

# 2000 DAYS OF LAWTESSNES



The report named '2000 Days of Lawlessness' presents step by step how the political authority has brought about the destruction of the rule of law.

It is a record of all legislative changes and other decisions taken by the executive and legislative authorities to politicise the judiciary. It is important to list and put order to these events so that we are aware of the methods by which the authorities took over the courts, which, according to the Constitution, should, after all, be independent, precisely in the interests of the public. The report also shows that none of the steps taken since 2015 intended to implement a genuine and credible reform of the judiciary. Knowing what work has been done will be crucial when the time comes to repair what has been destroyed.

Thanks to the courage and determination of judges, prosecutors, lawyers and citizens, the justice system has not yet collapsed. It is up to us to ensure that the spirit of justice survives and that the rule of law is rebuilt.

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06 August

Swearing-in of President Andrzej Duda before the National Assembly

25 October

Elections to the Polish Sejm and Senate ending in a victory for Law and Justice (PiS). The victorious electoral committee won a parliamentary majority enabling it to form an independent government for the first time since 1989.

06 November

End of the term of office of three judges of the Constitutional Tribunal. The Sejm of the 8th term of office elected successors in their place on 8 October 2015: Roman Hauser, Andrzej Jakubecki and Krzysztof Ślęzak. However, President Andrzej Duda did not swear them in and therefore they cannot take up their functions.

11 November

President Andrzej Duda described the election of the new judges of the Constitutional Tribunal by the previous Sejm as a 'serious breach of the principles of democracy and stability of a democratic state governed by the rule of law'. The president declared that 'today we have judges of the Constitutional Tribunal elected by the Sejm, who I believe are elected defectively. Hence my hesitation and therefore – to this day – the fact that these judges have not been sworn in.

16 November

President Andrzej Duda pardoned Mariusz Kamiński and other former heads of the Central Anti-Corruption Bureau, including deputy head Maciej Wąsik, who were convicted for their activities in the so-called 'land scandal'. For the first time in history, the President exercised the right of clemency for people who had not been convicted with a final court judgment. The consequence of this decision was the discontinuance of the proceedings by the regional court.

19 November

The Sejm passed an amendment to the Act on the Constitutional Tribunal (Journal of Laws 2015, item 1928).

The whole of the legislative process lasted a week. The Act provided for the re-election of 5 judges to positions filled by the previous Sejm and the expiry of President Andrzej Rzepliński's and Vice-President Stanisław Biernat's terms of office.

The Act was passed by the Sejm on Thursday; it was adopted by the Senate on Friday morning without accepting any amendments, and signed by the President several hours later.

25 November

The Sejm passed five resolutions declaring the resolutions of the Sejm of 8 October 2015 on the election of judges of the Constitutional Tribunal to have no legal force.

The event triggered the first wave of mass public protests.

30 November

The First President of the Supreme Court, Małgorzata Gersdorf, requested the Constitutional Tribunal to declare the Act amending the Act on the Constitutional Tribunal of 19 November 2015 (Journal of Laws, item 1928) to be incompatible with the Constitution of the Republic of Poland (Journal of Laws, item 1928) (case ref. K 35/15).

The judges of the Supreme Court requested the First President to contest this law before the Constitutional Tribunal in a resolution passed during the General Assembly of Judges of the Supreme Court held on 24 November 2015.

30 November

The Constitutional Tribunal issued a freezing order calling on the Sejm to refrain from performing any activities intended to elect judges of the Constitutional Tribunal until the Tribunal issues its final ruling on the case filed by a group of deputies from the Civic Platform party (PO) to examine the constitutionality of the Act on the Constitutional Tribunal of 25 June 2015 (case ref. K 34/15).

The Sejm did not comply with this order.

02 December

The Polish Sejm elected five new judges of the Constitutional Tribunal (re-election resolutions): Henryk Cioch, Lech Morawski, Mariusz Muszyński, Julia Przyłębska and Piotr Pszczółkowski.

03 December

President Duda swore in four judges of the Constitutional Tribunal on the night of 2/3 December. From this moment, there are judges and stand-in judges (3) in the Constitutional Tribunal, namely those elected to fill previously filled positions. Up to 13 December 2016m President Andrzej Rzepliński did not allow the stand-in judges to rule.

03 December

The Constitutional Tribunal considered the motion from the group of MPs in the Polish Parliament regarding the provisions of the Act on the Constitutional Tribunal regulating, *inter alia*, the election of judges to the Tribunal, the status of a judge and proceedings before the Constitutional Tribunal (case ref. K 34/15).

The Constitutional Tribunal ruled that the Act was partially unconstitutional to the extent to which it allowed the Sejm to prematurely elect two judges to replace those whose term of office did not expire until December.

