

# **Report on Violations of the Law by the Polish Government (Prime Minister Donald Tusk) – Testimonies of Judges and Prosecutors**



- **mobbing in courts**
- **purges of managerial positions in courts**
- **forceful takeover of the prosecutor's office**

## **Part 1**



**Prawnicy  
dla Polski**

**Report prepared by the "Prawnicy dla Polski" (Lawyers for Poland) Association  
in cooperation with the "Ad Vocem"  
Association of Prosecutors.**

**Warsaw, October 2024**

# **Report on Violations of the Law by the Polish Government (Prime Minister Donald Tusk) – Testimonies of Judges and Prosecutors**

- **mobbing in courts**
- **purges of managerial positions in courts**
- **forceful takeover of the prosecutor's office**

## **Part 1**



**Report prepared by the “Prawnicy dla Polski” (Lawyers for Poland)  
Association in cooperation with the “Ad Vocem”  
Association of Prosecutors.**

**Warsaw, October 2024**

Editors – PDP Association Management Board:

Dr. Andrzej Skowron (Judge of the District Court in Tarnów)

Prof. Dr. habil. Paweł Czubik (Judge of the Supreme Court)

Dr. Łukasz Piebiak (Judge of the District Court of the Capital City of Warsaw)

Anna Gąsior-Majchrowska (Judge of the Circuit Court in Piotrków Trybunalski)

Przemysław Radzik (Judge of the Court of Appeal in Warsaw)

Paweł Mroczkowski (Judge of the District Court in Janów Lubelski)

The editors apologise for any errors and inaccuracies in the English translation – the report and the translation were produced under enormous time pressure. We tried to provide the world public with information on the current situation of the justice system in Poland as quickly as possible.

DTP: Alicja Lompe

Proofreading: Karol Przeniosło

Copyrights: PDP

ISBN: 987-83-963083-6-8

# Contents

## Introduction – p. 5

1. Michał Bukiewicz – p. 7
2. Konrad Wytrykowski – p. 7–10
3. Maciej Nawacki – p. 11–14
4. Katarzyna Nawacka – p. 14
5. Tomasz Niewiadomski – p. 15–17
6. Michał Lasota – p. 17–19
7. Piotr Żywicki – p. 19–21
8. Paweł Stępień – p. 21–23
9. Daniel Jurkiewicz – p. 23–24
10. Ryszard Sadlik – p. 24
11. Ewa Majwald-Lasota – p. 24
12. Franciszek Michera – p. 24–25
13. Cezary Podsiadlik – p. 25
14. Wojciech Głowacki – p. 25–26
15. Jarosław Tekliński – p. 27–29
16. Jakub Iwaniec – p. 29–31
17. Joanna Przanowska-Tomaszek – p. 31–34
18. Joanna Pąsik – p. 34–38
19. Piotr Schab, Agnieszka Stachniak-Rogalska, Edyta Dzielińska – p. 38–52
20. Radosław Lenarczyk – p. 52–54
21. Katarzyna Wysokińska-Walenciak – p. 54–57
22. Iwona Strączyńska – p. 57–62
23. Anna Gąsior-Majchrowska – p. 62–64

24. Radosław Kopeć – p. 64–65
25. Przemysław Radzik – p. 66–67
26. Mariusz Moszowski – p. 67–68
27. Kamila Borszowska-Moszowska – p. 68

**Prosecutor's report – p. 69–84**

# Introduction

The following account does not provide a complete picture of the situation in which the judiciary finds itself after 13 December 2023. This is because the situation is complex and concerns every sphere of the operation of the law, i.e. a kind of bloodstream of the state. Therefore, it is impossible to make even an in-depth diagnosis of the functioning of all bodies and institutions from the police to the courts and tribunals. Nevertheless, it is possible to identify some common features. Prime Minister Donald Tusk put it succinctly when he said: 'The law as we understand it...'.

The unprecedented attack on the courts and the prosecutor's office essentially had two objectives: to seize the leadership of these institutions and to carry out a kind of retaliation. While it is possible to understand the motives of some of those committing acts of mobbing (giving vent to frustration and hidden complexes), carrying out personal purges among those in charge of courts at various levels (mainly in Warsaw) aroused surprise in the early days of the Ministry of Justice. Firstly, its leadership was taken over by the former ombudsman – Adam Bodnar, and secondly, the ruling coalition before the elections declared the introduction of the rule of law. However, these were empty declarations, and a feature of the current government is the use of force to achieve its political goals.

This report is clear evidence of the current government's backtracking on pre-election promises, but above all of the law-breaking by Minister Adam Bodnar and his subordinates.

*Dr Andrzej Skowron  
Judge of the District Court in Tarnów*

## ≡ 1. **Michał Bukiewicz** – judge of the Circuit Court in Warsaw

In all criminal cases where I am the reporting judge, identical motions are filed by prosecutors of the Warsaw-Praga District Prosecutor's Office to have me excluded from hearing these cases. These motions bear no relation to the specific case at hand. Similar motions for my exclusion are also submitted by judges appointed by the previous National Council of the Judiciary in collegial panels. These motions are then assigned by random selection, excluding judges appointed after 2017 – in direct contradiction to a ruling of the Constitutional Tribunal. In every case, I am excluded based on decisions that are identical in content (essentially copy-paste) without any reference to the specific circumstances of the case. Despite my own motions for the exclusion of these judges, those who have already ruled on my exclusion, based on an alleged lack of impartiality on my part, do not consider it necessary to recuse themselves from reviewing subsequent motions and refrain from ruling on the same matter. In doing so, they are violating one of the fundamental principles of procedure, but more importantly, they are demonstrating their bias.

In so-called pre-trial detention cases, I am excluded from the random selection process without any legal basis, with only the vague justification of "for the good of the judiciary" (sic!). This is clearly in contradiction to the Act on the Structure of Common Courts (USP) and its regulations. Division heads do not respond to calls to stop these blatantly unlawful practices. The case files are not presented to me by the Division Chair for the purpose of making a statement regarding the submitted motions, even though Article 42 § 3 of the Code of Criminal Procedure guarantees me this right.

Cases I have scheduled for hearings are "removed" from the docket before a decision is made on the motion for my exclusion, which indicates a preemptive decision on the matter.

This year, only two motions for my exclusion have been filed by defense attorneys. In such cases, the procedure under Article 42 of the USP is not applied; instead, my exclusion is unjustifiably decided under the Code of Criminal Procedure (CCP). Additionally, these decisions are not served to me, preventing me from appealing them to the Supreme Court. I want to emphasize that this practice is also applied to other judges appointed after 2017.

## ≡ 2. **Dr. Konrad Wytrykowski** – Retired Judge of the Supreme Court

It is worth noting that the criminal repression we are dealing with is carried out with the use of the prosecutor's office and the police and directed against those judges who in the years 2016–2023 fulfilled their duties working in the Ministry of Justice, the National Council of the Judiciary, acting as presidents of courts or disciplinary officers. There are serious signs that they are being surveilled; The prosecutor's office seized and read the private correspondence

of judges without the consent of the court and without legal grounds, and they are denied the right to challenge the actions of the prosecutor's office in court.

After the unlawful takeover of the highest offices in the prosecutor's office, which was confirmed by the Supreme Court's resolution of 27 September 2024, a series of unfounded motions to waive the immunity of judges was also initiated. According to the Polish Constitution, bringing a judge to criminal liability, as well as deprivation of liberty, requires the prior consent of the court specified in the law. The disciplinary court issues a resolution authorising the prosecution of a judge if there is a sufficiently justified suspicion that he or she has committed a crime.

So far, motions have been filed to waive the immunity of i.a. judges Jakub Iwaniec, Łukasz Piebiak, Przemysław Radzik, Michał Lasota and Piotr Schab. These conclusions are clearly not sufficiently substantiated. They bear clear signs of slander and are an expression of repression and an attack on judicial independence. Their only reason is to break and punish judges who dared to have different views than those of the government and the judges' associations associated with them.

The requests for waiver of the immunity of four judges were submitted on 28 June 2024. Invented before the parliamentary elections in 2019 by some Polish media, probably inspired by Russian intelligence service, and fueled by the then opposition (today the ruling camp) and judges' associations associated with it, the so-called "hate speech scandal" was to consist in the creation of a group of judges under the leadership of Deputy Minister Łukasz Piebiak supervising networks of haters and troll farms attacking judges from these associations on the Internet. After almost five years of investigation, which included cases of unprecedented surveillance of judges, including the former Deputy Minister of Justice Łukasz Piebiak, securing their laptops and phones, control of correspondence and e-mails carried out without the consent of the court, and perhaps also wiretapping or secret searches, the prosecutor's office submitted applications to the Supreme Court for permission to bring several judges to criminal liability, including Łukasz Piebiak, Jakub Iwaniec and Przemysław Radzik. The basis of individual applications is the thesis that he acted "in an organized criminal group, with Judge Łukasz Piebiak directing its activities". The participants of the group were to conduct "actions against judges, including, above all, those gathered in the Association of Polish Judges Iustitia". "The criminal activity consisted primarily in the unauthorized processing of personal data of judges and the disclosure" of information obtained about these judges to each other. A further goal was to be public criticism of the aggrieved judges (quotes from the announcements of the National Prosecutor's Office). A total of 44 crimes were attributed to individual judges. This catalogue consists only of acts involving the unauthorised processing of personal data or the disclosure to each other of non-confidential information concerning judges – members of associations closely cooperating with the current Minister of Justice. It should be added that the accused judges held



positions in the Ministry of Justice, as well as court presidents and disciplinary officers, and were appointed to enforce compliance with the law by judges that makes internal communication between them obvious.

A huge abuse with a defamation effect is accusing judges of participation in a criminal group, which was to consist in alleged violations of the provisions on privacy of a group of judges, i.e. public figures, the information concerning them is qualified as public information within the meaning of the Act of 6 September 2001 on access to public information.

The prosecutor denied the accused judges access to the case files, he did not agree to show them any evidence that would indicate their actions. In doing so, he tried to ignore the well-established principle in the case law that in the course of deliberation proceedings a judge has a right of defence, including the right of access to materials submitted by the applicant. The exclusion of access to the evidence attached to the application makes the judge's right to defence an illusory right, and even makes the defence itself impossible. However, the Supreme Court did not take into account the prosecutor's objections and made the files available to the accused judges and their lawyers.

Another attack on judicial independence using the apparatus of the prosecutor's office and the police took place on 3 July 2024, when the police and the prosecutor's office forcibly entered the premises occupied by the National Council of the Judiciary. 30 police officers participated in the action, nobody was allowed to observe the search, no request was made for voluntary handing over of things, but locks were broken and judges' cabinets were ripped open to take the files of cases conducted by disciplinary officers. The damage was estimated at approx. PLN 60.000. The entire action carried out at the headquarters of the National Council of the Judiciary was led by prosecutor Piotr Myszkowiec, who had lost the competition for judicial nomination in front of the same National Council of the Judiciary a few months earlier.

Immediately after this violent action, the Minister of Justice and his prosecutors decided to find justification for their unlawful acts. On 9 July 2024, the National Prosecutor's Office announced that it had submitted applications to the Supreme Court for permission to prosecute judges Piotr Schab, Michał Lasota, Przemysław Radzik and Jakub Iwaniec for allegedly concealing the files of disciplinary cases they kept, which at the same time constituted a failure to comply with official duties. It should be emphasized that all the judges mentioned above are disciplinary judges at various levels. As part of their professional duties, they conduct specific proceedings concerning specific judges and specific disciplinary offences committed by them. Due to the fact that some of these proceedings concerned judges close to the current government, closely cooperating with it, Minister of Justice Adam Bodnar appointed the so-called ad hoc disciplinary judges, whose task was to take over these files and discontinue the proceedings. A legal dispute arose between the legal statutory disciplinary judges and the minister's disciplinary judges over the disposal of the files of these cases. Until now, legal disputes between

judges were resolved by the court, in this situation the prosecutor's office and the police were used, and then criminal proceedings were initiated against the judges. The request for waiver of immunity is aimed solely at oppressing these judges, publicly discrediting them and damaging their reputation.

On 24 September 2024, the first proceedings concerning Judge Jakub Iwaniec for waiver of immunity were to begin before the Supreme Court. The Regional Prosecutor's Office in Wrocław, which filed the application, first, on 9 September 2024, submitted another request to the Supreme Court to waive the immunity of the same judge for another act, at the same time requesting that it should be joined with the case in which the hearing was scheduled for 24 September 2024. The purpose of the prosecutor's office was clearly to postpone the proceeding of the first application, and thus to prevent its substantive consideration. Then, a few days before the hearing, on 19 September 2024, a prosecutor from the Regional Prosecutor's Office in Wrocław, Kazimierz Orzechowski, submitted a letter to the Supreme Court in which he objected to the fact that Dr Konrad Wytrykowski, a retired Supreme Court judge was Judge Jakub Iwaniec's defence counsel. The prosecutor also objected to the familiarizing with the case files by this counsel. As the prosecutor stated, the name of this judge appears in the case file and he can be questioned as a witness. In a statement for *Gazeta Polska*, Judge Konrad Wytrykowski stated: "It was stated that my name appears in the case. Of course it does, because it was mentioned in the articles that initiated the alleged scandal. However, for five years of the investigation, I was not summoned, interrogated, I was not asked to hand over anything, phone, documents or correspondence. [...] This is a directly stated threat. If I continue to be active in this matter, I will be also charged of a request for waiver of immunity" (<https://niezalezna.pl/polska/prokuratura-torpeduje-wlasne-sledztwo-najpierw-odkryli-grupe-przestepcza-teraz-unikaja-starcia-w-sadzie/527357>)

Another judge, who is the defender of the Judge Jakub Iwaniec, also faced harassment. It is about Judge Maciej Nawacki, PhD. A day before the Supreme Court session, the President of the District Court in Olsztyn, Krzysztof Krygielski, who came out of the illegal nomination of Minister Bodnar, halved the salary of Judge Maciej Nawacki. This is an illegal move, as no provision of law authorizes court presidents to determine the amount of a judge's salary. In a statement for the *Niezależna.pl* portal, Dr. Maciej Nawacki assessed: "This is harassment related to the fact that today I am appearing before the Supreme Court as a defender of Judge Jakub Iwaniec." (<https://niezalezna.pl/polityka/dzisiaj-posiedzenie-sn-a-kolejny-obronca-iwanica-ofiara-represji/527418>).

It should be emphasized that the threats and harassment directed against the defenders of Judge Jakub Iwaniec constitute a serious violation of his right to defense, which is the basis of any democratic system of a state.

≡ **3. Dr. Maciej Nawacki** – judge of the District Court in Olsztyn, member of the National Council of the Judiciary of Poland, member of the Presidium of the National Council of the Judiciary, represents the Council in proceedings before the Constitutional Tribunal – author of a number of Council applications submitted to the Tribunal, defender in cases of repressed judges, dismissed President of the District Court in Olsztyn, adjudicates in the District Court in Olsztyn, work experience in the justice system – 25 years, academic teacher with several years of teaching experience.

– on March 22, 2024, he was dismissed by the Minister of Justice from the position of president of the District Court in Olsztyn for performing the legal function of a member of the National Council Judiciary. The fact of the cancellation was announced on social media – on the social networking service X on March 19, 2024 on the account of the Ministry of Justice @MS\_GOV\_PL and before this decision is issued and delivered to the judge. He was previously prevented from being heard by the Board of the District Court in Olsztyn and from responding to the request of the Minister of Justice for an appeal. The judge designated by the Minister of Justice set the board date during a meeting of the National Council of the Judiciary and did not accept the request to change this date. It should be emphasized that the composition of the board was changed by the Minister of Justice by illegally suspending the presidents of the courts that constitute it and appointing new members of the board;

– The Ministry of Justice carried out a campaign of defamation and intimidation of the judge in the media. The Ministry announced the appointment of special ad hoc disciplinary prosecutors to bring charges against the judge for his work in the National Council of the Judiciary and for performing the function of court president, while providing false information, e.g. about blocking another judge from adjudicating, even though there were no grounds for this. A judge is prosecuted for taking legal actions in accordance with the law in the National Council of the Judiciary and in the court where he adjudicates (<https://www.rp.pl/sady-i-trybunaly/art41151021-specjalny-rzecznik-bodnara-rozliczy-nawackiego-schaba-i-innych> <https://oko.press/bodnar-dyscyplinarka-neo-kr>);

– The Minister of Justice also informed the media about the appointment of prosecutors and initiating criminal proceedings against the judge. These proceedings include, among others: for participation in the issuance of a resolution of the National Council of the Judiciary (together with other members of the National Council of the Judiciary), participation in the National Council of the Judiciary, or for the execution by a judge in the years 2020–2022 of a final resolution of the Supreme Court adopted in disciplinary proceedings (<https://oko.press/koniec-ochrony-nawackiego-sledztwo-juszczyszyn>). The initiation of the proceedings concerns the same case that was pending in the Supreme Court with the request of Paweł Juszcyszyn, the nominee

of the Minister of Justice for the position of vice-president of the district court, to waive the immunity of Judge Maciej Nawacki. Falsely accused judge M. Nawacki won the case in the first instance in the Supreme Court – judgment of November 14, 2023, case no. ZI 12/23. In the same case, the Prosecutor's Office initiated proceedings in violation of the ne bis in idem principle (the so-called trawl investigation for the period of 6 years of the judge's work);

- the prosecutor's office subordinated to the Minister of Justice also refused legal protection to judge M. Nawacki in a case in which, without prior waiver of immunity, in violation of the exclusive jurisdiction of the Supreme Court, the judge was punished with an immediately enforceable penalty of 15 days of arrest by the judges of the District Court in Bydgoszcz. Despite the flagrant violation of Art. 181 of the Constitution of the Republic of Poland, the prosecutor's office refused to initiate proceedings against persons responsible for judicial illegality. The prosecutor's decision was appealed;

- repression against the judge intensified in connection with representing the National Council of the Judiciary in proceedings before the Constitutional Tribunal in case no. file U1/24, in which he was the author of the application. At the turn of April/May, the president of the District Court in Olsztyn announced that Judge M. Nawacki would be burdened with excessive official duties in the district court in order to prevent the judge from working in the Council. On May 16, 2024, judge M. Nawacki represented the Council at the hearing before the Constitutional Tribunal. In its judgment, the Tribunal found that the Regulation of the Minister of Justice was inconsistent with a number of constitutional norms and a flagrant violation of the Constitution by the Minister of Justice, A. Bodnar. This judgment was not published by the Prime Minister in the Journal of Laws, and the illegal regulation discriminating against judges and excluding them from adjudicating is still applied;

- by order of May 2024, effective retroactively from May 1, 2024, judge Maciej Nawacki was charged by Krzysztof Krygielski, acting as the President of the District Court in Olsztyn, with an additional amount of official duties, which in practice made it impossible to perform official duties in a constitutional body, such as the National Council of the Judiciary. The number of duties, taking into account the workload in the National Court Register, grossly exceeded the permissible work standards and violates the right to rest. This order was not delivered to judge Maciej Nawacki, who learned about the change in the scope of duties from the media and the court's website. In the media, Krzysztof Krygielski and his formal deputy Paweł Juszczyszyn announced that judge Maciej Nawacki's burden was due to the fact that he worked in an illegal body – "neoKRS" (neoNCJ) This order, challenged by Judge Maciej Nawacki, was annulled by the National Council of the Judiciary due to the order being issued by an unauthorized person and a gross violation of the provisions regulating the scope of judges' official duties. The persons acting as president and vice-president of the district court in Olsztyn did not comply with the resolution of the National Council of the Judiciary. Judge

Maciej Nawacki is assigned cases in which he is not authorized to adjudicate and cannot legally take actions, i.e. the so-called bankruptcy and restructuring matters.

- moreover, the judge is harassed by the so-called administrative guidelines for the implementation of the resolution of the National Council of the Judiciary. The number of administrative guidelines with which Judge Nawacki was punished in the period from June to September 2024 already exceeded the total number of guidelines given to judges in the District Court in Olsztyn for the years 2018–2023. Being punished with a penalty deprives the judge of the right to apply for promotion, as well as deprives him of periodic salary increase – the right to the next promotion rate;

- the person acting as the president of the district court, K. Krygielski, in numerous statements in the media, she slandered Judge M. Nawacki that he does not work, does not report to work in court, and that he illegally "arranges" promotions in courts – without any evidence. K. Krygielski also asked the Minister of Justice A. Bodnar to appoint another ad hoc disciplinary investigator to conduct disciplinary proceedings against Judge M. Nawacki. The Minister of Justice announced that he would deal with the case of M. Nawacki. During this time, from July to August 2024, judge M. Nawacki was on a planned leave and performed his duties in the National Council of the Judiciary as well as ruled in the District Court;

- what is particularly important is that administrative penalties were imposed on the judge for the content of the issued judgments. Judge Maciej Nawacki was punished with reproaches by the person acting as the president of the court – Krzysztof Krygielski. Judge M. Nawacki ruled on the right to a court within the meaning of Art. 45 section 1 of the Constitution, taking into account the interest of the parties in the proper formation of the composition of the courts without the influence of politicians and appointees of the executive power. Judge M. Nawacki is deprived of the possibility of appealing to the court against the penalties imposed on him – administrative guidelines, disciplinary courts at the courts of appeal were not properly formed – the composition of the court was established in violation of the statutory procedure and bypassing the constitutional powers of the National Council of the Judiciary. It was arbitrarily appointed by the politician, Minister of Justice Adam Bodnar. Therefore, there is no court that could hear an appeal against administrative penalties imposed on a judge;

- what's more, the judge was deprived of his salary. Judge Maciej Nawacki took up the role of defense attorney in proceedings before the Supreme Court, defending judge Jakub Izaniec falsely accused of unauthorized processing of personal data in the years 2016–2019. After information about the judge's defenders was disclosed in the media, Krzysztof Krygielski took away half of the judge's remaining remuneration paid in the Court District in Olsztyn. Judge M. Nawacki learned about the order of September 23, 2024 depriving him of his remuneration from the media, from the pro-government website

Okopress. The order was also disseminated by Krzysztof Krygielski among judges via official mail – which was probably intended to trigger the so-called chilling effect. The false ground that Judge M. Nawacki refuses to hear all cases was used as the basis for receiving remuneration. In September, judge M. Nawacki participated in a two-week meeting of the National Council of the Judiciary from 9 to 19, as well as in a hearing before the Supreme Court, where he performed the function of a judge's defender – widely recognized by civilized countries as an honorary function.

It should be emphasized that a judge's remuneration can be legally reduced only on the basis of a decision of a disciplinary court, which did not happen in this case, and such a decision of the president is an obvious abuse of powers, constituting an official offence. In fact, in September, judge Maciej Nawacki's remuneration was illegally reduced by 50%; together with the earlier salary reduction in April 2024, the judge's remuneration paid in the District Court in Olsztyn was reduced by approximately 70%, which threatens the ability to meet basic needs and violates the principle that a judge is due appropriate remuneration for performing work;

– Judge Maciej Nawacki, in the proposed "repressive law", was included by the Minister of Justice Adam Bodnar and Prime Minister Donald Tusk in the red group of judges subject to removal from the profession and mandatory disciplinary punishment. Politicians announced that these actions would take place after the presidential elections in a situation when a person who is loyal to their illegal actions takes the president's chair.

≡ **4. Katarzyna Nawacka** – judge of the Circuit Court in Olsztyn, wife of judge Maciej Nawacki, adjudicating at the Circuit Court in Olsztyn, 17 years of judicial experience

– without giving a reason and without substantive justification, she was removed from her position as mediation coordinator by the nominee of the Minister of Justice, Rafał Jerka, acting as the president of the District Court, which resulted in a reduction of the remuneration due to her. Judge K. Nawacka took over the duties of mediation coordinator after the judge who previously held this position retired;

– Rafał Jerka also announced that Judge K. Nawacka would be removed from adjudicating in second-instance cases, without specifying the legal basis;

– it was announced in the draft "repressive law" that she would be included in the red group of judges subject to removal from the profession and mandatory disciplinary punishment.

