the perpetrator will commit an act in the future. However, my publications are referred to in important conclusions. Perhaps if there was no such boycott and they did not think they were irreplaceable, I would not be here. They said that they have always been here and that they will be here for a very long time. It seems to me that there are no irreplaceable people. Cemeteries are full of irreplaceable people. I was wondering in which department I would like to rule, but in this matter I would leave it entirely to the president's discretion where he would see the need. My promoter was Professor Alicja Grześkowiak. She was the one who noticed my research interests. At the master's seminar she noticed that something might come of it. She introduced me to the world of law. However, when it comes to the authorities in Poland in general, I will say that I am in despair when it comes to political evaluation. Then you know why the next conferences will be devoted to it. This cannot be completely separated. I was wondering about the Penal Chamber. The Disciplinary Chamber is a certain resultant of criminal responsibility and moral responsibility. Besides, I didn't want to apply to the Penal Chamber as one and perhaps at a relatively young age at that point. I don't think I have such an experience in the daily functioning of the Supreme Court that I feel 100% that I'm going to get everything. The Disciplinary Chamber, as this is a new creation, I will embrace it."

46 Lidia Maria DUDEK – Judge of the District Court in Częstochowa

- candidate again applied for the post announced in Monitor Polski of 2019, item 675.

Hearing the candidate at the meeting of the team of members of the authority of 20.8.2018:

“I am here to convince myself that I am the right candidate. Professional qualifications – as a judge I have been judging for 32 years, I graduated from the University of Wrocław, I completed my training in the court in Częstochowa, then I was a judge in the District Court in Częstochowa, where I judged in the civil department, then in the District Court in Częstochowa, also in the civil department. I believe that I have a lot of experience, I served as a training manager until March this year. I invited many interesting well-known lawyers, I train trainee attorneys in substantive civil law and civil procedure. For seven years I have been appointed to examination boards every year, recently I was an examiner at the bailiff’s exam, in the district court I am a coordinator for mediation matters. I urge judges to use this institution. I am not afraid of any work, I like new challenges. I am also an election commissioner in Częstochowa. I took the exam for the commissioner, although the judges do not have to, because they are dismissed, I prepared myself for three months and passed. The State Election Commission appointed me as a commissioner. I adjudicate in 100%, although I could have a reduced scope of adjudication due to my functions. I am prudent and balanced, I have time. The Disciplinary Chamber, because I have qualifications in civil law, and this Chamber will handle cases of Supreme Court judges in the field of labour law, retirement cases and my qualifications would be helpful. I’ve been a widow for four years, I have two adult children. My daughter is in her sixth year of medicine, and my son passed the bar exam this year. I have read in detail the regulations under which the Disciplinary Chamber will operate, with the whole procedure, the first department, the second department, I have read all normative acts. I am a contact person, I have a good reputation in the judiciary. I believe that judges should have disciplinary responsibility, if they commit any misconduct, they should be responsible, it only depends on what kind of ailment they have, because there are many possibilities. There is the punishment of warnings, reprimands. A Supreme Court judge should behave with dignity and not commit excesses. There comes a time of work and rest, during which the judge works and goes into a state of rest. In addition, those judges who wanted to make a statement and most of those who made it were allowed to continue judging, and those who did not, are their problem.”

47. Jarosław Jerzy DUŚ – Prosecutor of the National Prosecutor’s Office

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“It is an honour for me to be able to present myself to such a committee. I am a prosecutor of the National Prosecutor’s Office. I am currently the director of the National Prosecutor’s Office.

*I am also a judge of the disciplinary court at the General Prosecutor's Office, this experience also coincides with the Chamber to which I apply. Disciplinary courts have made mistakes. For example, the case of death in a foster family in Pomerania of two children, where the immunity of the prosecutor was not waived. I have made a dissenting opinion in this sentence. I took scientific actions, I am now waiting for the deadline for defending my doctoral thesis, its title is: "Genocide against Poles in the Lviv Voivodeship." I am also the editor-in-chief of the quarterly *Wojskowy Przegląd Prawny* (Military Legal Review), which was created on the initiative of Marshal Piłsudski. In 2016 it was to be liquidated, but I took over the editorial duties and we saved the quarterly. Now, not only military and legal articles are published, but also items on the broadly understood criminal law. I decided to run for the Supreme Court's Disciplinary Chamber, because if there was no such thing as a Disciplinary Chamber, I would not apply to any of the Chambers. I allowed myself to comment on what was going on in the prosecutor's office, I stigmatised the shortcomings, imperfections, I had a hard time because of that. Therefore, in this state one cannot stand passively, watch, one has to say "I'm going into it and I'll do everything to make it better". I believe that all kinds of jurisprudence errors, contrary to the law, that is, procedure and material law, should be accounted for. A judge cannot be independent of reason, I think that will be the role of this House. We will raise the level if we start to account for errors in judgements. In 2005 I was appointed as a prosecutor of the District Prosecutor's Office in Inowrocław, but as I am fluent in German, there was such a case of Dr G. and an expert from Germany appointed to draw up an opinion on this case wanted to have a liaison prosecutor at his disposal and then I was expelled from the province, I got a delegation to the prosecutor's office in Warsaw and I worked hard. Thanks to that I got a promotion, in 2016 I had a part in the prosecutor's office reform. Now it is still unpublished, but I have, now it will come out soon, so I will boast. Here are the successes in the prosecutor's office for the years 2016–2018. We now have a leap in success in prosecuting economic crimes. In 2016 I was delegated to the National Prosecutor's Office, and later I became a prosecutor of the National Prosecutor's Office. I will have no problems with independence, I was personally affected by professional ostracism. In 2007, the power in the Prosecutor's Office changed, and then I was subjected to environmental ostracism, but this did not affect my values and ideas. In Poland, such a penal provision is worth considering, because criminal responsibility is more annoying than disciplinary, it is to be considered or one could work out one's own way, not necessarily criminal".*

48. Dorota Anna JAKUBIEC – Judge of the District Court in Świdnica

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"I am a judge of the District Court in Świdnica delegated to the Ministry of Justice, where I am the main specialist. The grade from studies is good, the court application and then the exam with a sufficient grade. I was an assessor in the period from 1.12.1996 to 10.7.1998 in the District Court in Ząbkowice Śląskie, later a judge in this court. During the assessor's term of office I was a judge in the penal department, additionally during the assessor's term of office in the family and juvenile department there. After the nomination, I ruled in the penal

department in Zabkowice, but due to the commuting, and then I was the mother of a small child, I moved to Świdnica. My husband was a prosecutor in Świdnica, so I was directed to the family department. I have additional education related to family law. Since 2010 I have been delegated to the Ministry of Justice. I dealt with the family department related to the tasks of external supervision of the Minister of Justice to handle complaints, but there were fewer complaints then than now. I dealt with the legislative process, supervision of correctional facilities, matters at the interface between the family code and custody. In the Ministry of Justice, I continued to specialise in foster care, monitoring contacts. We lost as a country in 2007 and the government programme to monitor contacts and the work of the courts in this area was undertaken, now it is the department of family and juvenile affairs. I am now dealing with the same issue. I would like to see it in the family chamber, but there is no such thing, there is a problem in this sense, I do not feel strictly civilized. Some district courts have family appeal departments, but there is no such department in the District Court in Świdnica, so I have no possibility of professional development. I did not run to the District Court, because there is only a civil and civil appeal department. At the beginning of the year 2000 I was offered a job, but I didn't feel up to it. After 24 years of working in the judiciary, I feel like a "family man" and I would like to continue this and not learn again. In 2016, I returned to the court and found myself in the civil department, I learned civil law again, I had a second assistant. My additional education did not matter, my personal argument. I am neither a criminal nor a civilian, there is no family room. In the Chamber of Extraordinary Control there are cases of telecommunication law, I do not feel prepared for such cases. I have contact with regard to external supervision of the execution of court proceedings, it seems to me that this entitles me to believe that I have basic preparation, thanks to the work I have done in the Ministry of Justice. I have no publications, I did not have time for this."

49. Walerian Seweryn JANAS – Prosecutor of the District Prosecutor's Office Warsaw-Praga in Warsaw

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"Today at work, after the interviews, I heard on the radio that there were interviews, but I didn't get a notice about the date of the interviews, apparently my mail failed. I made my offer because from my point of view, judging myself as a lawyer, I have quite a lot of experience as a lawyer-prosecutor. I work on investigations all the time, I have good results. Apart from the prosecutor's office, I have a lot of experience in other professions, which can be useful. My life experience is such that I am 58 years old, half of which I spent in the prosecutor's office, because I have a secondary education in construction and in some periods of my life I conducted construction works. If we evaluate different aspects of my experience, my life experience is very important, especially in the Disciplinary Board. We will evaluate various tort there, and a person gets into various troubles and problems in life. When I talk to my colleagues, or when there is an applicant or assessor, I tell them: the law, it is not just learning the rules, because that is what Lex is from, and when we judge a person, we judge them from life experience. As

a man with a lot of life experience, I know that this aspect must be weighed and considered. You can't have a single zero as in mathematics, or that two plus two is always four. We evaluate life situations. I am a criminal. Many times I see such a situation that the situation changes with regard to the accused person, with regard to the time and his attitude is different at the beginning and end of the trial. Some people come out of this problem and others do not. Sometimes it is sad to punish when, in retrospect, someone gets married, because if it were all quick, it would be easy, and it is not easy. The motives for evaluation are also decisive. I think I am able to evaluate such situations, and my process decisions have always been balanced. If I have doubts about the indictment, I know that the judge will have 100% doubts. When I conduct the proceedings, I want to achieve success, because I accuse and success is when someone is convicted, but not at any cost. I'm after the judge's application and I have the judge's eye. When I was an applicant and read the indictment, I would return everything, sixteen cases I read and sixteen cases I would return. I would return everything, because there were such deficiencies, nothing suited me. I see myself in the Disciplinary Chamber. I don't know which department, I haven't analysed exactly what falls within the competence of individual departments. I would've done both. I can afford to be very objective in every situation, it's innate. I have a child and I see its flaws, although I am a parent, because we have to be objective and honest. The complex problem and the limit of responsibility is fluid. I think that in principle there should be a judge's responsibility, but not to throw the baby out with the bathwater. The court of first instance convicts and the court of second instance acquits and there is dissonance. We cannot stick to the letter of the law, a mistake can be made when assessing life situations, but there is an appeal to correct mistakes. But sometimes there are mistakes that cannot be eliminated, it is an art to correct these mistakes. It is hard for me to judge, to enter into the evaluation aspect when I know the case file and know whether it is intentional or not. People on TV say different things, and in court they say different things. When they go to court, it's depressing for everyone. You cannot create a general rule, only each case must be assessed separately, whether it is due to incompetence or objective factors, but the general criteria must be. We cannot be afraid to judge. As a prosecutor, I am judged. There can be no vacuum, if there are five prosecutors, then there is no way to judge, if there is one assigned to the case, then the man and his competence can be judged. However, it is often the case that there is one person and he is incompetent, then there has to be a boss's interference and he has to judge. In the courts it is better than in the prosecutor's office, because the material is better prepared. Yes, I can see the possibility of evaluation and you don't have to be afraid of it. You should judge in the judiciary, judges should not run away from judging their work. The team of members of the National Council of the Judiciary took into account the formal criteria set out in the Act of 8.12.2017 on the Supreme Court, including professional experience, academic achievements and the level of legal knowledge of the candidates, presented also during interviews with the team members. Given the importance of the Disciplinary Chamber in the new structure of the Supreme Court, the team paid particular attention to the qualifications, competences and professional achievements of the candidates, which in practice will be of fundamental importance for the proper operation and effective functioning of the Chamber."

50. Piotr Paweł KAMIŃSKI – advocate

- the candidate reapplied for the post announced in Monitor Polski of 2019, item 675.

Hearing the candidate at the meeting of the team of members of the authority of 20.8.2018:

“I am an attorney, former military garrison court judge, candidate for the Supreme Court Disciplinary Chamber. I apologize in advance for the confusion and the delay, since I was not home for a few days and received late notice of the date of the hearing. Already 10 years ago I tried to raise the standards of judicial practice. At that time this did not meet with a favourable opinion of the environment. Then I successfully started a law firm. I have experience from both sides. I was pushed out of the profession. I was a judge of the military garrison court and I sentenced “a Stalinist judge” with one sentence. It was a verdict concerning a judge in Szczecin who sentenced a young man to 4 years’ imprisonment. I justified this verdict, referring to the Radbruch formula. This is a concept saying that natural law is sometimes more important than positive law, so if there are laws that allow to convict for good things but do not like the current authority, then someone who convicted on the basis of such a law, but not in accordance with natural law – committed a tort. There certainly has been an excess of power. Besides that, I wanted to end the “dealings” in the judiciary. Then the judges from the Military Chamber tried to use it against me. The chairman asked me to suggest that I should save his friend, and I refused and met with harassment. Now I can see that there is a real chance to improve the fruit farming. As a state official, I want to take part in this judicial improvement. He is currently practicing as an attorney and us, there are 6–7 attorneys working in one area. I accept all cases except commercial law cases. My specialization is family law in its broadest sense: divorce, alimony, division of property, child care. I also deal with criminal law. Considering the results of the cases that I conduct and the fact that people come to me and say that I am the best in the area and they want me to represent them, I am positive. I have acted in criminal cases both on the side of the defence counsel of people who were guilty in disciplinary proceedings and where I was a representative of the wronged party. We now have a Supreme Court ruling that the judge is not subject to disciplinary responsibility for the tort at all. I think this goes too far, because if a verdict is passed that has no support in the law at all, it is known that it will be an open violation of the law and cannot be explained by the case law. Surely we must always look at the motives of the judge. If he acts on the basis of personal motives and supports the interest of someone else, so if the verdict results from the willingness to do so and not to do otherwise – it would be a violation of judicial independence, but this is very difficult to prove. I took my judicial exam with a good grade in 1997, and then I was assessed. I passed the exam at the Military Garrison Court in Lublin, then at the Military Garrison Court in Warsaw. The term I used that I was pushed out of the profession means that I resigned. There were disciplinary proceedings against me. I wasn’t convicted in any way. They were pending – they were redeemed due to a failure to commit the act. The charges I’ve been presented with are that: I instructed the parties about their powers, including the possibility of excluding the

judge in a situation where I've dealt with two cases of the party simultaneously and the court excluded me. This was before the regulations came into force, where it was obligatory to exclude the judge in such a case. I was accused of contributing to the lengthiness of the proceedings. Then I was accused of not appearing on the summons. These situations took place after I gave the aforementioned ruling in the case of the judge who wrongly convicted this young boy”.

51. Adam Antoni KANAFEK – Judge of the District Court in Bielsko-Biała

- the candidate reapplied for the post announced in Monitor Polski of 2019, item 675.

Hearing the candidate at the meeting of the team of members of the authority of 20.8.2018:

“I am a judge of the District Court in Bielsko-Biała. I believe that there is a possibility of some change and the nature of this work does not exceed my possibilities. I carry with me the knowledge of court practice. This is experience that could be helpful in judging disciplinary cases. My preference is first instance judgement, though not exactly. I think I'd be able to do both. At this point I remembered that it was written on the invitation that some more material could be added today. The candidate submits a list of publications and articles. These are publications about the system. As far as running for the Disciplinary Board is concerned, there wasn't any initiative of mine. I got the news that I was appointed by the Minister of Justice to serve as a disciplinary court judge and then I thought to myself why not. These are some of the things that made me think I'd be suitable for this. I know that my colleagues have been writing to the Minister of Justice to appoint them, and I've never written. There was nothing like that on my part, until suddenly here I got an act of appointment as a disciplinary court judge. When it comes to the judicial excess, you have to have a very individual approach to such cases. I would be very careful. If some boundaries are crossed, then maybe it'll work. But I'd still be careful. I didn't apply to the Penal Chamber because I think my experience would be more useful in the Disciplinary Chamber. There was a change of protocol here. The next meeting of the team was with Katarzyna Kuźma”.

52. Cezary KOŚCIESZA – IPN prosecutor

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I'm 49 years old, and I'm a prosecutor of the Institute of National Remembrance in Lublin. Previously I worked in the Prosecutor's Office in Lublin in the investigative division. I applied because the changes in the disciplinary judiciary mainly concern judges and prosecutors. Therefore, I believe that the new Disciplinary Chamber should also include people from the prosecution community, including the vetting community. I came forward because I am so

convinced that I am not the worst prosecutor and that I have good opinions of, among others, the Director of the IPN Mirroring Office. I volunteered so that the Council could also choose someone from the prosecutor's office. Until 2015 I worked in the prosecutor's office in Lublin. I am not involved in scientific activities. I graduated from the Electrical Department of the Lublin University of Technology in 1993. Additional education was useful in prosecutorial work. I have dealt with all cases concerning accidents at work in the construction industry and everything connected with technology and electrical engineering. These are my non-legal qualifications. Of course, the Second Appeals Department is a prestigious department and is closer to me. But it is not up to me anymore. My task, the disciplinary responsibility towards a judge who commits a jurisprudence excess should be applied as much as possible, however, depends on its scale. The most outstanding example is what the Supreme Court has done recently – I am talking about suspending some of the provisions of the Act. In this particular case, it sees an excess in the fact that Polish law does not provide for such a possibility, and the effects of such proceedings may be serious”.

53. Tomasz KOŹMIŃSKI – Judge of the District Court for Warsaw-Żoliborz

- the candidate also applied to the Extraordinary Control and Public Affairs Chamber of the Supreme Court.

Hearing of the candidate at the meeting of the team of members of the authority of 20.8.2018:

“I am 48 years old. I'm ruling in the district court. In 1999, I became an assessor. Initially, I ruled in criminal cases. Then after two years I got a judge's nomination and a proposal to head the enforcement section. In 2006 I moved to Warsaw as my wife is an ophthalmologist and was offered a job in the hospital. I do not tolerate dishonesty at judges. Cases started by other judges fell into my division. It wasn't fair that judges didn't finish their cases. Since 2012, I've been ruling in the labor department. I ran to the county court several times, but to no avail. I'm such a black sheep in the community. My colleagues give their opinion and have a positive one. I ran to the provincial administrative court and had a very good opinion of the president. I had contact with criminal, criminal and fiscal cases, with real estate. Those were quite turbulent times. I had already had three disciplinary cases and they were all against me. In one case, the lawyers were protecting each other. They accused me to the disciplinary prosecutor and I had health problems because of it. The same was the case when I applied a provisional arrest to a young Saimon, the son of a local boss. Later, there were calls from attorneys and presidents as to why I had been arrested. I didn't give in. I also reported to the Emergency Control Chamber. I don't see any discrepancies here. I'm very interested in the cases of the tenement houses being taken over. It's all about ethics. I know honest lawyers who stick to the letter of the law and those who shoot, prolong proceedings. Now, I'm the one who can handle any area of law. In every field, my knowledge is distinctive. I had very good grades in college. In court, I went to the criminal division because the president said, “You're a man and you're going to make it.”

- the candidate submitted an opinion prepared by the President of the Management Board – *Jan Howaniec* – of the Education and Training Group “Eurodirect sp. z o.o.”. (2003) and an official opinion prepared by the President of Tychy – *Aleksander Gądek* (1995).

54. Agnieszka Katarzyna KUPCZYK – advocate

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“My name is Agnieszka Katarzyna Kupczyk. Thank you for the invitation. A few years ago I took up a judge’s post and at that time it was rare to be invited to the National Judicial Council. I have prepared documents for you which, in my opinion, will best explain why I am fit for the Disciplinary Chamber. I believe that I have an inborn high sense of justice. You have my professional evaluations. I would like to present to you some things that may have escaped your attention, and in my opinion they show my attitude. I ran for the position of judge 10 years ago in 2008 to the District Court in Radomsko. Already at the first competition I came across a lack of equality. On the basis of the first case I submitted three appeals to the Supreme Court – in all cases the same judge was the rapporteur. The first time I informed about the cases of the President of the Supreme Court. I informed about the fact that good manners and laws are being broken. I was surprised when I read the justification, because 90% of the content was passive copying. I analysed these borrowings and their scale astonished me. None of my allegations were discussed. In the second appeal we have an identical situation – the copy and paste method. I turned to the First President of the Supreme Court, because in the content of the justification I found annotations that did not concern me at all, but the person of the assessor, who had conflicts at work. Taking this into account that there were many mistakes there – in my opinion it was unacceptable. I thought that at least these justifications should concern the allegations I made. As an answer, I only received a correction of an obvious writing mistake. In this case, I filed complaints with Strasbourg concerning violations of the Polish Constitution and human rights. I argued that in my opinion, the then National Judicial Council did not comply with the regulations. I received an answer to the first complaint that it did not meet the requirements and was declared inadmissible. I did not receive an answer to the second complaint at all. I believe that my activity justifies my candidacy for the Disciplinary Board. I have been in the courtroom for 18 years, I know the judiciary from different sides and I think changes are necessary. Since I am a young person, I do not have the practice of jurisprudence behind me like the opponents, so I think I should not go to the appeal department but to the first instance. I am a brave and independent person and I am not afraid to run for the Disciplinary Board. I passed the advocacy exam in 2003 with a good grade and the judicial exam in 1999 with a sufficient grade. As regards the disciplinary responsibility of judges, we have two types of violations. In my opinion, great caution is required every time. I believe that a judge should first and foremost comply with the law. I don’t have a scientific record. I’ve taken up the practice. I’m a young person, but I’ve already raised three children. During this period of time I shared my professional work with family responsibilities, which was not easy. I worked away from home. There wasn’t enough time to develop scientifically.”

55. Mariusz Tomasz ŁODKO – Judge of the Court of Appeal in Warsaw

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I am a judge of the Court of Appeal in Warsaw, I have been ruling in this Court for four years, including the delegation. I have been in the Warsaw judiciary since 1998. I have always been connected with the city centre. Since 1.7.2018, I have been a disciplinary judge at the Disciplinary Court in Warsaw. Due to the fact that this Chamber is being formed, I decided to run for office. I believe that I have an internship and appropriate qualifications and aptitudes. I have experience in appeal cases, I have always judged in civil departments. Since 2017 I have been adjudicating in the economic department. I know there are two faculties in the Disciplinary Chamber. I see myself in that second department, definitely. Second instance, it's first instance assessment and cassation issues. These are often labour and civil law incidents where I would be useful. For the judicial excesses, disciplinary responsibility must be brought to bear. Currently, the provision speaks of a gross violation of the law, if the composition considers it to be a gross violation and the circumstances resulting from the facts are sufficient for this to happen, then this provision is very capacious. In German law, we have a liability by stone. In the case of disciplinary liability, this regulation is sufficient, and if we want to go further, then criminal liability is already in place.”

56. Mirosław Józef MARKIEWICZ – Notary Public

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I have prepared a statement for a few minutes if you would like to hear it. The candidate read out the written statement and then submitted the original. Irrespective of my statement, I have prepared a list of 100 cases that I have conducted. Here the candidate submits ‘List of 100 notarial deeds covering different categories of cases, prepared by Mirosław Józef Markiewicz – notary in Słupsk. I have never had experience with disciplinary cases. In Słupsk the profession of notary is practiced by about 10 people. The first office outside the notary was mine. I did not regret leaving the judicial service. Those 20 years were a time of reflection. Recently I was thinking about returning to the judiciary. It was the Appeal Court in Gdańsk. The change that took place in 2017 was a hit and I decided that this was the right time to return to the judiciary. I travel a lot, but I'm not far from work. During my whole life, maybe 4 parking tickets were given to me. I suspected this case might come up. It resulted from the fact that my daughter had a new car and that mine was in repair, so I got into her car and as much as I went abroad to Słupsk – I thought it was an undeveloped area – and I went a little too fast. In this Court of Appeal in Gdańsk I would be interested in the civil department. I have been dealing with civil law my whole life. The area where I could show a distinctive level of knowledge is inheritance law. I don't have any scientific output, my output is the notarial deeds.”