This judgment was not published immediately in the Journal of Laws. It was published on 16 December. According to the Prosecutor's Office, the judgment was not published for reasons for which the Prime Minister Beata Szydło was responsible, and the delay in the publication of the judgment resulted in a threat to the public interest. As the judgment was published, the investigation was discontinued.

09 December

The President swore in the fifth of the judges of the Constitutional Tribunal elected by the Sejm on 2 December – Julia Przyłębska. She was elected to replace Judge Teresa Liszcz, whose term of office expired on 8 December.

12 December

Demonstrations under the slogan 'Citizens for democracy' took place in many Polish towns and cities. The largest was in Warsaw, where approximately 50,000 people protested. The protest started in front of the seat of the Constitutional Tribunal and then moved through the city's streets, past the seat of the Sejm, to the Presidential Palace.

22 December

The Sejm passed a further amendment to the Act on the Constitutional Tribunal (Journal of Laws of 2015, item 2217). Its most important provisions are:

- the Constitutional Tribunal is to rule in the order in which cases are received;
- the Constitutional Tribunal is to rule in a seven-person membership, and the judgment is to be passed by a two-thirds majority;
- a hearing may only be scheduled after three months from notice being served on both parties;
- if one of the parties to the proceedings considers that the judgment has been issued in 'gross breach of rules', it may request a re-trial, which suspends publication of the judgment;
- the Sejm decides on whether a judge of the Constitutional Tribunal, who is deemed by the General Assembly of Judges of the Constitutional Tribunal not to satisfy the requirements to be a judge, will lose his/her mandate;
- the President and the Prime Minister may request disciplinary proceedings against judges of the Constitutional Tribunal;
- the chapter on proceedings in a case of ascertaining the obstruction of office by the Polish President is repealed;
- the Act is to enter into force on the date of its promulgation.

According to the First President of the Supreme Court, the Supreme Bar Council, the Helsinki Foundation for Human Rights, the National Council of the Judiciary, the Prosecutor General, the Sejm's Bureau of Research and others, the Act restricts the constitutional right to a court hearing, limits the efficiency of the adjudication of the Constitutional Tribunal, breaches the independence of the Constitutional Tribunal and, in the course of its adoption, the Sejm breached the principles of correct legislation.

President Andrzej Duda signed the Act on 28 December 2015. It was published in the Journal of Laws and entered into force on that same day.

29 December

The First President of the Supreme Court requested the Constitutional Tribunal to declare the Act amending the Act on the Constitutional Tribunal of 22 December 2015 (Journal of Laws, item 1928) incompatible with the Constitution of the Republic of Poland (Journal of Laws, item 2217) (case ref. K 47/15).

2016

07 January

The Constitutional Tribunal discontinued the proceedings in the case filed by a group of MPs to examine the constitutionality of the resolutions of the Sejm on the declaration of a lack of legal force of the resolutions of the Sejm of 8 October 2015 on the election of judges of the Constitutional Tribunal and five resolutions of the Sejm of the Republic of Poland on the re-election of judges of the Tribunal (case ref. U 8/15).

The Tribunal held that resolutions of the Sejm are not to be examined, as they are not normative acts.

08 January

The Act amending the Broadcasting Act of 30 December 2015, the so-called Media Act, which significantly changed the rules for filling positions in the public media, entered into force.

The Act provided, among other things, for the expiry of the mandates of the current members of the management and supervisory boards of the public media and the choice of the president and the members of the management boards of TVP and Polskie Radio by the Minister of the Treasury at any time. The presidents were previously chosen by the National Broadcasting Council through a competitive process.

08 January

Manifestations were held in 20 Polish cities, as well as Prague, London and Stockholm under the slogan of 'Free Media'. The participants protested against the changes made to the Broadcasting Act.

13 January

The European Commission initiated a dialogue with Poland on the rule of law in Poland and asked the Polish government for information on the situation regarding the Constitutional Tribunal and the amendments to the Broadcasting Act.

15 January

The Sejm adopted the so-called 'invigilation' law, namely the amendment to, among other things, the Act on the Police, which opened up the possibility of uncontrolled downloading of internet data by the police and other services (Journal of Laws 2016, item 147).

The bill was criticised by: the Sejm's Legislative Bureau, the Ombudsman, the First President of the Supreme Court, the Chief Inspector for Personal Data Protection, the Prosecutor General, the National Council of the Judiciary, the bar associations, the Panoptykon Foundation and the Helsinki Foundation for Human Rights acknowledging the draft to be in conflict with the law of the European Union on personal data protection and privacy.

23 January

Demonstrations were held under the slogan 'In defence of your freedom' in more than forty cities in Poland, as well as abroad. The protests were an objection to the so-called 'invigilation' law passed by the Sejm and were held before the Act was voted on in the Senate. The Senate ultimately accepted it on 30 January 2016.