## ≡ 5. Dr. Tomasz Niewiadomski – judge of the Court of Appeal in Warsaw

After being nominated as a judge of the Circuit Court in Warsaw (February 23, 2021), he focused his strength and energy on creating the XXVIII Civil Division from scratch, which was tasked with solving the problem of cases regarding loan agreements denominated and indexed to foreign currencies – mainly the Swiss franc. Since 2017, the number of such cases submitted to the Circuit Court in Warsaw has been increasing. For example, in 2017 there were approximately 1,000 cases, and in 2020, there were approximately 15,500 Swiss franc cases.

At the beginning of 2021, the Circuit Court in Warsaw faced the prospect of paralysis due to the growing wave of "franc" cases. The judges of the XXVIII Division began to solve this problem – for the benefit of citizens. Division was built from scratch. Judges mostly came to it directly after being nominated or delegated to adjudicate from other courts. They all had to be trained, introduced to work and they had to create a complete document flow. Despite the lack of rulings of the Supreme Court on key issues and countless other problems at the time, it was possible to make proceedings in "franc" cases more dynamic and develop a relatively coherent line of jurisprudence – largely based on the case law of the Court of Justice of the European Union. To date, judges of the Division headed by judge Tomasz Niewiadomski have issued approximately 15,000 judgments. Approximately 4,000 of these judgments have already been subject to judicial review and no judgment has ever been overturned due to the alleged inappropriate staffing of the Court. The accuracy of the line of jurisprudence developed in the Division was confirmed by the Supreme Court in the resolution of the entire Civil Chamber of April 25, 2024. After years of effort and commitment, the efficiency of the work of the XXVIII Civil Division has begun to increase, which was confirmed by the issuance of almost 4,150 judgments and the conclusion of over 150 settlements in the first half of 2024. For comparison, from April to December 2021, approximately 500 judgments were issued. In the first half of 2024 more cases were completed than were received by the Department each month.

### **Currently, the Division has the best results in its entire history.**

Judge Tomasz Niewiadomski, who heads the Division, has very high qualifications. He is a Doctor of Law and completed postgraduate studies in economics. Regardless of his official duties, he has issued approximately 400 judgments since the beginning of his ruling in the XXVIII Civil Division. To date, approximately 50 cases have been assessed by the Court of Appeal in Warsaw and issued judgments, and none of them has ever been overturned. On the contrary – the judge has very good statistics on the stability of his jurisprudence. No excessive length of proceedings was found in any of the cases he handled. Twice the Court of Appeal in Warsaw conducted an individual so-called independence test in relation to the judge and, as a result, no circumstances were found that would affect the judge's lack of independence. There

were no disciplinary proceedings pending against him. He has never been a member of any political party. During his service in the Circuit Court in Warsaw, not a single application to exclude him from adjudicating was submitted.

Despite these work results and qualifications, on September 16, 2024, judge Tomasz Niewiadomski was dismissed from the position of Chairman of the XXVIII Civil Division. Please be aware that this was done against the opinion of the College of the Circuit Court in Warsaw, which sided with him. Moreover, 16 judges adjudicating in his Division also gave him written support. The number would have been even higher, but several judges were on vacation or sick leave at the time. Moreover, some judges were afraid to sign the letter due to the possible unpleasantness that could potentially happen to them because of it.

The dismissal procedure began on September 6, 2024, when, during a conversation with the vice president, it was suggested that the judge Tomasz Niewiadomski should resign from the above-mentioned function. When he refused, he was given a letter from President Beata Najjar informing him of her intention to dismiss him before the end of his term. **It was indicated that the only reason for his dismissal was the date of his appointment as a judge of the Circuit Court in Warsaw.** However, the letter does not specify any reason for the dismissal. Nevertheless, it was orally indicated that, in the opinion of President Beata Najjar, the date of appointment as a judge of the Circuit Court precludes him from being able to perform his functional duties.

After receiving the letter of intention to dismiss him from his position, the judge Tomasz Niewiadomski requested to explain in writing the reasons for his dismissal to prepare appropriate response and explanations. Moreover, he asked to be allowed to participate in person in the meeting of the Circuit Court College, during which the intention to appeal was to be assessed. In response, Vice-President Rafał Wagner indicated that the reasons for the dismissal, given orally on September 6, 2024, remain valid, thus de facto confirming that the reason for the dismissal is only the date of appointment as a judge of the Circuit Court in Warsaw. The date of the College meeting was set for September 16, 2024, at 9.15 (Monday), i.e. the first business day after the deadline for submitting explanations. The judge asked to change the date to allow members of the College to read the explanations – but this request was denied. On September 12, 2024, the judge submitted extensive explanations with several annexes, illustrating his activities for the establishment, operation, development and achievements of the XXVIII Civil Division. He also pointed to his high-grade education, many years of professional experience and the circumstances related to his appointment as a judge of the District Court – including an excellent performance evaluation.

At the meeting of the College on September 16, 2024, the judge managed to additionally present his position and submit written support provided to him by 16 judges from his Division. As a result, the College of the Circuit Court in Warsaw issued a negative opinion on the motion to dismiss judge



Tomasz Niewiadomski from the position of Chairman of the XXVIII Civil Division. Despite this negative opinion of the motion to dismiss the judge, that afternoon the Division was visited by two employees of the Human Resources Department who handed the judge a letter dismissing him from his function as of September 16, 2024. It was signed by Vice-President Rafał Wagner and does not contain any justification. The opinion of the College, the position of several judges and the judge's extensive explanations were ignored, and his term of office, which was supposed to expire only in 2027, was interrupted – without any grounds. The above-mentioned action is contrary to Art. 32 of the Constitution of the Republic of Poland which prohibits discrimination against anyone for any reason and Art. 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

## ≡ 6. **Michał Lasota** – Judge of the Court of Appeal in Warsaw

In a letter dated March 11, 2024, Minister of Justice Adam Bodnar expressed his intention to remove me from the position of President of the District Court in Olsztyn to the College of the District Court in Olsztyn, and simultaneously suspended me from performing the duties of President of the District Court in Olsztyn. The justification for my dismissal, according to the Minister of Justice, was allegedly my behavior, which included complying with the Polish legal order, such as fulfilling the duties of Deputy Disciplinary Officer for Common Court Judges and participating in the "promotion procedure" before the National Council of the Judiciary. By letters dated March 11, 2024, the Minister of Justice also suspended the Presidents of the District Courts in Olsztyn, Bartoszyce, Kętrzyn, and Biskupiec from performing their duties, as the College of the District Court includes the President of the District Court and the Presidents of the District Courts within the jurisdiction of the District Court. In this extralegal manner, the Minister of Justice effectively changed the composition of the College of the District Court in Olsztyn, and other judges were appointed to replace the suspended presidents. As a result, the newly composed College of the District Court in Olsztyn, as per the Minister of Justice's will, issued a positive opinion on the intention to dismiss me from the position of President of the Circuit Court in Olsztyn. Consequently, the Minister of Justice dismissed me from my position, not through legal means but by clearly violating the law.

By an order of the Minister of Justice dated March 24, 2023, I was appointed to the Examination Committee for Legal Advisor Training under the Ministry of Justice, based in Olsztyn, as its chairman. The term of this Committee and its members was supposed to last two years. Despite the legal possibility, I was not dismissed from the Committee, nor did my membership expire. However, by an order dated April 19, 2024, the Minister of Justice amended the March 24, 2023, order by appointing other individuals to the already

occupied positions, including appointing one of them as chairman. The improperly and unlawfully constituted Committee conducted the entrance exam for legal advisor training on September 28, 2024, which may result in future claims challenging the validity of the resolutions taken by this Committee regarding the admission of applicants to the list of legal advisor trainees. The potential legal consequences are self-evident.

Based solely on media reports, I am aware that several investigations are being conducted by the Internal Affairs Division of the National Prosecutor's Office regarding my official duties as Deputy Disciplinary Officer for Common Court Judges, which I performed in accordance with the law. This procedure clearly constitutes an abuse of power (an official crime).

Based solely on media reports, I am aware that I have been co-defendant in a lawsuit filed by the politically active judge Paweł Juszczyński, who is also demanding one million złoty from me in connection with my official duties as Deputy Disciplinary Officer for Common Court Judges, which I performed lawfully.

I have also learned from media reports that I have been co-defendant in another lawsuit, this time filed by the politically active judge Igor Tuleya, who is also seeking one million złoty from me due to my lawful performance of official duties as Deputy Disciplinary Officer for Common Court Judges. It is worth noting that this judge publicly calls for committing crimes against the National Council of the Judiciary and the Constitutional Tribunal.

In connection with my role as Deputy Disciplinary Officer for Common Court Judges, I also receive a functional allowance, the amount of which is determined by a regulation of the Minister of Justice. The Minister of Justice amended his regulation, reducing the functional allowance by approximately six times, from a coefficient of 0.7 to 0.1. As a result, my salary for performing this duty was reduced by about 5,000 złoty, which has no objective basis and is merely an expression of the Minister of Justice's harassment of Disciplinary Officers.

From media reports, I also know that the Minister of Justice appointed a special disciplinary officer in the person of Andrzej Krasnodębski, a judge of the District Court in Warsaw. The task of this officer is to hold me disciplinarily accountable for my lawful performance of official duties as Deputy Disciplinary Officer for Common Court Judges concerning the politically active judge Waldemar Żurek.

The Minister of Justice improperly appointed so-called special officers, Włodzimierz Brazewicz and Grzegorz Kasicki, by failing to sign some documents as required by the procedure. The purpose of appointing these special officers was to take over and subsequently dismiss certain disciplinary proceedings, including those regarding common disciplinary offenses, involving politically active judges.

A prosecutor from the Internal Affairs Division of the National Prosecutor's Office, in a request dated July 9, 2024, petitioned the Supreme Court, Pro-

fessional Responsibility Chamber, for permission to bring criminal charges against me. The pretext was my alleged concealment of disciplinary case files, while these files were in the office of the Disciplinary Officer for Common Court Judges. Moreover, the Minister of Justice did not sign the documents appointing the so-called special officers in accordance with legal requirements. In disciplinary proceedings, criminal procedure regulations apply accordingly by the will of the legislator, and in criminal proceedings, electronic signatures are invalid. Therefore, these individuals are acting without proper authorization. This position was presented by the Disciplinary Officer for Common Court Judges to the Minister of Justice and his special officers. Nevertheless, the files were forcibly removed from the office of the Disciplinary Officer for Common Court Judges by two prosecutors from the Internal Affairs Division of the National Prosecutor's Office, accompanied by an armed police unit, who destroyed several safes while conducting their activities, despite the files being voluntarily handed over after the initial declaration.

On August 9, 2024, my division of duties at the Court of Appeal in Warsaw was also changed. As a result, I was stripped of the ability to perform judicial duties in major categories of cases, leaving only peripheral matters within my jurisdiction. Pursuant to the provisions of the Act of July 27, 2001, Law on the Structure of Common Courts, I appealed the division of duties to the National Council of the Judiciary. According to the provisions of the same act, the appeal should result in the continued performance of my previous duties. However, the individuals effectively managing the Court of Appeal in Warsaw, including the 2nd Criminal Division, do not comply with the provisions of the Law on the Structure of Common Courts of July 27, 2001, and cases are being assigned according to the "provisional," and therefore unenforceable, division of duties.

≡ **7. Piotr Żywicki** – judge of the Court of Appeal in Gdańsk, II Criminal Division; Deputy Disciplinary Officer at the Court of Appeal in Gdańsk, with 30 years of experience in the judiciary.

– He received his nomination as a Judge of the Court of Appeal in Gdańsk on November 10, 2022. Until October 31, 2023, he was delegated by the Minister of Justice to adjudicate in the District Court in Elbląg due to staffing issues.

– Beginning in November 2023, the first instances of harassment, marking the start of ongoing mobbing. An unknown perpetrator (without the consent of the Court of Appeal's administrator in Gdańsk, violating Article 63a of the Penal Code) posted copies of a list of support for four candidates to the National Council of the Judiciary, signed by Żywicki, intending to stigmatize him within the judicial community. In November 2023, one of the judges loudly commented on this list and publicly posted offensive remarks on Facebook, questioning Żywicki's judicial competence, calling him a coward. This

was accompanied by behaviors such as turning away from him, slamming doors, and isolating him.

– Starting in February 2024, a wave of motions for his exclusion from cases under Article 42 § 1 of the Code of Criminal Procedure, mainly from the Regional Prosecutor's Office in Gdańsk (whose new head was recently part of a prosecutors' association supporting the current executive power). One of the judges sitting on panels with him also filed such motions on the same grounds. In total, dozens of such motions were filed in cases with the following reference numbers: II AKa, II AKzw, and II AKz, with only a few filed by defense attorneys. Prosecutors at hearings cited orders from the management of the Regional Prosecutor's Office in Gdańsk. However, the National Prosecutor's Office – Pomeranian Branch in Sopot did not file such motions. These motions had no legal basis and were not filed under Article 42a § 3 of the Law on the Organization of Common Courts, which would have allowed for review. They were also unrelated to the circumstances of the cases or Żywicki's attitude toward the parties. Each time, the justification cited was his lack of independence and impartiality as a judge appointed after 2018, questioning his competence as a former President of the District Court in Elbląg, Election Commissioner, and Deputy Disciplinary Officer at the Court of Appeal in Gdańsk, alleging close ties to the executive branch. He was the only judge from the II Criminal Division of the Gdańsk Court of Appeal to be excluded. He was not a party to these proceedings, was prevented from making statements before rulings were issued, had no right to file motions for the exclusion of judges, and could not appeal the decisions. His only recourse was to submit statements on the issued rulings, which allowed him to respond to defamatory content based on selective information from politically engaged publications, judges, and journalists. He attempted to respond substantively under Article 42 § 3 of the Code of Criminal Procedure when allowed. The motions were considered without the parties' involvement, and the rulings' justifications were repetitive and even used the same font in most cases. Notably, the judge who filed the exclusion motions had previously decided on his exclusion in other cases under the same circumstances. Contrary to Constitutional Tribunal rulings, only judges appointed before 2018 were assigned to hear the motions, forming a closed circle. Among them were judges appointed by the State Council of the Polish People's Republic, former party members, members of a judicial association openly collaborating with the executive, or its sympathizers, as well as direct beneficiaries of appointments from the current Ministry of Justice: members of examination committees, lecturers at the National School of Judiciary and Public Prosecution (KSSIP), special disciplinary officers at the Ministry of Justice, and members of the codification commission (all of these positions were also questioned by the National Council of the Judiciary).

– On June 17, Żywicki submitted a complaint to the President of the Court of Appeal in Gdańsk under Article 94 § 1 of the Labor Code and EU Directive 2019/1937 of October 23, 2019, on the protection of whistleblowers, request-

ing the initiation of an anti-mobbing procedure against two judges from the Gdańsk Court of Appeal. He claimed that the actions of a group of judges were aimed at intimidation, removal from adjudication based on repeated extra-legal grounds, and ultimately forcing him out of the profession. Although the President acknowledged the legal admissibility of such a procedure, he refused to initiate it, arguing that the "dispute" between Żywicki and the judges concerned his status as a judge of the Court of Appeal in Gdańsk, and starting this procedure could escalate the conflict.

– On June 26, 2024, after submitting another statement regarding a ruling, one of the adjudicators filed a complaint alleging that Żywicki had committed a delict against him, as well as an offense under Article 231a of the Penal Code in conjunction with Article 212 § 1 of the Penal Code and Article 11 § 2 of the Penal Code. The College of the Court of Appeal in Gdańsk (though not unanimously) decided to forward the complaint to the prosecutor's office and the disciplinary officer in Warsaw.

## ≡ 8. Paweł Stępień – Judge of the Circuit Court in Rybnik

By a letter dated March 20, 2024 (DKO-I.565.151.2024), Paweł Stępień, Vice-President of the Circuit Court in Rybnik, was suspended from performing his duties, without the provision of any real or factual grounds for this decision. This letter defamed the judge, insulted him, and violated his personal rights. The only allegations corresponding to reality were that he acted in accordance with the law, namely: signing lists in support of candidates for the National Council of the Judiciary, participating in a competition for a judge's position at the District Court in Gliwice after 2018, and serving on an examination committee, as required by current regulations.

In this letter, addressed to both the Circuit Court in Rybnik and Judge Paweł Stępień, the judge was slandered (and his personal rights unlawfully violated), with claims or clear suggestions that:

- Judges appointed to the positions of court presidents and vice-presidents were selected based on non-meritocratic criteria, with professional competence replaced by loyalty to the executive, implying that this also applied to him;
- The judge was somehow connected to representatives of the executive branch or certain political groups;
- His "career trajectory" had accelerated significantly since the beginning of 2018 and reflected the "exceptional trust" placed in him by a politician – the Minister of Justice – who "patronized" his career;
- He had completely disregarded unequivocal signals indicating that he participated in procedures that violated the Constitution and unspecified "European law," which could not be reconciled with the judicial ethos;

- His tenure as Vice-President of the Circuit Court in Rybnik was contrary to the interests of the judiciary, as it was argued that rulings issued by someone in his position could be automatically overturned by the Supreme Court in cassation proceedings due to the absolute appeal ground outlined in Article 439 § 1 point 2 of the Code of Criminal Procedure (k.p.k.), which allegedly undermined the authority of the judiciary.

The above accusations were leveled against the judge by the Minister of Justice despite the fact that the adjudicative division directly supervised by him within the Circuit Court in Rybnik had achieved good, and in some areas, even outstanding results. In virtually every year, more criminal cases were resolved than were filed with the courts under his supervision. The efficiency of proceedings had significantly improved compared to the situation as of July 1, 2020, when the Circuit Court in Rybnik was established. By the end of 2022, no complaints regarding delays in proceedings were upheld, a unique situation nationwide. Nevertheless, the Vice-President was accused of lacking any managerial, professional, or judicial competence. It is worth noting that Judge Paweł Stępień had been serving as a judge since 2007, during which time he received at least two exemplary qualification assessments.

Due to manipulations and biased actions by the Minister, it is necessary to reveal several facts:

- In 2015, a judicial inspector unequivocally stated: "The judge works very efficiently, with great commitment," "his excellent organization of work deserves special mention, as well as his ability to meticulously plan activities and effectively carry them out during proceedings, as evidenced by the quick resolution of complex and multi-volume cases." The inspector emphasized that all justifications were prepared on time and noted the "very high stability of rulings." Additionally, the inspector highlighted the judge's exceptional diligence and proper attitude toward his official duties. In summary, the inspector concluded in 2015 that the judge met all the requirements and was adequately prepared to perform the duties of a district court judge.
- Another qualification assessment, conveniently "forgotten," was prepared on July 1, 2019, for a competitive selection process initiated in the spring of 2019. After an exceptionally thorough inspection, it was noted that the judge demonstrated very good professional preparation, a high degree of diligence and punctuality, and high-quality decision-making. He was described as conscientious, responsible, and well-organized, as evidenced by his performance in terms of efficiency and effectiveness, particularly the steadily decreasing backlog of cases in his docket, while maintaining high stability in his rulings. The inspector evaluated the efficiency of proceedings as above average. This was reflected in the small number of cases in his docket, the absence of "old" cases, and the high effectiveness of his adjudications. During

the inspection period, 95% of his rulings' justifications were prepared within the statutory timeframe. The qualitative results of his work were also rated very highly, as evidenced by the stability of his rulings and proper procedural conduct. The inspector's final assessment was identical to that of 2015.

Furthermore, the accusation that his rulings might be overturned in cassation review was unfounded. To date, none of his rulings subjected to cassation review had been overturned by the Supreme Court. On the contrary, all appeals were dismissed, confirming the high quality of the contested judgments. For example, in case IV KK 43/22, the presiding judge, Judge of Supreme Court Włodzimierz Wróbel (known for his radical views), after reviewing the documentation gathered by the National Council of the Judiciary, found no absolute appeal ground concerning the court's composition, involving Judge Stępień. Similarly, in cases IV S 55/21 and IV KK 513/21, the Supreme Court emphasized the high quality of the appellate court's decisions.

The above circumstances clearly indicate that the suspension of the Vice-President, followed by his dismissal on April 17, 2024, was a politically motivated spectacle, where judges from politicized associations, who held key positions in the Ministry of Justice, unfortunately played leading roles. These facts also demonstrate that the dismissal, like many others, was driven solely by the belief that the Vice-President might hold a worldview different from that promoted by the Ministry of Justice, thereby unprecedentedly encroaching on judicial independence and potentially attempting to influence judicial impartiality.

## ≡ 9. Daniel Jurkiewicz – Judge of Circuit Court in Poznań

– unlawful dismissal from the position of the President of the Regional Court in Poznań, where the acting President participated in the hearing of the board and voting, although he was not authorized to do so, and moreover, there were no substantive reasons for such action

– deprivation of the position of Chairman of the Committee for the attorney apprenticeship entry exam in Poznań, where I never received any order from the Ministry of Justice about the dismissal and there were no substantive grounds for this;

– above all, however, the revoke by the Court of Appeal in Poznań of judgments in cases where I was a member of the panel, without any legal basis for this. They conduct an impartiality test *ex officio*, depriving me of the opportunity of appealing against the decision to the Supreme Court, thus violating Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms; one decision was revoked by the Supreme Court in a similar manner. Interestingly, there are cases on the same docket with my

judgments and arrest orders, where complaints were filed. They do not question the latter, writing that everything is in order.

The content of the justifications of the decisions clearly shows that these are repressions for signing the list of support for the National Court Register or for performing the function of the President.

– unfounded notificationes of a disciplinary tort, to the Deputy of the Disciplinary Proceedings Representative at the Court of Appeal in Poznań by the President of the Circuit Court in Poznań due to among others signatures on letters of support to the National Council of the Judiciary.

### ≡ **10. Ryszard Sadlik** – Judge of the Circuit Court in Kielce

– incorrect dismissal of me from the delegation related to the performance of the function of deputy director of the National School of Judiciary and Public Prosecution without observing the period of notice specified in article 77 § 4 of the Act on Public Prosecution,

– exclusion without legal basis from membership in the examination board for attorney-at-law training in Kielce, despite my appointment to it for a 2-year term of office,

– depriving trainee judges of the function of coordinator of internship patrons without giving any justification.

### ≡ **11. Ewa Majwald-Lasota** – judge of the Circuit Court in Rybnik

– on September 3, 2024, she received a letter (by e-mail with the electronic signature of prosecutor Andrzej Piaseczny) dismissing her from the position of patron coordinator of two judicial trainees as of September 14, 2024, without giving reasons.

### ≡ **12. Franciszek Michera** – Judge at the District Court in Olsztyn

The President of the District Court in Olsztyn, Rafał Jerka, has expressed opposition to the judge's employment at a university, despite the fact that other judges appointed before 2018 may engage in academic work without restrictions.

Judge Michera's assignment of duties was determined in a manner contrary to the law, with indications of harassment and discrimination. According to this division of duties, he is not assigned to sit in expanded panels (three-judge panels). Following an appeal by the judge, the National Council of the Judiciary annulled this division of duties, but the court management has not adhered to this decision. This blatant disregard for the decisions of a



constitutional body, namely the National Council of the Judiciary, stems from the executive branch's tolerance of all forms of lawlessness and discrimination against judges appointed after 2018.

### ≡ 13. **Dr. Cezary Podsiadlik** – Judge of the District Court in Żory

By a decision dated July 18, 2024, Cezary Podsiadlik, President of the District Court in Żory, was suspended from his duties, and this suspension remains in effect to this day. The basis for the suspension of the President was a peculiar denunciation by three judges (associated with a politicized judicial association), presenting manipulated circumstances concerning these three judges. In reality, the President had removed some of them from their functions. The arguments cited by the Minister, which were supposedly grounds for suspending the President, are nothing short of outrageous. It was pointed out, among other things, that the President had questioned the Minister's decision to dismiss the leadership of a superior court and appoint replacements without consulting the judicial self-governance bodies, had participated in a legal competition before the National Council of the Judiciary, and had made personnel decisions within his competence at the court, decisions that did not sit well with the aforementioned three judges. It was also noted that the dismissal was supported by one of the politicized judicial associations.

The most important point is that when the Rybnik District Court's collegium refused to agree to the dismissal of the President of the District Court in Żory, the group of three judges demanded that a meeting of the judges of the District Court in Żory be convened, aiming to again request the dismissal of the President. In September 2024, a meeting of the judges of the District Court in Żory was held, during which a resolution was passed opposing the dismissal of the court's President. Despite this, acting contrary to applicable regulations, the Minister has not reinstated the President to his duties.