57. Paweł MAZURKIEWICZ – Judge of the District Court in Nisko

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"I'm 50 years old. I'm married. My wife teaches in high school. My son is a doctoral student in the first year of his doctoral studies with Professor Gizbert-Studnicki. I graduated from two faculties: administration and law. In September 1991 I became an applicant, then an assessor, and then a judge of the District Court in Nisko in the civil, family and penal departments. The Disciplinary Chamber needs particularly hardworking, honest and courageous judges, so I am a candidate. As far as disciplinary matters are concerned, the Tarnobrzeg district is a court-disciplinary pathology. The famous sausage theft judge comes from my district, but that's nothing compared to his alcoholic deeds on the roads all over Poland. I didn't try to get promoted, because Tarnobrzeg district is a district under the influence of TW "Prymus" and Jerzy Jaskiernia, and I was diagnosed as a political opponent from the very beginning, I fell in love with the judge. There was a social meeting in which besides me three people participated, it was on that campfire and there I articulated my views about judge Tadeusz Marczuk, how he persecuted Senator Kozłowski, I said what I thought about it and the next day I was called to the district court. There was Judge Marczuk and old Sandomierz comedians, they told me that out of mercy I would get the nomination, but as they were pasturing over me in the premises of the vice-president of the District Court in Sandomierz. Some friend from the fire had to report. Stalowa Wola and Nisko are very close to each other, I started in Nisk, later in Stalowa Wola, and when I was the only one from the Tarnobrzeg district to pass the exam for five, they wanted to direct me 80 kilometres to Staszow as a reward, but one lady judge stood up for me, and I landed in Nisk. I have been a lineage judge for 23 years. As a simple civilist I always take the side of poor people, now there is often a poor citizen and corporation, for example, transmission easement cases. Supreme Court decisions are not the source of the law, one decision will find and stick to it. In compensation cases, the poly-loan, I always take the side of the poor people, and I am brave and I always take the side of simple people. It often seems that if they call a 40-year-old the president, he will be independent, and he won't be. The fundamental question is, why did these judges get promoted and others didn't? If you wrote a book about it, Pasikowski or Smażowski would have made such films. For example, Judge Osucha must be a judge, because he is a buddy of Jaskiernia, a buddy from the yard. They tried to throw me out of college as an assessor, they said: "Thank you, you can go, we're done." And I said, "I've got time, I'll sit." The Tarnobrzeg District is a commune, postcommune and neo-commune. When a young judge in Tarnobrzeg was promoted, he had such, not other mentors. False vetting statements, after all, Cenckiewicz could take it out and make it public. Yeah, another judge from my ward takes off, but to another chamber. I will say so after 27 years of impeccable service, as far as disciplinary issues are concerned, at the beginning of this year I received a reproach, I filed an appeal to the Supreme Court in this case and I have no information what next. I allegedly made the wrong decision, but it is no coincidence that the President and Vice President were on the disciplinary court. The composition of the appellate court is also not accidental, so are the circumstances. It depends on what is the critical point, because on the one hand the judge should be free of any influence, but everyone makes mistakes, but

it is easy to grad those mistakes and check what was the infringement. As far as the Supreme Court is concerned, the last one is 775 KSC, just a mega legal scandal, insolence, arrogance and shoe. This is rape against the law and it is reprehensible.”.

58. Andrzej Lech MILLER – Judge of the Kalisz District Court

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I won’t be original if I say there’s a well-known proverb that, like “Every soldier wears a marshal’s bun in his backpack,” the culmination of a judge’s career is a ruling in the Supreme Court. There is the seat of the Court of Appeal in Kalisz, which is more than 100 km away, so there was no possibility, i.e. there was a possibility, but it would be connected with moving or with long journeys. In a couple of years’ time I am finishing my service and I decided to report to the Disciplinary Chamber. For 17 years I have been continuously deputy disciplinary prosecutor at the District Court in Kalisz. For this reason, I believe I have qualifications and the right to apply for this position. I have been ruling for almost 30 years without interruption in first instance criminal divisions. Recently also in penitentiary. I’ve held the position of vice president of the district court since 1990. Currently, I’m head of section 6 of the penitentiary. I’ve ruled on several important murder cases. I’ve presided over those depots that have been sentenced to life imprisonment. I don’t think these cases have any impact on the jurisprudence of the other courts, but they were important cases in the community. They were difficult and I consider this to be my greatest achievement. They were shocking and I consider them to be my success. I see myself in the first instance department of the Disciplinary Chamber. I think I have qualifications. I am not the author of any publications. I judge disciplinary proceedings well. In the cases I’ve accused, I haven’t noticed that the Disciplinary Court treats the judges in a friendly manner. It seems to me that in the current disciplinary court, another appeal should be made. I’m applying to the Supreme Court because the Disciplinary Chamber was established. That’s why I didn’t do it before. There were proposals for me to apply to the appellate court, but the obstacle was the access. As far as Warsaw is concerned, there will be no such problem that I would move.”.

59. Marcin MOSSAKOWSKI – legal adviser

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I have been a counselor since 2001. I come from Olsztyn, where I also run a law firm. I have not worked in State Treasury companies, in any local governments. I did not write scientific papers, I was offered a job at the University of Warmia and Mazury several times, because it is the only university in the area, but I always refused. When I was 15 years old, I decided that I wanted to be a legal adviser. Not a prosecutor, not an attorney, but an adviser. This profession is underestimated. Sometimes judges turn to Mr. Counselor. There are 99.8% of judges who turn to Mr. Counselor because they want to belittle. Gentlemen, you are the

majority of judges, and legal counsel is an undervalued profession, being a legal counsel has become very difficult. Not only does a solicitor have to have broad knowledge, but he has to drive. I work in such places as Olsztyn, Działdowo or Szczytno. There is no specialization in this profession, there are big and small cases, a legal adviser deals with everything. Today, for example, I was at a free legal aid point near Mława. This is a difficult profession. There are 40,000 of us now. In 2001, when I started, there were far fewer lawyers. That's why the biggest success is staying on the market. I never had to use the colleges, the help. Nowadays, having a law firm, bringing up trainees, that is the measure of success, and how many people come to the firm and how many come out of it satisfied. I am 46 years old and it is my conscious choice to run for the Disciplinary Chamber. I do not want to work for the rest of my life in this Chamber, it is not a target Chamber, I would like to gain practice and experience in it and then move on to another Chamber. After 20 years of working there is routine, boredom. Of course, you can achieve some level of knowledge, culture, but there is no promotion in the profession of a counsellor. It is not a profession that I would like to practice till the end of my days. In my opinion, after 10, 15 years of work, counsels, attorneys, prosecutors should go to courts. I worked in a few places, I had to get fired a few times and I also fired people myself. My life and professional experience is greater than that of judges in district courts and some in district courts. I don't see what I want in court. The level of preparedness of the judges is not up to the desired standards. As far as causing a traffic collision is concerned, the case has ended so that I accepted the mandate and finished the case. I cover about 5000 km per month, so the scale of traffic offences is basically none. I have not competed in any competitions before, because the councillors a year, of those who applied, about 1% became judges. For the previous Council the best candidate was a referendary, better than a solicitor like me. Counsels were not elected because they were said to be weak candidates. This is evidenced by the opinion issued by Judge Zurek. We were treated from above, and the way to being a counselor is very difficult. Zurek said that they don't want people in the courts who can't cope on the market, because it means that they are weak. The scale of success is not what I can buy. You should choose proportionally four attorneys, four solicitors, four prosecutors who have such experience, which you gentlemen as judges will never get. Somehow it has to answer, there has to be a solution, but I've never solved this problem in myself. I had a professor of maritime law at the University of Gdansk who came to the first class introduced himself, said who he was and made a fantastic impression and he said: a good lawyer or solicitor does not answer questions immediately because he has to analyse it first. I won't answer that question at the moment either, because I never thought about it. And do you know if there is a legal adviser who, not being a judge before, became a judge of the Supreme Court. I mean, Professor Gersdorf. I think you don't have to be a judge to be a judge of the Supreme Court, especially in this House. It is always difficult to judge colleagues, so legal advisers should be allowed."

60. Stanislaw Dominik OLCHOWY – Judge of the District Court in Radom

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I’m ruling in the criminal division. Married, 47 years old. I’m adjudicating 15 years, including assessor’s internship. Generally, I adjudicate in the first instance. I have a short episode in appeal. I’m investigating cases of the most serious crimes. The Disciplinary Board – because I’ve decided that it’s closest to what I’m dealing with at the moment – ruling on guilt, investigating a violation and possibly ruling on guilt. Criminal chamber – not because I’m still in criminal business. The Disciplinary Chamber, because it’s something new to me. Disciplinary Board, because it’s something new, and I think I’d be fine. I think I have good knowledge. I can’t boast of scientific publications, but I judge from the beginning and I think I have a good level of expertise. I don’t think I’m one of the judges who is badly judged. I think I am one of the judges who have good results, both in terms of content and work. I try to recognize cases efficiently. I am the Deputy Chairman of the Second Penal Department and head of the enforcement section. I am now entrusted with the position of deputy disciplinary prosecutor at the county court. I used to be investigated. It was at the beginning of my internship, and the charge was that there should be no pre-trial detention in the case. I can’t quite remember the details of that case anymore. The use of provisional detention was a matter of coercion. It lasted a few days, but in private cases this measure is rarely applied and there was a question to be clarified. As far as the judicial excesses are concerned, on the one hand we have an incorrect verdict, and on the other hand we have this aspect of judicial independence and there is a disciplinary responsibility. If it hadn’t been for the case law excesses, legal science and case law would never have changed. It is a question of whether a case lawsuit is an expression of a different opinion, because I believe that an expression of a different opinion is acceptable, or whether it is a gross violation of the law. The problem is that all this is happening on the borderline between irregular behaviour and the freedom of the judge. This is about the power that a judge has to be independent in his judgments. It is not even about being independent – he is bound by the letter of the law. If the ruling is not reflected in the applicable law, then of course disciplinary responsibility is involved. It cannot be the case that a judge makes a judgment that has no basis in the evidence. I would see myself more in the second department, because the first department is a senior case. The second department would allow me to observe the parties, the material collected. I have my thoughts here.”

61. Damian Marcin OWCZAREK – Judge of the District Court in Katowice

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I am a judge of the District Court in Katowice. I work in the V Penal Department. I am a judge, if I am not mistaken, 22 years. First I worked at the District Court in Bytom. In the Katowice District Court, this court was in the penultimate place because of the backlog. When

I became the chairman of the penal department, I managed to get the department out of the department within three or four years because of the arrears. It was mainly thanks to the judges, while I tried to direct and supervise them in some way. Later on, when I went to the district court, I got to the V penal department, which was also in third place as far as arrears in the Katowice district are concerned. Here, too, I managed to get the department out of arrears to the first place in a short time. I assume that everyone can work well, but you have to be able to do it efficiently and quickly. I work in the first instance. I am a practitioner, not a theorist, so I did not publish. I did not work at the university either. But I think that to stand out with a high level of legal knowledge is not to publish. There were certainly cases with cassation in the Supreme Court, but I have never been overturned due to procedural errors. Anyway, I added a list of cases to the file, which contains cases almost in turn, so I did not choose cases I would like to boast about. From the very beginning of my work, I had a different perspective on disciplinary matters than my environment. Generally speaking, the efficiency of my actions is important for me. There are cases (often) where the judges make requests for exclusion. It takes a few months, because this is a big unit, before you get statements from the judges. During this time the complaint affects the length of the proceedings and damages are awarded. The party gets the money right from the beginning, and nothing happens with these applications and the case. From the very beginning, I judge in criminal cases. I have been in the chair for several years. In the district I have been in this position for about 7 years.”

62. Anna Jadwiga PAKALSKA – advocate

Hearing the candidate at the meeting of the panel of members of the Authority of
20.8.2018:

“I am an attorney. I live in Łódź. I have been an attorney for over 20 years, since 1992. I have a husband who is an orthopaedic surgeon and an adult daughter who has just graduated from medicine and obtained the right to practice. It has always been my dream to crown her as a judge in the legal profession. I always thought that this should be the best career path. After many years of professional experience as an attorney and gaining experience in life, the career path should end with the job of a judge but not only. The Disciplinary Chamber has been appointed by me because I think it will be the most important Chamber. In my opinion, the most important thing is that the National Council of the Judiciary is to ensure that both now, the Supreme Court, and in general, the common courts are filled with people who should. It cannot be that the judge has something behind his ears. I had no complaints, disciplines. I always tried to do my job the best I could. I’m 30 years married, I have a daughter who’s 26 and we’ve never had any trouble. We’ve never had any trouble. We do our job. These are the main elements for which I applied. I hope the National Judicial Council will take these aspects into account. I have no experience with disciplinary justice. Nor have I ever been in the ORA or NRA. I have applied to the common courts. That was 3 years ago. I applied to the Regional Administrative Court in Łódź. Despite the support of the General Assembly, I was not elected. My previous experience could have been a contribution to the Disciplinary Chamber. Before I got the decision of the Minister of Justice to run my own law firm, I had worked in attorney’s teams. Since 2000,

I have been providing services to business entities, not only under the Commercial Code, but also to entities related to the budget. These are hospitals. My experience in the field of criminal law is small. If I've only been running a few cases on commission from the office. My law firm is strictly civil and economic. I think this experience is the minimum required by law. I have been an attorney since 1992. Since 1999, I have been running an individual law firm. It's not a problem for me, I like challenges, so which department it will be, it doesn't matter to me. I like challenges. That's one of the reasons I ran for the administrative court. You have to think a lot, spend a lot of time there, read a lot of different legal regulations and only then you have to get something out of it. I like challenges. Today I am in the seat of the National Judicial Council. My mistake is that the media constantly falsify the name of this body."

63. Magdalena PAUSZEK – legal counsel

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"I have submitted my candidacy to the Disciplinary Board and the Social Audit Board. The Chamber of Control and Public Affairs – excuse me. Both are new chambers. I do my legal practice in my own office. After graduation and on application I worked in law firms. I have always been associated with the legal profession. That's 15 years in total. We, as attorneys, are active participants in every court proceeding. It is not unusual for me to judge disciplinary cases, to judge my own behaviour and camaraderie. In my practice, if I see violations by counsel or attorneys that exceed the rules of ethics, I am active in such situations. I don't know if it's a pride or not. But the legal community must clean itself up. This is especially true for the young generation, young counsellors and attorneys. I am responsible to my clients for all the sins they hear or watch on TV. I didn't put it on file because I don't consider it a kind of glory. I have conducted one case against a counsellor and led to a conviction. It was a forged document. At the moment, I'm also running a case against your attorney, who was telling the truth. That's not what a trial should be like. I see it every day. I'm not ruling on disciplinary cases. I don't rule, but I've led to these cases. I've informed the local authorities that there are some irregularities. I don't feel any surprise or authority to judge the behaviour of others. I judge myself every day. As far as the Second Chamber (Emergency Control) is concerned, I think that this Chamber will have a huge task. I have experience of myself and I have such things in my archives that were difficult to justify logically. This is a very fascinating chamber, which can do a lot of good. I have no preferences for a chamber. Please don't think that I chose the Disciplinary Chamber for financial reasons. I thought it would be less besieged. I was once a public figure and I don't feel under pressure. I was a councillor of Poznan, so I don't have that stress. I have my own moral backbone, I always have. I feel completely independent. I think I have a high level of knowledge in civil law. I've never touched on tax issues. I feel weak in this area. Punishable by the fact that a counsellor hasn't had competence for a long time is not my field. In answering this question, I report that I feel confident in civil law in general. Especially economic matters, capital companies. The least family ones maybe because I am sensitive to harm to children. I run a business and admit that I do not have time for scientific work. I always help my clients widely, not only as a legal adviser but also as a citizen. When I have ceased to be interested in

politics, I am still a social activist. I support “My Poznańcy” association. When I was a councillor, I also supported this association. Since I left politics, I have been a member of this association. We organize various initiatives, such as the infrastructure of housing estates. In this respect, we help each other and I do not hide the fact that my colleagues look at me as such help. For 8 years I specialised in administrative law when I was a councillor. I took part in the spatial planning committee. This department is no stranger to me either. I wish I had a publication.”

64. Krzysztof Jerzy PIASECZNY – Judge of the District Court in Kozenice

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“My name is Krzysztof Jerzy Piaseczny and I am a judge of the District Court in Kozenice. This is the second court in which I adjudicate. I started in the District Court in Grójec. I changed my place of work because the Minister of Justice gave in to my request to adjudicate closer to home as I live in Pionki near Radom. I am a criminal officer, although at the beginning I was ruling in the family department and I was writing my thesis on family law. I had twice an episode with administrative activities in the Ministry of Justice. I worked in the Department for the Execution of Decisions and Proceedings – there I supervised two appeals: one in Szczecin and one in Warsaw. Then I returned to the home court. Then I worked in the Ministry of Justice again. From 1.1.2017, I was delegated to perform administrative activities related to the mission of legal education of children and youth throughout the country. This was related to my idea to animate and inspire the courts to undertake educational activities in the country. In court districts, presidents of courts appointed persons responsible for legal education. For 18 months, I undertook the activities described in my application, aimed at inspiring, animating and conducting legal education activities. After 18 months, I returned to the home court. This happened at the beginning of July, so I did not go to the criminal courtroom. Before that, I had also been judging in the criminal department. I’m applying to the Disciplinary Chamber because I have this feeling that the Disciplinary Chamber, which is a new quality in our legal system, is the kind of structure that I feel I would be “fit for”, as my grandma used to say. I would like to say that I have been applying the law for more than 25 years and I have come across many noble things, but I have also come across a large dose of lack of that nobility – not to call it more brutal. I have a certain sense of mission. I believe that people who have a very critical view of the legal world, i.e. people who can make a critical analysis of attitudes and behaviours, should apply to this Chamber. I have the feeling that I have this sensitivity. This has prompted me to stand before the National Judicial Council in this recruitment. I also have a sense of competence, just like that. I think that the great change is that the legislator has opened up to district judges not only in the Supreme Court. The district courts are closest to the people, it is the district judges who hear the most bad things about us judges and the judiciary. I did not take part in competitions for promotion. I had a very critical opinion about the promotion procedure, I called it simple, then the most important thing in promotions was friendships. Being aware of that, I did not apply anywhere to any functionary positions or to

higher courts. There is one more thing – I have a solidarity pedigree. At the moment when I started working, I ended up in the court, where the president was a judge associated with the previous regime. I completed my studies with a very good grade, and passed the judge's exam for a sufficient grade. In the years 1993–1995, I did my training. I have been a court assessor since December 1995. I have never conducted scientific activity. My judicial activity is almost 25 years, of which about 20 years in the criminal department. To tell you the truth, I can't really point out the activity that distinguishes me at the moment. I have been ruling on the front line all the time and I think I have had a very good stability of jurisprudence. My judgments have never been put in a state of "sticking point". I have not been disciplined. I have such judgments in my mind that I would like to present, because they have had a positive echo in society. I think there was no media hype or misunderstanding of the local community around me. I have judged in many different cases, where my judgments have sometimes gone beyond the demands of the prosecutors, which was related to my view of the servant role of justice."

65. Krzysztof Andrzej RZODKIEWICZ – Judge of the District Court in Zambrów

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"I'm a judge at Zambrów District Court, I'm 60 years old. I graduated from the Faculty of Law at the University of Gdańsk, I had classes in labour law with Mr. Lech Kaczyński. In 1980 I graduated with sufficient or sufficient plus grade, I was admitted to the training course in the Łomża court in 1980. I live in Zambrów, but I returned to my home town, I got there for my application. When I was accepted for the application, the conversation was such that they asked me at the beginning whether I went to church. I finished the application with a good or sufficient result, I don't remember anymore. I was an assessor until 1984. I am a family judge, at the beginning as an assessor I judged in the penal and civil department, and for 30 years I have been judging in the family department. In the penal department, I had the opportunity to judge the case of the oppositionist and acquitted him, then there was the opportunity to go to the family department in 1987–88 and I passed. In 1989 the changes began and I became the President of the Court in Zambrów, because I showed civil courage in that oppositionist's trial, and I also had good contacts with Solidarity. I do not have great ambitions. As a family judge I noticed many irregularities in the judiciary. The first example from the shore, there is a prison in Zambrów and people have their cases there too. Once, on the way to legal aid, I listened to a man who had been serving a prison sentence of one year and seven months because he was riding a bicycle, drank a beer and got a year in suspension, then his wife ordered him to go for pampers, the second time the police stopped him and that's it. The first time this man saw a judge, he served his sentence for almost two years, and did not see a judge, because the sentences were passed in absentia. This year I turned 60 and went on a pilgrimage to the Holy Land with my wife and daughter. I was emotional, when I came back, there was information on TV that there was a recruitment to the Supreme Court, that nobody wanted to report, that the rebellion of the environment and I was fine, that 40 righteous people were being sought, and I was wondering if there would be 40 righteous people. When I later read that 40 came

forward, I calmed down. I am a family judge, this is my support for the changes in justice. I got a nomination for the district judge in the district court from President Lech Kaczyński, then it came out as it did. In my opinion, a reform of justice is needed. I have great expectations that I will become a Supreme Court judge, I don't have, as a family judge I think I am a good judge, I cooperate with local authorities”.

66. Dorota Maria SOKOŁOWSKA – legal adviser

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“My name is Dorota Maria Sokołowska. I admit that the application form was modest, so I submit additional documentation. In 1987 I graduated from the university, then I started my notary's application, passed the exam – I submit a copy of my diploma. Then in 1989, I passed the notary's exam for a good grade. Then I entered the pre-assessment phase and resigned from it. The reason was that I met with unreliability in the profession of notary. Right after the exam in 1989, I resigned. Then I started working in private companies – then in 1993 in the Voivodeship Office. I came across the issue of privatization. In 1994, I passed my legal adviser's exam and started to practice this profession. Despite these perturbations, I have professional continuity. In 1994 the Copyright Act entered into force and this has left its mark on my entire professional and scientific life. I was employed by a large publishing house. In 1999, after defending my doctorate, I gave lectures and exercises in commercial law. I also taught at private universities. Eventually, when I did my postdoctoral studies, I crossed out of the Chamber of Legal Advisers. Since 2016 he has been working as an associate professor at the University of Szczecin. At the same time I was an arbiter at the Minister of Culture and National Heritage. New regulations caused my term of office to expire. In my professional life, I am primarily concerned with copyright and commercial law. About 100 masters and one doctor have defended themselves with me. I cooperate with many associations, including Zaiks. I am a court expert – recently I have prepared a large opinion for the District Court in Gdańsk. My professional path is not uniform. I have observed the law from different sides. I know what the profession of a notary or legal adviser is. I have appeared before the Supreme Court, I have written 20 constitutional complaints. I came to the conclusion that scientific work does not guarantee the influence on what happens in the legal sphere. When the new Disciplinary Chamber is now being established, I thought about it first. I decided to run for office because here I feel for myself something I haven't done yet, but I feel that with my life and also morally prepared for it. The Supreme Court would be the crowning achievement of my career. I think my age and experience somehow entitle me to apply for this position.”

67. Piotr STAWOWY – IPN prosecutor

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I've been a prosecutor since 1991. Before that, I was in the district attorney's office and from there I went to IPN. This is a new challenge for me. My son passed his high school diploma,

so now I have more time for myself. My son is an adult now, so I didn't consider it before. I'm running for the Disciplinary Board because this is the peak of my legal career, a new challenge. The financial issues aren't so important, because now I get a pretty good salary, which I am satisfied with. I'm not complaining. It's the Supreme Court judge's salary plus the warden's allowance. So the financial issue is not the basic one that determines my candidacy. I choose the Disciplinary Chamber, not the Kama Chamber for practical reasons – there are more seats. Mainly because of this chamber. I have one publication that is published in the Military Review. If I were to judge myself from the side of my personality, why should I judge myself badly? It seems to me that I have a balanced character and I can approach the matter impartially. I can assess the situation objectively. I can assess heavy tort as well as light cases that are known to be looked at in a different way. Many times I can see things looking different at first and then everything changes in the process. I have such an ugly saying to it, "It depends how the receipts are arranged". I am guided by what is collected in the evidence. As the evidence is gathered, views may change, it depends on how the evidence cycle is arranged. We can assume certain possibilities and concepts, and then they change. Besides, there is a presumption of innocence. I was thinking about the appeals department. It's easier for me at the moment, I admit, to draw up appeals than to conduct first instance. It's easier for me to participate in appeal proceedings."