28 January

The Sejm enacted 2 laws introducing the reform of the prosecutor's office (Journal of Laws of 2016, item 177 and 178)

The reform provided for, among other things:

- the merger of the positions of Prosecutor General and the Minister of Justice;
- the establishment of an Internal Affairs Department in the National Public Prosecutor's Office dealing with crimes committed by judges, prosecutors and assessors;
- change in the structure of the prosecutor's office

The reform became effective on 4 April 2016.

8-9 February

The Venice Commission (European Commission for Democracy through Law) visited Poland in connection with the amendment of the Act on the Constitutional Tribunal.

9-12 February

Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, came to Poland.

27 February

A large demonstration under the slogan 'We the Nation' took place in Warsaw in defence of the Lech Wałęsa's reputation after the Institute of National Remembrance published the contents of the files from Gen. Kiszczak's home without previously verifying them. 80-100k people took part in the demonstration.

09 March

The Constitutional Tribunal in its full membership considered the combined applications of the First President of the Supreme Court, a group of MPs from the Sejm (application of: 29 December 2015), a group of MPs from the Sejm (application of 31 December 2015), the Ombudsman and the National Council of the Judiciary regarding the amendment of the Act on the Constitutional Tribunal of 22 December 2015 (case ref. K 47/15).

The Constitutional Tribunal ruled that the Act of 22 December 2015 is incompatible with the Constitution, as well as the principle of correct legislation, in whole. The Tribunal ruled directly on the basis of the provisions of the Constitution of the Republic of Poland, disregarding the provisions of the contested amending Act.

The judgment was published in the Journal of Laws after more than 2 years, on 5 June 2018.

11 March

The Venice Commission presented an opinion summarising its mission in Poland.

According to the Venice Commission, the changes to the Act on the Constitutional Tribunal paralyse this institution and can lead to the undermining of the principles of democracy, the rule of law and human rights.

The Venice Commission also criticised Beata Szydło's government for refusing to publish the judgment of the Constitutional Tribunal of 9 March 2016.

12 March

A demonstration under the slogan 'Defend the constitutional order' was held in Warsaw. The protest was a reaction to the announcement by the Venice Commission of the opinion on changes in the Constitutional Tribunal. According to the Warsaw City Hall, 50,000 people had gathered.

05 April

Frans Timmermans, Vice-President of the European Commission, arrived in Poland in connection with the EC's rule of law procedure against Poland, the objective of which is to examine whether the situation around the Constitutional Tribunal poses a threat to the rule of law.

13 April

The European Parliament passed a resolution condemning the actions of the Polish government and calling on it to respect the decisions of the Constitutional Tribunal and to fully implement the recommendations of the Venice Commission.



26 April

The General Assembly of Judges of the Supreme Court passed a resolution stating that, in accordance with Article 190, para. 2 of the Constitution of the Republic of Poland, judgments of the Constitutional Tribunal must be immediately published.

28 April

A delegation from the Venice Commission visited Poland to prepare an opinion on the so-called invigilation law.

29 April

A new bill on the Constitutional Tribunal was submitted to the Sejm (form no. 558).

07 May

A march under the slogan 'We are and we shall be in Europe' took place in Warsaw and moved from the Prime Minister's Chancellery to Plac Piłsudskiego. According to the police, there were about 45,000 people in Plac Piłsudskiego alone at the peak of the march, while according to city representatives 240,000 people gathered in the whole march.

18 May

The European Commission asked Prime Minister Beata Szydło to provide information on the activities to solve the crisis with the Constitutional Tribunal.

01 June

The European Commission adopted a negative opinion on the rule of law and democracy in Poland. The Polish government was given two weeks to respond to the allegations.

10 June

The Sejm has adopted an 'anti-terrorism law'. It encountered widespread criticism of experts who warned, among other things, of the danger of abuse and uncontrolled invigilation (Journal of Laws of 2016, item 904). The Act became effective on 2 July 2016.

13 June

The Venice Commission published its opinion on the invigilation law. It stated, among other things, that following the amendments to the Act on the Police, the services had been given excessively extensive powers that could strike directly at the right to privacy.

15 June

The Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, announced his report on the state of human rights in Poland, in which, among other things, he expressed concern about the paralysis of the Constitutional Tribunal and called on the Polish authorities to implement the Venice Commission's recommendations.

28 June

President Andrzej Duda refused to sign ten judicial nominations without any justification.

22 July

The Sejm passed a new Act on the Constitutional Tribunal (Journal of Laws of 2016, item 1157). It provided for, among other things, the requirement to consider applications in the order in which they are received, the promulgation of judgments of the Tribunal issued before 20 July 2016, the inclusion of stand-in judges in adjudication, and the forwarding of judgments for publication by the Prime Minister and not by the President of the Constitutional Tribunal.

27 July

The European Commission made recommendations on the systemic threat to the rule of law in Poland and set a period of three months for their implementation.