### ≡ 14. **Wojciech Głowacki** – judge of Circuit Court in Gliwice, VII Penitentiary Department, he has been the head of the penitentiary department in this court since May 8, 2018 (term ends on November 7, 2024); experience: 26 years of experience as a judge (from January 1, 1999 nomination as a court assessor, appointment as a regional court judge from October 5, 2001, appointment as a district court judge from April 26, 2024)

– dismissal as of September 14, 2024 by the deputy director of National School of Judiciary and Prosecutor's Office (short form: KSSiP) for organizational matters Waldemar Żurek from the position of patron coordinator for a total of 5 trainees in three years of judicial training; there is no appeal procedure, he did not submit it; dismissal did not contain any justification and

should be considered politically motivated, because the director of National School (KSSiP) issued an order in July 2024 stipulating that judges appointed after 2018 cannot hold any functions in the National School; moreover, the provisions of the Act of National School of Judiciary and Prosecutor's Office (KSSiP) do not explicitly provide for the possibility of dismissal from office,

– removed from teaching classes in July 2024 as a lecturer in the field of executive criminal law that took place during the period September 30 – October 4, 2024; Deputy Director of National School in charge of the judicial training center; there is no appeal procedure, he did not submit it; the information did not contain any justification and should be considered politically motivated, because the director of National School of Judiciary and Prosecutor's Office (KSSiP) issued an order in July 2024 stipulating that judges appointed after 2018 cannot conduct classes with trainees at National School as lecturers,

– dismissal as of April 16, 2024 from the position of vice-president of the District Court in Gliwice before the expiry of the 6-year term of office (appointment from November 13, 2024) on the grounds that “continuing to hold office cannot be reconciled with the good administration of justice for other reasons”; the request of the Minister of Justice of March 20, 2024 was combined with immediate suspension from performing functions; there is no appeal procedure, he did not submit it; in support of the application, the Minister alleged the lack of sufficient judicial and managerial experience, lack of support from the judicial community.

It should be noted that the action was coordinated throughout the entire Katowice appeal, as on that day there were similar requests for opinions on the intentions to dismiss from office with simultaneous suspension from performing functions were submitted by the Minister of Justice to the president of the Court of Appeal in Katowice, president of the District Court in Gliwice, president and vice-presidents of the District Court in Rybnik, president and vice-president of the District Court in Sosnowiec and president of the District Court in Bielsko-Biała. The aim was clearly to shape the composition of the board of the Court of Appeal in Katowice in such a way that the Minister's application would receive a positive opinion.

In case of the Circuit Court in Gliwice, a few days before the date of the meeting of the board of this court scheduled for April 11, 2024 the Minister of Justice submitted applications for an opinion on the intention to dismiss from office with simultaneous suspension of functions for the president and two vice-presidents of the District Court in Gliwice, the president and vice-president of the District Court in Ruda Śląska and the president of the District Court in Tarnowskie Góry. Also in this case, it was clearly about shaping the composition of the board of the Circuit Court in Gliwice in such a way that the Minister's application would receive a positive opinion.

## ≡ 15. Dr. Jarosław Tekliński – Judge of the District Court in Przasnysz

### Career Timeline:

- From October 17, 2001, to January 31, 2002 – Prosecutor trainee at the Prosecutor's Office in Ostrów Mazowiecka.
- From February 1, 2002, to June 30, 2002 – Court assessor at the District Court in Pułtusk.
- From July 1, 2002, to September 6, 2005 – Court assessor at the District Court in Przasnysz (between January and December 2003, consultant judge under Article 43, Paragraph 1 of the Act of August 19, 1994, on Mental Health Protection (Journal of Laws No. 111, Item 535) and the Ordinance of the Minister of Justice of February 22, 1995, regarding the control of compliance with the rights of persons with mental disorders staying in psychiatric hospitals and social welfare homes).
- From September 2005 to October 31, 2017 (date of section liquidation) – Head of the Enforcement Section of the Second Criminal Division of the District Court in Przasnysz.
- From January 1, 2019, to January 31, 2023 – Chairman of the Second Criminal Division of the District Court in Przasnysz.
- From February 26, 2020, to January 31, 2023 – Vice-President of the District Court in Przasnysz.
- From February 1, 2023, to April 10, 2024 (date of dismissal) – President of the Regional Court in Ostrołęka, and from March 1, 2023, to April 10, 2024 (date of dismissal) – permanently delegated to adjudicate in the Criminal Division of the Regional Court in Ostrołęka.

The procedure to remove him from the position of President of the Regional Court in Ostrołęka was initiated by an appeal from judges of that court, based on, among other things, false slanderous arguments, such as alleged lack of cooperation with judges or lack of organizational skills. The Ministry of Justice's statement about initiating the procedure for his dismissal as President of the Regional Court in Ostrołęka and suspending him from his duties on April 3, 2024, cited two reasons for the dismissal: the lack of involvement of the judiciary created by the judges of the Regional Court in Ostrołęka in his election as court president and Judge Jarosław Tekliński's participation in the competitive procedure before the National Council of the Judiciary, shaped by the Act of December 7, 2017. It was also stated that the mentioned judge did not have "adequate competence to perform the entrusted functions."

The Ministry of Justice's notification to the board of the Regional Court in Ostrołęka on April 3, 2024, contained defamatory statements, including claims that Judge Tekliński was appointed based on "loyalty to political power" while ignoring substantive criteria or that he "significantly contributed to the dismantling of the constitutional order and undermining the basic guarantees of judicial independence."

As a result of the Ministry of Justice's intervention addressed to the board of the Regional Court in Ostrołęka on April 3, 2024 (DKO-I.565.196.2024), regarding the intention to dismiss Judge Tekliński from his position as court president, a meeting of the board took place on April 9, 2024, to which Judge Tekliński was invited. In a letter addressed to Vice-President Artur Bobiński, he informed the board members of his inability to attend due to "urgent family matters" and stated that "I am ready to submit a statement as mentioned in Article 27, Paragraph 4 of the Act on the Organization of Common Courts. Therefore, I request the scheduling of a new meeting date and that I be informed of it with appropriate notice." This request was not considered, and the meeting minutes recorded the following statement, quote: "the phrase 'after hearing the president' constituting the condition for the board to express an opinion on the president's dismissal is a right, not an obligation."

Article 27 § 4 of the Act on the Organization of Common Courts states that "the board of the competent court expresses the opinion mentioned in § 2 after hearing the president or vice-president of the court to which the dismissal intention applies. The person concerned does not participate in the vote on the opinion, even if they are a member of the court's board."

The literal interpretation of the provision leads to a clear conclusion. The use of the phrase "after hearing," a transitive completed verb, means that the action, in this case, the expression of an opinion, is conditional upon the prior hearing. Without hearing, no opinion can be expressed. In § 5 of the discussed provision, the legislator limited the possibility of obstructive actions by setting a deadline for the expression of the opinion – "thirty days from the date the Minister of Justice presents the intention to dismiss the president or vice-president of the court." Therefore, the board is not obliged to express an opinion, but if it wishes to do so, it can only do so after the prior hearing of the president or vice-president unless the aforementioned deadline has passed.

In conclusion, the board was not authorized to proceed, which is implicitly acknowledged by its members in the meeting minutes, where it is stated that "the phrase 'after hearing the president,' constituting the condition for the board to express an opinion on the president's dismissal, is a right, not an obligation." Since it was admitted that the "hearing" condition is required for expressing an opinion, this hearing cannot be considered a right. It is the right of the person facing dismissal to present their case, which was denied to Judge Tekliński in this case. Thus, the judge was deprived of his statutory right to comment on the letter initiating the board meeting, a right guaranteed by Article 27 § 4 of the Act on the Organization of Common Courts by granting the right to respond to the allegations. The board's decision, which violated the duty to hear the judge, was made contrary to the law and has nothing to do with expressing an opinion as referred to in Article 27 of the Act. Summarizing, the board's decision was made with a gross violation of the law, rendering it null and void, and thus the Ministry of Justice's decision to dismiss the judge from the position of court president in Ostrołęka is also

null and void. With the dismissal, the judge's delegation to adjudicate in the Criminal Division of the Circuit Court in Ostrołęka was also revoked – without factual basis. The unjustified dismissal from the position of court president and from the adjudicating delegation in the Circuit Court in Ostrołęka is the subject of a complaint submitted by the judge to the European Court of Human Rights.

Judge Jarosław Tekliński has been a lecturer at the National School of Judiciary and Public Prosecution in Kraków since 2019. He has conducted lectures in the field of substantive, procedural, and executive criminal law for prosecutorial and judicial trainees, as well as continuous education training. He served as coordinator of seminars, chairman, and member of examination committees. In anonymous evaluation surveys, he received average ratings around 6 on a six-point scale. On July 3, 2024, he received an unprecedented email with the following content: "Dear Lecturers, Regarding preliminary arrangements with Judge (...) concerning conducting classes with judicial trainees during the 9th seminar of the XV year (October 1–4, 2024), please be informed that these classes have been assigned to other lecturers. Thank you for your willingness to conduct classes at the National School of Judiciary and Public Prosecution. Best regards (...)"

During the mentioned 9th seminar, Judge Jarosław Tekliński was supposed to deliver an inaugural lecture on executive criminal law, lead lectures on executive criminal law, and serve as the seminar coordinator and chairman of the examination committee. The unjustified denial of the right to teach trainees constitutes a form of harassment and fits into actions undermining the good name of Judge Jarosław Tekliński.

≡ **16. Jakub Iwaniec** – Judge of District Court for Warsaw-Mokotów, VIII Criminal Division; does not hold any positions at the mentioned court; Deputy Disciplinary Officer at the Circuit Court in Warsaw; 18 years of work experience.

**Revocation of Delegation to the National School of Judiciary and Public Prosecution:** In January 2024, the Minister of Justice revoked his delegation. No appeal was allowed, and none was filed. The revocation was politically motivated and linked to improper and unlawful retaliations carried out by the Government of the Republic of Poland.

**Revocation of Authority in Disciplinary Case SD 1/24:** During the inquiry stage (in rem proceedings), Judge Iwaniec was removed from handling the disciplinary case concerning potential disciplinary offenses committed by judges, which involved the execution of a court ruling that resulted in the immediate detention of Members of Parliament, allegedly in violation of the Polish Constitution and Constitutional Tribunal rulings. For the first time since the provision was enacted in 2017, the case was transferred to the discipli-

nary officer of the Ministry of Justice (January 2024). This decision was made by the Secretary of State at the Ministry of Justice. No appeal was allowed, and none was filed. Judge Iwaniec exercised his right to notify the National Council of the Judiciary and the Disciplinary Officer of Common Court Judges. As a result of the judge's complaint, the National Council of the Judiciary petitioned the Constitutional Tribunal to review the constitutionality of the regulations under which the case was taken away, undermining the judge's independence. The revocation of the SD 1/24 case was politically motivated and linked to improper and unlawful retaliations by the Government of the Republic of Poland.

**Media Announcements of the Minister of Justice:** The Minister of Justice made public announcements about addressing the so-called "hate affair," which the media associated with Judge Jakub Iwaniec. These announcements were clearly politically motivated and tied to improper and unlawful retaliations by the Government of the Republic of Poland.

**Prosecutor's Motion to Revoke Immunity (Private Charge):** In June 2024, a prosecutor supervised by an improperly appointed prosecutor, who self-identifies as the National Prosecutor, filed a motion to revoke Judge Jakub Iwaniec's immunity in connection with an offense subject to private prosecution. The judge was entitled to defense rights guaranteed by the Polish Constitution and international law. This motion was politically motivated and related to improper and unlawful retaliations by the Government of the Republic of Poland.

**Prosecutor's Motion to Revoke Immunity (Public Charge, "Hate Affair"):** In June 2024, another motion to revoke Judge Iwaniec's immunity was filed by a prosecutor supervised by an improperly appointed National Prosecutor, this time in connection with the so-called "hate affair." Judge Iwaniec exercised his rights, including filing a lawsuit against the State Treasury – specifically the National Prosecutor – regarding defamation related to a slanderous statement posted on the National Prosecutor's Office website. This motion was also politically motivated and tied to improper and unlawful retaliations by the Government of the Republic of Poland.

**Forced Entry by Prosecutors and Police into Disciplinary Officer and National Council of the Judiciary Offices:** In July 2024, prosecutors and the Police forcibly entered the offices of the Disciplinary Officer for Common Court Judges and the National Council of the Judiciary to obtain files related to the SD 1/24 case, in connection with a notification from the disciplinary officer of the Ministry of Justice. Judge Iwaniec filed a complaint against these actions, but it remains unresolved. He also filed a complaint with the Disciplinary Officer for Common Court Judges. This action was politically motivated and part of improper and unlawful retaliations by the Government of the Republic of Poland.

**Prosecutor's Motion to Revoke Immunity (Public Charge, Concealment of SD 1/24 Files):** In July 2024, a prosecutor supervised by an improperly ap-

pointed National Prosecutor filed another motion to revoke Judge Iwaniec's immunity, accusing him of concealing files related to case SD 1/24. Judge Iwaniec exercised his defense rights but did not file any appeals. This motion was politically motivated and linked to improper and unlawful retaliations by the Government of the Republic of Poland.

≡ **17. Joanna Przanowska-Tomaszek** – Judge of the Court of Appeal in Warsaw

There has been a complete lack of cooperation with the Minister of Justice, the Undersecretary of State, and the Director of the Department of Administrative Oversight since her assumption of the position of President of the Circuit Court in Warsaw. This includes a failure to respond to correspondence regarding, inter alia, the foreign currency division, unfounded refusals regarding requests for extensions of judges' assignments, and the transmission of information in this regard to the District Court the day before the expiration of the delegation term. Additionally, there was a failure to consider requests for staffing support and transfers of judges, despite the approval of the presidents of their home courts, as well as a complete lack of interest in proposals presented by the management of the Circuit Court in Warsaw.

Since December 2023, there has been a persistent state of uncertainty due to successive suspensions and dismissals of presidents, which has disorganized the work of the entrusted unit and undermined the authority of the management staff.

On June 18, 2024, the Minister of Justice initiated the procedure to dismiss the judge from the position of President of the Circuit Court in Warsaw and suspended her from duties effective June 19, 2024. On June 18, 2024, the College of the Circuit Court in Warsaw, in accordance with the provisions of the Law on the Organization of Common Courts, issued a negative opinion on the Minister of Justice's request, following the prescribed procedure set out in Article 27 § 4 of the Law on the Organization of Common Courts.

The Minister of Justice, after she submitted her application, informed her on June 27, 2024, that due to the negative opinion from the College, he was abandoning the intention to dismiss the judge from her position and suspend her from June 28, 2024 (Friday). From June 24, 2024, the judge was on vacation. On July 1, 2024 (Monday), the Minister of Justice re-initiated the procedure to dismiss her from her position by submitting an identical application to the previous one; this application contained the same allegations, even with the same typographical errors, with only the dates and document numbers changed. This application was submitted to the Circuit Court around 3 PM on July 1, 2024. Similarly to before, the Minister of Justice suspended her from the position of president. On July 1, 2024, a meeting of the College of the Court in Warsaw was convened, which issued a negative opinion on the Minis-

ter of Justice's intention after hearing the judge in accordance with Article 27 § 4 of the Law on the Organization of Common Courts. On July 8, 2024, Janusz Włodarczyk, the acting President of the Circuit Court in Warsaw, as the most senior presiding judge, scheduled another meeting of the College for July 15, 2024, during which the aforementioned request from the Minister of Justice dated July 1, 2024, was to be re-evaluated. He informed her of this in writing while she was on vacation – on July 8, 2024 (via email to her official inbox). Importantly, this occurred after a meeting that took place on July 1, 2024, between Judge Janusz Włodarczyk and Undersecretary of State Dariusz Mazur. From June 24 to July 12, 2024, the judge was on vacation, and from July 15 to July 26, 2024, she was on sick leave. On July 11, 2024, she informed (by email) Judge Janusz Włodarczyk and separately the members of the College about this fact, requesting a change in the meeting date. Moreover, on July 12, 2024, she sent an email to Judge Janusz Włodarczyk and the members of the College with a copy of her medical leave, requesting a change in the meeting date.

On July 15, 2024, a meeting of the College of the Circuit Court in Warsaw took place, during which the request of the Minister of Justice dated July 1, 2024, was evaluated. Despite the lack of an objective possibility for her to participate in the meeting of the College and her submitted request (as indicated above), she was egregiously and obviously deprived of her right to be heard within the meaning of Article 27 § 4 of the Law on the Organization of Common Courts. The request was positively evaluated by the College formed by the Minister of Justice (seven out of nine members of the College were suspended), which subsequently resulted in the judge being dismissed by the Minister of Justice from her position.

Furthermore, she was neither informed that her request for a postponement/change of the meeting date of the College had not been accepted, nor about the results of the evaluation. She learned about this from an article by M. Jałoszewski published around 7 PM on July 15, 2024, on the "oko.press" portal, and this information "leaked" during the meeting of the College, which was held in non-public session. Based on the aforementioned flawed procedure, the seriousness of the matters adjudicated, and the violation of Article 27 § 4 of the Law on the Organization of Common Courts, the Minister of Justice dismissed her from the position of President of the Circuit Court in Warsaw. In light of these circumstances, it must be stated that it is the duty of the College of the Court to ensure that the president/deputy president of the court has a real opportunity to provide explanations, as mentioned in Article 27 § 4 of the Law on the Organization of Common Courts. This is a right of the president/deputy president that cannot be restricted in any way, nor limited by the time in which they can exercise it, as well as the manner of being heard, providing explanations that they may wish to present orally at the meeting of the College, rather than in written form – the choice of any potential form remains solely at the discretion of the president/deputy president and cannot be dictated by any other entity, person convening the meeting of the College,



the Chairman of the College, or its members. In light of Article 152 of the Labor Code, the right to vacation leave is absolutely mandatory and is not subject to the discretionary acts of the parties to the employment relationship, and the interests of both parties to the employment relationship have been balanced by the legislator in such a way that vacation leave is granted by the employer (Article 161 of the Labor Code).

An employee taking vacation leave is temporarily released from the obligation to perform work and remains temporarily outside the sphere of employment subordination. Moreover, it requires no further commentary that an employee on sick leave cannot perform official duties, and the employer is not entitled to make any demands of them in this regard. Consequently, Judge Janusz Włodarczyk could not set a meeting date for the College in relation to individuals who were on leave/sick leave on July 15, 2024, or send them notifications during their justified absence from work, including to their official email accounts, and the College (its members) could not meet and evaluate the requests of the Minister of Justice. In this situation, the proceedings of the College on July 15, 2024, concerning the Minister of Justice's requests clearly constituted a breach of labor law. Furthermore, which appears to be a significantly more important issue of greater weight, it constituted a gross and obvious violation of the provisions of a constitutional nature, namely Article 27 § 4 of the Law on the Organization of Common Courts. Through its unlawful actions, the College prevented the hearing of presidents/deputy presidents, depriving them of their right to defense (to be heard), which, by its nature, could influence the content of the opinions (resolutions) adopted by the College. The Minister of Justice based his decision to dismiss the judge from the position of President of the Circuit Court in Warsaw on this flawed procedure. Regardless of the above, the chronology of events and facts presented above clearly demonstrate that on June 26–27, 2024, the Minister of Justice made materially false (apparent) statements about abandoning the intention to dismiss the presidents and vice presidents of the courts. In fact, the Minister of Justice's intention was not to genuinely abandon the dismissal procedure after the negative opinion from the College dated June 18, 2024, but rather to merely “simulate” its conclusion to avoid following the procedure prescribed by the Law on the Organization of Common Courts. It should be emphasized that if the Minister of Justice disagreed with the negative opinion of the College of the Circuit Court in Warsaw and still sought to dismiss the individuals evaluated by the College on June 18, 2024, he should have, in accordance with Article 27 § 5a of the Law on the Organization of Common Courts, presented the intention to dismiss along with a written justification to the National Judicial Council, which he failed to do. This procedure is evident and arises from constitutional provisions, namely the Law on the Organization of Common Courts, and in this regard requires no interpretation. The superficial nature of the actions of the Minister of Justice aimed solely at circumventing the aforementioned statutory procedure is unequivocally evidenced by the fact that

already on July 1, 2024 – thus, on the first working day – he re-initiated the dismissal procedure on the same (identical) factual grounds and submitted to the College of the District Court in Warsaw requests for opinions regarding the intention to dismiss the presidents and vice presidents of the courts, which had been the subject of requests submitted previously on June 18, 2024. The above actions obviously violated the “res judicata” arising from the opinions adopted by the College on June 18, 2024. At this point, it should be noted that in the evaluation of a dismissal request, the College must also take into account not only the content of the allegations against the individual judges but also other circumstances, particularly regarding their professional career and performance. In this case, it must be concluded that the Minister of Justice, while submitting the application, did not take into account the indisputable fact that she was awarded a medal for meritorious service to the Justice System of the Republic of Poland and that she had received a very good performance evaluation in recent years, which, based on legal provisions, should have been duly taken into account during the evaluation of her dismissal request. In summary, in light of the analysis conducted above, it must be unequivocally stated that the dismissal of the judge from the position of President of the District Court in Warsaw was a gross violation of legal provisions, including those of constitutional nature, and led to a violation of her right to defense.

### ≡ 18. **Joanna Paşik** – Judge of the Circuit Court in Warsaw

In November 2017, I took on the role of President of the District Court for Warsaw – Mokotów, where I had been serving as a judge since 2004. Below, I present the procedural irregularities related to my removal from the position of court president.

On June 18, 2024, the Minister of Justice submitted a request to the Collegium of the Circuit Court in Warsaw for an opinion regarding the intention to remove me from the position of President of the District Court for Warsaw – Mokotów. The main accusation was my signing of support lists for three candidates running for the National Council of the Judiciary (KRS) in 2022 and an alleged appointment based on “political criteria.” There were no concerns about the condition of the court I was managing (the court had excellent statistical results in 2023, with a case closure rate exceeding 150%). Despite this, the request dated June 18, 2024, stated that my continued service posed a threat to the proper functioning of the judiciary. The request also mentioned that I was suspended from my duties as of June 19, 2024. A meeting of the Collegium of the Regional Court in Warsaw, composed in accordance with the Law on the Common Courts Organization, was convened on June 18, 2024, which issued a negative opinion on the Minister of Justice’s request to remove me. To challenge this decision, the Minister of Justice, under Article 27 of the Common Courts Law, could appeal to the National Council of the Judiciary, which he did not do.

Shortly after receiving the Collegium's resolution from June 18, 2024, along with the negative opinions regarding my removal, the Minister informed me in a letter dated June 26, 2024, that – in response to the Collegium's opinion – he was abandoning the intention to remove me and lifted my suspension as court president. However, just a few days later, it became clear that on June 26, the Minister of Justice (represented by Deputy Secretary of State Judge Dariusz Mazur) had made false (pretended) statements about abandoning the intention to remove me and other presidents and vice-presidents from the Warsaw district. The Minister's (or Deputy's) true intention was not to genuinely abandon the removal process but to create the illusion that it had ended, in order to avoid appealing to the KRS against the Collegium's negative opinion, which the law explicitly prescribes as the proper procedure in this case. The pretense of the Minister's actions is undeniably demonstrated by the fact that on July 1, 2024 – just four days later – the Minister again submitted a request to the Collegium of the Circuit Court in Warsaw for an opinion on the intention to remove me from the position of President of the District Court for Warsaw – Mokotów, once again suspending me from my duties. This request was identical in content to the previous one, with only the date and letter number changed. The request was also negatively reviewed by the Collegium at its meeting on July 1, 2024. On July 8, the acting PSO (President of the Regional Court) Judge Janusz Włodarczyk scheduled another Collegium meeting for July 15, 2024. I then submitted a request to postpone this meeting because from July 5, 2024, to July 24, 2024, I was on medical leave, which was available for verification in the relevant personnel system at the Circuit Court. Notably, I signed the return notice informing me of the Collegium's meeting date only after my return from medical leave on July 25, 2024. Since I had received information from other presidents suspended at the same time that they had been summoned to the Collegium on July 15, 2024, and unsure whether I, too, had been summoned for that date, I submitted a precautionary email request to postpone my hearing and re-schedule it for any day after my medical leave ended.