68. Łukasz Marcin SZATKO – advocate

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"Advocate Łukasz Szatko, 47 years old. Since 2002 I have been running a law firm in Katowice, I graduated in law from the University of Silesia, I also completed doctoral studies, I was an assistant at the University of Silesia in labour law. Professor Nowak was supposed to be the promoter of my doctoral thesis, but I had a conflict with him, I had a conflict with him and my doctoral thesis was not defended. I completed my studies in 1995, I wrote my thesis with professor Popiołek in private international law on five. In the case of an attorney, when it comes to criminal cases, it is hard to get a recommendation, because it would have to come from clients who were in conflict with the law. I defended the "Colosseum" case – in the biggest economic scandal. There were a lot of cases. I don't think I made mistakes, there were no disciplinary proceedings. Oh, yes, there was one case, but there was the non-payment of contributions. As far as the dean's admonition was concerned, the court of appeal decided that the refusal to draw up a complaint was too laconic, the form should be similar to that of a cassation complaint. The post-control recommendation, which was made after the post-control, concerned the information board that was stolen from me. There were no other comments. It was not that there was too much advertising, it was about the fact that at the time of the inspection there was a small board, there was no big board. I am applying to this Chamber because I have a high degree of resistance to environmental pressures, I am resistant to such activities of any influence groups. I think 20 years' experience is enough to define activities that can be subject to disciplinary proceedings. I believe that the Disciplinary Chamber should be represented by people from different legal professions, because the Chamber will be for all legal professions. I was alienated from scientific activity, I did not want to appoint a new promoter".

- Mr. Łukasz Marcin Szatko submitted an excerpt from his student book, confirming the completion of his doctoral studies.

69. **Edyta TAWREL – advocate**

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I am applying to the Disciplinary Board because it is a matter of ambition, aspiration, legal maturity and determination. The desire to develop and improve my professional skills, as well as to see the courtroom from another side, made me leave the prosecutor’s profession and become an advocate. It is with great pleasure and satisfaction that I still practice the profession of an attorney. In the past I wanted to practice the profession of a judge, but unfortunately to no avail. However, I believe that not every loss is a failure. However, I did not have the “support of the entourage” as Judge Zurek and Judge Morawiec say. In fact, from the very beginning of this procedure I did not have the slightest chance. There is also an element of such determination. From the very beginning of my professional career I have been cooperating with almost all legal professions. I am very sorry that some judges, some public persons, take away the right of their colleagues to decide about their independence. Some people have nothing to do with this sagginess and independence. I am also sorry as a lawyer – a person who cares very much about self-development – that I hear sad things from the authorities of e.g. Supreme Court judges. The same applies to the statement of Mr Budka, who said that “a judge is mediocre but faithful”. Łomża is a city of about 72,000 inhabitants. Currently I have been working in Krakow for almost 4 years. The resignation from the prosecutor’s profession was dictated by my curiosity, the desire to develop and see how it looks from the other side of the room. I am a criminal prosecutor, which results from the fact that I went for the prosecutor’s apprenticeship. In the prosecutor’s profession, the civil law aspect is really a trifle, whereas in the advocate’s profession it is the basis. Recently, however, I have been conducting criminal cases. I have not been dealing with the barrister’s self-government when it comes to disciplinary cases. I ran to the District Court in Kraków one and a half or two years ago. Running an attorney’s office also means running a business. I am a very substantive litigator. When I applied for the office of a judge, I was not invited to the seat of the National Judicial Council. I was only invited to the Assembly. I received the support of 14 judges out of 100. However, I was disgusted by this procedure. I was at the meeting with the President, because I wanted to announce myself as a person from another district, but the President mistaken me for my opponent. The counteroffer came in the company of the President of the criminal division. I heard from the President that you were wanted”, because she thought it was the other patron. I’ve been a criminal from the very beginning, but there wasn’t enough time for the scientific way. Whether or not my knowledge is sufficient is a direct result of my work so far. The preferred area is substantive criminal law. My substantive work has been evaluated by people more competent than me. I don’t have any publications, because I chose to work as a practitioner. I believe that people who practically deal with law do not differ from those who deal with scientific work. I have always believed in the justice system and this gives me such a sense of security. I enclosed to the file my qualifying assessment, which was prepared for the purposes of the competition proceedings in Krakow”.

70. Tomasz UŚCIŁKO – Judge of the District Court in Suwałki

Hearing of the candidate at the meeting of the panel of members of the Authority of 20.8.2018:

“My name is Tomasz Uściłko. Since 2008 I have been a judge of the District Court in Suwałki. I am married, I have two children. From the very beginning, when I started judging as an assessor, I have been judging in criminal cases, so the natural consequence is my application to the Disciplinary Chamber. For 10 years since 2008, I have ruled on all categories of cases in the district court. Now, I now adjudicate in the district court in executive and penitentiary cases. In the current situation, when a chance to run for the Supreme Court came up, I decided to apply. I chose the Disciplinary Chamber because I’m a tap dancer and that somewhat limited my choice. I don’t know the Civil Chamber, nor do I know the Chamber of Extraordinary Control and Public Affairs. My field has been narrowed down. There was one place announced for the Penal Chamber, but I chose the Disciplinary Chamber and it was certainly not about financial issues. I don’t give lectures. I was a comprehensive think-tank about my candidacy for the Disciplinary Chamber. I also had to talk to my family about it. Like I said, I ruled in first and second instance. As a rule, I prefer first instance cases, but I think I can manage in the appeals department too. I’ve been ruling all the time in the criminal division since the assault. I come from Białystok. I live and work in Suwałki. I took the judge’s exam with a very good result. I am a person perceived by my employees and colleagues as a workaholic. I am a typical line judge and I think that with my work I can contribute to the good functioning of the Supreme Court. I am a criminal inspector and I was also the head of the penitentiary section, but it was liquidated. My work is just a case law record. The law requires me to improve, so I completed post-graduate studies and numerous trainings. I have not issued any decision that would arouse the interest of the Supreme Court, but due to my function as a visitor I shape the jurisprudence of district judges with my views. My view is that a judge should not be disciplinary responsible for the content of the ruling.”

71. Andrzej Zygmunt WITKOWSKI – Prosecutor of the District Prosecutor’s Office in Katowice

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

“I am the District Attorney’s Office in Katowice. In the District Prosecutor’s Office I worked in the investigative department. For 17 years the department of court proceedings. My mother is a repatriate, the Germans murdered my grandfather – a Silesian insurgent. I know what the Polish state, sovereignty, independence is. Motherhood is also a social issue, there must be more Poles. A case that I volunteered. I got a cassation to give an opinion, the case concerned a man who, while being brought to the sobriety room, offered the policemen to let him go, he would buy them a box of beer. He got a year of ruthless imprisonment for that. I asked myself a question, because the prosecutor wanted a higher punishment, I gave a negative opinion on the cassation. Or a case of a sponsored trip abroad on a trip, someone

spits on constitutional organs like the Sejm. The court would have said that it is a dilemma, or an act of patriotism, and then I realized the power of the Supreme Court judge. How unequal are the citizens treated, in a drunken sight I will buy a box of beer – a year of ruthless imprisonment, and it is even worse if someone boasts about an uncritically sponsored trip but it will be a dilemma. I was so appalled that I decided to run. I have encountered hundreds of judges, attorneys and legal advisers. I hope the Attorney General will run my cassation. If I know legalism, I know what it looks like, I should use it. Independence, you have to have it in you, because what's gonna be like the boss of a criminal group will tell the judge he'll kill her kids. If there's a disturbance in independence because the judges didn't elect their own president, there's no place for such people. A judge must be a judge, for decades I looked at judges with admiration, because they gave me a refuge. The judge will always look at my hands, see what the evidence is. In principle, I could say: "Andrzej, retire", but in order for my grandchildren to live here, there must be someone who will put the dam above the law. I do not usurp the power to say whether something is to be broader or not, I am not a social policy maker, I fully accept the fact that it was finally planned to create such a Chamber. Independence also depends on the environments from which people come from. Group dependence, professional dependence, took place in the medical community, where it is almost impossible to break through the fact that someone before negligence, negligence led to human death. An opinion is always issued that allows a percentage that it will not be possible to convict this someone. I'm at the end of my life, my children are well-behaved, I have no fear for myself or my family. I was actually investigating the Uncle Mine and there they wanted to make the most severe and absurd accusation, so that it would be on TV in the media, and then it would be impossible to defend it, because if they had been mumbling for 10 years, it would be impossible. In writing, I refused to make these charges for the special platoon. I proposed to charge the members of the special platoon with the fatal use of weapons, because in those realities and conditions something could be achieved on that charge. I was a spokesperson of the voivodeship prosecutor's office for two years and everyone to whom I would do the minimum of harm would summon me up properly then. I read the scope of duties of both chambers. The First Chamber settles disputes of judges from the employment relationship. The prosecutorial matter is that while being in the Hall, I do not know what will surprise me with a lawyer or a court and I have to deal with it. I'm not perfect, I train applicants, I'm a regular member of the committee. Civil litigation is handled in the second chamber. I'm ready in both. I have verve and when I learn it, the gap is in labour law disputes. Recently I even had an appeal and there was no causal link there. I have read the way the employment relationship is established, what is a written agreement and in my opinion the written requirement takes precedence over the oral one. I am not an author of publications, I am a practitioner. I did not take the prosecutor's exam. I worked after college. When I was 15, my father died, and I was the oldest of three siblings. When I graduated from college, I was looking for a profitable job. In 1978 I graduated from college, later I joined the civil police because I found out that the thief had no political colours. I refused to work in SB because I stated that I would not be a judge of someone else's conscience. After 9 years of work I couldn't accept this state of affairs, I didn't pretend it was because of medical reasons. The last four years I worked in the investigation department, in economic crimes, I was determined and I wanted to do an apprenticeship, I was admitted to

the prosecutor's office and the General Prosecutor appointed me as a sub-prosecutor without an apprenticeship on the basis of 10 years of work experience."

72. Arkadiusz Adam WOŁOSZCZUK – Judge of the District Court Poznań-Stare Miasto in Poznań

Hearing of the candidate at the meeting of the panel of body members of 20.8.2018:

"I am 55 years old, I have a wife, two children. I completed my legal studies in 1987 with a good result, I completed my application at the Voivodship Court in Poznan with a good result, the exam with a good result. Then I was an assessor, and in 1991 I was appointed a judge in the District Court in Trzcianka. Since 1.12.2004 I was a judge in the District Court in Poznan, and since 1.1.2008 I am a judge in the District Court Poznan-Stare Miasto in Poznan. In Trzcianka I have judged in all categories – criminal, civil, family and juvenile, land and mortgage register cases, labour law cases, and cases relevant to the municipal departments. Since 2004 I have been adjudicating mainly in commercial litigation cases. I am supported by a rich diversity of jurisprudence, rich professional and life experience due to my age. In criminal cases, I was a judge in the years 1989–1991. In my opinion, I meet all criteria for submitting my candidature for the Supreme Court judge. In the years 2008–2011 I gave lectures at the Higher School of Communication. I know that there are two faculties in the Disciplinary Chamber, I worked in the first instance, as an assistant, but also in the second instance, also in the first instance of the Disciplinary Chamber. The instance control is to correct the defective judgment. In a situation where a judge sentences a person to death, and there is no such penalty, one should consider whether this person is suitable for the office of a judge. Of course, there are situations when such proceedings have to be initiated, the question of the decision belongs to the court, so it is hard for me to say, I have not encountered such lawlessness, so these are purely hypothetical considerations"

- Mr. Arkadiusz Adam Wołoszczuk submitted the opinion of the court president.

Source: minutes No. WO-5100-3/18 from the meeting of the panel of body members of 20.8.2018: <https://n-5-9.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/0dde5ee6-dd63-4642-a7a4-9a777f48d9c6.pdf>.

73. Paweł Mariusz ADAMKIEWICZ – advocate

Hearing of the candidate at the meeting of the panel of body members of 21.8.2018:

"I've been an attorney for 12 years. I completed my prosecutorial training with a good wind-blown 1995–1997. Since 1998 I was an assessor at the Wołomin District Court until 2000. As a justification, I was given: lack of well-established experience. Then I worked in the Office of the Ministry of Justice. I carried out activities related to complaints and motions to

the Minister, prepared draft answers verified by the Minister of Justice or authorized persons. I applied to the District Bar Council for an entry on the list in 2006 and obtained it. I mainly handle criminal cases – 80%. I believe that I have gained a wealth of experience, which predisposes me to apply for a position in the Supreme Court. My outstanding legal knowledge results from my professional practice. I see myself in the Second Disciplinary Division. I have not competed for any position before.”

74. Joanna Maria BEDNARZ – Judge of the District Court in Chorzów

Hearing of the candidate at the meeting of the panel of body members of 21.8.2018:

“My name is Joanna Bednarz and I’ve been a judge at the Chorzów District Court for 10 years. Previously, I was a prosecutor of the District Prosecutor’s Office of Katowice-East in the department of organised and economic crime. I submitted my candidacy in view of my professional experience. I was interested in this chamber because there hasn’t been such a chamber so far and this is a great challenge for the judges ruling there. I like challenges and that is why I applied. As far as scientific achievements and publications are concerned, I do not have them. I have finished the seminars “Human rights in the European Union”. I am currently completing postgraduate studies in the field of commercial criminal law. There is a lot of work in the district court, that is why I did not undergo further education before. There was no time for that. The Disciplinary Chamber of the Supreme Court is interesting for me and I do not claim that it will be easy. I graduated in 1991 with a good grade – I submit a copy of my diploma. I finished the prosecutor’s application with a good grade. I was a prosecutorial trainee in the District Prosecutor’s Office in Częstochowa, and then an assessor in Katowice. I had no contact with disciplinary cases. As far as the judicial excess is concerned, it is a very complex problem in terms of the judge’s responsibility. It depends on the nature of the violation. I believe that if someone has violated or misapplied the law, the proceedings should be conducted and the situation should be explained. When I give a verdict and make a mistake, I confess to it and I ask for a cessation of such a verdict myself. Disciplinary proceedings are a difficult subject.”

75. Tomasz BEKRYCHT – academic

Hearing of the candidate at the meeting of the panel of body members of 21.8.2018:

“I am Doctor of Laws at the Faculty of Law and Administration of the University of Lodz. From the very beginning I have been associated with the Department of Law Theory and Philosophy. Since the beginning of my studies, from the third year, as a seminarian of this chair, the theory and philosophy of law has been my scientific passion. I graduated in 2002 with a good plus mark. Currently I work as an independent researcher. The motivation lies in the different rationale behind the knowledge I have had for so many years working within the law. Judging is the crown of jurisprudence. The theory and philosophy of law refers in its analyses

to the analysis of legal regulations. The motivation for my decision to apply for a candidate for the Supreme Court is that there is a possibility to pierce this knowledge, which is primarily related to the interpretation of the law. The second issue is the ethical issues that have always interested me, which are also the core of the theory and philosophy of law. I spent three years on the disciplinary committee for academic teachers and there I saw how theoretical-legal knowledge, and especially philosophical-legal knowledge, is sometimes necessary to write a good justification. Then I saw how this knowledge and interpretation of the law can be translated into what can arise. Here we are dealing with a conflict of principles. On the one hand, we have the issue of judicial independence, and on the other hand, we have a potential offense against the law. Therefore, each time the rules should be weighted. It is difficult to make this assessment in the abstract. In my opinion, disciplinary proceedings are protective proceedings. It is intended to protect the judge and his social position, which is guaranteed by the Constitution of the Republic of Poland in principle of independence. On the other hand, there is a sense of justice for the citizen. However, the answer to your question would always have to be an answer in concreto”.

76. Krzysztof BUCZEK-PĄGOWSKI – legal adviser

Hearing of the candidate at the meeting of the panel of body members of 21.8.2018:

“I’m a solicitor. I run my own law firm. For 9 years I have also been a deputy disciplinary prosecutor in the Chamber of Legal Advisers in Warsaw. As far as my functions in the Supreme Court are concerned, I am a candidate for two chambers: the Disciplinary Chamber and the Extraordinary Control and Public Affairs Chamber. As far as the deputy prosecutors or disciplinary proceedings are concerned, the situation is such that some of the prosecutors perform nominal functions and do not conduct cases at all. I belong to the second category and to this day I have established that I have conducted almost 420 such cases. The District Chamber of Legal Advisers in Warsaw is the largest chamber and has half the influence in the whole country. Now this number is growing slightly. This indicates that citizens are interested in the possibility of conducting such proceedings and that they are conducted fairly. These data are verifiable, because the Ministry of Justice keeps statistics in every case. I think it is a reliable source for assessing whether I actually conducted the proceedings or whether I was just a figurative. I think I have some specific professional qualifications. I particularly see myself in the second department of the Disciplinary Chamber. Since 2004, I’ve been working in the gyard housing cooperative. I was still employed there as an applicant. He performs the duties of a solicitor. As far as the case lawsuit is concerned, until now, it was constructed on the basis of an excerpt when a judge blatantly violated the law when judging. He had to reckon with it being caught. I think it is an individual case and you have to look at which case is of great importance and which case is of minor importance. Where there is a disciplinary tort, it certainly requires a deeper codification to distinguish where there is freedom to judge and where definitely not. I can imagine an act that is a disciplinary tort or even a crime.”

77. Celina CZERWIŃSKA – Judge of the Warsaw-Praga District Court in Warsaw

Hearing of the candidate at the meeting of the panel of body members of 21.8.2018:

“My name is Celina Czerwińska. I am a judge of the county court, I am currently judging in the 8th Department of Penitentiary. I am a judge with a lot of seniority, 36 years have passed since receiving the nomination. I judge all the time. I started with the civil division, then there was the pile division. I was the President of the District Court in Wyszków, then in Wołomin. I was also the vice-president. Throughout my career I had only short periods of time, where I did not hold any positions. I think I have good case law. I did not have any judgment annulled, only two amended judgments. I have never had a discipline or a verdict. I have always worked conscientiously, honestly, according to the Polish Constitution and laws. I decided to report to the Supreme Court at the end of my career. I am a practicing judge. I don't have any academic achievements. I started my assassination in the family department. At first I went to doctoral studies, but later I stopped. I applied to the Disciplinary Chamber, not the Penal Chamber because I have a lot of experience, because I have judged in criminal departments in all departments and I decided that this experience will allow me to evaluate cases concerning judges through the prism of life and professional experience. So that these decisions are well-considered. As far as the judicial excesses are concerned, this is a problematic issue depending on what offence it is, whether it is a substantive or procedural law. One should consider whether there was a lack of knowledge, whether the judge was guided by any personal considerations or contacts. This should all be established. If a substantive law is violated, it should clearly be established that the violation occurred. I graduated in 1977 with a very good grade. I also passed the judge's exam with a very good grade. There were various reasons for transferring me to other official positions in different courts. In 1988 I was transferred to Przasnysz and there I was the head of the civil department. I was transferred due to lack of staff. Then I fell ill and was transferred to Wyszków for health reasons. Then I was transferred to Ostrow Mazowiecka, where I was the head of the family department and became its chairman. Then I was appointed the President of the District Court in Wyszków. I was trying to do that because I lived in Wołomin and the commute to work was more convenient for me. I was very satisfied with the ruling in Wyszków. It improved my professional and personal situation.”

78. Piotr GIL – legal adviser

Hearing of the candidate at the meeting of the panel of body members of 21.8.2018:

“Most of the information about me was contained in the documents I submitted. I have extensive legal knowledge. I am a researcher at the University of Opole. I deal with civil proceedings. I applied for the position of a judge and a legal adviser. I have been trained for legal advisers, attorneys, just out of curiosity. I was a scholarship holder. I got the first place on my legal adviser's application. After the application, the Dean of the District Chamber of Legal Advisers offered me to teach. Why am I applying? I appreciate working in a team. I stand

before a committee, with the difficult task of presenting myself. The matters I conduct also go beyond the area of professional interest, i.e. a civilian. The effectiveness of the cassation complaints I file is 70–80%. They were accepted and successfully completed (except for two or three cases). I can refuse to write a cassation complaint if it is pointless. I have chosen the Disciplinary Chamber, not the Civil Chamber, because there have been situations in which I have dealt with disciplinary proceedings, although I do not read scientific studies related to it. There was such a time at the university when there were personnel problems, and I had to conduct classes in banking law and public procurement, which I managed to cope with. In college it was noticed that I was learning fast. As far as the road collision with me was concerned, it was that the tram broke my way. There, on Grodzka Street, there was a change in traffic organization, and I didn't notice the change of lanes out of habit. My fault, so I accepted the fine. As far as the criminal responsibility of judges for the judgements made on the grounds of constitutional judicial independence is concerned, there is an extraordinary complaint, which allows judges who have failed to do so to have to say why they failed during the proceedings. This is an excellent solution for accountability. The social factor is very much needed here, as an additional experience for judges."

88. Waldemar Piotr PUŁAWSKI – Prosecutor of the National Public Prosecutor's Office

- the candidate reapplied for the post advertised in Monitor Polski of 2019 item 675.

Hearing of the candidate at a meeting of the panel on 21.8.2018:

"I was instructed to apply to the prosecutor's office by attorney Jacek Hoffman. I was supposed to be something like the Fifth Column, I distributed leaflets. I worked in the team dealing with traffic accidents. In the 80's a guy distributing leaflets was found in Praga Północ, by the railway tracks. And that's where it all started. At the beginning of the 90s I was asked to vet the prosecutors active during the martial law. I dismissed some of them and their superiors appointed them to a new position. Of the 91 dismissed, 89 were reappointed to the higher level prosecutor's offices. I asked Mr. Herzog to have me removed from the vetting team because it was a sham. After a few months I handed in my resignation, I signed up for the list of advocates [the bar] in the Płock region. Did I return to the prosecution service later? I consider myself to be a determined and brave person (although it is not modest to say so). My law office prospered well. The Minister of National Defence – Mr. Macierewicz, knowing me personally, asked me to review the files of his generals and so I became an employee of the Human Resources Department of the Ministry of Defence. As far as the criminal responsibility for the judgements issued based on the grounds of judicial independence is concerned, the guarantee of judicial independence is indefeasible, everyone should act within the limits of the law. No one should interfere with adjudicating, but the standards must be respected. I have encountered unpleasant situations where the district court does not share the opinion of the Supreme Court, thus exceeding its powers. I could describe disgraceful behaviour in simple cases. Having a lot of empathy in me, I would never do harm for no reason, but if someone

deserves to be punished, I would punish them. A judge must act within the limits and on the basis of the law, ethically. Just a comment on the preliminary ruling question. It should not have been asked. The source of the law is the national law. In this respect, the validity of this preliminary question can be questioned. The scope of adjudication must not go beyond the law, it is a breach of law, a crime. – art. 231 of the Penal Code”.

89. Michał ŚLEDZIEWSKI – attorney-at-law

Hearing of the candidate at a meeting of the panel on 21.8.2018 r.:

„I’ve been an attorney-at-law for over 10 years. Initially, I was working on the basis of an employment contract. For some time now I have been running a private law firm. I have experience in appearing before district courts, regional courts. I also appeared before the Supreme Court. Apart from strictly professional activity, I also served in the Regional Bar Association. I was a member of the Regional Board. I was Vice-Chairman of the Professional Development Committee and, finally, deputy disciplinary prosecutor. In April, I resigned from this function in connection with the matters that took place here today. In my professional work, I specialised in pharmaceutical law and broadly defined administrative law as well as labour law, as I provided services to entrepreneurs. I have conducted a number of cases in the field of labour law, economic cases, cases of unfair competition. These are the basic fields of law I was interested in. As I mentioned above, I was the Vice-chairman of the Professional Development Committee. Acting as a disciplinary prosecutor allowed me to understand the activity and perspective of the problem of the profession of the attorney at law, at the interface with the judiciary, issues of professional confidentiality, conflict of interest. I would see myself in the Second Division of the Disciplinary Chamber. A judge is bound by a judge’s oath, serves the Republic of Poland and is obliged to observe the law when adjudicating. Therefore, any issues that go beyond legal arguments and other decisions must always have their own clear legal basis. As for my professional experience, I have represented my clients not only in Warsaw, but also in various courts in smaller towns. I wanted to say that I can see a big difference between the operation of Warsaw courts and the courts that are located in other regions. I often had the impression that a well-known advocate with a judge in a court in Płock or Łódź was treated much more favourably, his arguments were more readily accepted by the court, while for me it was uphill work.”

90. Danuta Małgorzata WINISZEWSKA – Judge of the District Court in Poznań-Nowe Miasto and Wilda in Poznań

- the candidate reapplied for the post advertised in Monitor Polski of 2019 item 675.