05 August

The First President of the Supreme Court requested the Constitutional Tribunal to declare the provisions of the Act on the Constitutional Tribunal of 22 July 2016 (Journal of Laws, item 1157) incompatible with the Constitution of the Republic of Poland.

11 August

The Constitutional Tribunal in full session declared the Act on the Constitutional Court passed on 22 July 2016 partially unconstitutional. Dissenting opinions to the judgment were submitted by the newly elected judges Piotr Pszczółkowski, Julia Przyłębska and Zbigniew Jędrzejewski. The Tribunal ruled on the basis of the Act on the Constitutional Tribunal of June 2015 (case ref. K 39/16).

03 September

An Extraordinary Congress of Judges was held in defence of the independence of the third authority, which was attended by more than 1,000 judges. The representatives of the State authorities ignored the invitation to the Congress.

03 October

A women's black protest against the tightening of anti-abortion laws took place throughout Poland. More than 100k people took part in the manifestations.

14 October

The Venice Commission adopted the opinion that the Act on the Constitutional Tribunal of 22 July 2016 does not satisfy the conditions for a proper balance in the rule of law: the independence of the judiciary and the role of the Constitutional Tribunal as the final arbitrator in the system of control of the constitutionality of the law. The Commission also negatively assessed, among other things, the appropriation by the Prime Minister's Office of the right to decide to publish judgments of the Tribunal.

27 October

The Polish government informed the European Commission that it does not see any legal possibility of implementing its recommendations regarding the Constitutional Tribunal of 27 July 2016. The government rejected the European Commission's recommendations on the matter of the Constitutional Tribunal and the state of the rule of law. It acknowledged that they were based on an unauthorised thesis about the fundamental role of the Constitutional Tribunal in ensuring the rule of law in Poland.

04 November

The UN Human Rights Committee expressed concern over the dispute around the Constitutional Tribunal, access to legal abortion, respect for freedom of speech and the situation of the public media, and the migration policy. The Polish government was requested to immediately publish all judgments of the Constitutional Tribunal and ensure their implementation, and to refrain from measures that harm the effective functioning of the Constitutional Tribunal.

30 November

The Sejm passed the Act on the organisation and procedure of conduct before the Constitutional Tribunal (Journal of Laws of 2016, item 2072) and on the status of judges of the Constitutional Tribunal (Journal of Laws of 2016, item 2073).

The act changes, among other things, the principles of selecting candidates for the office of president of the Constitutional Tribunal and introduces a six-year term of office for the president. According to the new regulations, the General Assembly of judges of the Constitutional Tribunal consists of judges of the Constitutional Tribunal who have taken an oath before the President, which means that three stand-in judges were allowed to participate in the Assembly.

13 December

The Sejm passed an amendment to the Act on Assemblies, which introduced a new special type of assembly (the so-called Smolensk Monthly Assemblies Law). The so-called cyclical assemblies have priority over other ordinary assemblies. (Journal of Laws of 2016 item 2074), thereby restricting the Constitutional freedom of assembly.

President Andrzej Duda contested the Act to the Constitutional Tribunal. On 16 March 2017, the Constitutional Tribunal held that the Act is constitutional (Kp 1/17).

16 December

Proceedings of the Sejm in the Column Hall.

During the third reading of the 2017 Budget Act, Civic Platform (PO) MP Michał Szczerba, who had come forward to speak, was excluded from the proceedings by Marshal of the Sejm, Marek Kuchciński. The reason was supposed to be disruption of the work of the chamber (Szczerba came to the rostrum with a piece of paper with the sign #FreeMediaintheSejm). A group of PO and Nowoczesna MPs blocked the rostrum in the Assembly Hall of the Sejm.

After the adjournment, the Marshal of the Sejm decided to continue the sitting of the Sejm in the Column Hall, to which journalists were not allowed, and opposition MPs were prevented from filing formal motions by blocking the passage into the hall with chairs and not allowing them to speak. Some PiS MPs signed the attendance register after the sitting had closed, voting took place by a show of hands and the votes were counted manually by MP secretaries from PiS. In the opinion of the opposition MPs, there was no quorum in the Column Hall, so the proceedings were illegal and the votes invalid.

19 December

End of the term of office of the President of the Constitutional Tribunal, Professor Andrzej Rzepliński.

19 December

Three Acts on the functioning and judges of the Constitutional Tribunal which had been passed on 30 November and 13 December and signed by President Andrzej Duda were published in the Journal of Laws.

20 December

President Andrzej Duda entrusted Julia Przyłębska with the office of acting President of the Constitutional Tribunal until the appointment of the President of the Tribunal. On the same day, she called a General Assembly of Judges of the Constitutional Tribunal, which elected the President of the Constitutional Tribunal. Julia Przyłębska and Mariusz Muszyński were presented to the President as candidates for the office of President of the Constitutional Tribunal. Six people took part in the voting on the candidates.