My request, along with similar requests for postponement submitted by other presidents (including the President of the Circuit Court in Warsaw, Joanna Przanowska-Tomaszek, who was also on medical leave), was disregarded by the members of the Collegium. The Collegium did not accept my request to postpone my hearing due to illness and ultimately reviewed me at the Collegium meeting on July 15, 2024, without hearing my testimony. Therefore, on July 15, 2024, the Collegium violated both my labor rights and Article 27(4) of the Law on the Common Courts Organization, which mandates the president's hearing before any review of the intention to remove them. To reiterate, I was on medical leave from July 5, 2024, to July 24, 2024, and was unable to participate in any form in the Collegium meeting on July 15, 2024, due to my health condition. The right to participate in the Collegium meeting and to be heard before the opinion is issued is a right I wished

to exercise after my medical leave. My health at the time prevented me from providing written explanations, and moreover, the law on the Common Courts Organization clearly states in Article 27(4) that a hearing, which implies the opportunity to speak orally, must take place. I intended to exercise this right once my health had improved, especially considering that my medical leave (which I informed the Collegium about) would end before the 30-day deadline set by Article 27 of the Law for the Collegium to make its decision. As a result, I maintain my position that the positive review of the Minister's intention to remove me – without the statutory requirement of hearing me as outlined in Article 27(4) of the Law – was a blatant violation of the law.

Additionally, it should be noted that the review conducted on July 15, 2024, concerned a request identical in content to the one previously reviewed, which had been inconsistent with the Minister's wishes. As mentioned earlier, the Minister, in accordance with Article 27 of the Law, could only appeal the unfavorable opinion to the National Council of the Judiciary (KRS), which he failed to do. Submitting a new request for review of the intention to remove the president to the Collegium, despite the previous procedure not being exhausted and after having informed about abandoning the removal plan, has no basis in the applicable law.

There is no possible interpretation of Article 27 of the Law that would allow such actions by a representative of the executive branch, namely the Minister of Justice. It is important to note that state authorities can only act within the limits and based on the law, and therefore cannot assume powers that are not explicitly granted by the law. Accepting the interpretation made by the Minister—regarding the permissibility of submitting the same removal request against the same court president just a few days after an unfavorable Collegium opinion—would open the door to unwarranted executive interference in the judiciary. This would be fundamentally at odds with the constitutional principle of the separation of powers. Such an interpretation would provide the executive branch with a tool to repeatedly suspend and "unsuspend" a president at will, which could directly impact their ability to perform official duties and could be used to remove them from managing the court whenever it suits the Minister of Justice. It is important to highlight that this very approach led to the resignation of the Vice-President of the court I presided over. He was also suspended from June 19, 2024, then "unsuspended" on June 26, only to be suspended again on July 1, with the Minister once again raising the same accusations. The Vice-President explicitly stated that his resignation was a result of political pressure.

Lastly, I should mention – although this may be somewhat tangential – that my removal took place on the very same day that a request for the arrest of a Member of Parliament was submitted to the court I had been overseeing in a highly publicized case, namely on July 16, 2024. The timing of this is quite intriguing, especially given that just a day earlier, on July 15, my right to be heard at the Collegium was grossly violated when my request to hold

the hearing after my medical leave (i.e., after July 24, 2024, which was not an unreasonably distant date) was rejected. The haste in my removal – without following proper procedure – was striking.

In summary, it is impossible to overlook the fact that an identical motion (based on the same factual circumstances and identical allegations) regarding the intention to dismiss me from the position of President of the District Court for Warsaw-Mokotów in Warsaw, submitted on June 18, 2024, on behalf of the Minister of Justice by Undersecretary Mr. Dariusz Mazur, was already negatively reviewed by the Collegium of the District Court in Warsaw on June 18, 2024. It must be reiterated that if the Minister of Justice disagreed with the negative opinion of the Collegium of the District Court in Warsaw, he was obliged, in accordance with Article 27 § 5a of the Law on the Common Courts Organization of July 27, 2001, to present the intention of dismissal, along with a written justification, to the National Council of the Judiciary, which he failed to do. Instead, by a letter dated June 26 of this year, the Minister (as it turned out, seemingly) withdrew from the intention to dismiss me, only to renew the same intention a few days later, basing it on THE SAME grounds. This clearly constitutes an attempt to circumvent the statutory procedure, which explicitly stipulates that the next (and only) step for evaluating the intention to dismiss the president should be to refer the case to the NCJ, rather than resubmitting the identical motion to the Collegium (while simultaneously taking actions to alter the composition of the Collegium). This is akin to submitting the same – already lost – case to another first-instance court, instead of filing an appeal with the second-instance court. Under these circumstances, the repeated proceedings by the Collegium of the District Court in Warsaw on July 15, 2024, regarding the motion (intention to dismiss) of July 1 of this year were not only pointless but also unlawful, particularly in violation of Article 27 of the Law on the Common Courts Organization. Additionally, one cannot overlook the fact that the continuation of actions aimed at dismissing me from the position of court president is taking place within a procedure that is highly likely to be deemed unconstitutional by the Constitutional Tribunal. The Tribunal has already issued a protective ruling on this matter in April 2024 (reference K 2/24), stating that the Minister of Justice cannot dismiss court presidents and vice-presidents without the consent of the National Council of the Judiciary. Proceeding with this case through the Collegium and then making a decision by the Minister, despite the existing protective ruling, may constitute a violation of the law, as the rulings of the Constitutional Tribunal are final and binding on all. It should also be added that the procedure in question has also been deemed unconstitutional in an opinion issued by the Commissioner for Human Rights.

Finally, I would like to point out that the flaw in the entire procedure for my dismissal may also be influenced by the fact that the review on July 15, 2024, was conducted by unauthorized individuals, as the composition of the Collegium of the Circuit Court in Warsaw is regulated by law, and none of

the Presidents of the courts in the Warsaw region had been dismissed by July 15, 2024. The Presidium of the National Council of the Judiciary, in its position of January 17, 2024, clearly indicated that the suspension of a court president does not deprive the president of membership in the Collegium. This only ceases upon dismissal. Therefore, it is possible that the composition of the Collegium on July 15, 2024, included unauthorized individuals, who were neither court presidents nor individuals authorized by court presidents. The mere suspension of a president does not automatically invalidate authorizations granted by court presidents under Article 28 § 2 of the Law on the Common Courts Organization, as the so-called principle of continuity of authorizations applies. However, on July 15, 2024, the most senior Division Chairpersons from various courts also participated in the Collegium. The participation of even one such individual in the meeting rendered the Collegium improperly constituted and invalidated its decisions (regardless of the previously discussed errors).

- ≡ **19. Piotr Schab** – Judge of the Court of Appeal in Warsaw
- ≡ **Agnieszka Stachniak-Rogalska** – Judge of the Court of Appeal in Warsaw
- ≡ **Edyta Dzielińska** – Judge of the Circuit Court in Warsaw

The actions taken by the executive branch, aimed at depriving the President and Vice Presidents of the Warsaw Court of Appeal of the ability to perform their assigned functions before the end of their terms, constitute a glaring example of open illegality, undertaken and maintained with undisguised political motives. They are, therefore, a clear example of interference in the independence of the Polish judiciary, the consequences of which have systemic significance; the state has ceased to protect a fundamental good of critical importance, namely, an independent judiciary, in blatant violation of the Constitution of the Republic of Poland. Crossing this line – previously deemed impossible – removes all barriers that a democratic state governed by the rule of law erects against the usurpation by the political sphere.

The sequence of events is as follows:

By a decision dated February 20, 2024, with reference number DKO-I.565.30.2024, the Minister of Justice dismissed Piotr Schab from the position of President of the Court of Appeal in Warsaw, despite a unanimous, negative opinion issued by the Court's College on January 18, 2024, regarding his dismissal from this function. This constituted a gross violation of the provisions of the Act of July 27, 2001, on the Common Court System (consolidated text: Journal of Laws of 2024, item 334), and in particular, Article 27 § 5(a) of that Act, according to which, in the event that the College of the competent court expresses a negative opinion on the dismissal of a court president, the Minister of Justice may present the intention of dismissal, along with a written justification, to the National Council of the Judiciary. A negative

opinion from the National Council of the Judiciary is binding on the Minister of Justice if issued by a two-thirds majority vote. Failure by the National Council of the Judiciary to issue an opinion within thirty days of the Minister's submission of the intention to dismiss the court president does not prevent the dismissal. Ignoring the procedure explicitly defined in the Act, which is intended to protect the independence of the judiciary from political action by the executive branch, was an unprecedented act of illegality in the history of free Poland. Judge Piotr Schab was denied access to official documentation, and finally, access to the office and the President's secretariat was blocked by changing access codes and breaking the office door lock.

By an interim order dated February 27, 2024, with reference number Ts 32/24, the Constitutional Tribunal suspended the execution of the above decision of the Minister of Justice, prohibiting any actions that would interfere with the performance of the duties of the President of the Court of Appeal in Warsaw on the same or similar legal grounds. However, the Minister of Justice ignored this ruling by the Constitutional Tribunal, asserting that the order was devoid of binding effect. This position was clearly expressed in letters dated March 4 and 5, 2024, in which the Minister demanded the urgent convening of the General Assembly of Judges of the Court of Appeal in Warsaw to present candidates for a new President of the Court. Furthermore, the role of “acting President” of the Court of Appeal in Warsaw was unlawfully assigned to one of the Vice Presidents of the Court. The actions of Piotr Schab as President were consistently disregarded by the Ministry of Justice, deeming them nonexistent. Requests within the competence of the court president – such as the request dated February 14, 2024, for the Minister of Justice’s opinion on extending the appointment of one of the judges as a visitor – were returned without consideration, marked as submitted “by an unauthorized person.” It must be emphasized that the executive actions described above constitute a clear violation of Article 190(1) of the Constitution of the Republic of Poland, according to which the rulings of the Constitutional Tribunal are universally binding and final. Under these circumstances, the appointment of Dorota Markiewicz to the position of President of the Court of Appeal in Warsaw is a blatant and illegal act of power usurpation, striking at the constitutional foundations of the judiciary in a democratic state governed by the rule of law. Both the act of this appointment and the assumption of the management of the Warsaw Court of Appeal following the unlawful deprivation of Piotr Schab’s ability to perform his assigned duties must be regarded as glaring overreach by public officials and, above all, an open violation of Article 7 of the Constitution of the Republic of Poland, which mandates that public authorities operate within and under the law. Thus, the political attack on the leadership of the Court of Appeal in Warsaw constitutes an effective renunciation by the executive authority of the constitutional order in Poland.

The state of lawlessness within the Court of Appeal in Warsaw, and therefore the dramatic collapse in the ability to perform the ongoing functions of

this organizational unit, continues as a result of further acts by the executive branch that directly undermine the legal order. It is important to note that by an interim order on April 24, 2024, the Constitutional Tribunal, acting on the basis of Article 36 of the Act of November 30, 2016, on the Organization and Proceedings before the Constitutional Tribunal in conjunction with Article 755 of the Civil Procedure Code of November 17, 1964, granted an interim protection order at the request of the National Council of the Judiciary. This order required the Minister of Justice to refrain from any actions based on Article 27 § 5 and Article 27 § 5(a) of the Act of July 27, 2001, on the Common Court System regarding the effects of a possible positive opinion of the competent court's college, and regarding the Minister's lack of obligation to comply with a negative opinion issued by the National Council of the Judiciary by a simple majority vote on the matter of dismissing a court president or vice president, until the Constitutional Tribunal issues a final ruling in the case with reference number K 2/24. This order effectively halted the procedure for dismissing court presidents or vice presidents. Again, it must be emphasized that, in accordance with Article 190(1) of the Constitution of the Republic of Poland, the decisions of the Constitutional Tribunal are universally binding and final.

However, the Minister of Justice, in violation of constitutional norms, continued actions aimed at the dismissal of the Vice Presidents of the Court of Appeal in Warsaw: Edyta Dzielińska and Agnieszka Stachniak-Rogalska. These actions began with the Minister's request to the College of the Court of Appeal in Warsaw on April 10, 2024, seeking an opinion on the removal of the said Vice Presidents from their roles; at the same time, the Minister of Justice suspended the Vice Presidents from their duties. On May 13, 2024, an unlawful decision was made to remove Edyta Dzielińska and Agnieszka Stachniak-Rogalska from their positions as Vice Presidents of the Court of Appeal in Warsaw. Regardless of the fact that this proceeding was entirely contrary to the aforementioned interim order of the Constitutional Tribunal dated April 24, 2024, the opinion obtained by the Minister, referred to as the "opinion of the College of the Court of Appeal in Warsaw," in reality, did not hold this status. Judge Dorota Markiewicz, who calls herself the President of the Court of Appeal in Warsaw, is managing this Court illegally and, therefore, has no right to sit on the College of this Court. It is also essential to consider that the claim that Michał Bukiewicz, the President of the Warsaw-Praga District Court in Warsaw, has no right to sit on the College of the Court of Appeal in Warsaw, was made unlawfully.

His rightful place was, instead, assigned to another judge supporting the Ministry of Justice's policies, citing seniority as the basis for this person's participation in the College. This contradicts the unequivocal stance of the National Council of the Judiciary's Presidium, expressed on January 17, 2024, confirming the obvious fact that the court president is, by law, a member of the college until removed from that role. The body, dominated by individuals



trusted by the executive power and unlawfully regarded as the “College of the Court of Appeal in Warsaw,” thus issued a stance to which it had no rightful authority. This illustrates most vividly the extent of the lawlessness affecting the judiciary in Warsaw.

The motives presented by the Ministry of Justice to justify the removal of the President and Vice Presidents of the Court of Appeal in Warsaw are characteristic of the Ministry's political agenda, pursued through open violations of the law. To avoid engaging with such falsehoods, it suffices to point out the personal attacks, unsupported by facts, that diminish the professional achievements of these judges and degrade them on openly declared political grounds. The nature of the manipulations resorting to these tactics compelled the judges forming the legitimate leadership of the Court of Appeal in Warsaw to seek legal protection measures.

The absolute disregard for the law was also evident in the actions aimed at politically taking over Poland's largest court – the District Court in Warsaw – and the regional courts in its circuit. Despite the universal binding effect of the interim order issued by the Constitutional Tribunal on April 24, 2024, mentioned above, the Minister of Justice proceeded with actions to remove the leadership of the District Court in Warsaw. This involved a request for an opinion from the College of the District Court in Warsaw regarding the removal and a decision to suspend the President of that Court from their duties. However, the Ministry's calculations proved misguided: at a meeting on June 18, 2024, the College of the District Court in Warsaw issued a negative opinion on the Minister's requests. This became the ostensible basis for the Ministry's decision to abandon the intention to remove the President and Vice Presidents of the District Court in Warsaw. The Ministry cited the College's negative opinion as the sole reason for discontinuing the process. To secure a composition of the college favorable to the Minister's political objectives, an action was taken to suspend the presidents of the regional courts within the jurisdiction of the District Court in Warsaw. Shortly thereafter, the Minister of Justice renewed the request for an opinion from the College of the District Court in Warsaw regarding the removal of its leadership—suspending Judge Joanna Przanowska-Tomaszek from her role as President and indicating that Judge Janusz Włodarczyk would assume these responsibilities. The stated reason for unlawfully assigning these duties to Janusz Włodarczyk was his judicial seniority. The same criteria were used in forming the composition of the unlawfully constituted body deemed the College of the District Court in Warsaw. In reality, there was no legal basis for excluding Joanna Przanowska-Tomaszek or the suspended presidents of the regional courts in the Warsaw district from participating in the College's meetings. This reconfigured assembly adopted a favorable stance on the matter of dismissing the President and Vice Presidents of the District Court in Warsaw, thereby paving the way for the Minister of Justice to unlawfully appoint Judge Beata Najjar as the new President of this Court.

Lawlessness as a method to politically control the largest courts in Poland will only yield temporary effects. It is important to recognize that, naturally, public institutions will evolve in ways that respond to legitimate social expectations. The attempt to undermine a democratic state governed by the rule of law is a clear indication of the short-sightedness of those who act against their own country.

**Judges' profiles in the case in question:**

**Judge Piotr Schab.** The career progression of Judge Piotr Schab is indisputable. He is a highly experienced judge, possessing both professional and personal expertise, with a specialization in criminal law. He has been serving in the judiciary since 1996, with over 28 years of experience, including a 14-year tenure at the District Court where he presided over cases at both first and second instances, and nearly six years at the Court of Appeal. After 24 years of consistent promotions, Judge Piotr Schab was appointed to the Court of Appeal. His career developed under the administration of various political parties, demonstrating his ability to achieve systematic promotions irrespective of changes in the executive and legislative branches, by continually gaining experience and furthering his education. Judge Schab served as Head of Division for approximately two years at both the District Court for the Capital City of Warsaw and the District Court for Warsaw-Śródmieście. From 2007 to 2011, he headed the International Criminal Proceedings Section and the Complaints and Requests Section of the 8th Criminal Division of the District Court in Warsaw. Between 2015 and 2017, he held the position of Deputy Disciplinary Representative at the District Court in Warsaw, and from 2017 to 2018, he chaired the 10th Criminal Appeals Division of the District Court in Warsaw. Since 2018, he has served as the Disciplinary Representative of Common Court Judges. He was the President of the District Court in Warsaw from 2020 to 2022, and from 2022 until 2023, he held the position of President of the Court of Appeal in Warsaw.

**Judge Edyta Dzielińska's** career began in 2001 with a prosecutorial apprenticeship, which she developed over successive administrations. Regardless of political power changes, she achieved consistent promotions through experience and further education. Briefly, until 2011, Judge Dzielińska served as a prosecutor, advancing from assistant prosecutor to an assignment in the District Prosecutor's Office as a district prosecutor. From 2011 to 2014, she chaired the Criminal Division of the District Court for Warsaw-Śródmieście. She then transitioned to the role of Bankruptcy Judge, including serving as Head of the 10th Bankruptcy and Restructuring Division of the District Court for the Capital City of Warsaw. After gaining 17 years of professional experience, she was delegated to the Ministry of Justice, Department of Legislation, and subsequently to the District Court in Warsaw. In 2022, after 21 years of steady advancements, Judge Edyta Dzielińska was appointed to the Circuit

Court, where she currently presides over cases in the Labour and Social Insurance Division. On October 25, 2023, she was delegated to the Court of Appeal in Warsaw, Division III Labour and Social Insurance, with additional responsibilities as Vice President of the Court. It is noteworthy that she has combined her judicial experience with continuous education, completing numerous postgraduate studies (including organized crime and terrorism at the University of Warsaw, evidence law at the Jagiellonian University, media image in Katowice, witness psychology at WSPS in Warsaw, and bankruptcy and restructuring law at WSFiZ in Warsaw). Judge Dzielińska has also taught postgraduate courses on bankruptcy, construction, and criminal-economic law. She currently heads postgraduate studies titled *Business and Legal Aspects of Bankruptcy and Restructuring* and has contributed scholarly publications, including *Criminal Liability of Corporate Board Members under Bankruptcy and Restructuring Law* and *Fatal Road Accidents or Homicide with Intent: Legal Classification of the Most Serious Road Incidents*.

**Judge Agnieszka Stachniak-Rogalska** began her judicial and prosecutorial career in 1999. Her career has spanned various administrations, and despite changes in political power, she achieved consistent promotions by gaining experience and additional qualifications. Briefly, until 2012, she worked as a prosecutor, advancing from assistant prosecutor to the role of a district prosecutor. At the District Prosecutor's Office, she served as Division Head and was also elected by the Assembly of Prosecutors as a member of the Appellate Disciplinary Court for Prosecutors. From 2010 to 2012, she was delegated to the National School of Judiciary and Public Prosecution, where she managed various tasks, including piloting the implementation of effective case management methods in courts and developing a model for different case types. She was the lead coordinator for key projects in the justice sector, such as creating a professional training needs analysis and, most notably, coordinating the development of competency profiles for judges and prosecutors. She also oversaw the creation of a methodology for Individual Professional Development Plans for Judges

From 2012 to 2018, she presided over criminal divisions at the District Court for Warsaw-Wola and the District Court for Warsaw-Żoliborz. In January 2018, she was appointed President of the District Court for Warsaw-Żoliborz, a role she held for almost six years until October 2023. With 21 years of professional experience, in January 2019, she was delegated to the 10th Criminal Appeals Division of the Circuit Court in Warsaw. In February 2021, after 23 years of steady promotions, she was appointed as a judge of the district court. In October 2023, she was delegated to the Court of Appeal in Warsaw, Division VIII Criminal Division, where she was also appointed Vice President. In September 2024, she was promoted to the position of judge of the Court of Appeal. Judge Stachniak-Rogalska has pursued continuous education throughout her judicial career, completing postgraduate studies

in criminal economic law (levels I and II) at the University of Wrocław, economics and business law for prosecutors at the Warsaw School of Economics, and psychiatry and psychology for judges at the University of Łódź. She has attended numerous training sessions and conferences on criminal law and other subjects. Since 2021, she has been enrolled in a doctoral seminar. She also taught a practical course on The Organization of Common Courts and Prosecution at a university in Warsaw and completed a legal counsel training program. Agnieszka Stachniak-Rogalska is a co-author of academic publications, including a commentary (Commentary – co-authored by M. Rogalski, A. Stachniak-Rogalska in M. Oleżalek ed., *Criminal Procedural Law for Judges, Defenders, and Legal Representatives*, Warsaw 2023, C.H.Beck) and an article (A. Stachniak-Rogalska, M. Rogalski: *Disclosure of Telephone Billing Records*, *Państwo i Prawo*\* 2012, no. 9, pp. 31–43).

Despite her demonstrated experience and qualifications, Judge Edyta Dzielińska (just one month after the inauguration of the new government on January 12, 2024) and Judge Agnieszka Stachniak-Rogalska (three and a half months after the new government's inauguration, on March 31, 2024) were both removed immediately from their assignments as judges in the Court of Appeal in Warsaw. The decisions from the new Minister of Justice lacked justification.

Subsequently, on April 10, 2024, by decision no. DKO-I 565.223.2024, the Minister of Justice, citing Article 27 § 3 of the Law on Common Courts, suspended Judges Edyta Dzielińska and Agnieszka Stachniak-Rogalska from performing their duties as Vice Presidents of the Court of Appeal in Warsaw. This decision also initiated the process of their removal from these positions, with the Minister requesting an opinion from the Council of the Court of Appeal in Warsaw regarding the planned dismissal.

Article 27 of the Law on Common Courts regulates the procedure for dismissing a court president or vice president during their term. According to § 3 of this article, the Minister of Justice, when seeking the council's opinion on removing a court president, may suspend the president from their duties. According to the second sentence of this article, the provision of Article 22b § 2 of the Law on Common Courts applies, which means that regulations regarding a vacancy in the position of court president in other cases apply accordingly.

Furthermore, pursuant to § 5a of the aforementioned article, if the relevant court council issues a negative opinion on the removal of its president or vice president, the Minister of Justice may present the intent to dismiss, along with a written justification, to the National Judicial Council. A negative opinion from the National Judicial Council binds the Minister of Justice if the resolution is adopted by a two-thirds majority. Failure by the National Judicial Council to issue an opinion within thirty days does not prevent the dismissal.

Earlier, by decision of the Minister of Justice on February 20, 2024, Judge Piotr Schab was dismissed from his role as President of the Court of Appeal

in Warsaw. The decision was justified by the failure to provide an opinion on the intended dismissal despite the fact that the Council of the Court of Appeal in Warsaw issued a resolution on January 18, 2024, negatively evaluating the Minister's request for dismissal. This fact is clearly stated in Protocol No. 2/2024 of January 18, 2024, an official document evidencing this action. Subsequently, on January 19, 2024, the Vice President of the Court of Appeal in Warsaw forwarded an excerpt from the protocol to the Minister.

It is entirely incorrect for the Minister to assert in his letter that the council of the Court of Appeal in Warsaw "failed to provide a negative opinion regarding the intent to dismiss, as such an opinion cannot be construed from a mere statement of voting results at the council meeting." The Law on Common Courts does not specify the minimum content of a council resolution, nor does it require justification. All actions were taken in the same form, as per the long-standing practice of the council. If the reasoning outlined in the Minister's letter were followed, all previous council decisions would have to be deemed flawed.