Hearing of the candidate at a meeting of the panel on 21.8. 2018:

„My name is Danuta Małgorzata Winiszewska. I am a judge of the District Court Poznań-Nowe Miasto and Wilda in Poznań. I have been seconded to the Ministry of Justice. When

I learned about the establishment of the Disciplinary Chamber in the Supreme Court, I decided that my knowledge and experience allow me to apply. I have experience in criminal and civil cases, contentious and non-contentious litigation and the National Court Register. I am currently seconded to work for the Legal Professions Department of the Ministry of Justice. I took the liberty of mentioning in my application form that I would like to adjudicate in the Second Division of the Disciplinary Chamber. I also deal with disciplinary proceedings, which ultimately makes me experienced and familiar with „the other side” of disciplinary proceedings. I know how the disciplinary jurisdiction operates in Poland. The Minister of Justice has the right to submit a cassation appeal to the Supreme Court as to whether the penalty imposed is not a flagrant one. In this context, I have experience in drafting such cassations. I received my judicial nomination in December 2008. As far as my length of service is concerned, I also indicated the period during which I acted as an assistant judge. This was the time when the assistant judge performed all the adjudication tasks and I, as an assistant judge, performed such tasks. There are restrictions now, there were no restrictions then. I performed all the tasks. The only difference was in the name. I graduated in 2000 with the ‚good’ grade, I did my training in 2001–2004 and also completed it with the ‚good’ grade. I am the author of questions to the Constitutional Tribunal. I have completed post-graduate studies in criminal law.”

91. Arkadiusz ZIARKO – Judge of the District Court in Olsztyn

Hearing of the candidate at a meeting of the panel on 21.8.2018:

“I’m a judge of the District Court in Olsztyn. I have been adjudicating since 1999 in practically all divisions. I began with a the Criminal Division, then there was the Labour, Family, then Economic and Civil Division. Now I am the President of the National Court Register. In 2015 I began working on the subject of “Multilingual interpretation of European Union law”. I have participated in many foreign conferences, training sessions, academic conferences. For one month I was an intern at the European Court of Human [and Citizen’s] Rights. I speak Russian, English, French and Spanish very well. I am a very efficient and quick adjudicator. I have never had any disciplinary proceedings or issues. I am the President of the National Court Register. As far as my work is concerned, I have prepared several hundred pages of notes. I prepare my work in Polish. This is related to my hobby. I was inspired by a lecture of a professor at a training course in Germany about discrepancies and verbal interpretations and my work is connected with this. There are different versions in the translations, various linguistic divergences. Translating word for word causes many problems. It is known that the EU working language used to be French. Then it started to change and English became the leading language. Now is the Brexit period and I wonder in what direction it will go. However, I think that English will remain the most important language because so many countries have joined. The truth is that I will prepare my PhD [thesis], and only then the publications. I applied for the position of a judge in 2016. I attached my grades. There was a vacancy in the Criminal Division. I received a lot of votes. But later I decided to withdraw. I am applying to the Disciplinary Chamber because I like challenges. As an efficient adjudicator, I feel I would be in the right place. As far as the excess of jurisdiction is concerned, the answer to that question is

certainly not easy. The judge passes judgments on behalf of the Republic of Poland. The judge should be the best lawyer here. It depends on the specific case.”

Source: minutes No. WO-5100-3/18 from the meeting of the panel on 21.8.2018: <https://webcache.googleusercontent.com/search?q=cache:http://n-1-17.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/907dc941-820b-47a3-b819-51fc2227dead.pdf>.

92. Jacek Tomasz BĄBIKOWSKI – attorney at law

Hearing of the candidate at a meeting of the panel on 22.8. 2018:

“I apologize for my absence yesterday. Family matters. He submits documents – previous recommendations / references. I think that seeking support from one side could indicate some kind of entanglement. These are photocopies of different references. Some of their authors are now judges, I erased the [personal] data. I worked in the prosecutor’s Office for fourteen years. I was an attorney at law for the Office. In 2004 I passed my professional qualifications exam and launched my own law firm, which I have been running until now. As part of my attorney at law’s activity, I became acquainted with the operation of courts in economic, family, criminal and other cases. I did not intend to run for the position in the Supreme Court, I was busy managing my own affairs. I see the need for, let’s say, public supervision – the supreme supervision exercised by the people. On July 19, I decided to check whether I met the formal requirements for running for the office and I decided to apply. I submitted the application personally to the National Council of the Judiciary. I believe that I meet the formal and personal requirements – my personality traits enable me to assess whether there has been a violation of the dignity of the office, the rules of service, which is examined by a Supreme Court judge. That is why I liked this Chamber [and decided] to apply to put forward my candidature to this Chamber”.

93. Grzegorz HAWRYŁKIEWICZ – advocate

- following the decision to stand as a candidate, the Bydgoszcz Bar Council has dismissed the advocate from the positions of Head of the training for trainee advocates and a lecturer in criminal procedural law:

source: <https://wiadomosci.dziennik.pl/wydarzenia/artykuly/579624,bydgoszcz-advokat-okregowa-rada-adwokacka-sn-krs.html>;

- the candidate reapplied for the post advertised in Monitor Polski of 2019 item 675.

Hearing of the candidate at a meeting of the panel on 22.8.2018 r.:

“I’ve been practicing as an advocate since 1998, plus 4 years of advocate’s apprenticeship. I completed my studies, if I remember correctly, with the ‘satisfactory’ grade. Apprenticeship

1994–1998, advocate's exam 1998, grade 'very good'. I practise as an advocate in Bydgoszcz – in one place. Today's presentation of the candidature is relativised, I perceive it in the following way: I am an independent person, I do not side with the so-called establishment, I have been non-partisan all my life, in my opinion I am a decent person, I have experience in disciplinary proceedings concerning judges and bailiffs. In 2006, the Bydgoszcz Regional Bar Council tried to file an indictment against me for my views that were inconsistent with the prevailing ones. I did not agree that some people should speak for the whole council, for all advocates. I was a lecturer on criminal procedure. I was a training manager. I tried to educate young people. My advocate trainees all passed their exams – I am glad that my work was not in vain. For two weeks I have been neither a lecturer nor the manager. This happened to me in connection with my application to the Supreme Court. My opinion is not liked. In the Bydgoszcz Chamber there are people who seem to be politicians. We should respect our views. There have been pictures shown with politicians, I was not there and there were questions why I was absent. I don't wear the T-shirt. Wise judges, experienced people shout at me about the constitution, but we have the right to differ in our views. I'm thinking about the term of office of the First President of the Supreme Court. We studied constitutional law and the reasoning has not changed. If the law differs from the Constitution, then I am not like the Constitutional Tribunal, which is entitled to evaluate the constitutionality. I may differ in my assessment – do I have, for this reason... I know that an advocate from Warsaw has filed a motion for a decision stating that an advocate's running for the Supreme Court constitutes a disciplinary tort. I am independent, but I had proposals – that after all, my daughter is undergoing the advocate's training. An opportunity has appeared and I am applying to a body which exists by virtue of an act of law. Ten advocates have graduated from my office, none of them had any disciplinary problems, I "raised" them to be decent advocates. There were problems with advocate's entry into detention centres because of high-profile cases of drug smuggling. As for the cases of excess of jurisdiction, in the context of the principle of judicial independence – I try to develop my opinion on the basis of the case, I am not an academic, my process of reasoning is not based on commentaries, but on a given case. I do not argue with the possibility of the Supreme Court asking [a question] to the ECJ – I have not examined this, but I have looked into the grounds and the points relating to the safeguard proceedings. I know that there was no request, the court acted *ex officio*. I ask, on what basis the court issues a ruling and in whose favour. The court was neither a party nor a participant. I will overlook the principle of *nemo iudex in causa sua*. What is the significance of Social Security contributions for the retirement of the judge? In such a situation, I would exclude myself. I am not a social security specialist, but in this context the court has committed a tort. I was once invited to a radio station – the cases take a long time, but if the law says that the clause should be imposed immediately, not later than within 3 days, and the court imposes the clause after a year. I believe that the justice system does not "work" as it should – we all watch TV. I think the courts are for people and we are not above it, there is one court above, but this is not a court of this world".

94. Tomasz Marek MALINOWSKI – Judge of the Regional Court for Warszawa-Praga in Warsaw

Hearing of the candidate at a meeting of the panel on 22.8.2018:

“Currently I am a judge of the Regional Court for Warszawa-Praga in Warsaw. A judge of a district court in 1999, after 2 years of serving as assistant judge. I completed my judicial apprenticeship training with the ‘good’ grade. He submits an additional document – a reference. In 2004, a regional court judge, then I was seconded to the [Ministry of Justice] 2005–2007. I dealt with disciplinary proceedings. In the reference provided by Judge Niedzielak, there is information that I was a member of the panel dealing with disciplinary responsibility – these were difficult issues and I believe that there was a great need for changes in this field. The draft went even further than the current law. The draft was ready together with the secondary legislation. My interest is also related to my academic work, albeit short. During 2 years of work on my doctoral thesis I was interested in the subject of disciplinary proceedings concerning public trust professions. It follows from the content of the reference that for many years I have been conducting training in the field of disciplinary responsibility of physicians. Similar issues arise e.g. with regard to firefighters. I have materials prepared for my doctorate, I have two small children. I adjudicate in the 8th Penitentiary Division, I adjudicate full-time, I am an inspecting judge. In this Division, I adjudicated in 2013. Despite the vacancy, it took the ministry 8 months to transfer me. As members of the team we felt harassed because I worked on sensitive issues. Since about 2008 I have been applying for the position of a WSA [Provincial Administrative Court] judge, as a person [dealing] with administrative law. There was always someone better. I am happy to present myself to the new National Council of the Judiciary. Now the procedure is different than before the NCJ in 2009. I have delved into the regulations and in my opinion there are not enough provisions concerning full legal service. Pleadings prepared by attorneys do not meet formal requirements. As regards [cases of] excess of jurisdiction, erroneous judgements, in the context of the principle of judicial independence – often in commercial cases, even though charges should have been brought in disciplinary proceedings, they were not brought. This has been complained about. This is a matter of the individual person – nothing bad is happening in connection with the changes, even the best legislation will not help when you come across a bad person. The previous legal system did not prevent social evils. I’ve considered other chambers – the Criminal... I did not consider the Court of Appeal for personal reasons – I was once posted (once, on an ad hoc basis), I had other proposals which I had not decided to take. The withdrawal from the secondment does not require any justification. I was appalled by the statement about the secondment of a regional court judge to the Supreme Court – especially by the way in which it was formulated. Judge Ignaczewski was right – there is only one judge, regardless of the level. The author of the statement was a professor of law. It cost me a lot of time to adjudicate in serious cases and I was not able to take advantage of the secondment.”

95. Jolanta Małgorzata SIŁKOWSKA – advocate

Hearing of the candidate at a meeting of the panel on 22.8.2018:

“After graduation, I started working in the public prosecutor’s office, [I began] the apprenticeship training (shortened to 1.5 years), then I started working as an assistant prosecutor and a public prosecutor. I was promoted, later I resigned from the post – I conducted many difficult cases – including the first drug case. I did not participate in the prosecutor’s office organizations. The prosecutor granted me an award for special achievements in my professional work. The prosecutor’s office was my favourite place, I educated many trainees – one of them is the prosecutor examining the case of Mr. Komenda. Others work in the Organized Crime Department, one of them is a Disciplinary Commissioner. I put all my knowledge and all my heart into it. An important part of the work was independence, which was not easy, but possible to manage. In the prosecutor’s office I came up against a wall – my knowledge in the prosecutor’s office was well established, unfortunately I had a very sick child – I received an offer of treatment in the United States, the prosecutor’s office did not want to agree to [grant me] unpaid leave and so I resigned. My child had to undergo about 20 surgeries, I joined the Polish community abroad, I was a consultant in matters concerning deportation – mainly deportation. We worked in a friendly American community. Later I acted as a power of attorney – as a person acting on behalf of an injured person or party, not as an advocate. I learned English, which I had not known before. I learned many things, I saw how well the system worked. There are many things worth learning. I worked with a law firm in Chicago. I attended conferences. This period has given me a lot. When I came back from the United States, I thought about the prosecutor’s office for a while, but I decided that the bar would be the place where I would fulfil myself – especially given my language skills and experience – I came across a fake apostille that went through the court proceedings – for me the mistake was obvious. The error in the New York apostille was obvious, and still it passed and the company was registered. Certain things help me in my work, they opened me up to many areas. I like my work very much. In 1987 I graduated from the University of Wroclaw – with a ‘satisfactory’ result. The prosecutor’s apprenticeship training, the minister shortened its duration, I was very talented, the application lasted 1.5 years, I completed with a ‘satisfactory’ result, there was no chance for a different result, it was short. In my practice, criminal cases prevail, I also deal with family cases and cases of the following types: foreign inheritances, concerning the ordinary activities of businessmen. My main feature is reliability, diligence – working 16 hours a day, within six months I closed a case in which 28 people were arrested. I have a very analytical mind, allowing me to assess a given situation, I achieved good results. I have conducted many cases with good results. If I had a choice, I would choose the Second Division, because it would deal with disciplinary cases – I know judges and prosecutors – I know that it is easy to accuse someone and it is difficult to defend oneself. I can look at the case, I can look at it objectively and I can justify it properly. As far as excess of jurisdiction, erroneous judgments, in the context of the principle of judicial independence are concerned, I think that a judge should be responsible. I’m not talking about an obvious mistake – I’ll give you the situation from the court corridor in my town – the client says that “The [female]

judges came out and said that they had made a mistake in the judgment, and the other one said, maybe they wouldn't notice". If I made a mistake, it should be corrected, because you can hurt someone and I support these changes very much – I have been waiting for them for many, many years".

96. Remigiusz SUEHSE – advocate

Hearing of the candidate at a meeting of the panel on 22.8.2018:

"I'm an advocate, I started my career in insurance – I was a director of an insurance company, a brokerage company. I graduated from law faculty, I worked as an assistant to a judge. I passed the exam for my judge's training and passed the judge's exam. In 2007, the judgment of the Constitutional Tribunal concerning assistant judges came into force and I had to look for a job outside the court – I was entered on the list of advocates. I live in Bydgoszcz – I was born there and finished my apprenticeship training. In November 2008, I registered on the list of advocates. I practiced as an advocate – at the moment the condition of 10 years in service has not been fulfilled. I drafted cassation appeals, which were considered by the Supreme Court, some were taken into consideration, others were dismissed. They were not subject of e.g. a resolution of the Supreme Court. As far as excess of jurisdiction, erroneous judgments are concerned, in the context of the principle of judicial independence – the disciplinary responsibility of a judge depends on what kind of excess it is. On the one hand, a judge is independent and not bound by e.g. resolutions of the Supreme Court. If a judge justifies why he or she is deviating from the existing ruling practice, I do not think he or she should bear disciplinary responsibility. If he does not know these rulings, then disciplinary responsibility can be considered. Once, as an attorney I was accused, I was legally acquitted by the Regional Court in Bydgoszcz. I filed the application, not knowing when the procedure will be completed and whether the length of service requirement will not be met on the date of the decision."

97. Małgorzata Anna UŁASZONEK-KUBACKA – attorney at law

Hearing of the candidate at a meeting of the panel on 22.8.2018:

"I am a judge and an attorney at law by education. I practice the profession of an attorney at law. In 1989 I obtained my Master's degree in law, I wrote my thesis on "Political Crimes in Poland". I was a full-time trainee at the Court in Białystok. I passed the judge's and attorney's exams. I perform the duties of an attorney at law, I started with providing legal services to press publishers and banks. This is my specialization. I have also provided services to other companies – e.g. the Oncology Centre in Warsaw. For 2 years I have been employed in the National Public Prosecutor's Office as an attorney at law. I have represented the Prosecutor General in a number of court proceedings, these are proceedings that are already partly final and successful. On the judge's exam I received a 'satisfactory' grade, on the attorney's exam

a ‘good’ grade. I am interested in the merits of a case, I want cases to be handled efficiently, and I think that in terms of disciplinary proceedings, the issues of fairness, moderation, individual, unconventional, non-standard approach to each case, with utmost attention, are particularly important, as is the social sense of justice. I think that both the First and Second Divisions would be appropriate for me. I have submitted 6 effective cassation appeals to the Supreme Court. Both divisions will deal with disciplinary proceedings. As for the excess of jurisdiction, flawed, illegal [judgments], in the context of the principle of judicial independence, it seems to me that both principles are reconcilable – the autonomy of a judge is a value that has social value, on the other hand, no judge stands above the law. The rules on disciplinary proceedings apply to such situations. For traffic offences – providing legal services requires a lot of phone usage, I don’t recall not respecting the red light”.

Source: minutes No. WO-5100-3/18 from the meeting of the panel on 22.8.2018:

<https://n-5-4.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/f/728f206c2a01bf572b5940d7d9a8fa4c/751e28b1-1427-4644-9a30-f9aae4db5340.pdf>.

*) In addition to the above mentioned candidates, the competition to the Disciplinary Chamber of the Supreme Court was also entered by candidates whose aim was to challenge the legality (from the perspective of the evaluation of the competition procedure carried out by a body not duly authorized under Article 187(1)(2) of the Constitution of the Republic of Poland) of the competition itself as well as the new Disciplinary Chamber in the Supreme Court. For the sake of completeness, it should also be pointed out that the competitions announced to the other Chambers of the Supreme Court in 2018 and 2019 were also attended by judges whose sole purpose was to challenge the legality of the competition procedure. This was in response to the appeal formulated in the resolution of the Management Board of the Iustitia Association of Polish Judges dated 22 July 2018.

**Resolution of the Board of the Association of Polish Judges “Iustitia”
of 22 July 2018 on applying for the positions of a Supreme Court justice**

Fellow Lawyers !

The procedure of applying for the positions judges of the Supreme Court is in progress. The announced competitions are, in our opinion, invalid, as we pointed out in our position of 14 July 2018. Subsequent amendments to the laws of systemic nature practically make it impossible to assess candidates for the Supreme Court in terms of merit, and the competition procedure itself is increasingly unconstitutional.

The fastest way to declare this procedure invalid is to appeal against the resolution of the body currently serving as the National Council of the Judiciary. It is sufficient to appeal against the decision of this body to an independent court, the Supreme Administrative Court. We will support those competition participants who appeal to the Supreme Administrative Court challenging the validity of the competition procedure.

We share the view that the lawyers who are actively involved in dismantling the principles of the democratic state based on the rule of law and the guarantee of proper protection of citizens by independent courts should be aware of the serious risk to their professional and civic reputation.

Given that this report is limited to the Disciplinary Chamber, in order to ensure the reliability of the report, one should mention **Jacek Barcik**, PhD, professor of the University of Silesia, and **Arkadiusz Tomczak**, judge of the Voivodship Administrative Court in Warsaw – member of the Board of the Association of Polish Judges “Iustitia”, who, with the above mentioned intention, took part in the competition to this Chamber. Mr *Jacek Barcik*, inter alia, in his statement of 2.8.2018, presented the motivation for his application:

Statement, with a request to disseminate as widely as possible

I'm running for the Supreme Court.

My motives:

1. I will not become a Supreme Court Justice. **First of all**, because I believe that the Supreme Court judges should be people with many years of experience in adjudicating, for whom the honourable position of a Supreme Court justice is the natural culmination of a judicial career. **Secondly, and above all**, I believe that the procedure for appointing Supreme Court judges provided for in the current Act on the Supreme Court is unconstitutional. The so-called NCJ appointed contrary to Article 187 of the Constitution of the Republic of Poland, has no legitimacy to evaluate candidates for the Supreme Court judges. And such persons, if they are appointed, will not be legally elected judges, but only their doubles.

2. As I have consistently and publicly written and said, every lawyer running for the position of a Supreme Court justice in the current situation undermines his or her reputation and professional credibility. He or she takes part in dismantling the rule of law. I apply this critical assessment equally to myself. I am not asking you for "absolution", but only for understanding. I know what I'm doing and I am doing it consciously.

So why am I tarnishing my name by applying to the pseudo NCJ to become a pseudo-judge of the Supreme Court?

Because I believe that **every person applying to the Supreme Court should use this opportunity to challenge the legality of the current procedure of appointing judges.**

It is an ethical duty of each candidate to appeal against the NCJ decision to the Supreme Administrative Court.

As part of the proceedings before this court, we must seek to submit requests for a preliminary ruling to the Court of Justice of the European Union.

In my opinion, the procedure for appointing judges of the Supreme Court does not guarantee that, in the future, this highest judicial authority in Poland will really be independent and impartial, without political influence, in resolving cases submitted to it. This is in direct conflict with Article 19(1) of the Treaty on European Union and Article 47 of the EU Charter of Fundamental Rights. **That is why our court, the Court of Justice of the European Union, should rule on the case.** But it cannot do so on its own, as it must be given an opportunity to do so. **This position is shared by me and a group of committed and conscious candidates for the Supreme Court. They risk their reputation so as to prevent the ruling party from barbarically taking over the Supreme Court, ultimately stifling an independent third power in Poland. We hope that other candidates will join us. The illegal procedures should be condemned fiercely.**

Katowice, 2 August 2018.

* Jacek Barcik, PhD, associate professor at the University of Silesia in Katowice, (Faculty of Law and Administration, Department of Public International and European Law); advocate

Both candidates have given an extensive interview on the subject to the quarterly magazine “Iustitia” No. 3(33) of 2018:

source: <https://kwartalnikiiustitia.pl/niektorzy-mowia-o-nich-kamikadze,9559>.

Below we present the records of the hearings of both candidates by the panel of the body that replaced the National Council of the Judiciary in a similar arrangement as the one in which the records of the other candidates’ hearings are presented:

Jacek Andrzej BARCIK

Hearing of the candidate at a meeting of the panel on 21.8.2018:

“My name is Jacek Barcik, I’ll start with a formal motion. I submit to you the attachments which document my doctorate, curriculum vitae and a list of publications. I submit a formal motion to make my presentation public. I give my absolute consent to the processing of my personal data and I request that you invite journalists to the room. As regards the open nature of the meeting of the National Council of the Judiciary, Article 20 of the Act lists two conditions when the openness may be restricted. In my case, neither of these two conditions applies. I agree to make this hearing public”.

An adjournment was ordered and a vote was taken on the formal motion.

The panel’s position: the panel refuses to grant its consent because the motion is erroneous, it does not contain a normative justification. The invoked provision refers to the Council’s plenary meeting, which is not taking place now.

Five votes were cast in favour of refusal to give consent, 0 votes against, with no abstentions.

“I request that the grounds for the refusal be given in writing. I have submitted the motion in writing, and I expect the reply to be in the same form. Mr. President, Ladies and Gentlemen, I am a candidate for the Disciplinary Chamber, which is justified by my professional achievements and interests. In my publications you will find numerous discussions of disciplinary issues and the participation of judges in the public sphere. I work with judges as an advocate and have a broad perspective, which allows me to run for the position. I do not currently practice as an advocate, I have suspended my activity. The academic activity has been so absorbing for me that I have suspended my advocate’s practice. This is a temporary suspension. In the Disciplinary Chamber, I think I would see myself in the Second Division, because of the nature of the cases. I think these are different types of cases than those in the First Division. I have experience of being a disciplinary commissioner. As far as the excess of jurisdiction is concerned, this is a very sensitive and delicate matter. The judge is not beyond control. You have to strike the right balance here. The point is that the judge should not be afraid to make a decision and take responsibility for it. In my opinion, it is important to give the judge the comfort of secure resolution. A lot depends on the wisdom and experience. The second thing is

to limit the political influence on judges' disciplinary proceedings. Here the role of the Minister of Justice is excessive and should be reduced. I am an associate professor at the University of Silesia. I received a 'very good' grade on my graduation. I defended my PhD in 2005 and received my habilitation in 2014. As far as the traffic offences are concerned, I had such an incident, it was driving with excessive speed in 2017. I accepted the ticket. Currently, my legal practice is suspended due to the fact that at some point in my life I chose to pursue my academic activity at the expense of the bar. I decided what is important for this moment. I don't see any conflict between my academic work and the work of a Supreme Court Disciplinary Chamber judge. This is a different type and different character of work".

Arkadiusz Marek TOMCZAK – judge of the Voivodship Administrative Court in Warsaw

Hearing of the candidate at a meeting of the panel on 22.8.2018:

"Thank you for inviting me to the meeting of the panel again – the original invitation arrived after the meeting date. He submits a document. Requests that the proceedings before the panel be made public, together with a request for enabling the recording. He indicates that a similar motion was accepted by another panel yesterday" – he submits the motion.

Arkadiusz Marek Tomczak: *"I inform you that I have no doubt that I am acting as a public person – applying for the position of a Supreme Court judge. I'm specifying that the request is for a mobile phone recording"*.