The Constitution does not provide for the position of Acting President of the Constitutional Tribunal and the Assembly did not pass a resolution on the presentation of the candidates to the President.

21 December

Judge Julia Przyłębska was appointed President of the Constitutional Tribunal by President Andrzej Duda.

The procedure for electing and appointing the President of the Constitutional Tribunal is legally defective and the President's decision constitutes a constitutional tort.

21 December

The European Commission decided to send additional recommendations to Poland in view of the failure of the authorities to implement the guidelines to date to resolve the crisis around the Constitutional Tribunal.

2017

11 January

Prosecutor General Zbigniew Ziobro filed a motion with the Constitutional Tribunal to examine the constitutionality of the resolutions of the Sejm of the 6th term of office of 2010 electing Constitutional Tribunal Judges Stanisław Rymar, Piotr Tuleja and Marek Zubik (case ref. U 1/17). According to the Sejm, it breached the Constitution because it issued a single act on this matter, while judges of the Constitutional Tribunal should be elected individually.

The judges were removed from adjudication for more than three years.

On 12 March 2020, the Constitutional Tribunal discontinued the proceedings in this case because of the retirement of the judges in question on 3 December 2019.

17 February

An open letter to the European Commission on the situation in Poland signed by five international organisations, in which the organisations called on the EC to stop Poland from turning its back on the common founding values of the EU and to take the next steps specified in Article 7 TEU.

The appeal was also supported by more than 20 organisations from Poland.

01 March

The Constitutional Tribunal received a motion from a group of MPs to declare certain provisions of the Act on the Supreme Court and the Rules for the Selection of Candidates for the Position of the First President of the Supreme Court unconstitutional (case ref. K 3/17).

14 March

The Sejm received a bill prepared by the Ministry of Justice amending the Act on the National Council of the Judiciary of 23 January 2017 (Sejm form no. 1423), which provided, *inter alia*, for the election of members of the NCJ by politicians, shortening the term of office of current judge-members of the NCJ, entrusting the President with the powers to select a judge from among the candidates for judges presented by the NCJ, which was not supported by the provisions of the Constitution of the Republic of Poland and breached the principle of balance and separation of powers.

12 April

The Sejm received a Members' bill amending the Law on the Structure of Ordinary Courts and certain other acts (Sejm form no. 1491) (the so-called fast legislative track).

12 April

The first repressions with respect to Judge Waldemar Żurek, press officer of the National Council of the Judiciary. The Central Anti-Corruption Bureau audited his asset declarations. The prosecutor's office also requested his phone records in May, and the judge has been plagued with checks and leaks to the tabloids.

27 April

The European Commission has called on Poland to stop the large-scale felling planned for the Białowieża Forest – Europe's last remaining primeval forest complex and a nature protection area encompassed by the Natura 2000 network.

On 25 March 2016, the Polish authorities decided to approve an amendment to the forest management plan for the Białowieża Forestry Commission. This decision allows for a threefold increase in timber harvesting and the introduction of active forest management measures in areas that were previously excluded from all kinds of intervention. The Polish authorities justified the increased felling by the need to control the bark beetle infestation and the need to ensure public safety, but the available evidence indicated that these measures were not in line with the conservation objectives of this area and extended beyond what was necessary for the safe use of the forest.

The EC called on the Polish authorities to respond within one month and warned that if Poland fails to take steps within that time, the case could be referred to the EU Court of Justice.

16 May

Resolution of the General Assembly of Judges of the Supreme Court stating, among other things that: *'The actions of the authorities are leading to the destruction of the judiciary system, and are therefore weakening the Polish State (...) the presented proposals are limited almost exclusively to enabling personnel changes to be made which serve the purpose of subordinating the courts to the politicians.'* The judges requested the President of the Republic of Poland, the Prime Minister and the Minister of Justice, as well as all MPs and Senators to initiate a discussion on the actual and necessary reform of the judiciary, bearing in mind the responsibility of all of us for the State and its image in the world.



31 May

The Supreme Court passed a resolution on President Andrzej Duda's pardon of Mariusz Kamiński and the former heads of the Central Anti-Corruption Bureau. In the resolution, it stated that the President can only pardon people convicted with a final court verdict, so the President's act of clemency in the case of the former heads of the Central Anti-Corruption Bureau has no procedural effect.

The Marshal of the Sejm submitted a request to the Constitutional Tribunal to resolve the competence dispute between the Supreme Court and the President of the Republic of Poland – whether exercising the right of clemency is a personal right of the President of the Republic of Poland which is not subject to the control of the judicial authority.

The competence dispute has not been resolved by the Tribunal.

20 June

The Polish Sejm passed a bill amending the Law on the Structure of Ordinary Courts and Certain Other Acts (Sejm form no. 1491).