It should be noted that similar positive council opinions without separate justifications from the Courts of Appeal in Poznań and Kraków did not prevent the Minister from dismissing the presidents of those courts.

Additionally, on February 27, 2024, the Constitutional Tribunal issued a Temporary Order under ref. Ts 32/24, suspending the effect of the Minister's February 20, 2024, decision and prohibiting the Minister from making any future decisions to dismiss Piotr Schab from the position of President of the Court of Appeal in Warsaw on the same or similar legal grounds.

In light of the above, it is clear that Piotr Schab remained, and continues to be, the President of the Court of Appeal in Warsaw, despite being prevented from fulfilling this role. Consequently, the meeting convened on May 9, 2024, was called by an unauthorized person. As a judge of a common court, one is obligated to ensure compliance with applicable regulations. It should be noted that, *ex lege*, only an authorized judge – not the Vice President of the Court – can substitute for the President, who must also have appropriate authorization. Additionally, the President of the District Court serves as the chair of the Council, and in his absence, the longest-serving council member – not the Vice President or a judge authorized by him – assumes this role.

In accordance with Article 27 § 1 of the Law on Common Courts, a court president or vice president may be dismissed by the Minister of Justice during their term for:

- 1) gross or persistent failure to perform official duties;
- 2) reasons that make further service incompatible with the interest of justice;
- 3) particularly low effectiveness in administrative oversight or organization of work within the court or lower courts;
- 4) resignation from the position.

A negative opinion from the National Judicial Council binds the Minister if adopted by a two-thirds majority. Failure by the National Judicial Council to issue an opinion within thirty days does not prevent the dismissal.

According to Article 28 of the Law on Common Courts, the council of the Court of Appeal includes: the president of the court of appeal, presidents of district courts within its jurisdiction, and the council member may authorize a judge of the court for which they are president to exercise their powers in the council.

On January 20, 2024, the Minister of Justice, despite the Council of the Court of Appeal issuing a negative opinion on Judge Piotr Schab's dismissal and failing to present the intention to the National Judicial Council, removed him from the position of President of the Court of Appeal. The Minister's decision justification suggested that the council's voting on the Minister's motion was merely an imitation of an opinion process rather than an "opinion vote."

Regardless of the above, we draw attention to the ruling of the Constitutional Tribunal on April 24, 2024, which, pursuant to Article 36 of the Act of November 30, 2016, on the Organization and Procedure of Proceedings before the Constitutional Tribunal, in connection with Article 755 of the Code of Civil Procedure of November 17, 1964, secured the request of the National Judicial Council by obligating the Minister of Justice to refrain from actions under Article 27 § 5 and Article 27 § 5a of the Law on the Structure of Common Courts of July 27, 2021. This pertains to the effect of a positive opinion from the council of the competent court and the Minister's lack of binding with the National Judicial Council's negative opinion adopted by a simple majority in matters of removing a court president or vice president, pending the Constitutional Tribunal's final ruling in case number K 2/24.

As noted above, the Temporary Order of the Constitutional Tribunal dated February 27, 2024, ref. Ts 32/24, suspended the execution of the Minister of Justice's decision of February 20, 2024, ref. DKO-I.565.30.2024, regarding the removal of Piotr Schab from the position of President. It further prohibited the Minister from issuing similar decisions on the same or similar legal grounds.

Thus, the appointment of Judge Dorota Markiewicz to the role held by President Piotr Schab has no legal effect, apart from the evident intention to violate Article 190(1) of the Constitution of the Republic of Poland, which mandates that rulings of the Constitutional Tribunal are universally binding and final. Compliance with the Temporary Order of February 27, 2024, is therefore a mandatory duty for the Minister of Justice and all judges. President Piotr Schab was unlawfully deprived of all tools necessary to lead the Court of Appeal in Warsaw, and this obligation applies equally to Judge Dorota Markiewicz. The consequences of assuming a position that, in fact, she does not hold extend far beyond her personal responsibility, affecting the effectiveness of procedural and extra-procedural actions requiring decisions by the President of the Court of Appeal in Warsaw – a uniquely significant organizational unit.

Regarding the legal incompatibility of a judge serving as the longest-serving head of a division participating in council proceedings when the court president is suspended under Article 27 § 3 of the Law on the Structure of Common Courts, the National Judicial Council's Presidium statement of January 17, 2024, regarding the unlawful meeting of the Court of Appeal Council in Poznań on January 15–16, 2024, clarifies that the role of court president does not grant automatic council membership. Only a president, upon appointment, automatically becomes a council member by law and remains so until removed from office. Therefore, when President Michał Bukiewicz of the District Court Warsaw-Praga was suspended by the Minister of Justice on March 27, 2024, he was not removed from his role as president, so Judge Agnieszka Wojciechowska-Langda was not entitled to participate in the council's resolutions.

The Minister of Justice's systematic suspension of all district and circuit court presidents reflects a strategic approach to creating disarray in court organization and management, aiming to change the council's composition. As a collegiate body, each court's council is composed of single-person authorities – the court presidents. Therefore, suspending these authorities does not provide a legal basis for others to assume these roles, as the Law on the Structure of Common Courts lacks any provision conferring such authority. Consequently, these individuals do not legally enter the council as a collegiate body.

Thus, the Judge acting as president, contrary to applicable law, participated in the court council instead of the suspended president, whose removal was requested by the Minister. The acting president had no right to vote on the opinion, as this would result in an increased number of voters. If the president is excluded from voting on the opinion, it is clear that a person assuming their role should also be excluded from voting, even assuming they hold a legitimate council seat.

Finally, on May 13, 2024, Judges Edyta Dzielińska and Agnieszka Stachniak-Rogalska were removed from their positions as Vice Presidents of the Court of Appeal in Warsaw based on Article 27 § 5 in connection with Article 27 § 1(2) of the aforementioned law. These decisions lacked justification.

The only explanatory document is the letter from the Minister of Justice dated April 10, 2024, which, notably, is nearly identical in content to those issued regarding other judges removed from similar positions.

Turning to the arguments presented in the letter dated April 10, 2024, it should be noted that the Minister of Justice provided several abstract reasons as the basis for the dismissal of Edyta Dzielińska and Agnieszka Stachniak-Rogalska.

The Minister argued that their appointments as vice presidents of the Court of Appeal in Warsaw were not supported by the judiciary's self-governing body, which comprises all the judges of that court. The Minister's letter further suggested that “the situation where judges lacking sufficient judicial

and managerial experience are appointed as vice presidents of the largest Court of Appeal in Poland appears to be contrary to the interests of the justice system.”

An additional argument for their dismissal was the judges' involvement in a selection process before the National Judicial Council, which was shaped by the December 2017 law, and their signatures on endorsement lists for the candidates mentioned in the Minister's letter. The Minister's reasoning suggested that initiating the dismissal process was necessary due to the alleged immediate threat to the judiciary posed by the aforementioned factors.

This line of argument led the Minister to conclude that the continued service of these judges was incompatible with the interests of the justice system. Notably, similar language appears in the Minister's requests for the dismissal of other court presidents across the country.

It is clear that these decisions were politically motivated. The Minister accused Judges Edyta Dzielińska and Agnieszka Stachniak-Rogalska of accelerated career advancement following their endorsement in 2018 of the aforementioned judges running for the National Judicial Council.

He further implied that their career progression demonstrated exceptional trust from the political figure overseeing their careers – the Minister of Justice. These allegations are, however, untrue and reflect a deliberate attempt to mislead both the judiciary and the public.

The justification for the intended dismissal of these judges, as well as of Piotr Schab, lacks any reference to their qualifications, experience, tenure, or professional achievements. There is no question that the President and both Vice Presidents possess extensive knowledge and experience, both professionally and personally, in adjudication and court administration. With such tenured experience, changes in service assignments are a natural part of many judges' careers. Treating this as something extraordinary – especially given their judicial experience – is a manipulative tactic to justify a substantively unfounded request.

No specific administrative errors or irregularities were identified in their performance. They were not accused of political affiliation, which is prohibited for judges, nor was any public statement found to suggest a lack of judicial independence. It is also worth noting that Edyta Dzielińska and Agnieszka Stachniak-Rogalska were appointed Vice Presidents of the Court of Appeal in Warsaw on October 25, 2023. They held these positions for only five months, including holiday periods, making any claims of a threat to the justice system appear as personal, rather than substantive, accusations. This reflects animosity from the Minister of Justice and segments of the judiciary toward judges appointed by the National Judicial Council established according to current regulations.

It is implausible to claim an accelerated career trajectory given these judges' experience, skills, and education. Nor can there be any mention of exceptional trust from the former Minister of Justice, as neither judge person-



ally knew Minister Zbigniew Ziobro, and Judge Piotr Schab's interactions with him were strictly professional. By raising these allegations, the Minister of Justice, beyond mere insinuations and disparagement, failed to substantiate his claims with specific circumstances or evidence, as such evidence simply does not exist. The references to exceptional trust or loyalty are unsupported insinuations aimed at discrediting these judges and undermining their judicial service and expertise.

Making personnel decisions, responsibly fulfilling duties associated with their positions, performing administrative functions, supervising court operations, and ensuring the proper functioning of the court are natural consequences of conducting official correspondence or discussions regarding the specific situation of the court with individuals responsible for the justice system. Therefore, to assert that Edyta Dzielińska and Agnieszka Stachniak-Rogalska's roles as Vice Presidents of the Court of Appeal contradict the interests of the justice system is an illogical and purely political argument.

It must be emphasized that the current National Judicial Council Act is in accordance with the Constitution, as confirmed by the Constitutional Tribunal's judgment of March 25, 2019, in case K 12/18, which is universally binding under Article 190(1) of the Polish Constitution. Regarding the arguments raised in public discourse, it is important to stress that, according to the jurisprudence of the Court of Justice of the European Union, the duty to interpret national law in line with EU law cannot justify an interpretation *contra legem* (e.g., CJEU judgments: June 16, 2005, Pupino, C-105/03, para. 47; March 8, 2022, C-205/20, Bezirkshauptmannschaft Hartberg-Fürstenfeld; April 27, 2023, C-528/21, M.D.).

Concerning allegations of unconstitutional judicial appointments by the National Judicial Council formed under Article 9a of the Act on the National Judicial Council of May 12, 2011, there is no substantive or legal basis for such claims. These provisions have not been challenged in the only appropriate procedure under the Polish legal system – Article 33(1)(1) of the Act of November 30, 2016, on the Organization and Procedure of Proceedings before the Constitutional Tribunal (Journal of Laws of 2019, item 2393, consolidated text). Therefore, derogatory terms like “neo-judges” are not only derogatory but also merely journalistic.

Judges appointed by the President, irrespective of who held this esteemed office, are judges who participated in procedures in accordance with the regulations in force at the time of their appointment. They met the formal requirements, underwent the assessments mandated by law from the relevant bodies, were recommended by the National Judicial Council (KRS), and the President exercised his exclusive prerogative regarding these appointments. Questioning the President's prerogative lacks legal foundation, is inadmissible, and undermines the legal order of the state.

Denying the legality of the KRS as grounds for demanding the removal of court presidents and vice presidents is, in essence, a denial of the very foun-

dations of the legal order, as it relies on the repudiation of the Constitutional Tribunal's (CT) constitutional position. Given the role of the CT, as reinforced through its jurisprudence from 2004 to 2024, any challenge to its leading role in Poland's legal framework reflects a political stance that seeks to place its goals above the Constitution. It must be emphasized that the European courts, cited by the Minister of Justice, have never negated the status of Polish judges appointed under the procedures incorporating changes to the KRS Act of December 8, 2017. Attacks on this status are politically motivated, driven by politicians and judges advocating for a pre-2018, unconstitutional system. The metric for judicial integrity is being inappropriately redefined by political motivations aimed at demeaning the status of judges appointed since 2018, aligning judicial service with political leanings within the judiciary, and contradicting the public's rightful expectation that courts serve as beacons of truth and fairness.

Among those who question judicial appointments following the amendment to the KRS Act, there are individuals who obtained their nominations under unconstitutional provisions. Many judges who remain in service undoubtedly participated in these unconstitutional procedures. It is important to highlight these examples, as there are many judges, both active and retired, who participated in unquestionably unconstitutional procedures preceding their appointments. This conclusion is supported by Constitutional Tribunal jurisprudence from prior terms.

Regarding the accusation of supporting judicial candidates for the KRS, it must be stressed that signing endorsement lists for KRS candidates was done in accordance with applicable law, in a constitutional procedure, by individuals respected within the judiciary for their professional qualifications and personal integrity, capable of fulfilling their entrusted duties with integrity.

It is worth noting that the Minister of Justice, Mr. Adam Bodnar, appointed Judge Arkadiusz Czerwoniuk as President of the Military District Court in Poznań. Judge Czerwoniuk, appointed with the involvement of the KRS established under the December 8, 2017, regulations, signed endorsement lists for a KRS candidate. In this case, the Minister did not question the judge's right to support a candidate as per the law, while in the case of the aforementioned judges, he deemed such actions (support) as disregarding signals pointing to participation in a procedure that violates the Constitution.

Thus, differing standards are being applied based on the individual, and it is entirely incomprehensible that the Minister accuses the aforementioned judges of disregarding the Constitution while he himself appointed another judge who had similarly supported a KRS candidate to a court presidency. Applying inconsistent principles in identical situations reflects a desire to remove Piotr Schab, Edyta Dzielińska, and Agnieszka Stachniak-Rogalska without substantive reasons and replace them with other individuals.

The Minister of Justice has stated that the career progression of these judges, including their support for KRS candidates, indicates a "disregard for numerous signals clearly indicating that they are participating in a procedure

that violates the Constitution and European law, incompatible with judicial ethics.” This is yet another instance of double standards. The Minister criticized the judges' support for KRS candidates and participation in the nomination procedure, while a Deputy Minister of State currently collaborating with him participated in the same process before the KRS. Some judges promoted with current KRS recommendations even signed appeals addressed to the Minister. As stated above, the actions of the aforementioned judges were lawful, as were their acceptances of roles as court presidents and vice presidents.

Minister Adam Bodnar accused the judges of participating in a procedure that allegedly violates the Constitution and European law. However, he did not specify the nature of this violation, as all the judges followed the applicable legal provisions, respected the legal order, and opposed anarchy, chaos, and the breakdown of judicial authority – situations some judges sought to instigate. Over 3,500 judges appointed upon recommendation by the current KRS perform their duties, handling millions of cases and providing citizens with legal protection. Today, many well-known judges and politicians who question the status of judges appointed by the current KRS have themselves benefited from rulings made by these judges in financial or family matters, without questioning their institutional standing despite publicly advocating for a challenge to their status. Cases in which rulings involving newly appointed judges have been challenged represent a small fraction of cases, mainly criminal.

Regardless, to accuse a judge of following democratically enacted legislation as a sign of subservience to the executive branch is utterly incomprehensible. It should be recognized that the Law on the Structure of Common Courts has long stipulated that the Minister of Justice appoints court presidents. Thus, all court presidents, including those appointed by the current Minister, are subject to the same alleged association with the legislative branch. Arguing that an appointment based on the amended Law on the Structure of Common Courts indicates political influence is unfounded, as these appointments are made according to current legal regulations. Hence, those appointed to these positions have no influence over the content of the regulations or the appointment procedure. The Minister's accusations should logically apply to all currently appointed presidents and vice presidents, including those appointed after the unlawful removal of their predecessors.

The Minister's assertions of political connections involving Piotr Schab, Edyta Dzielińska, and Agnieszka Stachniak-Rogalska imply that every court president – appointed by the Minister – has political ties. The portrayal of “political” presidents, “neo-judges,” and the harsh attacks on judges who dared to compete before the current KRS – an entity considered unconstitutional by certain factions within the judiciary – creates a perception that the judiciary has assumed the right to evaluate constitutional provisions. The nominations for these positions were made based on qualifications, aptitude, administrative experience, and substantive knowledge.

Concerning the accusation of being appointed to a court presidency without judicial self-government involvement, it must be clarified that this procedural aspect was determined by the legislature. Consequently, holding it against the judges that they were appointed under a legal framework that did not stipulate such a requirement imposes blame on them for the existing legal structure. The Constitutional Tribunal's ruling of February 18, 2004, case K 12/03, addressed the loss of decisive opposition by judges' assemblies in appointing presidents, shifting this authority to the KRS. The Tribunal emphasized that this change better serves court administration oversight, as court presidents and vice presidents, though still subject to council opinions, no longer face binding constraints.

The Minister of Justice has thus reverted, irrespective of the existing law, to making candidates dependent on the judiciary, yet has himself disregarded choices made by the judiciary by appointing individuals who did not receive the most votes in judges' assemblies, or even the fewest (as in the case of the President of the District Court in Słupsk).

It is appropriate to agree with the Constitutional Tribunal's position that a court president should not be dependent on the judiciary from whom they received support, as this would hinder their ability to perform supervisory functions and fear removal if they make unpopular decisions that displease certain factions.

≡ **20. Radosław Lenarczyk** – Judge of the Circuit Court in Warsaw; Serving in the VIII Criminal Division; holds no additional positions in the aforementioned court; has a total of 22 years of work experience (including a period as a trainee judge).

Removal from the Position of Vice President of the Circuit Court in Warsaw:

In a letter dated June 18, 2024, the Minister of Justice informed me of the intention to remove me from the aforementioned position, suspending me from performing the duties of Vice President effective June 19, 2024. On June 18, 2024, the College of the Circuit Court in Warsaw convened and issued a negative opinion regarding the Minister's intention. In a letter dated June 26, 2024, the Undersecretary of State in the Ministry of Justice, citing the negative opinion from the College dated June 18, 2024, informed me of the decision to withdraw the intention to remove me from the aforementioned position and lifted my suspension from performing the duties of Vice President.

In a letter dated July 1, 2024, the Minister of Justice re-initiated the procedure for my removal from the aforementioned position, suspending me from performing the duties of Vice President effective July 1, 2024. In the letter dated July 1, 2024, the Minister of Justice cited the same (identical) allegations, even containing the same typographical errors as in the letter dated June 26, 2024, which were purportedly intended to justify my removal from the posi-

tion of Vice President. This action by the Minister of Justice constitutes a gross and obvious violation of constitutional provisions, specifically Article 27 § 5a of the Law on the Organization of Common Courts. It is important to emphasize that if the Minister of Justice disagreed with the negative opinion of the College of the Circuit Court in Warsaw dated June 18, 2024, he was obliged, pursuant to Article 27 § 5a of the Law on the Organization of Common Courts, to present the intention to remove me, along with a written justification, to the National Judicial Council, which he failed to do.

On July 1, 2024, a meeting of the College of the Circuit Court in Warsaw was convened, which issued a negative opinion regarding the Minister of Justice's request dated July 1, 2024. On July 15, 2024, the College of the Circuit Court in Warsaw was convened again to evaluate the Minister's request from July 1, 2024. This meeting was called by Judge Janusz Włodarczyk, as the most senior presiding judge acting as the President of the Court, since the President of the Circuit Court was undergoing a similar removal procedure and was suspended from performing her duties. After the meeting was scheduled, I submitted a request for planned vacation leave from July 15 to July 28, 2024, which was granted by Judge Janusz Włodarczyk.

On July 11, 2024, I submitted a letter addressed to Judge Janusz Włodarczyk and the members of the College, in which I opposed the College of the Circuit Court in Warsaw proceeding with the Minister's request for my removal on July 15, 2024, citing my vacation leave. This request was not considered, and on July 15, 2024, the College convened, during which the Minister's request regarding my position was positively evaluated. I did not attend this meeting as I was on vacation. Consequently, I was egregiously and obviously deprived of my right to be heard within the meaning of Article 27 § 4 of the Law on the Organization of Common Courts, which stipulates that the hearing of the president/vice president of the court, subject to removal, is a mandatory prerequisite for the College's ability to issue an opinion, and the absence of such a hearing precludes the College from issuing an opinion.

I learned of the College's opinion results from an article by M. Jałoszewski published around 7 PM on July 15, 2024, on the "oko.press" portal. The Minister of Justice simultaneously initiated (in bulk) the removal procedure and suspended the President, Vice Presidents of the Circuit Court in Warsaw, and the majority of the presidents and vice presidents of the district courts within the jurisdiction of the Circuit Court in Warsaw, which influenced the final composition of the College on July 15, 2024, in accordance with the political will of the Minister.

In a letter dated July 16, 2024, the Minister of Justice removed me from the position of Vice President of the Circuit Court in Warsaw, effective at the end of July 16, 2024. The actions of the Minister of Justice were politically motivated repression associated with misconceived and unlawful settlements carried out by the Government of the Republic of Poland. There is no appeal procedure before a Polish court against the Minister of Justice's decision to

remove me from the position of Vice President. On July 11, 2024, a formal written statement was submitted by the presidents and vice presidents of the courts in the Warsaw district, including myself, to the Chairperson of the National Judicial Council and the Ombudsman regarding the egregious violation of labor rights related to scheduling the meeting of the College of the Circuit Court in Warsaw for July 15, 2024, in the context of the absence of presidents and vice presidents due to vacation or sick leave

≡ **21. Katarzyna Wysokińska-Walenciak** – Judge of the Court of Appeal in Krakow

Since October 1, 2020, I have served as the Vice President of the Court of Appeal in Krakow, overseeing primarily the Criminal Division of this court. I assumed this position at the request of the then-President Rafał Dzyr after one of the judges resigned, and due to a lack of interest from the judges of this court, the position of Vice President had remained vacant for approximately a year. The results of my work as Vice President of the Court of Appeal in Krakow were very positive. My professional relationships with the judges of this court, despite the fact that most of them were appointees nominated based on recommendations from the National Judicial Council established under previously applicable regulations, were not only correct but predominantly good or even very good. A clear example of this is the fact that the judges of the Court of Appeal in Krakow refused to sign a letter addressed to the Minister of Justice Adam Bodnar requesting my removal from the position of Vice President. The atmosphere at the Court of Appeal in Krakow during the period when I, together with President Rafał Dzyr, managed the court, was conducive to work and not to conflicts or misunderstandings, which were occurring at that time in other courts, particularly in the Circuit Court in Krakow. Both President Dzyr and I made every effort to consult and jointly resolve all significant issues from the judges' perspective, especially with the heads of divisions, all of whom were so-called "senior" judges. Importantly, since I assumed the position of Vice President of the Court of Appeal in Krakow, the statistical results of the work of the Criminal Division, which fell under my supervision as Vice President, significantly improved despite the deteriorating staffing situation and a substantially greater influx of cases compared to previous years, as well as despite the judges being on extended overdue leave in 2022. This is reflected, among other things, in the clearance rate for cases of the primary category AKa, which for 2022 was 2.0 (the national average was 3.6), for 2021 it was 2.4 (the national average was 3.3), while in previous years – when I did not hold the position of Vice President in this court – the rate was significantly higher than the national average, specifically in 2020 it was 4.4 (the national average was 3.2), in 2019 it was 3.1 (the national average was 2.1), in 2018 it was 2.3 (the national average was 1.6), in 2017 it was 1.6

(the national average was 1.1), and in 2016 it was 1.5 (the national average was 1.0). These statistical data clearly indicate that during the period when I supervised the Criminal Division, for the first time since 2016 (I did not check earlier periods), the clearance rate was not only below but significantly below the national average.

Despite the above, the new Minister of Justice, Adam Bodnar, in a letter dated January 31, 2024, stated that "in connection with the information obtained regarding the situation at the Court of Appeal in Krakow," he intended to dismiss me from the position of Vice President. I would like to note that I am unaware of what information he was referring to, as during this period the Ministry of Justice did not request any information from the President on this matter; rather, it addressed the College of the Court of Appeal in Krakow regarding the intention to dismiss me from the position of Vice President, asking for their opinion and simultaneously informing that I would be suspended from this position effective January 31, 2024. On February 1, 2024, the College of the Court of Appeal in Krakow adopted a resolution, expressing a negative opinion regarding the Minister's intention to dismiss me from the position of Vice President. In light of this situation, I formally expressed my readiness to return to the role of Vice President, to which I was not permitted. According to Article 27 of the Law on the System of Common Courts, the President and Vice President of a court may be dismissed by the Minister of Justice during their term in cases of:

1. gross or persistent failure to fulfill official duties;
2. when the continuation of their role cannot be reconciled with other reasons concerning the good of the administration of justice;
3. a finding of particularly low effectiveness in the scope of administrative supervision or work organization in the court or lower courts;
4. resignation from the position held.