Judge Furmankiewicz motions for a short recess to review the motion.

08:57 – *The chairman orders a short break, candidate Arkadiusz Marek Tomczak leaves the room.*

08:59 – *after the recess – the Chairman of the panel states that there are no legal grounds to respond to the motion. The Chairman of the panel instructed the candidate that the panel is not providing lectures on the content of the Act on the National Council of the Judiciary, and art. 20 of this Act regulates only the openness of the plenary session. At the same time, the Chairman of the panel informed the candidate that there were no objections to the recording of the interview.*

Arkadiusz Marek Tomczak

He requests that it be recorded in the minutes that the request to make this hearing open to the public has not been granted.

"I am taking part in this competition despite great doubt as to its legality. I would like briefly to indicate why I have these doubts about the legality of the competition. First of all, I have great doubts as to the legality of the current membership of the National Council of the Judiciary. Some of the members of the Council – judges – have been elected to this Council by politicians and not, as the Constitution states, by other judges. Some of the judges who are currently members of the Council have been elected to replace judges whose terms of office under the Constitution have not been completed. The second doubt is that there is no countersignature of the Prime Minister under the announcement of this competition by the President of Poland.

The third doubt – the competition is conducted at such a pace that the Polish Post Office is not able to deliver, at least to some of the competition participants, the notices with the date of the meetings before they are due. I am in such a situation, there are still at least a few candidates in such a situation. I pose a question: does the panel know that other candidates have been informed [about the meeting] after the panel meeting has taken place?

He asks that it be noted in the minutes that this question is not answered.

“Anyway, why am I taking part in this competition? Regardless of these doubts, there is a way in our legal system for the judicial review of the legality of this competition – the possibility of an appeal to the Supreme Administrative Court – perhaps the authority empowered to do so – the Supreme Administrative Court should examine the legality of the competition in which I am participating. As for me: I have been adjudicating since 1998, I have been a judge since 2000, I am a graduate of the Faculty of Law and Administration of the Nicolaus Copernicus University in Toruń – I received a ‘very good’ grade on my diploma. I completed my judicial apprenticeship training in Warsaw, I passed the judge’s exam with a ‘very good’ result. I am also a graduate of postgraduate studies: European Law for Judges at the Jagiellonian University, the System for the Protection of Human Rights at the Jagiellonian University, and European Law for Judges at Maria Curie Skłodowska University in Lublin, all these studies I completed with a ‘very good’ grade. For nearly 15 years I have been adjudicating in the Warsaw courts in criminal divisions, in district, regional and appellate courts. At present, for 4 years I have been a judge of the Voivodship Administrative Court in Warsaw – since 2014. Over the years of my judicial practice, as regards criminal divisions, I have dealt with all kinds of cases – misdemeanours, criminal offences and economic crimes. Since it was a court in the appellate division of the Śródmieście Regional Court, I also took part in the examination of some high-profile cases involving politicians of the former or current government, including aspects related to the stock exchange, medical malpractice – the range of these cases was as wide as it could be in the cases examined by the Regional Court in Warsaw. I am mentioning this because, in principle, the Disciplinary Chamber is supposed to proceed in a procedure similar to criminal proceedings or drawing upon its output. Regardless of this, I have adjudicated and I still adjudicate in cases whose subject matter may be similar to disciplinary matters – the Regional Court in Warsaw, the 10th Criminal – Appellate Division is, for example, the only court in Poland that has adjudicated on bailiffs’ appeals against a decision of the Minister of Justice to suspend the performance of duties in a situation where a bailiff has been charged – there is a quasi-disciplinary element here. In the Voivodship Administrative Court there are cases involving a breach of public finance discipline – there is also an element of such responsibility on the borderline between criminal and labour law liability. I think that this is a matter that comes close to that which will be dealt with by the Disciplinary Chamber. I was an examiner on the exams for attorneys at law, I conducted classes in the field of criminal law for the trainee advocates, trainee attorneys at law, I happened to be one of the defence attorneys in disciplinary proceedings – the case was difficult to defend, but I managed to achieve some success in these proceedings, the proceedings concerned waiving the immunity of one of the judges. I was a member of the Electoral Commissions, in one of the elections to the European Parliament I was a vice-chairman of the Regional [Electoral] Commission in Warsaw. I am a member of the Board of the Association of Polish Judges “Iustitia”, I am sure you know that I am on a black list

– the list which was distributed among you on the instruction of the Chairman of the National Council of the Judiciary, Justice Mazur, and delivered here by MP Pawłowicz. This is a list of judges who took part in study visits to European institutions. As regards the indication of the constitutional basis for the election of the members of the National Council of the Judiciary by judges – we will not settle this dispute because we are not a body authorised to make such assessments – such an assessment will be made by a body appointed in accordance with the law, it will be either a court or a tribunal, a body that will make a definitive ruling, our discussion here will not change the issue, nor does it affect the application. I have disclosed these views in the first part of my presentation. The Constitution should be read comprehensively. A competent body will decide on it. Perhaps the Supreme Administrative Court will comment on this matter. I have already presented my views on this subject.”

Following the reading of the provision of the Constitution by MP Piotrowicz:

“I will continue my presentation, if I may. Thank you kindly for this argument, I have also heard it many times in the course of the work of the Parliamentary Committee which you chaired. This work also concerned the law on the Supreme Court, as well as the work on disciplinary regulations, I do not know if you recall that we differed on this issue at the time as well, as I see the situation has not changed. As I say, neither you nor I will make a definitive ruling as to who is right, a competent authority will do so. As to the legal basis of the submitted motion – the motion indicates the normative basis in the form of Article 61.2 of the Polish Constitution. As regards the candidacy for the Voivodship Administrative Court in Warsaw: I was not invited to the interview when I was running for the position in the Voivodship Administrative Court, but it was supposed to be better now, it is the same. I don’t know if the meeting during which the decision on the competition for [a position at] the Voivodship Administrative Court was made was broadcast – it was of no interest to me. As for the premise under Article 30(1)(6) – I will get acquainted with it in a moment.”

[Arkadiusz Tomczak continues, using the text]

“As for the evaluation of my legal knowledge, it was assessed by the Supreme Court, as far as cassation appeals in criminal cases are concerned, or by the Supreme Administrative Court in cassation appeals issued by the Voivodship Administrative Court sitting in the panels of which I am a member. I do not believe that the level of my adjudication is, somehow, such that it does not entitle me to state that I meet this formal criterion. Moreover, I have presented you with a list of 100 cases – judgements, statements of grounds, which you have had a chance to analyse, read, review and on the basis of the content of these judgements, the content of these grounds statements draw conclusions as to the level of my legal knowledge. I am very sorry that you have not taken advantage of this opportunity, that you have not got acquainted with these cases, as I say, the competition is being conducted at such pace that the Polish Post Office is not able to deliver to the participants of the competition notifications about the date of the meetings, so I will not assess the level of my legal knowledge, you had a chance to do so, unfortunately you did not wish to get acquainted with the presented case files. With regard to the judgments that I have issued, which prove that my legal knowledge is particularly outstanding – you require me to demonstrate lack of modesty, I admit that this is, to say the least, inappropriate, but I will only point out that among the cases presented to you there was a decision of the administrative court, which decides on the ruling of the Constitutional

Tribunal issued, possibly, with the Tribunal sitting in a panel that was defectively composed – it is a pity that you did not get acquainted with it. I did not participate in the drafting of the Supreme Court Act, I do not know it as well as you do. Whether an appeal is possible against a resolution that is immediately valid – positive: Whether an appeal is possible against a resolution – your opinion – your resolution is an opinion, the procedure is multi-stage, there is your opinion, there is a decision of the President, there is a moment of handing in and receiving the President’s decision. You hold the view that positive resolutions are not subject to appeal, but whether or not such an appeal is admissible will be decided by the body that will consider such an appeal, the body that will examine the legality of this competition will decide whether or not it will accept any appeal for resolution, and not you as an entity whose legality will be examined. The authority empowered to do so shall have a say. As for the situation when I am appointed – I will appeal against such a decision depending on its content and justification, I assume that there will be a justification. There is considerable doubt as to the legality of this competition. It is in the interest of the participants of this competition and all citizens of our country to examine its legality. I think it is my duty to make an authorized body express its opinion on this legality, and this body is not the National Council of the Judiciary, with all due respect, but the Supreme Administrative Court. As to the purpose of standing as a candidate – My purpose is to stand as a candidate and participate in this competition, which is what is happening here. As to the added value that a candidate could bring to the work of the Supreme Court Disciplinary Chamber: We’ll see. As to the specific reasons that apply to assessing the candidate’s qualifications: First of all, the material I submitted in writing. You have a whole file of information about me. I am just an ordinary holder of a master’s degree. I don’t have any academic background. I think that the number of justifications prepared in the administrative court and in the regional court, that is, more than hundreds of justifications per year, the quality of these justifications, this can answer the question about my qualifications. I have also heard the views expressed by members of the Council – you have criticized the excessive number of academics in the Supreme Court. You have advocated opening the Supreme Court to practitioners. The composition of the National Council of the Judiciary seems to indicate that you are fully committed to this practice. This was a media statement by judge Rafał Puchalski. It was a criticism of the excessive number of academics in the Supreme Court. As far as the so-called “black list” is concerned – it was allegedly not presented to you, but it was presented to you on the instruction of the President of Mazur during the meeting of the National Council of the Judiciary – it was distributed by Krystyna Pawłowicz – the list of judges, I quote, “informing on Poland”. This list includes people who took part in study visits to European institutions – such visits are something natural for representatives of the legislative and executive authorities, there are members of the ruling party, opposition parties, government representatives and representatives of judges. This participation of judges was considered by you as the participation of persons “informing on Poland”. As for the compilation of the list, you should ask the MP, I did not draw up the list. I was not interested in the fact that the list had been published on the forums for judges in advance, you should ask her about it. If I win the competition and the application for my appointment is presented to the President – I have already answered this question, I will repeat it, I will read the resolution, analyse it and make a decision. I think that checking the legality of this competition is the overriding circumstance/

objective informing the way to proceed: I will think about it. Regarding the responsibility of judges for excess of jurisdiction i.e. errors in adjudication, in the context of the principle of judicial independence – e.g., a decision to postpone the hearing is a decision of the court, do you think that the court should be held responsible in such a situation when, after three years of conducting a court case, in a multi-volume, criminal case, the court postpones the hearing – this is a decision of an autonomous court, and the court rules to discontinue the proceedings without issuing a judgment – this is a decision – in this respect the court is autonomous – all pros and cons should be considered. It is the role of the courts of higher instance to correct unlawful decisions. I am not an expert in German law like yourself, or like Deputy Minister Warchoń, I can see great inspiration with the German system, but unfortunately I do not know it that well – I am just an ordinary MA degree holder. It is difficult for me to assess a system that I do not know. At this point we can discuss other matters, but it will be a cursory discussion, without a conclusion. The Supreme Court has also once adjudicated on a case that was apparently a tort involving judicial autonomy, etc., but was in fact a matter of postponement or evasion of resolving the case.”



Chapter IV.

Public statements of representatives of the highest state authorities of the Republic of Poland, slandering judges on the national and international arena

President of the Republic of Poland, Andrzej Duda:

“It has turned out that after the ruling of the Court of Justice of the European Union, a provisional ruling in which it was clearly and explicitly stated that Poland was obliged to take certain actions, a group of judges returned to the Supreme Court, considering that due to the fact that the ruling was issued, they became active judges; moreover, it turns out that some of them took up the functions they previously performed as active judges. I mean here mostly functions of the presidents of chambers. They began issuing internal legal acts or ordinances; among others, one of these ordinances removed the judge from the possibility of adjudicating. Well, ladies and gentlemen, probably no one who knows the Polish legal system, in particular the constitutional system and knows the applicable rules, would doubt that such an action of a judge constitutes, first of all, an absolutely clear violation of Art. 178 (1) and (3) of the Constitution. Secondly, it violates the right of a judge who has been removed from adjudication under Art. 178 (2) of the Constitution, and ladies and gentlemen, if we look at it more broadly, Art. 7 of the Constitution, stating that all state authorities in the Republic of Poland, including courts and tribunals operate on the basis and within the limits of the law, is definitely violated here. I am saying this especially here before the Constitutional Tribunal and a group of eminent constitutionalists, to signal the dramatic situation we are facing today in Poland, since if in the public forum significant figures of the Polish judiciary – please take note, we are talking about Supreme Court judges, we are talking about judges who until recently held the office of presidents in this court, starting with the First Justice and through the presidents of chambers – openly violate currently binding laws, violate constitutional provisions and

disregard the law, we are dealing with anarchy caused by representatives of the judiciary. I want to say it loud and clear.”

As a result of a safeguard order issued by the CJEU, the President was forced to sign the law restoring the work of Supreme Court judges who exceeded 65 years of age. He attacked those of them who returned to work without waiting for the adoption of the relevant law. The Supreme Court judges were criticized for complying directly with the CJEU ruling, which they were entitled to. Decisions of the Court of Justice of the European Union apply to all addressees, including Supreme Court judges, and do not require the adoption of relevant national rules for their effectiveness.

Source: Speech to the General Assembly of Judges of the Constitutional Tribunal of 18 December 2018: <https://youtube.com/watch?v=9AVJ5gerhw4> (starting at 5 min 57 s).

“The judges’ environment is ‘depraved’ and has a bad reputation among Poles.” The President stated that the judges “cannot behave ostentatiously” and should not flaunt their political views (...).

“The judicial reform was necessary, although the resistance of ‘the matter’ is enormous.” “These environments exert their influence in different places, they have their spokespersons in Europe and in leftist circles, and there are problems. But we continue to calmly do our job.”

An unjustified attack of the President of the Republic of Poland on judges who bravely and publicly defend the principles of the independence of the courts, the independence of judges, the rule of law and human rights.

Source: interview for TVP INFO of 30 December 2018, statements of the President as quoted by wiadomosci.wp.pl: <https://wiadomosci.wp.pl/prezydent-andrzej-duda-mocno-o-sedziach-w-polsce-to-zepsute-srodowisko-6333238548182657a>.

(In response to a question about the forced retirement of Supreme Court judges):

“This is a very complicated matter and it is difficult to answer this question because many people in Western Europe, and I also think in the United States, simply do not fully understand this problem, as they did not grow up or were not brought up in the same country as me. I was born in 1972 in Poland which was in the Soviet sphere of influence, and in which a career could be made only if someone joined the communist party and politely listened to the people’s government which was the only oracle (...). People were imprisoned, people were tortured and killed during martial law and later also (...) and now imagine that not so long ago, only a few years ago I was surprised to discover that there was a whole group of judges in the Polish Supreme Court who adjudicated as judges belonging to the communist party, sometime before 1990, who even adjudicated during martial law, sentencing people to prison under the legislation of communist martial law. When I was asked if the Supreme Court had to be reformed, I said yes. If Poland is to be truly democratic, free and sovereign and we want it to be such a country for our children, for the generation that was born after 1989, for God’s sake, these people must retire. And so we did what we did. In fact, everything we did was intended to send these judges to retirement, but unfortunately, despite the passage of 30 years, their influence, built after 1989 when they turned coats and became the elites of the new state, is still large.”

President *Andrzej Duda*, on the basis of individual cases of Supreme Court judges adjudicating in criminal matters during martial law, undermines the professional credibility of all Supreme Court judges, applying the principle of collective responsibility.

Source: President *Andrzej Duda*'s press conference with President *Donald Trump*, Washington, 12 June 2019: <https://youtube.com/watch?v=4iAmFkf8Hok>.

(On the judgment of the Constitutional Tribunal on raising the retirement age):

"... Yes, I have no doubts that the Constitution has been violated, partly through the actions of the Constitutional Tribunal which adjudicated that raising the retirement age for all the Poles against their will is constitutional. Was it a tribunal that operated in the interests of the Polish society and the Polish state, or for some narrow ruling caste that had such an interest at the time?"

An unreasonable attack on the Constitutional Tribunal and its judges. The president accuses the judges of the Constitutional Tribunal that they did not act in the interest of society and the state.

Source: Speech made in Lwówek Śląski on 3 July 2019: <https://tvn24.pl/wiadomosci-z-kraju,3/sedziowie-tk-odniesli-sie-do-wypowiedzi-prezydenta-z-lwowka-slaskiego,950880.html>.

Prime Minister, *Mateusz Morawiecki*:

"To this day, an elite council of 25 people, dominated by 15 appellate and senior judges, nominates all judges, including their own successors. No first instance judge or elected (by citizens – ed. /PAP) official participates in this process. The president may accept or reject the nominations. The system itself is conducive to nepotism and corruption (...)"

"In addition, judges are assigned to cases by their supporters, without public supervision," he adds. "Benefits for friends; revenge for rivals. In cases where the case appears to be the most profitable, bribes are required. The proceedings are sometimes prolonged indefinitely, in favor of the rich and influential defendants. Too often, the judiciary is inaccessible to those who lack political influence and substantial bank accounts (...)"

"Our reform package includes the requirement of randomly assigning cases that would end the judicial practice of buying them."

As the Prime Minister writes, the debate also concerns the establishment of a disciplinary chamber for judges, lawyers and prosecutors, and *"the end to immoral bonuses that allow some judges to earn substantial income for little work."*

In an article published in a foreign medium, the Polish Prime Minister, without providing any evidence for his words, accused Polish judges of corruption and issuing sentences in favour of the richer party to the proceedings.

Source: Article written for Washington Examiner from 13 December 2017, quoted in: GAZETA.PRAWNA.PL of 13 December 2017: <https://washingtonexaminer.com./prime-minister-mateusz-morawiecki-why-my-government-is-reforming-polands-judiciary>.

“A large part of this system is corrupt. We cannot discuss here one element or another element, choosing them from the whole” – Morawiecki said. – “For me, this is a situation that we can compare with France during the post-Vichy period [the French regime collaborating with Nazi Germany – ed.]. Charles de Gaulle completely rebuilt the system.”

Another statement by the Polish Prime Minister addressed to foreign recipients, in which he accused Polish judges of corruption without any justification and without pointing to specific cases. Prime Minister *Mateusz Morawiecki* compared the service of Polish judges with the work of judges of the collaborative Vichy State in post-war France.

Source: Speech at the New York University in New York of 17 April 2019, Prime Minister’s statements as quoted by tvn24.pl: <https://tvn24.pl/wiadomosci-z-kraju,3/morawiecki-w-usa-osedziach-i-praworzadnosci-w-polsce,929280.html>.

Minister of Justice, Zbigniew Ziobro:

(Referring to the ‘hate speech gate’ at the Ministry of Justice):

“(…) This was also hate directed by the judges towards the judges; by those judges whom you hold as your favourites and your authorities, Mr. Tuleya, Mr. Żurek and other judges from Iustitia Association, judges who directed the following phrases to those employed by the Ministry (...): they disgraced themselves, they find ‘jobs for the boys’, they sell themselves, they destroy the judiciary, they are gravediggers, they lackey the Ministry themselves, they will be accounted for, legal idiots, Judases, shameful, discredited, unworthy, dishonest...”

An attempt to downplay the significance of the haters’ scandal that occurred close at hand of the Minister of Justice, among his associates. Unwarranted attacks on independent judges and an attempt to put incomparable attitudes and phenomena on the same plane: a firm criticism of the actions of judges cooperating with Minister *Zbigniew Ziobro* in his actions aimed at the independence of the courts; and an organized hate speech action using information from judges’ private life, conducted by judges owing their careers to the Minister of Justice.

Source: Address in the Sejm during the debate on the motion of censure of 11 September 2019: <https://youtube.com/watch?v=MYTdyNr3V70>.

(Speech in connection with the appeal of Professor. *Adam Strzembosz* to the prime minister *Mateusz Morawiecki*, concerning the dismissal of *Zbigniew Ziobro*):

“Let me remind you that at the beginning of the 1990s, Professor Strzembosz was responsible for the Polish justice system, he held an important role in the Ministry of Justice, he was the first President of the Supreme Court and then he made a solemn undertaking, a promise to all Poles and a guarantee that the judicial environment would cleanse itself (...). Have you accounted for this obligation, Professor (...), because it can be said that these words have lulled the sense of security of Polish democracy.”

A political attack on the senior of the Polish judiciary and his unquestioned authority, former President of the Supreme Court, Professor *Adam Strzembosz*.

Source: Press conference in Tomaszów Mazowiecki of 19 September 2019, statement quoted by natemat.pl portal: <https://natemat.pl/284879,ziobro-atakujze-strzembosza-po-jego-apelu-do-premiera-o-odwolanie-ministra>.

“The scale of the judges’ resistance to the reform of the judiciary itself has exceeded all expectations (...). This resistance is largely politically initiated by the opposition. Some judges, contrary to the principles of independence, have explicitly opted for the political side of the opposition which uses this dispute and also ruthlessly initiates action at European level.”

Unjustified attribution of political motivations to judges defending the independence of courts and their own. Minister *Ziobro* tries to present Polish judges as political opponents of the government.

Source: interview for the weekly ‘Do Rzeczy’ of 23 September 2019: <https://wiadomosci.dziennik.pl/polityka/artykuly/608340,ziobro-wymiar-sprawiedliwosci-proba-wyzwolenie-reforma-sadownictwa.html>.

“(...) This caste that arose there – after all, they said about themselves that they are an extraordinary caste – those behaviors that are purely political, not substantive – all of that shows the big problems of the judicial community (...).

In Germany, democracy worked and 80% of the judges who were involved in the communist system were removed. Owing to the actions of Professor Strzembosz, this did not happen in Poland, because we took his word for it. And these pathologies have increased. These pathologies were reflected in the fact that judge Milewski wanted Donald Tusk to read the files of the Amber Gold case, in a completely illegal manner. In fact it was an act contrary to the Criminal Code, yet he is still a judge, he maintained his position. Behaviors of judges involved in corruption in the Supreme Court... these judges continued, despite the fact that the case saw the light of day, to adjudicate and function, and it did not bother anyone (...). Driving under the influence of alcohol, accidents they caused... immunity was active and they stood above the law. This needs to be changed, which is why we decided to implement this reform (...).

For years, the judiciary has been a state within a state. They were outside any mechanism of democratic control (...). The judges chose themselves, they themselves decided who would be the judge, who would be promoted, who would be removed from the profession. They were beyond any external control (...).

This change we are making makes sense because it also introduces democratic mechanisms that can affect what is happening in the judiciary. Since the corporation alone did not manage and the pathologies increased there, there is no other way than the one that Churchill spoke about: Democracy is the worst form of government, except for all the others.”

A statement full of manipulation and unreliable information. The statement that the judges are an extraordinary caste was uttered by one judge and was then criticized by many other judges. Today, the average age of Polish judges is lower than the age of

the minister *Ziobro* himself, so the allegations concerning the involvement of judges in the communist system are completely unfounded. The unacceptable behavior of one judge acting as the president of a court (for which the judge was disciplined) is related by the Minister to all Polish judges without any rational justification. The isolated cases of judges detained when drunk driving are unjustifiably and in a biased way generalised by Minister *Ziobro* to serve as an accusation against the whole environment.

Source: interview for Polish Radio of 26 September 2019: <https://youtube.com/watch?v=tHNrlsKqp68>.

President of the ruling party Law and Justice, MP Jarosław Kaczyński:

(At the convention of the Law and Justice party):

“(...) This oikophobia, that is, aversion or hatred even to one’s own country or one’s own nation, this is one of the diseases that has affected some judges.”

(Olsztyn, 22 September 2018)

Leader of the ruling party, MP *Jarosław Kaczyński* accuses the judges of dislike and even hatred of their homeland.

Source: https://tvn24.pl/wideo/magazyny/kaczynski-o-ojkofobii-sedziow,1774179.html?playlist_id=12698.

(In response to the question of what he intends to do with equality marches):

“You know, the problem is that if it was up to me it would be clear” – Kaczyński answered. “My late brother, Varsovian [Lech Kaczyński – ed.], when he was president of Warsaw, he banned the march. However, the matter here are European Union regulations. Well, they will repeal such bans for us. The courts will also repeal them, because the courts are completely influenced by this ideology.”

The leader of the ruling formation attributes to the judges complete devotion to “LGBT ideology.”

Source: Statement at a family picnic in Zbuczyn near Siedlce of 11 August 2019: <https://tvn24.pl/wiadomosci-z-kraju,3/kaczynski-o-marszach-rownosci-sady-sa-pod-wplywem-ideologii-lgbt,960409.html>.