The Act introduces changes regarding, among others:

- increasing the influence of the Minister of Justice on the appointment of court presidents and vice-presidents;
- the introduction of new tools of external and internal supervision over the administrative activity of courts
- the submission and publication of asset declarations of judges;
- the introduction of the ability to delegate a judge to the Ministry of Foreign Affairs and the President's Chancellery;
- changes to the system of appraising the work and planning the professional development of judges.

12 July

The Sejm received a members' bill on the Supreme Court (Sejm form no. 1727).

The bill places full control over the Supreme Court in the hands of the Minister of Justice. The bill assumes that it is the Minister of Justice who specifies the rules, the number of judges and the internal organisation of the Court. It also provides for a complete replacement of the Supreme Court's personnel. When the bill enters into force, all existing Supreme Court judges are to retire, with the exception of those appointed by the Minister of Justice. The Minister of Justice will also appoint the First President of the Supreme Court if the judge holding that position is retired. The new Act also reduces the age entitling the retirement of a judge. The bill was assessed very negatively as being in conflict in many places the Constitution, breaching the separation of powers and the principles of a democratic state governed by the rule of law.

12-24 July

Numerous mass social protests in connection with the acts on the courts passed by the parliament take place throughout Poland (the media reported protests in over 180 towns). Protests referred to as the 'Chain of Light' continued uninterruptedly until 25 July.

19 July

Antonio Tajani, President of the European Parliament sends an open letter to President Andrzej Duda: *'last week, the Polish Parliament adopted laws on the National Council of the Judiciary and the Ordinary Courts. Both have caused great concern in the European Parliament as they may be in opposition to the fundamental principles of the European Treaties, weaken the independence and impartiality of the Polish judiciary and undermine the separation of powers in Poland. Furthermore, the Sejm is currently debating over a new bill that would end the term of office of the current Supreme Court judges and allow the Minister of Justice to select their successors. At the request of the vast majority of leaders of political groups in the European Parliament, I must send you a clear sign of concern about the situation. Recognising your role as the main guarantor of the Polish Constitution, I respectfully urge you to consider the matter and take these concerns into account.'*

20 July

The Polish Sejm passed a new Act on the Supreme Court (Sejm form no. 1727).

All amendments submitted to the law by opposition MPs were rejected. Additionally, the parliamentary majority did not take into account the negative opinions of the First President of the Supreme Court, the NCJ, the Supreme Bar Council, the Ombudsman, associations of judges, the Legislative Bureau of the Senate and many legal authorities, stating that the Act is unconstitutional.

22 July

The Senate adopted the Act on the Supreme Court on the night of 21-22, which had been passed the day before by the Sejm without any amendments.

The Act that changed the political order in Poland was passed at lightning speed, without any consultations – eight days passed from the submission of the project to the Sejm until its approval by the Senate.

24 July

President Andrzej Duda announced that he would veto the Acts on the Supreme Court and the National Council of the Judiciary, which had been passed by the parliament. However, he announced that he would sign the Act on the Structure of Ordinary Courts, giving the Minister of Justice the right to dismiss and appoint presidents of the courts. The President also an-

nounced that he would present new versions of bills reforming the judiciary in the near future.

Citizens protesting before the Supreme Court were approached by Supreme Court judges to thank them for their support over the past two weeks. The judges received white roses from the protesters.

24 July

The President of the Republic of Poland signed the Act amending the Law on the Structure of Ordinary Courts and Certain Other Acts; it was published in the Journal of Laws on 28 July 2017 (Journal of Laws 2017, item 1452).

26 July

The European Commission adopted further recommendations on the rule of law in Poland.

27 July

The vice president of the CJEU ordered Poland to stop the logging in the Białowieża Forest immediately. The decision was made as a result of a complaint by the European Commission against Poland brought before the Court on 17 July 2017 in connection with increased logging in the forest.

31 July

In accordance with the earlier announcement, the President of Poland refused to sign the Acts on the Supreme Court and the National Council of the Judiciary and returned them to the Sejm with a request to reconsider them.

07 August

The National Prosecutor's Office discontinued the investigation into the sitting of the Sejm in the Column Hall on 16 December 2016, at which the Budget Act was passed.

28 August

Poland rejected the European Commission's recommendations regarding the reform of the judiciary.

13 September

Poland did not comply with the CJEU's order to apply interim measures in the Białowieża Forest nature conservation case.

Therefore, the European Commission supplemented its motion by asking the Court to order Poland to pay a fine if it fails to comply with the orders made in these proceedings.

25 September

The President of the Republic of Poland presented a bill on the Supreme Court (Sejm form 2003).

25 September

The President of the Republic of Poland presented a bill amending the Act on the National Council of the Judiciary and Certain Other Acts (Sejm Form No. 2002).