The dismissal of the President or Vice President of the court occurs after obtaining the opinion of the relevant court college. The Minister of Justice presents the intention to dismiss, along with a written justification, to the relevant court college to obtain their opinion. A positive opinion from the relevant court college authorizes the Minister of Justice to dismiss its President or Vice President. Failure to issue an opinion within thirty days of the Minister of Justice presenting the intention to dismiss the President or Vice President does not preclude the dismissal. If the opinion of the relevant court college regarding the dismissal of its President or Vice President is negative, the Minister of Justice may present the intention to dismiss, along with a written justification, to the National Judicial Council. A negative opinion from the National Judicial Council is binding on the Minister of Justice if the resolution on this matter was adopted by a two-thirds majority. Failure to issue an opinion by the National Judicial Council within thirty days of the Minister of Justice presenting the intention to dismiss the President or Vice President does not preclude the dismissal.

Despite the negative opinion from the College of the Court of Appeal regarding the Minister's intention to dismiss me from the position of Vice President, Minister Adam Bodnar, in violation of the aforementioned provision, dismissed me from my position as Vice President of the Court of Appeal in Krakow during the first days of March 2024, while I was on sick leave, without referring the matter to the National Judicial Council.

I would like to note that the content of the letter from the Minister of Justice dated January 31, 2024, directed to the College of the Court of Appeal in Krakow regarding my dismissal contains numerous false, defamatory, unfounded statements based on conjecture, unsubstantiated by any evidence, indicating that I am a person without judicial and managerial experience, chosen for the position based on non-meritocratic criteria, specifically loyalty to the political authority, as a result of which I found myself among those enjoying particular trust from the previous Ministry of Justice.

In the context of the above-mentioned defamatory, completely unfounded allegations made against me by the Minister of Justice, I would like to indicate that I have been serving as a judge since 1997 (prior to that, from October 20, 1995, I was an assessor). On January 14, 2004, I received my appointment as a judge of the Circuit Court in Krakow, and I became a judge of the Court of Appeal in Krakow on February 4, 2021, after receiving a positive opinion from the Visiting Judge and the College of the Court of Appeal in Krakow (previously, I had been assessed twice by two other Visiting Judges of the Court of Appeal in Krakow, and my qualifications were evaluated highly each time). All the visiting judges who assessed me were judges appointed to the Court of Appeal in Krakow with the participation of the National Judicial Council prior to the changes in December 2017. Before my appointment to the Court of Appeal, I served in that court on a permanent delegation from June 2011 to August 31, 2011, and from February 1, 2018, to February 3, 2021, as well as on presidential delegations. Before becoming Vice President of the Court of Appeal in Krakow, I served as Vice President of the Circuit Court in Krakow for over two and a half years.

The outlined trajectory of my professional career, always highly regarded by superiors, visiting judges, and superior courts reviewing appeals from my judgments, clearly confirms that the advancement of my career was not a result of loyalty to the previous political authority – as indicated by the Minister of Justice in the aforementioned letter – but rather a natural consequence of hard work, always performed with commitment and dedication, often at the expense of my private time. Additionally, I firmly emphasize that I have never engaged in politics and have not maintained any contacts with politicians (except for necessary strictly official ones as Vice President of the court with the Deputy Minister of Justice – less than five times throughout the entire period I served as Vice President of the Circuit Court in Krakow and the Court of Appeal in Krakow).



Regardless of the above, a much more pressing and dangerous issue for the Republic of Poland, its citizens, the rule of law, and democracy is the questioning by judges, including some judges of the Supreme Court, of the independence and impartiality of judges – despite many years of work in the judiciary and substantial, even extensive experience in this profession – judges serving in common courts who received nominations to higher courts based on recommendations from the National Judicial Council established under the provisions from December 2017. As a result, certain panels of the Supreme Court, without examining the circumstances of specific cases, referencing without substantiation to specific evidence of the alleged politicization of a judge and their loyalty to the authorities, contesting years of hard work in the judicial profession and their experience, annul judgments issued with the participation of these judges for retrial, thus exacerbating backlogs and chaos in the justice system. In such cases, it has become commonplace to question the independence and impartiality of a judge without referring to specific evidence, based on conjectures, vague, untrue, and defamatory statements – as described above in the context of the content of the letter from the Minister of Justice dated January 31, 2024. The establishment of this practice is a serious violation of the principle of legal certainty, which constitutes a guarantee of the independence of judges and judicial authority. It cannot be overlooked that the media and political authorities take advantage of the above-described actions of certain judges, fueling tensions between judges, including the high-ranking judges of the Supreme Court, and judges in lower courts, creating a division between judges, as well as undermining their public trust and the authority of the courts. This situation not only undermines the judiciary in the eyes of the public but also makes it difficult to ensure the proper functioning of the courts and the maintenance of the rule of law in Poland.

In the context of the above considerations, I want to express my deep concern regarding the allegations made against me by the Minister of Justice Adam Bodnar in the letter dated January 31, 2024, which I consider to be not only baseless but also defamatory and damaging to my reputation as a judge. I request that the Minister of Justice, in accordance with applicable legal regulations, re-examine my position as Vice President of the Court of Appeal in Krakow, take into account the positive opinion of the College of the Court of Appeal, and retract the defamatory statements made against me.

## ≡ 22. **Iwona Strączyńska** – judge of the Circuit Court in Warsaw

On June 19, 2024, the Minister of Justice submitted a request to the Board of the Circuit Court in Warsaw to dismiss me from the position of the president of the District Court in Grodzisk Mazowiecki and suspended me from the position of president of the District Court in Grodzisk Mazowiecki, then on

June 26, 2024, without any reaction from me. party and, without waiting for the opinion of the Board of the Circuit Court in Warsaw, "withdrawn" from the intention to dismiss me from the position of the president of the District Court in Grodzisk Mazowiecki and informed that he "lifted the suspension in the performance of duties of the president of the District Court in Grodzisk Mazowiecki". However, on July 1, 2024, he again submitted a request to the Board of the Circuit Court in Warsaw to dismiss me from the position of president of the District Court in Grodzisk Mazowiecki and suspended me from performing the function of president of the District Court in Grodzisk Mazowiecki. I consider such behavior by the Minister of Justice to be an unacceptable manifestation of harassment on the part of the Ministry of Justice and completely unlawful pressure on a representative of the judiciary. This is proven by the fact that the argumentation that was supposed to be a justification for dismissing me from the position of president of the District Court in Grodzisk Mazowiecki and which was the basis for suspending me from performing my current function was a mindless copy of the letter of June 19, 2024, containing the same errors as the above-mentioned letter. It should be emphasized that by abandoning the intention to dismiss me and revoking the suspension of the president of the District Court in Grodzisk Mazowiecki, the Minister of Justice confirmed that the decision of June 19, 2024 on my suspension and the request for dismissal were erroneous and unfounded, and therefore their justification was inappropriate and did not contain a convincing argument.

First of all, Undersecretary of State Dariusz Mazur, acting under the authority of the Minister of Justice, in the justification for his letter did not indicate what "information" and what "situation" in the District Court in Grodzisk Mazowiecki decided to request my dismissal and suspension. The justification for both letters only stated that the basis for my appeal was the course of my professional career. I completely disagree with this accusation, because when assessing my professional career, the Undersecretary of State did it very superficially and dishonestly. No politician has ever "patronized" my professional career, let alone the Minister of Justice. The statement contained in the above-mentioned letter that "The described course of the professional career of judge Iwona Strączyńska (...) indicates the exceptional trust that the judge enjoyed in the politician who patronized his (original record) career – the Minister of Justice" is not only untrue, because it is not supported by no specific examples, but above all, it is offensive to me, as a judge of the Republic of Poland, a representative of the judicial authority, independent of the legislative and executive authorities, and constitutes a violation of my personal rights. According to the letter from the Undersecretary of State, I started my professional career in the justice system on January 3, 2000. I was appointed by the President of the Republic of Poland both to serve as a district court judge (December 4, 2002) and as a district court judge, so for this reason alone the allegations contained in the motion to dismiss me from the position

of president of the District Court in Grodzisk Mazowiecki constitute another manifestation of violation of my personal rights and lead to humiliation of me in public opinion, as evidenced by calling me a neo-judge, which, in relation to me, appeared in the media only after the decision to suspend me and apply for dismissal from the position of president District Court in Grodzisk Mazowiecki.

I do not know of any judgment of the Constitutional Tribunal stating that I am participating in any procedure violating the Constitution of the Republic of Poland, so the conclusion resulting from the letter of the Undersecretary of State that I disregard numerous signals proving that the process of obtaining the act of appointment from the President of the Republic of Poland is not true to hold the office of a district court judge is inconsistent with the Constitution. As a judge of the Republic of Poland, I am obliged to protect the Constitution and law of the Republic of Poland. The resolution of the combined Chambers of the Supreme Court of January 23, 2020 indicated in the application to dismiss me from the position of president of the District Court in Grodzisk Mazowiecki shows that (...) *improper composition of the court within the meaning of Art. 439 § 1 point 2 of the Code of Criminal Procedure or the composition of the court is inconsistent with the provisions of law within the meaning of Art. 379 point 4 of the Code of Civil Procedure also occurs when a person appointed to the office of a judge in a common or military court at the request of the National Council of the Judiciary established in accordance with the provisions of the Act of December 8, 2017 amending the Act on the National Council of the Judiciary and certain other acts (Journal of Laws of 2018, item 3)*, if a defect in the appointment process leads, in specific circumstances, to a breach of the standard of independence and impartiality within the meaning of Article 45 section 1 of the Constitution of the Republic of Poland, art. 47 of the Charter of Fundamental Rights of the European Union and Art. 6 section 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (...), therefore, in my opinion, it did not constitute an obstacle to continuing the nomination procedure that I had started.

I am also not aware of any European case law that would question the correctness of my appointment as a district court judge, after over 20 years of adjudicating in a district court. However, I am aware of the case law of the CJEU, which states that whenever there are doubts as to the impartiality and independence of a judge, it should be examined in relation to a specific case. In my case, in this particular case, no such examination was conducted. The Undersecretary of State contented himself with referring to dates from which nothing follows. At this point, as a side note, I would like to point out that the motion to dismiss me from the position of president of the District Court in Grodzisk Mazowiecki, and the false allegations contained therein, will be the basis for the parties to submit further motions to exclude me from hearing the case regarding the so-called "GetBack scandal", even though in this case the court has already ruled twice that there are no grounds to question my

impartiality and independence. This will certainly lead to the extension of the proceedings, which are already at an advanced stage and the case consists of over 2,000 volumes.

The Undersecretary of State, pointing out that I had been appointed president of the District Court in Grodzisk Mazowiecki, accused that I had never been a judge of this court, but did not analyze whether among the judges of this court there was a candidate with better judicial and professional experience than me. Before becoming the president of the District Court in Grodzisk Mazowiecki, I had been adjudicating in the District Court for Warsaw Zoliborz in Warsaw since 2006 (i.e. since the establishment of this court, because since 2002 I had been adjudicating in the District Court for the Capital City of Warsaw, some of whose jurisdiction was taken over by the newly established court). From January 2, 2006, I served as the chairwoman of the penal department for over a year, then I became the head of the Executive Section in the Penal Department and held that position for the next several years. I served as an inspector judge at the District Court in Warsaw for three years. At that time, my duties included supervising the activities of the District Court for Warsaw – Wola in Warsaw, the District Court for the Capital City of Warsaw. Warsaw in Warsaw and the District Court in Pruszkow. For many years, since July 2011, I have been adjudicating on one-off delegations (once a month) in the 10th Criminal Appeals Division of the District Court in Warsaw.

The course of my professional career described above, in my opinion, can only prove my experience, both in jurisprudence and in the field of management and management of human teams. I did not know any other candidate who would be more prepared to serve as president of the District Court in Grodzisk Mazowiecki than me. The fact that I did not adjudicate specifically in the District Court in Grodzisk Mazowiecki in no way diminished my competences and professional predispositions to perform this function. On the contrary, before taking up the position of president of the District Court in Grodzisk Mazowiecki, as an inspector judge, I got to know the functioning of much larger courts – the District Court for Warsaw-Wola in Warsaw and the District Court for the Capital City of Warsaw. Warsaw in Warsaw and a court of comparable size – the District Court in Pruszkow. It gave me extensive knowledge of the functioning of district courts, not only in terms of judicial decisions but also in terms of administrative supervision. Moreover, the principle of appointing a judge adjudicating in that court as the president of a given court has never been in force. In the District Court for Warsaw-Zoliborz in Warsaw, when I ruled there twice, the president of the court was a person from outside this court. You can also find plenty of examples of this type in other courts. The above proves that the Minister of Justice, when entrusting me with the function of the president of the District Court in Grodzisk Mazowiecki, was guided by my professional experience and my competences. I would like to mention that the president who held this function before me (for 4 years until the end of his term) became the president

of the District Court in Grodzisk Mazowiecki after several years of work (no more than three) as a district court judge, therefore a possible comparison of our competences and experience seems pointless. Since 2006, I have held many positions – deputy chairwoman of the department, chairwoman of the department during her long-term absence, head of the executive section, and inspector judge. Until my permanent delegation to the Circuit Court in Warsaw to adjudicate in the first instance, I had been adjudicating in the district court for over 15 years and for several years I had been adjudicating on one-off delegations (once a month) in the second-instance court.

The statement made by the Undersecretary of State "that I am among the group of judges who enjoy the trust of the Ministry of Justice, exceeding the limits of the typical trust that should be expected in the relationship between a judge and an executive authority" is untrue and violates my good name, but above all it jeopardizes me to lose the trust needed to be a judge, which I have been for over 20 years, because the application for my dismissal did not indicate what the limits of typical trust that should be expected in judge-executive power relations were.

First of all, I would like to point out that the general statements contained in the motion to dismiss me from the position of president of the District Court in Grodzisk Mazowiecki, unsupported by any specifics regarding me, clearly undermine my authority as a judge and, therefore, will have a very negative impact on my jurisprudential work, and thus undermine the interests of the justice system.

Following the line of thought presented by the Undersecretary of State in the justification for the application, it should be assumed that every judge who accepts any function from the Minister of Justice automatically loses the attributes of an objective, independent and impartial judge, which are necessary to perform the profession of a judge. The above interpretation is surprising, especially since many judges currently included in the group "fighting for the rule of law" have accepted various functions at the hands of the Minister of Justice. This may lead to the conclusion that the rule of law was violated by omitting them from the promotion path.

Due to the argumentation presented above, I believe that the statements contained in the above-mentioned letters about my connection and dependence on the executive power are completely groundless and even degrading. I have never expressed my views publicly, so there is no basis for claiming that I am dependent on the executive or legislative power.

It is outrageous that the Minister of Justice violates the law in such a flagrant manner, unjustifiably initiating the appeal procedure, then interrupting it without any justification, and then re-initiating the appeal procedure on the same grounds as before, without citing new circumstances.

This is an obvious manifestation of harassment and pressure on me, as well as a violation of my personal rights and my good name, and leads to the loss of trust needed for my office as a judge of the Republic of Poland.

On July 4, 2024, after I participated in the meeting of the Board of the Circuit Court in Warsaw on July 1, 2024, as the president of the District Court in Grodzisk Mazowiecki, i.e. a full member of the College, I received from SSO Janusz Włodarczyk, acting as the president of the Circuit Court in Warsaw, a letter with the following content: "... pursuant to 22§1 point 1 letter b of the Act I The Law on the System of Common Courts undertake to indicate within 3 days whether on July 1, 2024, you performed business activities in the late evening and at night and whether you planned your working time taking into account the obligatory minimum daily rest period from work of at least 11 continuous hours (Article 132§ 1 in connection with Article 5 of the Act of June 26, 1974, Labor Code, i.e. Journal of Laws of 2023, item 1465, as amended). The provisions of the Labor Code in this respect also apply to judges (see Supreme Court judgment of June 26, 2024, SNO3/14, unpublished)." I consider sending a letter with such content to the judge of the district court and the judge acting as president not only as a sign of harassment but also as an attempt at intimidation. The provisions of the Act on the Organization of Common Courts and the Labor Code established by the acting president of the Circuit Court in Warsaw do not give him the authority to oblige me to inform him how I planned my business activities and working time and whether I observe the "obligatory, minimum daily rest period." from work" which does not apply to me. With the above letter, the President of the Circuit Court in Warsaw clearly wanted to create a chilling effect on me and intimidate me in connection with my participation in the meeting of the Board of the District Court in Warsaw convened by SSA Joanna Przanowska-Tomaszek, President of the District Court in Warsaw.

≡ **23. Anna Gąsior-Majchrowska** – Judge at the Circuit Court in Piotrków Trybunalski, Fourth Criminal Appeals Division; Deputy Disciplinary Spokesperson at the Circuit Court in Piotrków Trybunalski; Inspector judge for criminal cases at the Circuit Court in Piotrków Trybunalski. Professional experience: Three years of service as a judicial assistant at the Circuit Court in Piotrków Trybunalski, Fourth Criminal Appeals Division (2007–2010); fourteen years of judicial experience, including five years as a judge of the Circuit Court in Piotrków Trybunalski from 2019 to 2024, with an additional appointment to the Court of Appeal in Warsaw from October 2022 to August 2023.

Removal from the Position of President of the Circuit Court in Piotrków Trybunalski Without the Legally Prescribed Procedure.

**Facts:** On December 18, 2023, at 16:02 – outside of the official working hours of the Circuit Court in Piotrków Trybunalski – an electronic scan of the decision by the Minister of Justice dated December 15, 2023, was sent to the Court of Appeal in Łódź. This decision rescinded the appointment made on October 30, 2023, of Judge Anna Gąsior-Majchrowska as President of the

Circuit Court in Piotrków Trybunalski, effective December 19, 2023. Subsequently, at 16:13, this document was forwarded to the Administrative Division of the Circuit Court in Piotrków Trybunalski. However, the decision by the Minister of Justice dated December 15, 2023, rescinding the October 30, 2023, appointment effective December 19, 2023 (reference: DKO-I.562.96.2023), was only delivered to Judge Gąsior-Majchrowska on January 8, 2024. During the period from December 20, 2023, to January 7, 2024, Judge Gąsior-Majchrowska was on a planned vacation and medical leave.

This removal should be viewed as politically motivated, carried out in the context of wrongful and unlawful retribution by the Government of the Republic of Poland, as the dismissal of Judge Gąsior-Majchrowska from the position of President of the Circuit Court in Piotrków Trybunalski was executed without adherence to the procedure set forth in Article 27 of the Law on the Structure of Common Courts, bypassing the Court's Collegium and the National Council of the Judiciary. The dismissal order was served on Judge Gąsior-Majchrowska twenty days after the start of her term.

Dismissal from the Role of Criminal Affairs Inspector at the Circuit Court in Piotrków Trybunalski in Violation of the Statutory Four-Year Term. Facts: In a letter dated March 21, 2024, Reference No. Prez. Ps-160, received at the Circuit Court in Piotrków Trybunalski on March 22, 2024, the individual purporting to be President of the Circuit Court in Piotrków Trybunalski, Judge Urszula Sipińska-Sęk, informed Judge Anna Gąsior-Majchrowska of her "dismissal effective March 31, 2024, from the position of Criminal Affairs Inspector of the Circuit Court in Piotrków Trybunalski," despite her four-year term not expiring until December 31, 2025. Judge Gąsior-Majchrowska reported this obvious and grave violation of the law to the Ombudsman and the President of the Court of Appeal in Łódź. She also filed a request for investigative action by the Deputy Disciplinary Spokesperson for Common Court Judges due to the blatant and grave violation of the law by a public official, asserting that this action was politically motivated in connection with wrongful and unlawful retribution by the Government of the Republic of Poland.

Division of Duties Inconsistent with the Scope of Responsibilities of the Criminal Affairs Inspector and Deputy Disciplinary Spokesperson. Facts: In May 2024, the individual purporting to be President of the Circuit Court in Piotrków Trybunalski assigned duties in a manner contrary to statutory provisions. In response, Judge Anna Gąsior-Majchrowska filed an appeal with the National Council of the Judiciary concerning this division of duties, and her appeal was upheld. The authorities of the Circuit Court in Piotrków Trybunalski – the individual purporting to be President of the Circuit Court in Piotrków Trybunalski and Vice-President Ireneusz Grodek – have failed to comply with this ruling by the National Council of the Judiciary.

Setting of the Functional Allowance for Deputy Disciplinary Spokesperson Anna Gąsior-Majchrowska at a Reduced Level by an Unauthorized Individual. **Facts:** In August 2024, the Vice-President of the Circuit Court in Piotrków

Trybunalski, Ireneusz Grodek, unilaterally set the functional allowance for Deputy Disciplinary Spokesperson Anna Gąsior-Majchrowska at a reduced level of 0.40 of the base salary multiplier, despite the fact that this authority is vested solely with the Disciplinary Spokesperson for Common Court Judges.

## ≡ 24. Radosław Kopec – Judge at the District Court in Piaseczno

On July 29, 2022, the Minister of Justice delegated me to perform the duties of a judge at the District Court in Grodzisk Mazowiecki from August 8, 2022, for an indefinite period. On the same day (July 29, 2022), the Minister of Justice appointed me as Vice President of the District Court in Grodzisk Mazowiecki, effective August 8, 2022, for a four-year term.

On June 19, 2024, the Minister of Justice issued a decision (No. DKO-I.565.507.2024) suspending me from the duties of Vice President of the District Court in Grodzisk Mazowiecki and presented the Collegium of the Circuit Court in Warsaw with a written notice of intent to remove me from this position, seeking their opinion.

Subsequently, on June 26, 2024, the Minister informed me that he was abandoning the plan to remove me from the Vice President role and lifted my suspension.

However, on July 1, 2024, the Minister of Justice again notified the Circuit Court in Warsaw of his intention to remove me from the position of Vice President of the District Court in Grodzisk Mazowiecki, requesting the Collegium's opinion. At the same time, I was suspended from performing my duties as Vice President, effective July 1, 2024.

From July 6 to July 21, 2024, I was on a previously planned and approved vacation (granted before June 19). The Collegium meeting to discuss the Minister's request for my removal was scheduled for July 15, 2024. I was notified of the meeting by email and also via the President of the District Court in Piaseczno (by phone). My request to reschedule the meeting for a date after the end of my vacation was not granted.

At the July 15, 2024, meeting, the Collegium of the Circuit Court in Warsaw, by majority vote, gave a favorable opinion on the Minister's intent to remove me from the Vice President position. On July 16, 2024, the Minister of Justice officially removed me from this position. Subsequently, on July 30, 2024, the Minister also revoked my delegation to the District Court in Grodzisk Mazowiecki.

During my tenure as Vice President of the District Court in Grodzisk Mazowiecki, no complaints were raised regarding my performance. The judges at the District Court did not express any concerns or request my removal. From August 2022 to July 2024, the District Court in Grodzisk Mazowiecki operated efficiently, with a steady decrease in case backlogs across all divisions.



In the letters dated June 19 and July 1, 2024, in which the Minister communicated his intention to remove me, he cited four reasons:

1. The absence of the judiciary council's opinion before assigning me the position of Vice President.
2. The fact that I had not previously served at the District Court in Grodzisk Mazowiecki before being appointed Vice President, implying that I enjoyed "special trust" from the Ministry of Justice's then-leadership.
3. A lack of experience and competence in management.
4. My participation in a 2023 competition for a judicial position at the Warsaw District Court (M.P. 2023, item 407).

Both letters, dated June 19 and July 1, 2024, were identical and contained the same reasoning.