(At the election convention of Law and Justice).

“(...)The Tribunal system, in fact courts holding the power, has nothing to do with democracy.”

(Lublin, 7 September 2019)

The leader of the ruling party is questioning the fundamental position of the courts resulting directly from the Constitution of the Republic of Poland.

Source: <https://fakty.tvn24.pl/fakty-po-poludniu,96/jaroslav-kaczynski-o-ustroju-trybunalskim-na-konwencji-pis,967855.html>.

Member of the Law and Justice party, member of the National Council of the Judiciary, *Krystyna Pawłowicz*:

(At the meeting of the Parliamentary Committee on Justice and Human Rights):

“Unfortunately, the courts stood on the side of the opposition and together they form one large opposition party in Poland, anti-democratic – because you do not accept the election results. This is absurd. The judicial community needs to be recovered for democracy. You should be re-educated in democracy-teaching camps, like in Korea.”

(16 October 2016)

The statement of MP *Krystyna Pawłowicz* is an example of a brutal attack on judges offered by a member of the ruling party.

Source: <https://video.wp.pl/pawlowicz-wrzeszczy-do-sedziow-powinniscie-jak-w-korei-przejsc-reedukacje-w-obozech-6354018672330369v>.

(At the meeting of the National Council of the Judiciary, while discussing the candidacy of a judge of the District Court *Marta Koźuchowska-Warywoda*):

“(...) In the photos she stands with a candle next to judge Żurek (...). The thing is that Marta Koźuchowska-Warywoda belongs to people who went to Brussels to tell on Poland. She is simply strongly politically engaged.”

(11 July 2018)

MP's personal attack on a judge for participating in demonstrations in defense of the Supreme Court and for participating in a study trip to Brussels. MP *Krystyna Pawłowicz* also revealed that she has a so-called “black list” of judges who, according to her, “told on Poland” in Brussels complaining about the Polish authorities and reform of the judiciary, and who participated in protests against changes in the judiciary introduced by the ruling camp. According to the MP, such people do not deserve to be promoted. This “black list” of judges prepared by *Krystyna Pawłowicz* was distributed to members of the body acting as the National Council of the Judiciary at a meeting at which Judge *Marta Koźuchowska-Warywoda* was assessed as a candidate for promotion.

Source: <https://fakty.tvn24.pl/ogladaj-online,60/czarna-lista-pawlowicz-krs-bedzie-debatowal-o-sadzie-najwyzszym,852954.html>; <http://www.krs.pl/pl/dzialalnosc/posiedzenia-rady/f,204,posiedzenia-w-2018-r/740,10-13-lipca/5413,transmisja-z-posiedzenia-krajowej-rady-sadownictwa-w-dniu-11-lipca-2018-r> (starting from 53 min 50 s).

Member of the Law and Justice party, member of the National Council of the Judiciary and chairman of the parliamentary Justice and Human Rights Commission, *Stanisław Piotrowicz*:

(On the reform of the National Council of the Judiciary):

“(...) When I talk about personnel changes, I mean that there should be a qualitative transformation of judges who would be people with a mentality of servitude towards the state and the nation, and not with the mentality aiming at ruling over the nation.”

An important politician of the ruling party outlines the vision of judges as people with mentality of servitude. President of the Supreme Court and judge of that Court *Stanisław Zabłocki*, commenting on the above MP's words, said that there had been such a sad period in the history of Poland when many human tragedies were caused precisely by the fact that the judges were people with a mentality of servitude towards the state. A judge with a servitude mentality is a caricature of a judge.

Source: speech made in the Sejm on 22 November 2017: <https://youtube.com/watch?v=T81PJzgbJsA&feature=youtu.be>.

(About Supreme Court judges):

“(...) There cannot be such a situation that a handful of those dissatisfied with the loss of privileges would block the work of a constitutional body (...). That judges who are ordinary thieves would continue to adjudicate.”

(26 September 2018, seat of the National Council of the Judiciary)

The statement is an example of a ruling party's policy attack on Supreme Court judges.

Source: <https://tvn24.pl/wiadomosci-z-kraju,3/pozew-gersdorf-i-raczki-przeciwko-piotrowiczowi-za-slowa-o-sedziach-zlodziejach,871343.html>.

Head of the political office of the Prime Minister, *Marek Suski*:

“Some judges are rich and have gold bars buried in their gardens, but their origin is unknown.”

(statement of 14 January 2019 as quoted by dziennik.pl portal).

The absurd accusation against judges made by a high official from the Prime Minister's cabinet.

Source: <https://wiadomosci.dziennik.pl/wydarzenia/artykuly/589088,suski-zloto-ogrodek-sedzia-lopata-pis-polityka.html>.

Head of the Standing Committee of the Council of Ministers, Jacek Sasin:

(Commenting on the request for a preliminary ruling of the CJEU submitted by a judge of the Warsaw Regional Court, Igor Tuleya):

“This is anarchization of the law, carried out by part of the judicial community, but not only; we would like to remind you that the President of Warsaw Hanna Gronkiewicz-Waltz also went the same way, trying to block the work of the verification commission. We have a completely shocking case of judge Tuleya, who submitted such an unjustified, completely unlawful question, which will affect the trial of extremely dangerous criminals who kidnapped their victims. One of them cut off their finger with pruning shears. There is a danger today that the statute of limitations will run and these criminals will go unpunished (...).”

“They do it only to create the impression that we have some legal instability in Poland. Judge Tuleya is not acting like a judge but like a politician. He is a politician, not a judge (...), a total opposition politician.”

The ruling party politician and a high official in the office of the Prime Minister attacks the judge for requesting a preliminary ruling from the CJEU. He assigns political intentions to judge *Igor Tuleya*, including him in the “total opposition.”

Source: statement for the TVP INFO ‘Gość Wiadomości’ broadcast of 7 September 2018: <https://tvp.info/38894358/jacek-sasin-sedzia-tuleya-jest-politykiem>.

Spokesman for the Law and Justice Parliamentary Club, Beata Mazurek:

(On the resolution of the General Assembly of the Supreme Court Judges that the judgments of the Constitutional Tribunal are binding despite their lack of publication by the government):

“I perceive today’s position of the Supreme Court clearly. This is a further spread of anarchy in our country. In fact, a team of guys who defend the status quo of the previous government has gathered here.”

The statement presented above is one of many statements by politicians from the ruling party undermining the independence of the courts and simply offending judges.

Source: Statement offered at the press conference of 26 April 2016, as quoted by tvn24.pl: <https://tvn24.pl/wiadomosci-z-kraju,3/rzecznik-pis-beata-mazurek-o-sadzie-najwyzszym-zespol-kolesi,639007.html>.

State Secretary at the Ministry of Justice, Patryk Jaki:

(About the judge of the District Court in Kraków, *Waldemar Żurek*):

“(...) the face of the National Council of the Judiciary is judge Żurek and we have all heard today that this is another opposition leader who has problems with payments of alimony, I demand the resignation of judge Żurek, let the National Court Register behave decently, I remind you that the National Council of Judiciary is a body that also decides about the career of family judges and imagine that today a person who has problems with child support will decide about the future of other Poles and about the quality of case law when it comes to alimony. This is one big scandal (...).”

The presented statement constitutes a public attack of the deputy minister of justice on a judge of the District Court *Waldemar Żurek*, spokesman for a legally elected National Council of the Judiciary. It is also an example of presenting private affairs of judges and making them public in a deceptive manner, to achieve short-term political goals.

Source: Statement in TVN24 ‘Jeden na jeden’ broadcast of 21 March 2017: <https://tvn24.pl/jeden-na-jeden,44,m/prezydent-pisze-list-do-szefa-mon-ciekawa-dyskusja,725356.html> (starting from 06 min 24 s).

Part II.

Prosecutors

With reference to the part of this study in the scope covering the prosecutor's office, it should be noted that in response to the personnel policy implemented, an initiative was created to establish the Association of Prosecutors Lex Super Omnia (hereinafter LSO), among others due to the fact that three prosecutors' organizations existing in 2016 did not oppose the changes.

Already at the beginning of the association's registration process, the management of the prosecutor's office took actions that may deserve the term 'harassment'. As prosecutors wished to exercise their constitutional right to freedom of association, the creation and functioning of associations, the District Prosecutor in Warsaw would send a subordinate prosecutor to the court to copy the list of founding members. In addition, military prosecutors were required to inform about their intention to participate in the work of the association.

The activity of the members of the association, the activity of its supporters and other prosecutors since the very beginning met with adverse reactions of the directors of the prosecutor's office. Almost every public statement and press release was analyzed in disciplinary proceedings.

The lists of prosecutors included in this report correspond to the catalog of actions taken against prosecutors. This catalog is wide and correlates directly with the content of the provisions of the Act on the Prosecutor's Office. The actions include: explanatory proceedings, official proceedings, initiating and conducting criminal proceedings due to substantive decisions issued, decisions – as *quasi* penalties – on delegating prosecutors to other organizational units, in some cases dismissal, transfer to other departments, making organizational changes within individual units, preventing or obstructing the exercise of the right to retire. It should be noted that the selection of the indicated means and methods is aimed at the so-called "chilling effect" among prosecutors.

This summary has been based on verifiable materials regarding individual proceedings, statements and information provided by individual prosecutors, and, incidentally, in exceptional cases also on media information describing individual cases. The summary does not include reported but unverifiable information, hence, just as the summary concerning judges, it is not a complete study.

1. List of prosecutors degraded under the regulations shaping the prosecutor's office adopted by the Act of 28 January 2016 – Law on the Public Prosecutor's Office (Journal of Laws of 2016, item 177, as amended; henceforward LPPO), and in particular the Act of 28 January 2016 – Introductory provisions – Law on the Public Prosecutor's Office (Journal of Laws of 2016, item 178 as amended).

The adopted introductory provisions enabled the degradation of nearly one third of prosecutors from the top two levels of the prosecutor's office. By way of an arbitrary decision, a procedure was adopted in which the National Prosecutor *Bogdan Świączkowski* would select persons to be appointed prosecutors of the National Prosecutor's Office and regional prosecutors' offices, with the decision on their appointment being, at his request, taken by the Prosecutor General *Zbigniew Ziobro* (Article 35(1), Article 38(1) and Article 40(1) of the abovementioned provisions). The persons who were not included in the request of the National Prosecutor were transferred to other **official positions** in common organizational units of the prosecutor's office, by decision of the Prosecutor General.

This regulation turned out to be a selectively implemented and disguised disciplinary sanction, not giving the prosecutor any opportunity to refer to the personnel decision, as well as any (even professional) appeal procedure or the possibility to appeal the decision in an independent court.

Decisions on the degradation of prosecutors had more severe factual effects than if disciplinary penalty specified in Art. 142(1) (4) of the LPPO. The disciplinary court may punish the prosecutor by transferring it to another place of service (Article 142(1) (4) of the LPPO). Introductory provisions allowed the Prosecutor General to transfer prosecutors to other official positions, also by lowering their rank by two or three levels. The regulations did not specify the grounds for the transfer and did not specify the procedure for making decisions. The content of the cited regulations made it possible to issue decisions which did not contain justification and prevented them from being appealed to the court. Prosecutors were therefore deprived of the right to appeal, which in this respect is a violation of the constitutional principle of a democratic state of law. Therefore, the legislator allowed the Prosecutor General to treat the prosecutors of the Prosecutor General's Office and the appeal prosecutor's offices as unnecessary in the structure of the prosecutor's office. The degradation decisions indicated also allowed for dismissal, in violation of the principle of equal treatment, of more than 100 official positions in the units of the two highest levels of prosecutor's offices. Deputies of the Prosecutor General and the majority of appellate prosecutors who did not reach the age entitling them to retire were degraded, while the statutory term of office of prosecutors managing individual organizational units was interrupted. Prosecutors who held important roles in the past were also transferred to the district and regional prosecutor's

offices. The degradation affected prosecutors of the liquidated military prosecutor's office who were involved in the investigation of the plane crash in Smolensk.

The degradation of prosecutors was the first and largest statutory operation of harassing public officials. It insulted their dignity and honor, objectified those public officials acting on behalf of and for the benefit of the Polish State, trampled their professional position, and destroyed the achievements of many years of work. Such a way of treating prosecutors is vile and is the most serious harassment.

Prosecutors affected by such treatment were deprived of their official titles. They were permanently deprived of the right to a higher salary rate, which is unequal and discriminatory treatment when compared to other prosecutors employed in common organizational units of the prosecutor's office. These prosecutors did not receive any appointment documents, so they do not know their status. Thus, their rights as employees were violated. Superiors and authors of letters informing about degradations did not explain and did not give reasons for the decision (the letters do not contain any justifications). Prosecutors were thus forced to take legal action to determine the content of the employment relationship.

Prosecutors downgraded to lower-level units:

- *Andrzej KÓZKA* – Prosecutor of the Appellate Prosecutor's Office in Katowice degraded to the Katowice-Wschód District Prosecutor's Office;
- *Marek WÓJCIK* – Prosecutor of the Appellate Prosecutor's Office in Katowice relegated to the District Prosecutor's Office in Katowice;
- *Miroslaw TRACZ* – Prosecutor of the Appellate Prosecutor's Office in Katowice relegated to the Katowice-Południe District Prosecutor's Office;
- *Maciej MAKOWSKI* – Prosecutor of the Appellate Prosecutor's Office in Katowice relegated to the Katowice-Północ Regional Prosecutor's Office ; the prosecutor lives in the town of Wilkowice nearby Bielsko-Biała and was degraded to the prosecutor's office in Katowice. The prosecutor submitted an application to be transferred to one of the district prosecutor's offices in Bielsko-Biała, however, he was refused despite repeated announcements of vacancies in two Bielsko regions. Every day he commutes for 150 km (75 km one way);
- *Ewa ŚWIERCZ-DYDAK* – Prosecutor of the Appellate Prosecutor's Office in Katowice degraded to the Katowice-Wschód Regional Prosecutor's Office;
- *Jakub CEMA* – Prosecutor of the Appellate Prosecutor's Office in Katowice relegated to the District Prosecutor's Office in Katowice;
- *Tomasz TADLA* – Prosecutor of the Appellate Prosecutor's Office in Katowice relegated to the District Prosecutor's Office in Katowice – currently, he is the prosecutor of the Regional Prosecutor's Office in Katowice and he is the head of the Silesian Office;
- *Piotr SKRZYNECKI* – Prosecutor of the Appellate Prosecutor's Office in Katowice relegated to the District Prosecutor's Office in Katowice;
- *Sebastian ROHM* – Prosecutor of the Appellate Prosecutor's Office in Katowice relegated to the District Prosecutor's Office in Katowice;

- *Andrzej KUKLIS* – Prosecutor of the Appellate Prosecutor’s Office in Katowice relegated to the District Prosecutor’s Office in Katowice;
- *Kornelia JAGIEŁO-FOREMNY* – Prosecutor of the Appellate Prosecutor’s Office in Katowice downgraded to the District Prosecutor’s Office in Katowice;
- *Barbara JARCZYK* – Prosecutor of the Appellate Prosecutor’s Office in Katowice downgraded to the District Prosecutor’s Office in Katowice;
- *Mariusz ŁĄCZNY* – Prosecutor of the Appellate Prosecutor’s Office in Katowice downgraded to the District Prosecutor’s Office in Katowice;
- *Wojciech DUTKOWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Katowice downgraded to the District Prosecutor’s Office in Katowice;
- *Izabela STOLARCZYK* – Prosecutor of the Appellate Prosecutor’s Office in Katowice downgraded to the District Prosecutor’s Office in Katowice;
- *Jan CZAPIK* – Prosecutor of the Appellate Prosecutor’s Office in Katowice downgraded to the District Prosecutor’s Office in Katowice;
- *Andrzej TAŃCULA* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the Regional Prosecutor’s Office in Augustów;
- *Bazyli TELENTEJUK* – Prosecutor of the Appellate Prosecutor’s Office in Białystok degraded to the Białystok-Południe Regional Prosecutor’s Office in Białystok;
- *Alina SAPIEŻKO* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the Regional Prosecutor’s Office in Białystok;
- *Leszek RUDNIK* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the Regional Prosecutor’s Office in Suwałki;
- *Joanna GÓRSKA* – Prosecutor of the Appellate Prosecutor’s Office in Białystok degraded to the Białystok-Południe Regional Prosecutor’s Office in Białystok;
- *Jolanta KORDULSKA* – Prosecutor of the Appellate Prosecutor’s Office in Białystok degraded to the Białystok-Południe Regional Prosecutor’s Office in Białystok;
- *Sławomir LUKS* – Prosecutor of the Appellate Prosecutor’s Office in Białystok degraded to the Białystok-Południe Regional Prosecutor’s Office in Białystok;
- *Janusz KORDULSKI* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the Regional Prosecutor’s Office in Białystok;
- *Anatol TARASIUK* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the Regional Prosecutor’s Office in Bielsk Podlaski;
- *Sławomir GŁUSZUK* – Prosecutor of the Appellate Prosecutor’s Office in Białystok degraded to the Białystok-Północ Regional Prosecutor’s Office in Białystok;
- *Krzysztof WOJDAKOWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Białystok degraded to the Białystok-Północ Regional Prosecutor’s Office in Białystok;
- *Leszek MUSIAŁ* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the Regional Prosecutor’s Office in Suwałki;
- *Jan PRZYBYŁEK* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the Olsztyn-Północ Regional Prosecutor’s Office in Olsztyn;
- *Grzegorz GIEDRYS* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the District Prosecutor’s Office in Białystok;

- *Grzegorz MASŁOWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Białystok demoted to the District Prosecutor’s Office in Białystok;
- *Irena Laura ŁOZOWICKA* – Prosecutor of the Prosecutor General’s Office degraded to the District Prosecutor’s Office in Łódź;
- *Krzysztof KOWALCZYK* – Prosecutor of the Appellate Prosecutor’s Office in Łódź relegated to the District Prosecutor’s Office in Łódź, and then delegated to the Regional Prosecutor’s Office in Łódź;
- *Elżbieta KSIĄŻEK-SADŁO* – Prosecutor of the Appellate Prosecutor’s Office in Lublin degraded to the District Prosecutor’s Office in Lublin;
- *Ewa SZKODZIŃSKA* – Prosecutor of the Appellate Prosecutor’s Office in Lublin degraded to the District Prosecutor’s Office in Lublin;
- *Wiesław GRESZTA* – Prosecutor of the Appellate Prosecutor’s Office in Lublin demoted to the District Prosecutor’s Office in Lublin;
- *Jacek KUŹMA* – Prosecutor of the Appellate Prosecutor’s Office in Lublin demoted to the District Prosecutor’s Office in Lublin;
- *Andrzej LEPIESZKO* – Prosecutor of the Appellate Prosecutor’s Office in Lublin demoted to the District Prosecutor’s Office in Lublin;
- *Andrzej POGODA* – Prosecutor of the Appellate Prosecutor’s Office in Lublin demoted to the District Prosecutor’s Office in Lublin;
- *Dariusz SIEJ* – Prosecutor of the Appellate Prosecutor’s Office in Lublin demoted to the District Prosecutor’s Office in Lublin;
- *Krzysztof WÓJCIK* – Prosecutor of the Prosecutor General’s Office demoted to the District Prosecutor’s Office in Kraków;
- *Marek WEŁNA* – Prosecutor of the Appellate Prosecutor’s Office in Kraków downgraded to the Krakow-Nowa Huta District Prosecutor’s Office in Kraków (after his public statements concerning the degradation and a complaint filed to Strasbourg, the Deputy District Prosecutor in Kraków ordered the district prosecutors to order prosecutors to speak in the media only with the consent of superiors. On 9 November 2016 *Marek Wełna* was delegated by the District Prosecutor in Kraków for two months to the District Prosecutor’s Office in Chrzanów without his consent; this decision ignored the prosecutor’s family conditions related to the recent birth of his child);
- *Artur WRONA* – Prosecutor of the Appellate Prosecutor’s Office in Kraków downgraded to the Regional Prosecutor’s Office in Tarnów;
- *Dariusz MAKOWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Kraków downgraded to the District Prosecutor’s Office in Tarnów;
- *Dariusz MAKOWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Kraków downgraded to the District Prosecutor’s Office in Kraków;
- *Marek JAMROGOWICZ* – Prosecutor of the Prosecutor General’s Office, Deputy Prosecutor General demoted to the Regional Prosecutor’s Office in Krakow, and then delegated to the District Prosecutor’s Office in Tarnów;
- *Stanisław CZARNECKI* – Prosecutor of the Appellate Prosecutor’s Office in Kraków downgraded to the District Prosecutor’s Office in Kielce;

- *Katarzyna PŁOŃCZYK* – Prosecutor of the Appellate Prosecutor’s Office in Kraków downgraded to the District Prosecutor’s Office in Kraków;
- *Bogusław OLEWIŃSKI* – Prosecutor of the Appellate Prosecutor’s Office in Rzeszów demoted to the Regional Prosecutor’s Office in Rzeszów;
- *Jan ŁYSZCZEK* – Prosecutor of the Appellate Prosecutor’s Office in Rzeszów demoted to the District Prosecutor’s Office in Rzeszów;
- *Anna HABAŁO* – Prosecutor of the Appellate Prosecutor’s Office in Rzeszów degraded to the District Prosecutor’s Office for the city of Rzeszów (criminal case regarding the infringement of Article 231(1) of the Penal Code pending);
- *Robert PLOCH* – Prosecutor of the Appellate Prosecutor’s Office in Rzeszów, relegated to the District Prosecutor’s Office in Rzeszów (criminal case regarding the infringement of Article 178a(1) of the Penal Code pending);
- *Elżbieta CZEREPAK* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the District Prosecutor’s Office in Wrocław;
- *Magdalena DMOCH* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the Wrocław-Psie Pole Regional Prosecutor’s Office in Wrocław;
- *Teresa FATYGA* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the District Prosecutor’s Office in Legnica;
- *Wojciech KUBIŃSKI* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the District Prosecutor’s Office in Wrocław;
- *Radosław RAJMONIAK* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław demoted to the District Prosecutor’s Office in Opole;
- *Andrzej ROLA* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the District Prosecutor’s Office in Wrocław;
- *Magdalena WASIAK* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the District Prosecutor’s Office in Wrocław;
- *Hanna WOJCIECHOWSKA* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the District Prosecutor’s Office in Oława;
- *Piotr WÓJTOWICZ* – Prosecutor of the Appellate Prosecutor’s Office in Wrocław downgraded to the District Prosecutor’s Office in Legnica;
- *Dariusz KUBERSKI* – Prosecutor of the Prosecutor General’s Office degraded to the District Prosecutor’s Office in Bydgoszcz;
- *Tomasz LEJMAN* – Prosecutor of the Prosecutor General’s Office degraded to the Appellate Prosecutor’s Office in Gdańsk;
- *Piotr NIEZGODA* – Prosecutor of the Prosecutor General’s Office demoted to the District Prosecutor’s Office in Kraków;
- *Krzysztof KARSZNICKI* – Prosecutor of the Prosecutor General’s Office degraded to the Appellate Prosecutor’s Office in Łódź;
- *Anna ADAMIAK* – Prosecutor of the Prosecutor General’s Office degraded to the Appellate Prosecutor’s Office in Warsaw;
- *Elżbieta GIEŁO* – Prosecutor of the Prosecutor General’s Office degraded to the District Prosecutor’s Office in Warsaw;

- *Marzena KOWALSKA* – Prosecutor of the Prosecutor General’s Office, Deputy Prosecutor General degraded to the Warsaw-Praga District Prosecutor’s Office in Warsaw;
- *Jacek BILEWICZ* – Prosecutor of the Prosecutor General’s Office degraded to the Warsaw-Praga District Prosecutor’s Office in Warsaw;
- *Ireneusz SZELAĞ* – Prosecutor of the General Prosecutor’s Office degraded to the Warsaw-Śródmieście Regional Prosecutor’s Office;
- *Marek STASZAK* – Prosecutor of the General Prosecutor’s Office degraded to the Warsaw-Śródmieście Regional Prosecutor’s Office;
- *Małgorzata WILKOSZ-ŚLIWA* – Prosecutor of the Prosecutor General’s Office degraded to the Warsaw-Ochota Regional Prosecutor’s Office;
- *Andrzej JANECKI* – Prosecutor of the General Prosecutor’s Office degraded to the Warsaw-Wola Regional Prosecutor’s Office;
- *Sławomir GÓRNICKI* – Prosecutor of the General Prosecutor’s Office degraded to the Warsaw-Mokotów Regional Prosecutor’s Office;
- *Krzysztof PARCHIMOWICZ* – Prosecutor of the General Prosecutor’s Office degraded to the Warsaw-Mokotów Regional Prosecutor’s Office;
- *Zbigniew RZEPA* – Prosecutor of the Supreme Military Prosecutor’s Office degraded to the Warsaw-Mokotów Regional Prosecutor’s Office in Warsaw;
- *Anna CZAPIGO* – Prosecutor of the Supreme Military Prosecutor’s Office degraded to the Warsaw-Mokotów Regional Prosecutor’s Office in Warsaw;
- *Jarosław ONYSZCZUK* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw degraded to the Warsaw-Mokotów Regional Prosecutor’s Office;
- *Dariusz KORNELUK* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw degraded to the Warsaw-Śródmieście Regional Prosecutor’s Office;
- *Jerzy MIERZEJEWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw degraded to the Warsaw-Śródmieście Północ Regional Prosecutor’s Office;
- *Piotr WOŹNIAK* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw downgraded to the Warsaw-Praga District Prosecutor’s Office in Warsaw;
- *Robert MAJEWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw downgraded to the District Prosecutor’s Office in Warsaw;
- *Małgorzata ADAMAJTYS* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw downgraded to the Warsaw-Praga Południe Regional Prosecutor’s Office;
- *Alina JANCZARSKA* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw downgraded to the District Prosecutor’s Office in Warsaw;
- *Ewa LIZAKOWSKA* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw downgraded to the District Prosecutor’s Office in Warsaw;
- *Katarzyna SZESKA* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw degraded to the Warsaw-Wola Regional Prosecutor’s Office;
- *Katarzyna KWIATKOWSKA* – Prosecutor of the Appellate Prosecutor’s Office in Warsaw downgraded to the Warsaw-Praga District Prosecutor’s Office in Warsaw;
- *Iwona CICHA* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the Szczecin-Zachód Regional Prosecutor’s Office in Szczecin;

- *Grażyna WILKANOWSKA-STAWARCZYK* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the District Prosecutor’s Office in Szczecin;
- *Marzena PATEREK* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the District Prosecutor’s Office in Szczecin;
- *Stanisław FELSZTYŃSKI* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the Szczecin-Niebuszewo Regional Prosecutor’s Office in Szczecin;
- *Dariusz WIŚNIEWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the Szczecin-Śródmieście Regional Prosecutor’s Office in Szczecin;
- *Rafał GAWINEK* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the District Prosecutor’s Office in Szczecin;
- *Christopher ŚWIERK* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the Szczecin-Zachód Regional Prosecutor’s Office in Szczecin;
- *Edyta SIELEWOŃCZUK* – Prosecutor of the Appellate Prosecutor’s Office in Szczecin degraded to the Szczecin-Niebuszewo Regional Prosecutor’s Office in Szczecin;
- *Włodzimierz PLUTA* – Prosecutor of the Appellate Prosecutor’s Office in Gdańsk downgraded to the Regional Prosecutor’s Office in Gdynia;
- *Janusz KWIATKOWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Gdańsk downgraded to the Gdańsk-Śródmieście Regional Prosecutor’s Office in Gdańsk;
- *Andrzej ŁOJKOWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Gdańsk downgraded to the District Prosecutor’s Office in Gdańsk;
- *Janusz KRAJEWSKI* – Prosecutor of the Appellate Prosecutor’s Office in Gdańsk downgraded to the District Prosecutor’s Office in Gdańsk.