The bill on the NCJ interrupts the term of office of all judge-members of the NCJ. New members of the NCJ would be elected by the Sejm, with a 3/5 majority vote, for a joint four-year term, from among candidates presented, among others, by a group of two thousand citizens. They had been elected by the judiciary to date.

24 October

Judgment of the Constitutional Tribunal in the case based on the motion of the Ombudsman of 27 January 2017 to examine the compliance with the Constitution of, among other things, the provisions of the Acts on the Constitutional Tribunal on the basis of which the so-called stand-in judges were elected. The Tribunal ruled that the contested provisions of the Act - Provisions introducing the Act on the organisation and procedure of conduct before the Constitutional Tribunal and on the status of judges of the Constitutional Tribunal are consistent with the Constitution. The panel adjudicating in the case included two stand-in judges who had been elected by the parliamentary majority to the Constitutional Tribunal in 2016 to places that were already occupied. (case ref. K 1/17).

24 October

The Constitutional Tribunal issues a judgment in the case of the motion from a group of MPs of 1 March 2017 to declare certain provisions of the Act on the Supreme Court and the Rules for the Selection of Candidates for the Position of the First President of the Supreme Court unconstitutional. The Constitutional Tribunal held that some of the contested provisions were unconstitutional. (case ref. K 3/17).

27 October

After a five-day visit to Warsaw (23-27 October), UN Special Rapporteur Diego Garcia-Sayan assessed, among other things, that: „The independence of justice and institutional checks and balances are under threat in Poland'; 'the reforms undertaken by the government, which were supposed to be a cure for the situation, look much worse than the disease itself that has affected the judiciary'; the changes in the judiciary prepared by the ruling majority after the 2015 parliamentary elections 'undermine the role, independence and principle of the separation of powers'. He also criticised the fact that the discussion on the projects presented by the president is taking place behind closed doors. Garcia-Sayan considered that the changes made by PiS to the Constitutional Tribunal have led to the weakening of its independence and legitimacy. The functioning of the Supreme Court is also under threat. 'The reforms currently being undertaken may weaken its independence and its capacity to defend human rights.'

14 November

The First President of the Supreme Court, Małgorzata Gersdorf, presented a bill amending the Act on the Supreme Court. The bill contains solutions which, while remaining in compliance with the Constitution, address public expectations with respect to the assessment of the work of judges, the verification of grossly unfair rulings and ensuring a balance within which the judiciary would be subject to greater scrutiny by the Sejm, as the representative of the Nation, the Minister of Justice and the President of the Republic of Poland. The bill was not processed further.

15 November

The European Parliament issued a resolution on the situation regarding the rule of law and democracy in Poland. Among other things, the resolution calls on the Polish government to respect the rule of law and fundamental rights enshrined in the treaties. The MEPs have also initiated their own procedure to activate Article 7 of the Treaty against Poland.

20 November

The Grand Chamber of the EU Court of Justice ordered the immediate stoppage of logging in the Białowieża Forest.

08 December

The Polish Sejm passed a new Act on the Supreme Court. The Senate passed the Act without any amendments. The President signed it on 20 December.

The bill was submitted by President Andrzej Duda, but was substantially changed by PiS. All the ruling party's amendments were adopted, all of the opposition's amendments, except one, were rejected.

The Act on the Supreme Court introduces, among other things, the institution of an extraordinary complaint, namely the ability to file a complaint against any final decision, which is to be considered by a new chamber in the Supreme Court, the Chamber of Extraordinary Control and Public Affairs. The jurisdiction of this chamber is also to include public law cases, as well as confirmation of the validity of elections.

The Act introduces a new model of disciplinary proceedings for judges and provides for the creation of a Disciplinary Chamber to hear disciplinary cases of judges and other legal professionals.

Furthermore, it requires Supreme Court judges to retire at the age of 65 (previously 70 years) with the ability of the judge to apply to the president to prolong the term in which he can adjudicate. According to the bill, judges who are already 65 years old will retire three months after the law enters into force.

08 December

The Polish Sejm enacted a bill amending the Act on the National Council of the Judiciary and Certain Other Acts. The Senate passed the Act without any amendments. The President signed it on 20 December.

The bill was submitted by President Andrzej Duda, but was changed by PiS to a large extent during the legislative work. Almost all the ruling party's amendments were adopted; all of the opposition's amendments were rejected.

The new Act interrupted the tenure of the current members of the NCJ and gives the Sejm the task of selecting 15 new members of the NCJ – judges who had previously been chosen by the judicial community.

11 December

The Venice Commission issued an opinion on the Law on the Public Prosecutor's Office of 28 January 2016. In the opinion, the Commission expressed disappointment with the fast-track manner in which the Act had been adopted, preventing any meaningful public consultations. The Commission pointed out that the combination of the functions of the Minister of Justice and the Prosecutor General raises a number of insolvable problems related to the separation of powers and does not meet international standards regarding the procedure for appointing the Prosecutor General or his powers.