In response to the stated reasons for my removal:

1. At the time of my appointment as Vice President, the applicable laws did not require obtaining the judiciary council's opinion for such a role (and this requirement still does not exist).
2. My delegation to the District Court in Grodzisk Mazowiecki was primarily based on my relocation with my family to the Grodzisk Mazowiecki area from Piaseczno in 2021. My requests for a transfer to the District Court in Grodzisk Mazowiecki were not granted by the Ministry of Justice. Prior to my appointment as Vice President, the position had remained vacant for almost a year.
3. In discussing my more than thirteen years of service, the Minister failed to mention that I had previously served as Head of the 1st Civil Division of the District Court in Piaseczno for over five years. At the time of my removal, I had accumulated over seven years of experience in court administrative roles.
4. My participation in the competition for a judicial position at the Warsaw District Court was conducted in accordance with legal provisions. I did not violate any laws or commit any disciplinary offenses.

I believe my removal was not based on substantive reasons. The procedure for my dismissal was conducted improperly, as I was not given the opportunity to participate in the Collegium meeting that reviewed the Minister's request.

My removal appears to have been a form of punishment due to my participation in the competition process before the National Council of the Judiciary (KRS) – a body whose legitimacy is contested by the current Ministry of Justice. I view the decision to revoke my delegation to the District Court in Grodzisk Mazowiecki in the same light. This last decision by the Ministry of Justice lacked any justification. However, it has had tangible consequences for my private life (I live 50 kilometers from Piaseczno and have no access to public transportation; commuting to and from work takes 2 to 3 hours daily, depending on traffic conditions).

≡ **25. Przemysław W. Radzik** – Judge at the Court of Appeal in Warsaw, Deputy Disciplinary Officer for Judges of Common Courts.

**Unlawful removal from the term-based position of Vice-President of the Court of Appeal in Poznań** on January 18, 2024, by the Minister of Justice. The removal was preceded by violations of the laws governing the organization of common courts (USP), particularly regarding the procedure for the minister's request to remove a court president or vice-president. This included the failure to notify me about the meeting of the collegium, thus depriving me of my statutory right to explain my position regarding the minister's request. There was no possibility to appeal the removal decision. A constitutional complaint regarding the examination of the provisions of the USP on the procedure for removing a president or vice-president before the end of their term was not heard. The prosecutor's office refused to initiate proceedings without questioning me as the aggrieved party. There is no information from the European Court of Human Rights (ECHR) about the status of the complaint I submitted against Poland.

**Deprivation of the ability to perform duties as Deputy Disciplinary Officer for Judges of Common Courts** by the Minister of Justice, who has systematically reassigned disciplinary cases to so-called "special disciplinary officers" (Ministerial Disciplinary Officers). These officers often dismissed the cases or withdrew previously submitted disciplinary motions from the disciplinary courts.

**Issuance of a politically motivated and discriminatory regulation** by the Minister of Justice, amending the regulation on judges' functional allowances. As a result, the Disciplinary Officer for Judges of Common Courts and his two Deputies had their allowances reduced to the lowest possible coefficient of 0.1 of the base amount (down from the previous 0.7).

**Politically motivated and unjustified raid** by prosecutors from the Internal Affairs Department of the National Prosecutor's Office on the offices of the constitutionally established National Council of the Judiciary (KRS) and the Disciplinary Officer for Judges of Common Courts and his Deputies on July 3, 2024. Despite my willingness to hand over the requested disciplinary files, prosecutors, accompanied by dozens of uniformed and armed police officers, used crowbars to break into metal cabinets in the Secretariat, causing significant property damage. This illegal act was intended to intimidate and was staged for a media show aired by state-controlled media.

**Media attacks** orchestrated by representatives of the Ministry of Justice and its officials, such as Dariusz Mazur and Dominik Czeszkiewicz, who falsely accused the Disciplinary Officer for Judges of Common Courts and his Deputies of politicizing the office. Lawsuits for the protection of personal rights related to these statements have seen judicial inaction, with courts failing to issue rulings. Additionally, enforcement of injunctions in these lawsuits has been impossible. My image was unlawfully used in an election commercial

by the ruling political party "Platforma Obywatelska" (Civic Platform) before the European Parliament elections, where I was depicted alongside Russian Federation leaders and right-wing politicians in Poland.

**Various forms of harassment** by the illegal leadership of the Court of Appeal in Warsaw, including depriving me of my statutory obligation to rule in all categories of criminal cases. Without my consent, required by law, I was re-assigned to the complaints and motions section of the 2nd Criminal Division and had my case allocation limited to certain categories of single-judge cases. I was also excluded from hearing appeals from first-instance court judgments and cases concerning the extension of pre-trial detention, appeals against detention extensions by district courts, cases registered in the secret registry, and many others. Moreover, the leadership ignored legal provisions of the USP, under which an appeal against the division of duties should prevent the allocation and random assignment of cases based on the contested division.

**Efforts to hold me criminally responsible** for alleged participation in an "organized criminal group" and "concealing documents" during the search conducted on July 3, 2024 (see point 4). This includes the submission of two motions to the Professional Responsibility Chamber of the Supreme Court, seeking permission to initiate criminal proceedings against me. These actions were accompanied by media attacks, inspired by illegally appointed and subordinate prosecutors under the Minister of Justice. Furthermore, Adam Bodnar publicly announced his intention to manipulate the judicial panels hearing these motions.

**Prosecutors' violation of the statutory prohibition** (under disciplinary sanctions) against challenging the authority of constitutional state organs. This included two motions filed by prosecutors seeking to disqualify me from hearing cases registered in the secret registry of the Court of Appeal in Warsaw, based on arguments questioning the authority of the constitutionally established National Council of the Judiciary.

≡ **26. Mariusz Moszowski** – prosecutor of the District Prosecutor's Office in Świdnica, currently holds no positions. He has a total of 17 years of service in the organizational units of the Prosecutor's Office and serves as a lecturer at the National School of Judiciary and Public Prosecution in Krakow.

– In April 2024, he was dismissed from the position of Head of the 2nd Department for Economic Crime at the District Prosecutor's Office in Świdnica without any factual basis for the dismissal. In the request for dismissal, the individual appointed as the District Prosecutor in Świdnica cited a gross violation of the law, stating that the rationale for the dismissal was a lack of trust, while simultaneously noting the absence of any remarks regarding the substantive performance of duties, and indicating the lack of legal grounds for filing an appeal or complaint.

– On August 20, 2024, consent for Mr. Moszowski to continue his additional occupation as a lecturer at the National School of Judiciary and Public Prosecution in Krakow and at the University of Wrocław, Faculty of Law, Administration, and Economics, was revoked without any legal or factual basis by the individual appointed as the District Prosecutor in Świdnica, in gross violation of the law. The justification provided for this revocation was a planned increase in adjudicatory duties and the assertion that there were no legal grounds for filing an appeal or complaint.

≡ **27. Kamila Borszowska-Moszowska**, Judge of the Circuit Court in Świdnica, has 22 years of experience in the judiciary. She has served as the Deputy Disciplinary Commissioner for Common Court Judges at the Circuit Court in Świdnica for 6 years and is a lecturer at the National School of Judiciary and Public Prosecution located in Krakow.

On July 12, 2024, a communication was issued by the Director of the National School of Judiciary and Public Prosecution in Krakow regarding the failure to appoint judges, who were appointed with the participation of the National Judicial Council after January 2018, to conduct educational activities within the framework of judicial and prosecutorial training. This was accompanied by allegations against the judge that, due to this failure, she does not meet the moral and rule-of-law requirements, which constitutes an expression of indirect discrimination against the judge based on a neutral criterion of appointment date, despite receiving uniformly high evaluations from anonymous applicants.

On July 15, 2024, the Director of the National School of Judiciary and Public Prosecution in Krakow unlawfully terminated a contract for services regarding the conduct of classes during the XXVII conference for the fourth year of judicial training, despite partial performance of the contract. This action violated personal rights by undermining the judge's competence and status, as well as her dignity and morality, involved non-payment for the work performed, and prevented the completion of the agreed-upon work.

There has been an unauthorized narrative by individuals holding executive power in the Republic of Poland, shaped within the framework of the governmental coalition formed on December 13, 2023, regarding judges appointed with the participation of the National Judicial Council after January 2018. This narrative has involved public claims that these judges are not independent, with no legal means available to file a complaint.

# Prosecutor's report

(prepared by “Ad Vocem” Prosecutor’s Association)

**This report describes the situation related to the unlawful dismissal and subsequent physical obstruction of Prosecutor Dariusz Barski from his position as National Prosecutor, as well as further consequences of such action consisting in the illegal takeover of the prosecutor's office through unlawful and unprecedented mass personnel changes in almost all prosecution units in Poland, exerting political influence on ongoing investigations and undertaking mass unlawful repressive and retaliatory actions against prosecutors opposing such unlawful action.**

The day of 12 January 2024 will go down in the history not only of the Polish Public Prosecutor's Office, but of the history of the Polish state and law, as an unprecedented post-1989 example of the violation of all principles of a democratic state of law. This was manifested by the repeated obvious and flagrant violation of the provisions of the Constitution of the R.P. and the Law on the Public Prosecutor's Office, consisting in the unlawful physical obstruction of the legally appointed National Public Prosecutor Dariusz Barski, and the subsequent repeated disregard and non-implementation of the rulings of the Constitutional Tribunal and the Supreme Court, which rulings were issued by the Constitutional Tribunal and the Supreme Court in response to the obviously and blatantly unlawful actions of the Minister of Justice Attorney General Adam Bodnar and the President of the Council of Ministers Donald Tusk.

On 16 February 2022. Dariusz Barski, a retired prosecutor of the National Prosecutor's Office, pursuant to Article 47 § 1 and 2 of the Act of 28 January 2016. – Introductory provisions of the Act – Law on the Public Prosecutor's Office (Journal of Laws of 2016, item 197, as amended), he applied to the Prosecutor General for reinstatement to active service in the position of prosecutor of the National Public Prosecutor's Office. The application was granted and on the same day the Prosecutor General, by decision ref. 1001-9.1122.754.2022, reinstated prosecutor Dariusz Barski to the requested position. 18 March 2022 4. The Prime Minister, pursuant to Article 14 § 1 of the Act of 28 January 2016. Law on the Public Prosecutor's Office appointed Dariusz Barski as first deputy State Prosecutor.

The provision on the basis of which Prosecutor Dariusz Barski returned from retirement was never episodic in nature and did not contain any time limitation on its validity. The provision was constitutional in nature and continues to be in force. The above circumstance was unquestionably, categorically and unequivocally confirmed by the Supreme Court in its resolution of 28 September 2024, ref. I KZP 3/24.

The circumstance of the effective return of National Prosecutor Dariusz Barski was not disputed by anyone until 12 January 2024. This circumstance was also not disputed by the Minister of Justice Attorney General, who was sworn into office on 13 December 2023.

The above circumstance is confirmed by a number of actions and statements by the Attorney General of the Minister of Justice Adam Bodnar.

Thus, on 29 December 2023, a meeting of the National Council of Prosecutors under the Prosecutor General, who was already Adam Bodnar, took place. It was held with the participation of Dariusz Barski, about whose status as National Prosecutor Adam Bodnar had previously raised no objections. In particular, he had not at that time questioned the fact that he had been effectively reinstated on 16 February 2022. Dariusz Barski as a prosecutor to active status, nor did he inform him that he could not take part in that meeting because, in Adam Bodnar's view, he remained in retirement. On 10 January 2024, the National Prosecutor Dariusz Barski sent a letter to the Prosecutor General informing him that, until his appointment, he was making decisions on appointments to the first prosecutorial position in the place of the Prosecutor General. The National Prosecutor asked whether he should continue to make these appointments in his stead. On 11 January 2024, the Prosecutor General, in writing, gave further approval to Dariusz Barski in this area. On the morning of 12 January 2024, Dariusz Barski met with the Prosecutor General. During the meeting, Adam Bodnar asked whether Dariusz Barski could submit a request for the appointment of Mr Prosecutor Jacek Bilewicz as a prosecutor of the National Prosecutor's Office (a request from the National Prosecutor is a prerequisite for such an appointment). The Minister argued his request on the grounds that Mr Jacek Bilewicz, a prosecutor, would represent him in the activities related to the accession to the European Public Prosecutor's Office and it would be good for him to hold the title of a prosecutor of the National Public Prosecutor's Office. Dariusz Barski agreed to this by submitting a request on the same day. The General Prosecutor also announced that he would arrive at the headquarters of the National Prosecutor's Office after 4 p.m., but did not disclose the purpose of his visit. At around 15.00, Dariusz Barski received a call from a secretary at the Ministry of Justice, who confirmed that the relevant application had been sent to the Ministry. Less than an hour and a half later, Adam Bodnar arrived at the headquarters of the National Prosecutor's Office, together with his advisor, and handed Dariusz Barski a letter, the contents of which stated that the Prosecutor General had determined that it was ineffective to reinstate Dariusz Barski to active service as a prosecutor of the National Prosecutor's Office on 16.02.2022. He also 'determined' that Dariusz Barski remains a retired prosecutor as of 12.01.2024. In point IV. of his letter, Adam Bodnar indicated that: By virtue of the regulation of Article 47 of the Act of 28 January 2016. Introductory Provisions – Law on the Public Prosecution Service (Journal of Laws No. 178 as amended, hereinafter: the PoP) thus introduced a special procedure for

the return of a group of retired prosecutors other than in a situation where the applicable regulations did not provide grounds for the application of the procedure set out in Article 127 of the PoP in conjunction with Article 74 §1 of the Act of 27 July 2001. Law on the Common Court System (i.e. Journal of Laws of 2023, item 217 as amended, hereinafter: PrUSP). For the reasons indicated, this procedure cannot apply to prosecutor Dariusz Barski. This was to follow, as it turned out, from the contents of three legal opinions. The letter handed to Dariusz Barski did not indicate any mode of appeal against this 'decision'. Nor did it indicate what, in Adam Bodnar's view, was the status of the Prime Minister's decision of 18 March 2022 to appoint Dariusz Barski as First Deputy Prosecutor General. On the same day, Prime Minister Donald Tusk, despite the existence of Prime Minister Mateusz Morawiecki's decision of 18 March 2022, which has not been shaken or revoked in any legal procedure, appointed Jacek Bilewicz to the position of Acting National Prosecutor. forcible actions were also taken against the National Prosecutor Dariusz Barski – his access to the National Prosecutor's Office building was deprived by disconnecting his access card, his office was seized in an undetermined manner. These actions led to actual deprivation of Dariusz Barski of the possibility to perform his official duties, and were carried out in order to circumvent the unquestionable interpretation of the binding provisions of the Act on the Public Prosecutor's Office, which in Article 14 par. 1 explicitly indicate that dismissal of the National Public Prosecutor may take place with the written consent of the President of the Republic. The Prosecutor General consciously chose not to seek such consent from the President of the Republic and consciously took actions that were in fact intended to deprive Dariusz Barski of his office contrary to the applicable law. These actions were carried out in contravention of the principle of legalism set out in Article 7 of the Constitution of the Republic of Poland obliging public authorities to act on the basis and within the limits of the law.

Pursuant to Article 7 of the Constitution of the Republic of Poland of 2 April 1997, (Journal of Laws 1997, No. 78, item 483, as amended), public authorities are obliged to act on the basis and within the limits of the law. The principle of legalism, which stems from the cited provision of the Constitution of the Republic of Poland, is of fundamental importance. This is because it sets the legal framework for the action of public authority bodies, outside of which it is illegal. In this context, it should be noted that the Minister of Justice – Prosecutor General on 12 January 2024 declared the 'ineffectiveness of the decision' to return prosecutor Dariusz Darski from retirement. In particular point V. of his letter, Adam Bodnar stated: 'it is impossible to recognise the effectiveness of the decision of the Prosecutor General taken pursuant to Article 47 § 1 and 2 of the PoPoP on 16 February 2022, and therefore after the lapse of nearly six years since the formation of the Prosecutor's Office in the form prescribed by the Act of 28 January 2016. PoP and PWPoP.' Meanwhile, the Act of 28 January 2016. – Law on the Public Prosecutor's Of-

fice (consolidated text Dz. U. 2024, item 390) does not know the institution of ‘determination of ineffectiveness of the decision’ with regard to the return of a public prosecutor from retirement, nor does the Act of 28 January 2016. – Introductory provisions of the Act – Law on Public Prosecutors (Journal of Laws 2016, item 178, as amended).

The legislator did not expressly provide for such a possibility, and the use of administrative procedure terminology is flawed firstly because the indicated legal acts do not refer to the provisions of the Act of 14 June 1960. – Code of Administrative Procedure (consolidated text Dz. U. 2024, item 572) – and therefore these provisions do not (because they cannot) find any application (even appropriate) in this case, and secondly, the matter of the prosecutor's retirement and possible return from that state is not of an administrative-legal nature, but is related to the status of the prosecutor, and is therefore of a systemic nature. Since, in relation to Dariusz Barski's situation, the Act of 14 June 1960 did not apply (because it could not). – Code of Administrative Procedure, and the Act of 28 January 2016. – Prosecution Law and the Act of 28 January 2016. – Introductory Provisions of the Act – Law on Public Prosecutions does not know the institution of ‘annulment’ with regard to the return of a prosecutor from retirement, there are no grounds for assuming that the Minister of Justice – Prosecutor General was entitled to issue an ‘annulment decision’ in this matter. The Prosecutor General did not indicate on what basis such a decision could be issued and did not indicate the provisions governing the procedure in this matter (on the subject of ‘annulment’). Significantly, from the content of this letter of 12 January 2024, as well as from the procedure applied by the Minister of Justice – Attorney General (disclosed, for example, on the website of the Ministry of Justice on 12 January 2024 and on the following days), it does not appear that he considered, on the date of issuance of that letter and its delivery to the addressee, that it was an administrative decision on the subject of the annulment of another administrative decision, including no indication of the legal grounds on the basis of which such a decision could be issued, including no indication of the provisions of the Act of 14 June 1960. – Code of Administrative Procedure. It is also important to note that it is clear from the communication in question that ‘The current legislation does not specify the procedure for a possible appeal or proceeding by Mr Dariusz Barski, the prosecutor, in relation to the content communicated to him today, however...every citizen has the right to a court of law guaranteed by the Constitution and if Mr Dariusz Barski wishes to exercise this right, he may of course do so’. It is clear from this ‘information’ that the procedure regulated by the Act of 14 June 1960 was not applied in the case under analysis. – Code of Administrative Procedure, because in the case of issuing a decision to declare an administrative decision invalid, the Act specifies the appeal procedure, and the addressee of the decision should be instructed about it (Article 107 § 1 point 7 of the Code of Administrative Procedure in conjunction with Article 158 § 1 of the Code of Administrative Procedure).



This communication does not indicate what course of action was taken against prosecutor Dariusz Barski, but the quoted 'information' prejudices the fact that this document was not regarded as an administrative decision. Such a conclusion corresponds to the content of the letter of 12 January 2024, for it is in fact informative, presenting the author's view of the facts in question, including the citation of arguments in support thereof, without at the same time any overall analysis thereof. Since the organs of public authority, and this is undoubtedly the case of the Minister of Justice – the Prosecutor General, are obliged to act on the basis of the law (Article 7 of the Constitution of the Republic of Poland), then on the date certain actions are taken, a provision of law must be in force, which authorises the authority to act. The Minister of Justice – Prosecutor General, when issuing the letter of 12 January 2024, and previously carrying out certain actions (e.g. involving obtaining legal opinions), did not have a legal basis for the action taken. It should be express and not implied or assumed. Pursuant to the principle of legalism referred to in Article 7 of the Constitution of the Republic of Poland, a public authority may not presume a legal basis for an action, nor may it undertake actions that are not expressly provided for in the provisions of the applicable law.

It should be pointed out that in the Polish legal system, the possibility to verify judgements, decisions or other rulings – due to the principle of a democratic legal state resulting from Article 2 of the Constitution of the Republic of Poland – must have a clear legal basis, which is conditioned by the necessity to ensure certainty and stability of the law, as well as results from the necessity to ensure confidence in the state and actions taken by its authorities. Relevant solutions are contained in procedural laws – the Code of Criminal Procedure, the Code of Civil Procedure, the Code of Administrative Procedure, the Law on Proceedings before Administrative Courts. The analysis of the legislation in force indicates that where the legislator provides for such a possibility, it does so explicitly, specifying at the same time the prerequisites (grounds) for assessing a given ruling, decision or other settlement, the procedure in such a case – including the competent authority and the rights of the participants to the proceedings. The indicated provisions – and they constituted the basis for the action of the Minister of Justice – Prosecutor General – did not and do not provide for any verification of the decision made on their basis. No other provision of the Act of 28 January 2016. – Provisions introducing the Law – Law on the Public Prosecutor's Office did not and does not provide for such a power. On the procedural side, the procedure for dealing with the request of a prosecutor who has retired and expresses the will to return to the previously held position or an equivalent position has been defined, with the adopted solution being complete. The prosecutor's right to submit the motion in question (Article 47 § 1 of the aforementioned Act), the body competent to consider the motion – the Prosecutor General (Article 47 § 2 of the aforementioned Act), noting that a 'decision' is taken 'on the motion' (Article 47 § 2 of the aforementioned Act). No reference is made to the appropriate application

of the provisions of the Act of 14 June 1960. – Code of Administrative Procedure, and the mere use of the term ‘decision’ does not cause the provisions of this Act to be applied. The decisive factor is the matter which is the subject of this ‘decision’, as well as its substance and nature. Taking into account the content of the ‘decision’ taken pursuant to Article 47 § 1 and 2 of the Act of 28 January 2016. – Introductory Provisions of the Law – Law on the Public Prosecutor's Office, it must be considered that it was of a personnel nature within the public prosecutor's office, related to the status of the public prosecutor, referring to his/her official relationship, and therefore there can be no doubt that the ‘case’ initiated by the application of an authorised public prosecutor was not and is not of an administrative nature in the current legal state. This precludes the application of the rules on administrative procedure. The lack of their application, with the simultaneous absence of reference to other provisions providing for the control of the ‘decision’ taken and the simultaneous failure to regulate the control mode in the indicated law clearly supports the assumption that the legislator did not provide for such a possibility in any mode and under any circumstances. ‘Decision’ referred to in Article 47 § 2 of the Act of 28 January 2016. – Introductory provisions of the Act – Law on Public Prosecutions is of a one-off nature (return of the public prosecutor), and the decision-maker – the Public Prosecutor General assesses – as of the date of filing the application – the possibility of its issuance, while it is not an arbitrary decision, for the will of the public prosecutor is decisive, and the Public Prosecutor General has the power to assess whether a given public prosecutor is entitled to file an application and, ultimately, to return to the previously held position or an equivalent position. The conditions formulated by the legislator are to remain in retirement on the date of entry into force of the Act, with the proviso that retirement could not be for health reasons. These circumstances are examined and assessed by the Attorney General. Indeed, they are of a formal nature and their determination requires nothing more than an analysis of the prosecutor's personnel file. Therefore, no administrative procedure or any other formalised procedure is foreseen in this regard. Nor is there any provision for a review procedure against the ‘decision’ taken, either ordinary or extraordinary. Indeed, the decision of the Prosecutor General is determined by the prosecutor's application and the circumstances relevant to its adoption are, as indicated, formal in nature. Significantly, no time limit is provided for the submission of the application by the entitled prosecutor (arg. ex art. 47 § 1 of the aforementioned Act), and therefore only his will is left to return to the active state, while not providing for the possibility of refusing it for valuable reasons.

The matter of the blatantly ‘unlawful takeover of the Public Prosecutor's Office’ was finally settled by the Supreme Court's resolution of 27 September 2024. The aforementioned Supreme Court decision of 27 September 2024 unequivocally and beyond anyone's doubt confirms that the provision of the law on the basis of which Prosecutor Dariusz Barski was reinstated on 16 Feb-

ruary 2022 is not episodic in nature and does not contain a temporal limitation on its validity. Moreover, as the Supreme Court found, the provision was constitutional in nature and continues to be in force.

As it was mentioned above, the lack of legal grounds for taking action to unlawfully and factually prevent Dariusz Barski I Deputy Prosecutor General – from exercising the function of the National Prosecutor also resulted from the content of the interim order issued by the Constitutional Court on 15 January 2024 (ref. Ts 9/24), and independently of the above by law itself – in connection with the referral by the President of R. P. on 15 January 2024 of the request to resolve the competence dispute between the Prime Minister and the Prosecutor General and the President of the R.P.

The above-mentioned rulings of the Constitutional Court and the Supreme Court have been violated and disregarded to date by the Minister of Justice the Prosecutor General and the prosecutors working with him.