The list does not include, due to the lack of available data, all degraded prosecutors, in particular military prosecutors.

2. Lists of prosecutors against whom their superiors took other actions

A. List of prosecutors subject to preliminary investigations

Preliminary investigations have been or are being conducted against the prosecutors indicated below. These proceedings concern both publications on legal subjects as well as include statements in the media. Prosecutors undergoing such investigations:

1. **Krzysztof PARCHIMOWICZ** – in respect of whom proceedings are currently pending with the following reference numbers:
 - **PO VI K 116.133.2016** – regarding failing to notify superiors of filing a complaint with the European Court of Human Rights,
 - **RP IV RD 23.2017** – regarding the statement given in the “Czarno na białym” broadcast which criticized the arbitrary and hasty promotion of prosecutors,
 - **RP IV RD 163.2017** – regarding the opinion expressed in the “Czarno na białym” broadcast regarding an opinion issued Ordo Iuris Association which

had been deemed official by the director of the National Prosecutor's Office and forwarded to the units of the prosecutor's office for use,

- **RP IV RD 134.2018** – regarding a tweet with statements regarding: unreliable explanation by the spokesperson of the District Prosecutor's Office in Warsaw of the reasons for delegating the prosecutor *Piotr Skiba* to the District Prosecutor's Office in Grodzisk Mazowiecki, publication of statistical data with the results of the work of Warsaw prosecutor's offices and additional sources of income for judges and prosecutors,
 - **RP IV RD 156.2018** – regarding refusal to take prosecutor's actions until the correctness of the extension of the delegation to the regional prosecutor's office has been clarified, while the actual refraining from taking up official duties did not actually appear in the context of the controversy being clarified,
 - **RP IV RD 158.2018** – on critical, unauthorized statements regarding the Prosecutor General and the National Prosecutor, given to the ONET portal, and statements uttered in the "Rozmowa Piaseckiego" television broadcast,
 - **RP IV RD 7.2019** – on the circumstances of participation (during vacation) in a conference organized by the Office of the Ombudsman on the subject of the institution of a key witness and so-called "minor key witness";
 - **RP IV RD 25.2019** – regarding participation in the presentation of the report of the Justice Defense Committee, during office hours on 12 February 2019. Explanations in this matter were submitted by *Krzysztof Parchimowicz* on the order of the Regional Prosecutor in Warsaw, and forwarded to the prosecutor by the Head of Department II,
 - **RP IV RD 102.2019** – regarding questioning the recommendation of the Deputy District Prosecutor of Warsaw-Żoliborz and alleged correspondence with the Deputy Regional Prosecutor in Warsaw disregarding the official procedure,
 - **RP IV RD 105.2019** regarding interviews given in August 2019 to "Trybuna" and "Newsweek" weeklies,
 - regarding participation in two disciplinary hearings of Prosecutor *Beata Mik* during office hours. The disciplinary spokesperson from Łódź conducted evidentiary proceedings in this case, in which he questioned all superiors and official managers of prosecutor *Parchimowicz* from the Warsaw-Mokotów District Prosecutor's Office concerning compliance with work discipline;
2. **Jacek BILEWICZ and Jarosław ONYSZCZUK** – due to publication in "Rzeczpospolita" daily;
 3. **Dariusz KORNELUK, Bogdan OLEWIŃSKI** – due to statements made in TVN24's "Czarno na białym" broadcast;
 4. **Mariusz KRASOŃ** – due to statements published in 'Gazeta Wyborcza' after the Kraków rally of 23 July 2017 "in defense of free courts";
 5. **Wojciech SADRAKUŁA** – retired Prosecutor at the General Prosecutor's Office – due to conducting classes in the fifth edition of the Constitutional Week event;
 6. **Iwona PALKA and Katarzyna KUKLIS** – due to formal deficiencies in the course of one of the meetings of the District Prosecutor's Office College in Bielsko-Biała

(conducted years previously); prosecutor **Iwona Palka** has been requested pursuant to art. 154. (1) of the LPPO to explain “as part of the preliminary investigation of the circumstances of committing a disciplinary offense involving the use of the word ‘pathology’ in the statement given to ‘Gazeta Wyborcza’ published on 13 September 2019, describing the legal and lawful official activity of delegating an assessor to perform official duties in the Regional Prosecutor’s Office in Katowice. The statement, since it was made publicly, could also stigmatize the assessor”. The statement contained in the publication was not authorized;

- 7. prosecutors and members of the Assembly of Prosecutors at the Regional Prosecutor’s Office in Kraków** – these proceedings deserve special attention due to its extraordinary nature. The proceedings concern the activities of prosecutors’ self-government body – an Assembly of Prosecutors in the Regional Prosecutor’s Office. The Disciplinary Spokesperson of the Prosecutor General initiated explanatory proceedings with reference number RD 53.2019 on the content of the resolution adopted by the Assembly of Prosecutors in the Regional Prosecutor’s Office in Kraków on 15 May 2019. The unanimously adopted resolution concerned, among others, limiting prosecutor’s independence, both in the statutory and actual dimension related to exercising supervision by influencing procedural decisions by-passing the applicable official route. In order to determine whether such behavior actually took place, the Disciplinary Spokesperson undertook preliminary investigation, calling for a hearing as witnesses of all participants of the Assembly of Prosecutors in the Regional Prosecutor’s Office in Kraków. In fact, the actions taken by him are aimed at determining which of the prosecutors initiated the resolution. The initiator of the resolution – Prosecutor *Mariusz Krasoń*, has been harassed by transfer to another department (pursuant to the ordinance of the Regional Prosecutor in Kraków of 12 June 2019 which also changed the scope of official duties also to other persons), and then by delegation to another organizational unit (details below). Until the date of this report, no information was provided on how to the described proceedings would end.

B. List of prosecutors against whom ad personam disciplinary actions were taken. The charges presented to prosecutors concern breach of the dignity of the prosecutor’s office, violation of the obligation of apoliticality, undertaking other activities without notifying superiors, giving media statements without the consent of superiors)

- 1. Jacek KAUCZ** – accused of criticizing the organizational and legal changes introduced to the law in a March 2016 interview given to a journalist of ‘Gazeta Prawna’. In an interview given just after the first degradations, he assessed the provisions specifying the return and retreat of prosecutors to full retirement and listed the names of the beneficiaries of such regulations. These words, in disciplinary pro-

ceedings, were assessed as unworthy of the prosecutor; this assessment was not accompanied by a reflection on whether the criticized provisions really do not violate the dignity of their beneficiaries. The proceedings were discontinued twice by disciplinary ombudsmen due to the negligible harmfulness of the act; due to appeals lodged by the National Prosecutor and the accused, the case was to be clarified by a disciplinary spokesperson for the third time, but due to death of the described prosecutor in March 2019 the proceedings were discontinued.

Findings based among others on: <https://gazetawroclawska.pl/wroclawski-prokurator-z-dyscyplinarka-za-krytykuje-zbigniewa-ziobry/ar/12555570>.

2. Wojciech SADRAKUŁA (retired Prosecutor of the General's Prosecutor's Office) – due to participation, together with representatives of the Committee for the Defense of Democracy, in the sitting of the Legislative Committee of the Sejm of the Republic of Poland regarding the draft act on the Constitutional Tribunal in 2016. The prosecutor was punished with a procedural penalty of admonition by the National Prosecutor; as a result of an objection of *Wojciech Sadrakuła's* attorney prosecutor's attorney, Prosecutor General ordered that the case be referred to a disciplinary court. When already retired, in January 2019 *Wojciech Sadrakuła* requested consent of the National Prosecutor *Bogdan Świączkowski* to be active in the field of literature and received a negative answer. In connection with the above, on 14 May 2019 prosecutor *Wojciech Sadrakuła* submitted to the Constitutional Tribunal a constitutional complaint against selected constitutional provisions shaping the activity of the prosecutor's office, arguing that art. 103(6) of the Law on Prosecutor's Office, imposing an obligation on prosecutors to obtain prior permission for additional occupation or employment (in this case involving the commencement of literary activity) violates freedom of expression and artistic freedom.

Findings based on among others: <https://wyborcza.pl/7,75398,24784922,prokurator-zlozyl-skarge-konstytucyjna-mowi-o-bezsprzecznym.html>.

3. Ewa WRZOSEK – the prosecutor was presented two disciplinary charges: due to statements uttered during a public hearing of “court acts” in the building of the Sejm of the Republic of Poland and due to a speech at a rally organized in front of the Supreme Court in July 2018 “in defense of free courts”.

Findings based on a direct interview, <https://komitetobronysprawiedliwosci.pl/wpis-wokanda/rzecznik-dyscyplinarny-postawil-zarzuty-prokurator-wrzosek-za-jej-krytyczne-wypowiedzi-wobec-zmian-legislacyjnych-w-sadownictwa/>.

4. Piotr WÓJTOWICZ – accused of participating in a rally organized by the Committee for the Defense of Democracy in defense of free courts and of an unauthorized statement given to a journalist of a local website. The disciplinary ombudsman discontinued the proceedings because of the negligible harmfulness of the act, while the decision of the spokesperson was appealed by the National Prosecutor and the accused in motions to the disciplinary court. The proceedings, after the resignation

of one of the judges of the Disciplinary Court and the appointment of a new judge, were conducted anew and ended with acquittal.

Findings based on a direct interview, <https://tvn24.pl/czarno-na-bialym,42,m/prokurator-przed-sadem-dyscyplinarnym-problemy-z-jawnoscia-i-transparentnoscia-procesow,918507.html>.

5. Krzysztof PARCHIMOWICZ, Katarzyna GEMBALCZYK, Dariusz KORNELUK (members of the board of the LSO association) – were charged with allegations because of the published position of the LSO containing criticisms of the prosecutor of the National Prosecutor’s Office *Tomasz Janeczek*, acting as the Regional Prosecutor in Katowice. The criticism concerned the fact that in a message posted on the unit’s website, Janeczek indicated judge *Agnieszka Pilarczyk* as the perpetrator of the act of which *Zbigniew Ziobro’s* mother notified the Prosecutor’s Office. Deputy Disciplinary Ombudsman of the Prosecutor General *Rafał Sławnikowski* submitted motions to institute disciplinary proceedings in these cases. The proceedings against the Board of the Lex Super Omnia Association of Prosecutors have not begun. The accused and their attorneys filed applications for joining the three indicated proceedings conducted separately so far into one.

Findings based on a direct interview.

6. Beata MIK – The retired Prosecutor of the Prosecutor General’s Office was punished by the disciplinary court by admonition for publishing (without a fee) articles on legal issues in the ‘Rzeczpospolita’ daily. The defendant appealed to the Disciplinary Chamber of the Supreme Court. After the hearing, prosecutor *Beata Mik* was acquitted of the charges against her.

7. Krzysztof PARCHIMOWICZ – The president of the Lex Super Omnia Association who by virtue of his function most often talks to the media concerning the prosecutor’s office and comments on changes in the administration of justice. After almost each statement, he receives a request for clarification from the disciplinary spokesperson.

In the first disciplinary proceedings with reference number RP III RD 14.2017, led by the Łódź ombudsman for disciplinary responsibility, *Krzysztof Parchimowicz* was presented with three allegations because of critical media statements. Namely, he was to provide interviews about poor working conditions at the Warsaw-Mokotów District Prosecutor’s Office and criticize the personnel decisions of superiors, as well as criticize the activities of the District Prosecutor’s Office in Warsaw, consisting in the possible notification of participation in the registration procedure of the Association. He also criticized of the prolonged registration procedure of the Association. By the decision of 30 March 2017, these proceedings were discontinued due to the negligible degree of social harm. The disciplinary court of the first instance (acting as an appellate court), by decision of 8 March 2018 (reference number PK I DS. 93.2017), dismissed both parties’ appeals to the disciplinary spokesperson’s decision. At the appeal court meeting, the representative of the Prosecutor General raised an additional charge against the defendant without indicating the

procedural basis. The most important, though unjustified is the court's statement that any media statement by the prosecutor requires the consent of their superiors. Prosecutors – according to the decision of 8 March 2018 – due to the hierarchical subordination rule in force in the prosecutor's office, cannot enjoy the freedoms set out in the conventions and the Constitution. What was not reflected upon by the court were the words of the preamble to the Act of 7 April 1989 – Law on associations, not to mention constitutional norms. The disciplinary court, dismissing the appeals of the Prosecutor General, the accused and his defenders, therefore upheld the decision to discontinue the proceedings due to the negligible social harm of the acts. Thus, it was considered that the prosecutor could not speak in public on behalf of themselves or the association without the consent of their superiors. On the other hand, every critical statement (even truthful and offensive) constitutes, according to the indicated judgment, a violation of the dignity of the office held.

As part of another of the proceedings, the disciplinary spokesperson presented the prosecutor *Krzysztof Parchimowicz* with an allegation regarding Art. 137 (1) of the Act – The law on the Prosecutor's Office, concerning subsequent public statements, media comments in the form of tweets or statements made in the 'Czarno na białym' broadcast in TVN24 on 25 October 2017. According to the Spokesperson, the dignity of the prosecutor's office was violated at the time, since the entries and statements undermined the seriousness of the office, weakened confidence in its impartiality and compromised the authority, image and good name of the prosecutor's office and the person of the Prosecutor General and undermined the legitimacy and impartiality of the actions of the Regional Prosecutor's Office in Szczecin. This procedure is currently pending under reference number PK I SD 46.2019 in the Disciplinary Court for Prosecutors.

Furthermore, the attorney of the National Prosecutor's Office in May 2017 sent pre-trial summons (reference number PK I BP 027.21.2017) to *Krzysztof Parchimowicz*, as the President of the Association, to the publisher of an opinion website and to the journalist who authored the article describing the receipt by the prosecutors of the highest level of allowances (PLN 2,700 per month) as a flat-rate housing benefit. Meanwhile, only those prosecutors who had been delegated to courts away from home were entitled to that benefit. In this respect, the Association Board submitted a notification about the possibility of committing a crime.

The prosecutor *Krzysztof Parchimowicz* is also the subject of proceedings conducted by the Białystok disciplinary spokesperson, with reference number III RD 20.2018, in which allegations related to unworthy behavior of the prosecutor are formulated regarding critical statements in the 'Czarno na białym' broadcast evaluating the actions of the Prosecutor General and other prosecutors. The actions are related to the process of cardiac surgeons accused of causing the death of Prosecutor General's father. In another statement given to the 'Polietyka' weekly, prosecutor *Parchimowicz* criticized the attitudes of prosecutors financially dependent on the government. It should also be noted that after being degraded in April 2016, the unit in which the public prosecutor was to perform his duties in the public prosecutor's office

in Warsaw-Mokotów was changed twice. After being relegated to the Warsaw-Mokotów Regional Prosecutor's Office and commencing his duties, the prosecutor was assigned to conduct several hundred proceedings. Due to failure to settle one of the cases and thus exceeding the 30-day deadline for initiating or refusing to initiate proceedings, a disciplinary complaint related to his 'flagrant and obvious violation of law' was formulated against *Krzysztof Parchimowicz*. District Prosecutor *Paweł Blachowski* punished the prosecutor with a reprimand for this offense. However, on 3 October 2019 the Disciplinary Court (reference number PK I SD 46.2019) acquitted the accused.

Findings based on a direct interview, <https://oko.press/sad-dyscyplinary-uniwinnil-prokuratora-parchimowicza-ktory-bronil-niezaleznosci-prokuratury/>.

C. List of prosecutors against whom criminal proceedings or proceedings concerning the waiver of immunity are pending

1. ***Krzysztof PARCHIMOWICZ*** – criminal proceedings conducted by the Regional Prosecutor's Office in Białystok under reference number RP I Ds 70.2016. In the investigation run by the Regional Prosecutor's Office in Białystok, two threads are examined. The first one concerns directly Prosecutor *Krzysztof Parchimowicz*. The prosecutor's office accuses him that in 2009, as the director of the Organized Crime Bureau of Polish Prosecutor's Office, he sent a letter to appellate prosecutors and heads of branch offices dealing with organized crime in which he pointed out how to qualify 'fraud-related VAT calculation and payment procedures and other tax liabilities under public law.' The initiated proceedings suggest that *Krzysztof Parchimowicz* could help VAT fraudsters to avoid criminal liability. In this context, it is also worth noting that prosecutor *Krzysztof Parchimowicz* was also questioned by the parliamentary inquiry commission looking into VAT embezzlement.

The second thread of the Białystok investigation concerns judges of the Supreme Court and two judgments of the Supreme Court of 2008. According to the prosecutor's office, the verdicts of the Supreme Court could also help to avoid liability for persons embezzling VAT.

Meanwhile, in 2009 *Krzysztof Parchimowicz*, as the head of the organized crime division, he sent a letter to subordinate prosecutors regarding the interpretation of legal provisions. This letter contained considerations as to which provisions of the Fiscal Penal Code or the Penal Code should be applied to such matters. The letter drew attention to the problem of automatic duplication of a view which allows (in exceptional cases) to assess tax fraud as extortion. This letter cited the Supreme Court's ruling and legal scientific views, and pointed out possible negative consequences of such practice.

During the press conference of 10 August 2017, the Prosecutor General and the First Deputy Prosecutor General indicated that the prosecutor *Krzysztof Parchi-*

mowicz acted in favor of mafia structures. The prosecutor was mentioned by name, his function in the Association was indicated, and he was included among other persons (not specified in person) who are responsible for the fact that PLN 250,000,000,000 was not transferred to the state budget. The same defamation was repeated by the First Deputy Prosecutor General in an interview with an online television of 3 October 2017. In the course of the indicated proceeding *Krzysztof Parchimowicz* was interrogated as a witness twice.

Subsequent criminal proceedings concerning *Krzysztof Parchimowicz* bore reference number **PK XIV Ds. 3.2017** and they were run by the National Prosecutor's Office. Actions were initiated without any factual basis, and the preliminary investigation ended with the decision not to initiate an investigation into the submission of a false property declaration in 2015. Verification activities were carried out for a period of 3 months (from March to June 2017). During that time, the prosecutor of the Internal Affairs Department of the National Public Prosecutor's Office corresponded with the court and requested files concerning inheritance left by the parents of the prosecutor, despite having a copy of the decision on the inheritance division.

Findings based on a direct interview.

- 2. Justyna BRZOZOWSKA** (member of LSO) – the prosecutor is pending a waiver of immunity due to a decision refusing to initiate an investigation in the matter of reprivatization of Warsaw real estate. The basis of the proceedings are the new findings of the Wrocław Prosecutor's Office which were not fully known at the time when *Justyna Brzozowska* took the original decision.

On 26 June 2015, in the case no VI Ds. 190/15, prosecutor *Justyna Brzozowska* issued a decision refusing to initiate an investigation. The said proceedings were initiated with the exclusion of materials from the investigation of the District Prosecutor's Office in Warsaw with reference number VI Ds. 26/14, supervised by prosecutor *Agnieszka Władzińska* (currently working in the National Prosecutor's Office). Public prosecutor *A. Władzińska* left a case regarding one piece of reprivatized property in the proceedings, and excluded other matters covering all Warsaw properties related to the operation of the so-called "Bierut Decree" (about 17,000 properties) into a separate proceeding. What is debatable in those cases is the fact that the city of Warsaw did not establish the right of perpetual usufruct of real estate on for the heirs of former owners, and did that for the benefit of buyers' claims. The excluded materials were collected in 10 volumes of public files and 10 volumes of classified files. The case was conducted by the CBA (Central Anticorruption Office) in Warsaw.

On 20 September 2017, the National Prosecutor requested permission to prosecute the prosecutor *Justyna Brzozowska* in connection with the refusal to initiate an investigation in the case no. VI Ds. 190/15, indicating that there has been a crime referred to in Art. 231(1) of the Penal in connection with Art. 239(1) of the Penal Code. The crime was to consist of not taking evidence in the case no. VI Ds. 190/15

and providing assistance in avoiding criminal liability to three persons (referred to by name) connected with the reprivatization cases. According to the National Prosecutor, the consequences of such behavior was the detriment of the judiciary.

The case in question is conducted by the Internal Affairs Department of the National Prosecutor's Office under the reference number PK XIV Ds. 22.2016.

The justification for the request for waiver of immunity boils down to the argument that the investigation was refused in a case in which there was obvious evidence of a crime, since the Regional Prosecutor's Office in Wrocław, which (after almost a year) commenced proceedings no. VI Ds. 190/15 and included them in its investigation, presented charges of specific crimes and the court ordered detention on remand of particular people.

On 17 November 2017, the Disciplinary Court refused to grant the request and did not waive the immunity, indicating that the actions taken were within the powers of the prosecutor and the decision taken was an expression of the assessment of evidence carried out at that time. It is also interesting in relation to this ruling that one of the members of the adjudication panel was subsequently dismissed from his function as Regional Prosecutor.

The resolution of the Court was then appealed by the National Prosecutor and the Disciplinary Spokesman of the Prosecutor General.

The Appeals Disciplinary Court overturned the resolution of the court of first instance (due to one of the judges' failure to analyze the classified material) and remanded the case.

On 21 March 2019, the Disciplinary Court again did not agree to prosecute the prosecutor, once again indicating that in the case there are no signs of an offense under Art. 23(1) and Art. 239(1) of the Penal Code.

The head of the Internal Department of the National Prosecutor's Office filed a complaint against the abovementioned resolution. The date of the hearing in this matter before the Disciplinary Chamber of the Supreme Court was set for 15 October 2019.

Proceedings against the prosecutor *Justyna Brzozowska* may be a consequence of other decisions she made that did not meet the expectations of the prosecutor's office leadership. In particular, it is the initiation of an investigation regarding the failure to publish the judgment of the Constitutional Tribunal (case VI Ds. 926/15, on 14 December 2015) and refusals to initiate one in the case of treason that would be committed by *Donald Tusk* in connection with the faulty adoption of the legal regime on the basis of which the reasons for the so-called Smolensk disaster were analyzed (cases' ref. numbers VI Ds. 236/11 and VI Ds. 134/14).

Findings based on a direct interview, <https://oko.press/swieczkowski-sciga-sledcza-prokuratury-okregowej-w-warszawie-wydala-decyzje-ktora-nie-spodobala-sie-wladzom/>, <https://archiwumosiатыnskiego.pl/wpis-w-debacie/swieczkowski-sciga-sledcza-prokuratury-okregowej-w-warszawie-jej-decyzja-nie-spodobala-sie-wladzom/>.

2. Józef GACEK – Prosecutor of the District Prosecutor’s Office in Warsaw. District Prosecutor’s Office in Radom, under reference number PO 1 Ds. 41.2017, is conducting proceedings regarding the failure of prosecutors to fulfill their obligations. This case is related to the investigation which ended with the indictment against *Paweł Bielawny* – former Deputy Head of BOR (Bureau of Government Protection). The subject of the Radom proceedings includes the fact that during the investigation regarding *P. Bielawny* a decision to discontinue the case against *Marian Janicki*, former Head of BOR was not issued. In this case, Warsaw prosecutors are being questioned and reminded of the content of Art. 183 of the Code of Criminal Proceedings. So far, the clerk of proceedings in the District Prosecutor’s Office in Radom has already been changed three times. Finally, in this case, a request was made to waive the immunity of prosecutor *Józef Gacek*.

Findings based on a direct interview: <https://wyborcza.pl/7,75248,25272688,prokurator-nic-nie-znalazl-na-znienawidzonego-przez-pis-funkcjonariusza.html#s=BoxWyboMT>.

3. Robert KMIECIAK – Prosecutor of the Regional Prosecutor’s Office in Zielona Góra, member of the Lex Super Omnia Association of Prosecutors. Under reference number 4 Ds 343/2019, District Prosecutor’s Office Szczecin Niebuszewo in Szczecin has launched an investigation regarding the alleged exceeding of powers by *Robert Kmieciak*, Regional Prosecutor in Zielona Góra. This case was taken up once already and discontinued, following a notification of the Trade Union of Prosecutors and Employees of the Prosecutor’s Office, signed by *Michał Chrzanowski* – former subordinate of prosecutor *Robert Kmieciak*, and currently the Deputy District Prosecutor in Zielona Góra. In December 2014, a notification was received by the General Prosecutor’s Office regarding the Zielona Góra Prosecutor who was accused of falsifying statistics in the region he was managing. Due to the falsehood and absurdity of the allegations, after finding no features of the crime, this proceeding was validly discontinued by the district prosecutor’s office from the area of activity of the District Prosecutor’s Office in Szczecin. In January 2017, prosecutor *Robert Kmieciak* was a witness in a disciplinary court for prosecutors. It was a case in which *Michał Chrzanowski* appealed four jurisprudence guidelines he had received from *Robert Kmieciak* working as a Regional Prosecutor before 28 April 2016. Between 2010 and 2015, *Chrzanowski* was punished many times by the District Prosecutor’s Office in Zielona Góra, including in disciplinary proceedings. During his testimony, *Robert Kmieciak* stated that *Michał Chrzanowski* was the most poorly educated prosecutor in the Regional Prosecutor’s Office in Zielona Góra. The accused was already a Deputy District Prosecutor in Zielona Góra and was present during the testimony. Two weeks later, *Robert Kmieciak* was informed about the resumption of the abovementioned proceedings on the offense under art. 231 (1) of the Penal Code. In October 2017, *Robert Kmieciak* was heard in this case as a witness. Then the proceedings were again discontinued. On 17 May 2019, prosecutor *Robert Kmieciak* read one of the resolutions adopted at that time during the General Meeting of Members of the Association of Prosecutors, Lex Super Omnia. This fact was

noted by TV channels, including TVN. In June 2019, proceedings regarding prosecutor *Robert Kmiecik* were resumed. Currently they are conducted under reference number 4 Ds 343/2019 by the Szczecin-Niebuszewo Regional Prosecutor's Office in Szczecin. In its course, interrogated witnesses include prosecutors from the Zielona Góra district, including former and current performers of managerial functions, as well as secretariat employees.

Findings based on a direct interview.

D. List of prosecutors delegated and transferred to lower level units or other organizational units

- 1. Andrzej PIASECZNY** – Prosecutor of the District Prosecutor's Office in Warsaw, who in 2016 was recommended by the National Council of the Judiciary regarding the appointment of a regional court judge. The Chancellery of the President asked the First Deputy Prosecutor General for an opinion on this prosecutor. The law did not provide for such a procedure. Public prosecutor *Bogdan Świączkowski* assessed the prosecutor very critically. The assessment was limited to one proceeding conducted by Andrzej Piaseczny, regarding an act whose potential perpetrator could be the author of the opinion, i.e. the current First Deputy Prosecutor General and National Prosecutor (the assessor therefore assessed the proceedings in which he himself was the person indicated as the potential perpetrator of an offense). The president did not appoint the prosecutor as a judge. Almost immediately, from 1 July 2016, *Bogdan Świączkowski* personally delegated the prosecutor, without his consent, to the Warsaw-Mokotów Regional Prosecutor's Office in Warsaw for a period of six months. In June 2019, three years of uninterrupted delegation of this prosecutor passed. The law allows for delegating a prosecutor, without his consent, away from his place of residence or the seat of the prosecutor's office for a maximum period of 12 months during a year. The management of the prosecutor's office believes that this guarantee provision allows for a prosecutor to be delegated forever.
- 2. Waldemar OSOWIECKI** – former District Prosecutor in Płock, the unit which presented charges to *Zbigniew Ziobro*. After subsequent procedural steps, the proceedings were discontinued. During the times of "good change", the prosecutor who made the decision to discontinue them became the Deputy District Prosecutor in Płock, and prosecutor *Osowiecki* was delegated to the Częstochowa-Północ Regional Prosecutor's Office in Częstochowa, in the period between 11 July 2016 and 10 January 2017. Further, he was delegated without his consent to the Regional Prosecutor's Office in Płock and this delegation is still ongoing. Prosecutor *Osowiecki* is the father to three children aged 5, 3 and 2, but family considerations were not taken into account by the management of the prosecutor's office;

3. Dariusz WITUSZKO – the IPN (Institute of National Remembrance) prosecutor, whose delegation from Szczecin to Rzeszów lasted from December 2018 to 8 June 2019 and ended when he passed away. Media reports show that the reason for the delegation was a conflict between prosecutor *D. Wituszko* and prosecutor *Andrzej Pozorski*, formerly subordinate and later superior of the delegated prosecutor. This case is an example of the furthest delegation with almost 800 km between the place of residence and the designated place of work.

Findings based on: <https://wyborcza.pl/7,75398,24972650,smierc-w-delegacji-prokurator-mial-jezdzic-do-pracy-ze-szczecina.html>.

4. Zbigniew SZPICZKO – a member of LSO of the District Prosecutor's Office in Białystok was delegated to the distant regional prosecutor's office in Suwałki between 11 December 2017 and 10 February 2018, despite a very difficult family situation which required providing care for his loved ones. In 2017, public prosecutor *Szpiczko* conducted a multi-thread investigation of irregularities in a local school complex. One of the side threads of this case concerned a legal advisor to the municipal police headquarters in Białystok, suspected of exceeding his powers. In 2017, public prosecutor *Szpiczko* applied to the court for a conditional discontinuance of charges against the advisor. At the same time, he continued to run the main case. The prosecutor's office management did not agree with the application to discontinue the charges, expecting that the prosecutor would file an indictment against the advisor and that a trial would be conducted. The prosecutor disagreed and requested a change of order or exclusion from this case. This request was not accepted. At that time, *Z. Szpiczko* was already a member of the Lex Super Omnia Association of Prosecutors, as well as a defender in one of the first disciplinary cases of *Krzysztof Parchimowicz*, President of Lex Super Omnia. The prosecutor was also on the investigation team regarding forgery of signatures on letters of support for candidates of Ruch Narodowy (National Movement) political party before the local elections of 2014. On Friday 8 December 2017 prosecutor *Szpiczko* received a decision on the delegation starting on the upcoming Monday, 11 December 2017, for a period of 2 months to the Regional Prosecutor's Office in Suwałki. The decision was issued by the Regional Prosecutor in Białystok, *Elżbieta Pieniążek*. Public prosecutor *Szpiczko* asked to change the decision, raising his difficult family situation, in particular by pointing to his wife's oncological disease and the need to provide her with proper care and support. Prosecutors from the District Prosecutor's Office in Białystok also petitioned in his support. However, Regional Prosecutor *Elżbieta Pieniążek* did not change the decision, and then National Prosecutor *Bogdan Świączkowski* extended the delegation for another 4 months.

Findings based on a direct interview, <https://fakty.tvn24.pl/oglada-j-online,60/prokuratorzy-delegowani-do-pracy-w-innych-miastach-ministerstwo-normalna-praktyka,951455.html>.

5. Piotr SKIBA – Prosecutor of the Warsaw-Śródmieście Północ Regional Prosecutor's Office, after initiating an investigation into insulting the First President of the

Supreme Court Professor *Małgorzata Gersdorf* by a TVP journalist *Cezary Gmyz* was “for personnel reasons” delegated from the Warsaw-Śródmieście Północ Regional Prosecutor’s Office to the Regional Prosecutor’s Office in Grodzisk Mazowiecki which was not experiencing staffing problems.

Established on the basis of among others. <https://tokfm.pl/Tokfm/7,130517,23868247,zdegradowano-prokuratora-ktory-wszczal-sledztwo-w-sprawie-gmyza.html>.

6. Zbigniew PUSTELNIK – Prosecutor of the Regional Prosecutor’s Office in Katowice (and the legend of the Katowice structures fighting organized crime), after recognizing the lack of grounds for further detention in one of the cases, was in December 2018 delegated from the Katowice Regional Prosecutor’s Office to the Regional Prosecutor’s Office in Zabrze for a period of six months. After this period, the National Prosecutor again delegated this prosecutor to the same unit, which was a violation of the provisions of the Act on the Prosecutor’s Office (Article 106 (1) and (2) of the Act). A few days later, the National Prosecutor changed his decision on the delegation, indicating, pursuant to art. 106 (3) of the above Act that it will be continued at the Regional Prosecutor’s Office in Katowice.

Established on the basis of among others: <https://katowice.wyborcza.pl/katowice/7,35063,24987947,legendarny-prokurator-zeslany-na-delegacje-bedzie-sie-zajmowal.html>.

7. Piotr WÓJTOWICZ – member of LSO, Prosecutor of the Appellate Prosecutor’s Office in Wrocław, formerly the District Prosecutor in Legnica, relegated in April 2016 from the Appellate Prosecutor’s Office in Wrocław to the District Prosecutor’s Office in Legnica (by decision of the Prosecutor General *Zbigniew Ziobro*, ref. PK IX K 103.661.2016 of 11 April 2016). He was subsequently delegated to the Regional Prosecutor’s Office in Legnica for a period of 2 months by the decision of the District Prosecutor in Legnica *Zbigniew Harasimiuk*, the person who replaced *Piotr Wójtowicz* as the District Prosecutor in Legnica (decision reference no. PO IV WOS 1122.26.2017 of 26 May 2017) On 6 July 2017, this delegation was extended for another 4 months by the Deputy Prosecutor General *Marek Pasioneł*, acting on behalf of the National Prosecutor (reference no. PK IX K 1122.2522.2017). The reasons for the delegation were not disclosed to the interested party.

Findings based on direct interviews.

8. Anna CHOMICZEWSKA – currently the Prosecutor of the Regional Prosecutor’s Office in Złotoryja, a long-standing esteemed head of the Regional Prosecutor’s Office in Legnica and Złotoryja. She was dismissed from the position of the Regional Prosecutor in Legnica in March 2016. In May 2016, with her consent, she was delegated to the position of Head of the Department of Investigation of the District Prosecutor’s Office in Legnica, where she personally conducted an investigation in a stalking case where the notification was submitted by *Wojciech Łączewski* (Article 190a(2) of the PC). On October 6, 2016, by decision of the National Prosecutor (reference no. PK IX K 103.4490.2016), the prosecutor was dismissed from her post as

head of department, and then on November 9, 2016 due to the expiry of the delegation period at the District Prosecutor's Office and its non-extension, she returned to her duties at the Regional Prosecutor's Office. The reason was the refusal to issue an order prohibiting the judge, as the injured party, from accessing the case file. The case was transferred from Legnica to the Regional Prosecutor's Office in Kraków, where it is currently pending.

Findings based on a direct interview.

- 9. Robert KMIĘCIAK** – Prosecutor of the Regional Prosecutor's Office in Zielona Góra, until 28 April 2016 acting as the Regional Prosecutor in this unit, who by decision of District Prosecutor in Zielona Góra (reference no. PO IK 120.8.2016) of 19 July 2016 was delegated to the Regional Prosecutor's Office in Krosno Odrzańskie starting on 1 August 2016. The delegation period was then extended by a decision of the National Prosecutor, ref. no. PK IX K 103.4194.2016, for the period until 31 January 2017. As a Regional Prosecutor in Zielona Góra, he gave four judicial guidelines to one of the prosecutors employed in his unit, an activist of the Trade Union of Prosecutors and Prosecutors – *Michał Chrzanowski* – who between 2010 and 2015 was also repeatedly punished by the District Prosecutor's Office in Zielona Góra and against whom disciplinary actions were taken. In 2016, *Michał Chrzanowski* became the Deputy District Prosecutor in Zielona Góra and in July 2016 managed to organize a delegation of his former superior to another organizational unit of the prosecutor's office.
- 10. Mariusz KRASOŃ** – Prosecutor of the Regional Prosecutor's Office in Kraków (the only prosecutor who spoke in defense of independent courts during protests in front of the District Court in Kraków, and then commented on the President's veto in the media; running, among others, famous cases of the so-called Starachowice leak, of *Brunon K.*, of former governor of Bielsko *Mirostaw S.*, of so-called "VAT carousels", organized criminal groups and others). By decision of the National Prosecutor of 5 July 2019, reference no. PK IX K 1122.1972.2019 he was delegated to perform official duties in the Wrocław-Krzyki Zachód Regional Prosecutor's Office for in Wrocław for the period from 8 July 2019 to 7 January 2020, pursuant to Art. 106(2) of the Act – The law on the Prosecutor's Office. This decision, as usual, did not contain a justification, and the attempts made by the person concerned to obtain it were ineffective. The only reason for the decision is the prosecutor's *Mariusz Krasoń's* activity as a member of the Lex Super Omnia Association and the fact that he was the initiator of the resolution of 15 May 2019 made by the Assembly of Prosecutors in the Regional Prosecutor's Office in Kraków which contained critical remarks related to the current situation of the prosecutor's office, including those regarding violations of prosecutors' independence. It should be noted that no substantive, service-related or disciplinary charges have ever been raised against the prosecutor. The prosecutor's delegation received much attention of the public – the #MuremZaKrasoniem hashtag and 'Postcards for the prosecutor' actions were also the subject of many media publications.

Findings based on a direct interview and, among others, <https://tvn24.pl/wiadomosci-z-kraju,3/prokurator-mariusz-krason-oddelegowany-do-prokuratury-we-wroclawiu,950940.html>, <https://oko.press/akcja-prawnikow-w-obronie-zdegradowanego-przez-pis-prokuratora-krasonia-zdjecia-z-calej-polski/>.

11. Tomasz NOWICKI – Prosecutor of the Warsaw-Praga District Prosecutor’s Office, the Investigation Department. The prosecutor, together with the then Head of the First Investigation Department, prosecutor *Józef Gacek* informed District Prosecutor *Paweł Blachowski* that, after analyzing a notification of a crime, they consider it justified to initiate and conduct an investigation into the failure to publish the judgment of the Constitutional Tribunal. The District Prosecutor then transferred prosecutor *Tomasz Nowicki* to the Department of Economic Affairs (his cases in the First Investigation Department were taken over by another prosecutor), while on 15 April 2016 *Józef Gacek* was removed from the position of the Head of the Investigative Department, to be subsequently transferred to the Judicial Department. At the same time, in the matter of not publishing the judgment of the Constitutional Tribunal, a decision was issued refusing to initiate proceedings. As a result of a filed complaint, the District Court in Warsaw annulled the unjustified decision to refuse the initiation of proceedings and ordered to conduct initial investigation in the case. It took place under reference no. PO I Ds 248.2016. The then Prime Minister *Beata Szydło* was not interrogated, while prosecutor *Tomasz Kuroszczyk* – the new Head of the Investigation Department of the Warsaw-Praga District Prosecutor’s Office in Warsaw issued on 10 February 2017 a decision to discontinue the investigation, stating that there are no features of a prohibited act.

Established on the basis of <http://wyborcza.pl/1,75398,19884661,prokurator-juz-nie-zbadalczego-pani-premier-nie-publikuje.html>.

12. Sławomir PIWOWARCZYK – Prosecutor of the District Prosecutor’s Office in Łódź delegated to the Łódź Śródmieście Regional Prosecutor’s Office in Łódź for the period between 3 April 2016 and 20 April 2020.

Established on the basis of information from the District Prosecutor’s Office in Łódź, reference no. PO V Ip 8.2019.

13. Wojciech ŁUNIEWSKI – Prosecutor of the District Prosecutor’s Office in Warsaw delegated to the District Prosecutor’s Office in Piaseczno for the period between 1 January 2019 and 31 January 2019;

14. Andrzej MARKOWSKI – Prosecutor of the Regional Prosecutor’s Office in Lublin delegated to the District Prosecutor’s Office in Włodawa for the period between 7 August 2018 and 6 October 2018.

Based on information from the Regional Prosecutor’s Office in Lublin, reference no. RP III Ip 1.2019).

15. Jarosław JACZYŃSKI – Prosecutor of the Regional Prosecutor’s Office in Lublin delegated to the Lublin Południe District Prosecutor’s Office for the period between 16 November 2016 and 15 November 2018.

Based on information from the Regional Prosecutor’s Office in Lublin, reference no. RP III Ip 9.2019.

16. Piotr MICHALAK – Prosecutor of the District Prosecutor’s Office in Lublin delegated to the District Prosecutor’s Office in Opole Lubelskie for the period between 16 January 2017 and 30 April 2017, and then to the District Prosecutor’s Office Lublin-Północ in Lublin for the period between 1 May 2017 until now.

Established on the basis of a direct interview and information from the District Prosecutor’s Office in Lublin, reference no. PO IV Ip 6.2019.

17. Małgorzata KOPCZYŃSKA – Prosecutor of the District Prosecutor’s Office in Jelenia Góra delegated to the Regional Prosecutor’s Office in Zgorzelec for the period between 1 February 2017 and 31 July 2017, and then to the Regional Prosecutor’s Office in Jelenia Góra for the period between 1 August 2017 and 31 December 2018.

Established on the basis of information from the District Prosecutor’s Office in Łódź, reference no. PO V Ip 7.2019.

18. Marcin ŚLIWIŃSKI – Prosecutor of the District Prosecutor’s Office in Jelenia Góra delegated to the Regional Prosecutor’s Office in Zgorzelec for the period between 30 June 2017 and 31 December 2018.

Established on the basis of information from the District Prosecutor’s Office in Łódź, reference no. PO V Ip 7.2019.

19. Dariusz KOŃCZYK – Prosecutor of the District Prosecutor’s Office in Jelenia Góra delegated to the Regional Prosecutor’s Office in Lubań for the period between 30 June 2017 until now.

Established on the basis of direct interviews and information from the District Prosecutor’s Office in Jelenia Góra, reference no. PO IV Ip 7.2019.

20. Maciej PRABUCKI – Prosecutor of the District Prosecutor’s Office in Jelenia Góra delegated to the Regional Prosecutor’s Office in Lubań for the period between 1 November 2016 and 30 April 2017, later delegated to the Regional Prosecutor’s Office in Bolesławiec for the period between 1 July 2017 until now.

Established on the basis of direct interviews and information from the District Prosecutor’s Office in Jelenia Góra, reference no. PO IV Ip 7.2019.

21. Hanna BORKOWSKA – Prosecutor of the District Prosecutor’s Office in Gdańsk delegated to the Gdańsk-Śródmieście Regional Prosecutor’s Office in Gdańsk from 28 November 2016 until now.

Established on the basis of a direct interview and information from the District Prosecutor’s Office in Gdańsk, reference no. PO V Ip 19.2019.

22. Dariusz RÓŻYCKI – Prosecutor of the District Prosecutor’s Office in Gdańsk delegated to the Gdańsk-Oliwa Regional Prosecutor’s Office in Gdańsk from 10 December 2016 until now.

Established on the basis of a direct interview and information from the District Prosecutor’s Office in Gdańsk, reference no. PO V Ip 19.2019.

23. Witold NIESIOŁOWSKI – Prosecutor of the District Prosecutor’s Office in Gdańsk delegated to the Gdynia Regional Prosecutor’s Office from 2 December 2016 until now.

Established on the basis of a direct interview and information from the District Prosecutor’s Office in Gdańsk, reference no. PO V Ip 19.2019.

24. Urszula TURZYŃSKA-SCHULZ – Prosecutor of the District Prosecutor’s Office in Gdańsk delegated to the Gdynia Regional Prosecutor’s Office from 10 February 2017 until now.

Established on the basis of a direct interview and information from the District Prosecutor’s Office in Gdańsk, reference no. PO V Ip 19.2019.

25. Dariusz WITEK-POGORZELSKI – Prosecutor of the District Prosecutor’s Office in Gdańsk delegated to the Regional Prosecutor’s Office in Gdynia.

Established on the basis of a direct interview.

E. Other forms of harassment

Since 2017, prosecutors who have been ill since March or April 2016 had been refused by the Prosecutor General to retire for health reasons.

The problem, which occurred during the times of “good change” in the Prosecutor’s Office, concerned persons on sick leaves lasting up to a year who were then issued decisions by the Social Security stating that they were not permanently unable to work. In addition, at the request of the National Prosecutor of 24 April 2017, all regional and district prosecutors were obliged to submit objections to Social Security medical commissions in case their certifying physician issued decisions stating permanent inability to work. The consequence of the above was the decisions of the Prosecutor General refusing prosecutors’ permission to retire for health reasons, without a detailed analysis of each case. At that time, some prosecutors were deprived of their livelihood and access to health insurance (such as *Katarzyna Bosiakowska*, Prosecutor of the District Prosecutor’s Office in Warsaw delegated to the Warsaw-Żoliborz Regional Prosecutor’s Office in Warsaw). The state of health did not allow them to return to work, and at the same time – according to the Prosecutor General – it did not justify retirement. Retirement was thus impeded for prosecutor *Mirosław Tracz*, who for almost 2 years after acquiring appropriate rights could not retire. Current legal regulations grant prosecutors in such a situation the right to 50% of the due remuneration. In three known cases (including an LSO member), the Supreme Court allowed prosecutors’ appeals against the decision of the Prosecutor General and ordered their cases to be re-examined. At the end of 2018, the Prosecutor General renewed the original decisions. What is noteworthy is the decision of the Prosecutor General of 15 November 2018 issued against prosecutor *Andrzej Tańcula*. It indicates that it would be unfavorable for the application to be granted, since

the prosecutor “would not be able to return to active service”. This position is in gross contradiction with the content of the current law, Law on the Prosecutor’s Office.

This study omits typical forms of harassment related to disproportionate burdening of prosecutors with tasks, entrusting them with duties requiring urgent activities, changing the scope of their duties, receiving and changing assistants, indicating as a place to work premises defying the authority of the office, other forms of obstructing appropriate performance of current duties, etc.