The actions that the Minister of Justice, the Prosecutor General, took on 12 January 2024 also provoked very numerous protests from the legal community, including the prosecution community, manifested, inter alia, by the adoption on 16 January 2024 of a resolution by the Meeting of Prosecutors of the National Prosecutor's Office (by an overwhelming majority), the position taken on 14 January 2024 by all the Lord Deputy Prosecutors, i.e. the Deputy Prosecutors General, and the statements issued by the Regional Prosecutors and the Heads of the Local Divisions of the Department for Organised Crime and Corruption of the National Prosecutor's Office. All these positions unequivocally considered the actions of the Minister of Justice Adam Bodnar and persons cooperating with him to be manifestly and grossly unlawful.

These changes are therefore illegal in nature. They are characterised by actions incompatible with the legal order in force in Poland. They were initiated by events which took place on the aforementioned 12 January 2024. On that day, in the morning, the Minister of Justice, Adam Bodnar, asked the National Public Prosecutor, Dariusz Barski, to put forward a motion to appoint Jacek Bilewicz (a public prosecutor in the Warszawa Praga District Public Prosecutor's Office) to the position of a public prosecutor in the National Public Prosecutor's Office. Adam Bodnar indicated that this position should be filled by Jacek Bilewicz, in connection with his contacts with the European Public Prosecutor's Office, which Poland intends to join. The title of Prosecutor of the National Prosecutor's Office for Jacek Bilewicz, was to raise the profile of the National Prosecutor's Office's contacts with the European Prosecutor's Office.

In the afternoon and evening, Adam Bodnar arrived at the headquarters of the National Prosecutor's Office, where he informed Dariusz Barski that he was not and had not been the National Prosecutor, as he had not returned from the state of retirement he had retired from in 2009. Adam Bodnar presented his letter and three legal opinions, which purported to show that the provision of Article 47 of the Act of 28 January 2016. Introductory provisions

of the Act – Law on the Public Prosecutor's Office, was not in force on 18 March 2022, when Dariusz Barski declared that he was returning from retired status to active status and when he was appointed to the position of National Public Prosecutor by Prime Minister Mateusz Morawiecki at the request of Minister of Justice Zbigniew Ziobra, after receiving a positive opinion from President of the Republic of Poland Andrzej Duda. At the same time as handing the documents to Dariusz Barski, Adam Bodnar declared Jacek Bilewicz to be the acting National Prosecutor. The decision in this regard was made by the Prime Minister Donald Tusk.

Immediately after 12 January 2024, the Deputy Prosecutors General filed a notice of offence under Article 231 of the Criminal Code and others. Prosecutor Dariusz Barski filed a constitutional complaint. On Monday, 15 January 2024, the President of the Republic of Poland Andrzej Duda, after a meeting with the Deputy Prosecutors General, issued a statement in which he pointed out the illegality and ineffectiveness of the actions taken against Dariusz Barski, who is still the National Prosecutor. He was not dismissed, as such a decision requires the written consent of the Head of State. On that day, the President of the Republic of Poland submitted an application to the Constitutional Tribunal for a review of the competence dispute concerning the actions of Prime Minister Donald Tusk. The Tribunal also on that day, i.e. 15 January 2024, issued a protective order indicating that all organs of the state are obliged to respect the legal situation according to which the National Prosecutor is Dariusz Barski. Unambiguous legal opinions indicating the illegality of the attempted change in this position were also obtained, which were issued by Prof. Anna Łabno, Prof. Genowefa Grabowska, Prof. Ryszard Piotrowski.

For the next week, until January 22, 2024, Dariusz Barski actually held his office. The prosecutor's office throughout the country functioned in accordance with the law. As it turned out later at that time, people who declared respect for the existing legal order undertook "silent cooperation with Prosecutor General Adam Bodnar and prosecutor Jacek Bilewicz. These were, for example, prosecutors: Marek Piotrowicz (director of the Human Resources Office of the National Prosecutor's Office), Agnieszka Welenc (prosecutor – legislator of the Presidial Office of the National Prosecutor's Office), as well as non-prosecutors: Maria Waław (director of the Administrative and Financial Office of the National Prosecutor's Office), Klaudia Kacperska (director of the Internal Security Bureau of the National Prosecutor's Office). On Tuesday, January 22, 2024, the access of the National Prosecutor Dariusz Barski to the headquarters of the National Prosecutor's Office at 3 Postępu Street in Warsaw was physically cut off (a week later, the same happened to Deputy Prosecutor General Robert Hernand and Michal Ostrowski.

From the specified date, the actual but unlawful 'administration' was commenced by prosecutor Jacek Bilewicz, who impersonated the role of the National Prosecutor and initiated personnel changes. It is worth noting that,

according to public information provided, illegal decrees were issued in an expedited manner, revoking all regional prosecutors, the majority of district prosecutors, as well as some district prosecutors. In this way, most directors and heads in the National Prosecutor's Office were dismissed. Regarding changes in managerial and functional positions, as well as dismissals from assignments or unlawful delegations, over 300 prosecutors across the country were affected in the following 5 months. It should be emphasized that the illegal neo-heads of the prosecutor's units 'replaced' the majority of heads and managers, as well as inspectors. In a manner not specified in the law, permissions for conducting lectures at KSSiP were revoked for prosecutors who had been positively evaluated by the School's Program Council.

On March 14, 2024, Prime Minister Donald Tusk, at the request of Attorney General Adam Bodnar, appointed Dariusz Korneluk as the National Prosecutor. This decision is also illegal, as there was no effective dismissal of Dariusz Barski from this position. The decision regarding Dariusz Korneluk was made without the opinion of the President of the Republic of Poland, and Korneluk was unlawfully appointed to the position of prosecutor in the National Prosecutor's Office, as Dariusz Barski did not submit the appropriate motion in this regard.

In summary, the individuals directly responsible for the unlawful changes in the Prosecutor's Office are: Donald Tusk, Adam Bodnar, Jacek Bilewicz, Dariusz Korneluk, and Marek Piotrowicz, who, as the Director of the Personnel Office, assisted in the creation of illegal personnel decrees. Indirect responsibility falls on all those who unlawfully assumed functions in the prosecutor's office, i.e., directors of departments and offices in the National Prosecutor's Office, particularly highlighting Marzena Kowalska (Deputy Director of the Department of Preparatory Proceedings), who leads investigation team no. 2 and is responsible for unlawfully depriving MP Marcin Romanowski of his liberty, as well as the devastation of the home of former Attorney General Zbigniew Ziobro during a search carried out in his absence due to serious illness.

Indirectly responsible for the lawlessness and chaos in the Prosecutor's Office are all other officials, particularly regional and district prosecutors, their deputies, and those who assumed other positions in the Prosecutor's Office at their request or as a result of their decisions.

After the illegal changes in the Prosecutor's Office in January 2024 (the unlawful and ineffective 'dismissal' by letter from National Prosecutor Dariusz Barski), illegal and actual personnel purges occurred that had no precedent in the history of the Prosecutor's Office – both in scale and the number of people 'dismissed' from their positions. Within just a few weeks, in common organizational units of the prosecutor's office in Poland, almost all prosecutors performing significant functions were mass-dismissed without any reason by the illegally appointed so-called 'National Prosecutors' Jacek Bilewicz and Dariusz Korneluk. Thus, unlawfully dismissed were all Regional

Prosecutors, all their deputies, all District Prosecutors, and their deputies, as well as the majority of District Prosecutors. In fact, 'dismissed' were nearly all directors of Offices and Departments of the National Prosecutor's Office and their deputies.

From January 12, 2024, to June 30, 2024, 314 prosecutors were dismissed without grounds and unlawfully from their positions across Poland, which had never before had a precedent. At the same time, unlawfully appointed in their place were prosecutors, a significant part of whom, particularly those in key positions in the prosecutor's office, are members of the prosecutor association Lex Super Omnia, sympathetic to the representatives of parties forming the ruling coalition.

A significant portion of the prosecutors unlawfully dismissed took legal action concerning their unlawful dismissals, including filing relevant lawsuits with the Labor Court. It can be presumed that the above circumstance, along with the desire to suppress protest against the unlawfully undertaken actions, as well as a compelling desire to introduce a chilling effect for the entire prosecutorial staff, was the basis for the decision to implement a series of additional severe reprisals and harassment against the prosecutors dismissed from their positions.

The unlawful repressions against the prosecutorial staff have varied dimensions and take on various forms (less and more sophisticated, but always aimed at maliciously bothering the employee). For example, one can cite:

- Unfounded and unjustified mass dismissals from assignments of high-class specialists, violating all possible statutory deadlines;
- Mass punitive, repressive, and intimidating assignments of experienced prosecutors who had held positions to the lowest level of district prosecution;
- Revoking permissions to reside outside the prosecutor's office's premises;
- Initiating unfounded internal and disciplinary proceedings and suspending prosecutors from duties;
- Initiating unfounded criminal proceedings against those expressing opposition to the changes (often under the pretext of an obviously indifferently legal incident, such as the purchase of the Hermes software).

As just an example of unfounded dismissals not only of highly skilled specialists but also of experienced prosecutors who have been serving in their roles, the following cases can be mentioned:

1. The punitive reassignment of Prosecutor Tomasz Szafranski from the National Prosecutor's Office, who was illegally dismissed from his position as the Director of the Presidential Office, to the District Prosecutor's Office in Pruszków.
2. The punitive reassignment of Prosecutor Prof. Przemysław Ostojewski, PhD, from the National Prosecutor's Office to the District Prosecutor's Office in Warsaw Mokotów.

3. The removal of Prosecutor Sławomir Stojak from the delegation at the National Prosecutor's Office and his punitive reassignment to the District Prosecutor's Office in Warsaw Praga Północ.
4. The removal of Prosecutor Karol Borchólski from the delegation at the National Prosecutor's Office and his punitive reassignment to the District Prosecutor's Office in Warsaw Mokotów.
5. The removal of Prosecutor Sebastian Bańko from the delegation at the National Prosecutor's Office and his punitive reassignment to the District Prosecutor's Office in Warsaw Mokotów.
6. The removal of Prosecutor Aneta Orzechowska from the delegation at the National Prosecutor's Office and her punitive reassignment to the District Prosecutor's Office in Warsaw Ursynów.
7. The removal of Prosecutor Martyna Pieszczyk from the delegation at the National Prosecutor's Office and her punitive reassignment to the District Prosecutor's Office in Warsaw Mokotów.
8. The punitive reassignment of Prosecutor Magdalena Kołodziej from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Praga Południe.
9. The punitive reassignment of Prosecutor Michał Dziekański from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Praga Północ.
10. The punitive reassignment of Prosecutor Wojciech Smoleń from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Praga.
11. The punitive reassignment of Prosecutor Agnieszka Bortkiewicz from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Wola.
12. The punitive reassignment of Prosecutor Aleksandra Skrzyniarz from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Śródmieście Północ.
13. The punitive reassignment of Prosecutor Marcin Saduś from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Śródmieście.
14. The punitive reassignment of Prosecutor Adam Borkowski from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Mokotów.
15. The punitive reassignment of Prosecutor Monika Laskowska from the District Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Wola.
16. The punitive reassignment of Prosecutor Beata Nowacka from the Regional Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Śródmieście Północ.
17. The punitive reassignment of Prosecutor Agnieszka Zabłocka-Konopka from the Regional Prosecutor's Office in Warsaw to the District

Prosecutor's Office in Warsaw Śródmieście.

18. The punitive reassignment of Prosecutor Szymon Banna from the District Prosecutor's Office in Warsaw to the District Prosecutor's Office in Warsaw Mokotów.
19. The removal of Prosecutor Monika Świrta from the delegation at the Regional Prosecutor's Office in Warsaw and her punitive reassignment to the District Prosecutor's Office in Warsaw Śródmieście.

It should be noted that although these delegations were carried out under the pretext of strengthening the lower-tier prosecutor's offices (i.e., district prosecutor's offices), this justification quickly proved to be completely false and ineffective. This is because a sort of exodus of prosecutors associated with LSO (Lex Super Omnia) occurred from these district offices. Consequently, the situation in the district prosecutor's offices did not improve but worsened, along with a deterioration in the higher-tier offices where high-class specialists, who were removed from delegations, are now missing.

<https://www.rp.pl/zawody-prawnicze/art39780331-144-prokuratorow-odwolanych-z-delegacji-wiacek-wyslal-pismo-do-bodnara>

Moreover, one of the first decisions of the new Prosecutor General was the delegation of lower-tier prosecutors, prominent members of LSO, including:

- Dariusz Korneluk – Prosecutor of the District Prosecutor's Office in Warsaw Śródmieście,
- Jarosław Onyszczuk – Prosecutor of the District Prosecutor's Office in Warsaw Mokotów,
- Michał Mistygacz – Prosecutor of the District Prosecutor's Office in Warsaw Śródmieście.

Also, from the District Prosecutor's Offices:

- Jacek Bilewicz – Prosecutor of the District Prosecutor's Office Warsaw Praga,
- Katarzyna Kwiatkowska – Prosecutor of the District Prosecutor's Office Warsaw Praga.

Another form of harassment and intimidation of the prosecutorial staff is the initiation of unfounded disciplinary and service proceedings against prosecutors who previously held these positions. Examples include proceedings initiated against:

1. Deputy Prosecutor General Michał Ostrowski,
2. Deputy Prosecutor General Robert Hernand,
3. Prosecutor Jakub Romelczyk,
4. Prosecutor Wilkoszewska Tryfon,
5. The case of false actions taken against Deputy Prosecutor General Tomasz Janeczek, which requires separate discussion.

<https://www.rp.pl/zawody-prawnicze/art40718181-szesc-zarzutow-dyscyplinarnych-dla-zastepcy-prokuratora-generalnego>



<https://www.rp.pl/zawody-prawnicze/art39696511-bodnar-zada-postepowania-wyjasniajacego-wobec-swojego-zastepcy-roberta-hernanda>

<https://wpolityce.pl/polityka/693682-news-uzurpatorzy-bodnara-szykanuja-apolityczna-prokurator>

<https://wpolityce.pl/kraj/693045-ad-vocem-reaguje-na-decyzje-bodnara-standowczy-sprzeciw>

<https://niezalezna.pl/media/tv-republika/prokurator-janeczek-na-celowniku-tuska-ze-sprawa-zatrzymania-zolnierzy-niemialem-nic-wspolnego/519581>

It is also important to note that the disciplinary and service actions have been accompanied by unfounded criminal proceedings, which are a clear manifestation of further intimidation and an attempt at retaliation to create a stronger chilling effect.

Examples of such unjustified criminal cases include:

1. The case concerning the purchase of Hermes,
2. The case involving the retention of medical records by the Regional Prosecutor's Office in Szczecin, which was transferred to the District Prosecutor's Office in Zielona Góra.

<https://dorzeczy.pl/opinie/557706/hermes-lepszy-pegasus-pilne-oswiadczenie-prokuratora.html>

<https://zachod.pl/1036617/sledztwo-prokuratury-w-sprawie-przekroczenia-uprawnien-przez-agentow-cba/>

Another sensitive issue requiring careful consideration is the tragic death of Prosecutor Ewa Fiedorowicz.

<https://niezalezna.pl/polska/ewa-fiedorowicz-pierwsza-ofiara-czystek-w-prokuraturze-nagla-smierc-prokurator-wywolala-poruszenie/520800>

## **POSITIONS AND PROMOTIONS ONLY FOR THEIR OWN AND "TRUSTED COMRADES"**

At the same time, the first effect of the changes carried out is also the unlawful takeover of almost all key positions in both the National Prosecutor's Office and the Regional Prosecutor's Office in Warsaw and its subordinate units exclusively by members of the LEX SUPER OMNIA association (whose name in the current situation sounds like exceptionally sarcastic mockery).

For example, we can mention:

1. Jacek Bilewicz – so-called "acting", a position not recognized by the law, occasional National Prosecutor – a member of the LSO board;

2. Dariusz Korneluk – so-called "National Prosecutor" – member of the LSO board;
3. Marek Jamrogowicz – so-called "Deputy National Prosecutor" – LSO member;
4. Mariusz Krasoń – so-called "Director of the Litigation Department" – LSO board member;
5. Marzena Kowalska – so-called "Deputy Director of the Investigative Proceedings Department" and so-called "Head of the investigative team" – LSO member;
6. Katarzyna Kwiatkowska – so-called "Director of the Investigative Proceedings Department" – LSO board member;
7. Przemysław Nowak – so-called "Spokesperson for the National Prosecutor's Office" – LSO member;
8. Andrzej Piaseczny – Deputy Director of KSIP – LSO member;
9. Józef Gacek – "head" of the so-called investigative team on Pegasus – LSO member;
10. Katarzyna Szeska – so-called "new disciplinary spokesperson at the Regional Prosecutor's Office in Warsaw" – LSO board member;
11. Małgorzata Adamajtys – so-called "Regional Prosecutor in Warsaw" – LSO member;
12. Tomasz Nowicki – so-called "Deputy Regional Prosecutor in Warsaw" – LSO member;
13. Katarzyna Gembalczyk – so-called "Deputy Regional Prosecutor in Warsaw" – LSO member;
14. Justyna Brzozowska – so-called "Head of the 2nd Division for Financial and Fiscal Crimes" – LSO member;
15. Magdalena Wiśniewska – so-called "Head of the 5th Organizational Department" – LSO member;
16. Mateusz Martyniuk – so-called Spokesperson of the Regional Prosecutor's Office in Warsaw – LSO member;
17. Piotr Kowalik – so-called "District Prosecutor in Warsaw" – LSO member;
18. Dariusz Ślepokura – so-called "Deputy District Prosecutor in Warsaw" – LSO member;
19. Małgorzata Gawarceka – so-called "Deputy District Prosecutor in Warsaw" – LSO member;
20. Aleksandra Sroczyńska – so-called "District Prosecutor Warsaw-Praga in Warsaw" – LSO member;
21. Michał Machniak – so-called "Deputy District Prosecutor Warsaw-Praga in Warsaw" – LSO member;
22. Joanna Bodera-Gancarczyk – so-called "Deputy District Prosecutor Warsaw-Praga in Warsaw" – LSO member;
23. Iwona Zielińska – so-called "Head of the 6th Litigation Division at the Warsaw-Praga District Prosecutor's Office in Warsaw" – LSO member;

24. Małgorzata Ceregra-Dmoch – so-called "Head of the 1st Investigation Division at the Warsaw District Prosecutor's Office" – LSO member;
25. Katarzyna Jakacka – so-called "Head of the 2nd Division for Economic Crimes at the Warsaw District Prosecutor's Office" – LSO member;
26. Joanna Garus – so-called "Head of the 3rd Division for Economic Crimes" – LSO member;
27. Ryszard Rogatko – so-called "Head of the 6th Litigation Division at the Warsaw District Prosecutor's Office" – LSO member;
28. Piotr Antoni Skiba – so-called Spokesperson for the Warsaw District Prosecutor's Office – LSO member;
29. Joanna Szczęśniak – so-called "District Prosecutor of Warsaw-Praga Północ in Warsaw" – LSO member;

## **RESTORING DIGNITY OR RATHER RUTHLESSLY BUYING POLITICAL LOYALTY**

A separate issue that needs discussion is the unprecedented number of promotions – often advancing three positions up from district prosecutor to the National Prosecutor's Office for their own and trusted individuals within the so-called "restoration of dignity", or rather the purchase of loyalty. These promotions, of course, mainly involve LSO members.

<https://wpolityce.pl/polityka/686899-bodnar-awansowal-prokuratorow-zdegradowanych-za-czasow-pis>

It can be speculated (based on media reports) that one of the goals of the illegal changes was the need to conduct criminal proceedings in a manner that would meet political expectations, and the outcome of these proceedings could be very uncomfortable for people currently holding public office. Examples of such proceedings include:

1. Criminal proceedings concerning the forcible takeover of public media, including the falsification of notarial deeds and large-scale property damage in public media – the case has been reassigned, and silenced;
2. Civil proceedings regarding the takeover of media, the case of KRS entries (The Prosecutor General personally takes over – without legal basis – cases for personal handling – the case has been reassigned and the unit changed under Prosecutor General Adam Bodnar);
3. The case concerning the illegal takeover of the prosecutor's office and the unlawful removal of the National Prosecutor – the case has been reassigned and the unit changed to the National Prosecutor's Office;
4. Criminal proceedings concerning the illegal detention of MPs Wąsik and Kamiński (so-called raid on the Presidential Palace) – the case has been reassigned, the previous official removed from delegation, and the case silenced;

5. The case of Prosecutor Ewa Wrzosek and Commander Domaradzki – the unit and case officer have been changed from Szczecin to Warsaw, and the case closed;
6. Cases of motions not submitted for a vote to lift Marian Banaś's immunity (both in Białystok and in Warsaw) – the case has been silenced and frozen;
7. The corruption case of the former Speaker of the Senate of the Republic of Poland Tomasz Grodzki – the case has been silenced and frozen;
8. The Wind Farm Scandal case – the case has been silenced and frozen.

## **INITIATING QUESTIONABLE CRIMINAL PROCEEDINGS AGAINST POLITICAL OPPONENTS**

Another reason for the illegal takeover of the prosecutor's office, apart from "silencing" cases, seems to be the need to initiate criminal proceedings against political opponents:

1. The case conducted by the so-called Team No. 2 concerning the Justice Fund;
2. The case against Minister M. Dworczyk;
3. The case against Minister M. Woś;
4. The case conducted by the so-called Team No. 3 of J. Gacek concerning Pegasus;
5. The case (absurd) of criminal charges for so-called impersonation by MPs M. Kamiński and Wąsik;
6. The case of criminal charges against M. Kamiński regarding the so-called Kwaśniewski villa;
7. The case concerning the participation in the National Council of the Judiciary (KRS) by judges elected to this body by the Sejm of the Republic of Poland (fighting against independent and impartial judiciary).

The illegally conducted change of the National Prosecutor has led to chaos in the Prosecutor's Office, with very negative consequences for the future functioning not only of the Polish Prosecutor's Office but of the Polish state as a whole. There is a very real threat that all decisions made by the so-called "neo-prosecutors," particularly those holding positions of authority, are invalid – they do not have legal effects. This fear is especially reinforced by the resolution of the Supreme Court from September 28, 2024. Its content confirms that the position of National Prosecutor is held by Prosecutor Dariusz Barski. For the criminal proceedings conducted by the prosecutor's office, this will mean the potential for thousands of criminals, including the most dangerous ones accused of murder, rape, or espionage, to avoid criminal responsibility. It will also mean renewed harm to thousands of victims and legal chaos and anarchy for the state.



**Prawnicy  
dla Polski**

The Association “**Prawnicy dla Polski**” (abbr. “PDP”) – “Lawyers for Poland” is a nationwide non-profit organization bringing together representatives from all legal professions operating within the justice system. Our main objectives are as follows:

1. Undertaking actions to protect and promote the values expressed in the constitutional principles of law, especially the rule of law, social justice, as well as the principles of democracy, the balance of powers, the division of public authority, the Republic of Poland as a common good, and the principle of subsidiarity;
2. Promoting and protecting human and civil rights and freedoms, anchored in international standards;
3. Strengthening the independence of the judiciary and the impartiality of judges to fully realize the principles derived from the European legal heritage, including the right to a fair trial;
4. Advocating the views of the legal community on issues affecting its members and legal culture;
5. Enhancing the professional qualifications of the Association’s members;
6. Developing cooperation between legal organizations;
7. Striving for the integration of the legal profession in Poland;
8. Ensuring compliance with constitutional and statutory ethical and legal standards in the exercise of legal professions, in a manner that guarantees citizens the right to a fair trial;
9. Raising awareness of the role of various legal professions in Poland;
10. Developing public legal awareness and culture.

We are currently engaged in a non-partisan campaign to disseminate information about the current state of the justice system, particularly the judiciary and the prosecution, following the change in political power in Poland. We believe that the information presented by official media distorts the reality, with the aim of isolating the international community from understanding the true actions of the Minister of Justice concerning individuals lawfully holding positions within the judiciary and prosecution.

**Download this report from the website:**

<https://prawnicydla.pl/publikacja/raport-o-naruszeniu-prawa-przez-rzad-polski/>