The extremely broad powers awarded to the Minister of Justice favour abuse and political manipulation, which is inadmissible under the rule of law. Excessive powers over the prosecutor's office and judiciary concentrated in the hands of one person have negative consequences for their independence of the political sphere, and therefore for the principle of the separation of powers and the rule of law in Poland.

08 December

The Venice Commission issued an opinion on the judicial reforms in Poland. According to the Commission, the Act on the Supreme Court, together with the Act on the National Council of the Judiciary, places the judiciary under the control of the ruling party and the President. This is in conflict with the principle of the separation of powers declared in the Polish Constitution as the basis of its system of government (Article 10) and the independence of the judiciary (Article 173). Both of these principles are also an integral part of the constitutional acquis of all European states governed by the rule of law.

18 December

The Regional Court in Warsaw overturned the decision of the prosecutor's office of 7 August 2017 to discontinue the investigation into the Sejm sitting in December 2016 in the Column Hall.

'The parliamentary majority breached the rules of the constitution in a planned, decisive, consistent manner, simply with full premeditation,' stated Judge Igor Tuleya in the justification of the judgment. The judgment was announced with participation of the media.

20 December

The European Commission requested the Council of the European Union to 'establish that there is a clear risk of a serious breach by the Republic of Poland of the rule of law' on the basis of Article 7. Treaty on European Union. This was the first ever use of this article.

The European Commission stated that the changes in the system of the judiciary that the ruling camp in Poland has introduced over the past two years seriously threaten the independence of the courts and the principle of the separation of powers. This applies to both the recent Acts on the Supreme Court and the National Council of the Judiciary, as well as laws on the Constitutional Tribunal, the prosecution service and the ordinary courts. 'The executive or legislative powers are now set up in such a way that the ruling majority can systematically, politically interfere with the composition, the powers, the administration and the functioning of these authorities. The independence of the judiciary is completely called into question,' EC vice-president Frans Timmermans said.

2018

02 January

The new Act on the Supreme Court and the amendment to the Act on the NCJ were published in the Journal of Laws (Journal of Laws 2018, item 3 and item 5).

10 January

Polish Prime Minister Mateusz Morawiecki gave a document to foreign journalists in Brussels explaining why the changes to the Polish judiciary are necessary. The information saw the light of day on 22 January, when the media wrote about this.

The document referred, among other things, to bribes, informants from the communist security apparatus and cronyism in the judiciary.

16 January

The General Assembly of Judges of the Supreme Court referred in six points to the situation of the judiciary after the adoption by the Parliament of the Acts reforming the justice system in Poland.

In the resolution, the judges of the Supreme Court declared, among other things that the changes in the law are in conflict with the norms of the applicable Constitution of the Republic of Poland and breach the principles of the separation of powers, the independence of the judiciary, the impartiality of judges and their irremovability.

23 January

First President of the Supreme Court, Małgorzata Gersdorf, was elected President of the National Council of the Judiciary.

13 February

Minister of Justice Zbigniew Ziobro dismissed 137 presidents and vice-presidents of 377 ordinary courts during the six months of validity of the amended Act on the Ordinary Courts. The dismissals were most often made by fax, by which a notice of dismissal was sent without any justification.

06 March

The Sejm elected a new membership of the National Council of the Judiciary (neo-NCJ) with the votes of the PiS and Kukiz' 15 MPs. The Chancellery of the Sejm refused to disclose the lists of support for candidates to the NCJ.

06 March

Małgorzata Gersdorf resigned from her position as Chairperson of the National Council of the Judiciary in connection with the election of the new membership of the NCJ.

06 March

Prime Minister Morawiecki presented a so-called 'White Paper' on the reforms of the Polish judiciary in Brussels. The 'White Paper' received open criticism from, among others, organisations of judges and the Supreme Court.

15 March

The European Commission referred Poland to the Court of Justice of the European Union over changes to the Law on the Structure of Ordinary Courts (C-192/18).

The Commission alleged that the Republic of Poland breached European Union law by introducing provisions in the Act amending the Act on the Structure of Ordinary Courts of 12 July 2017 differentiating the retirement age between men and women who are judges of Ordinary Courts, judges of the Supreme Court and prosecutors and reducing the retirement age for judges of the Ordinary Courts, while granting the Minister of Justice the right to decide on the extension of the period of active service of judges.

22 March

The Polish Sejm received parliamentary bills amending the provisions of the Act on the Supreme Court (which had not yet entered into force), the Structure of Ordinary Courts (Sejm Form No. 2389) and the provisions introducing the Act on the Organisation and Procedure of Conduct before the Constitutional Tribunal and the Act on the Status of Judges of the Constitutional Tribunal (Sejm Form No. 2388).

The amendments to the Act on the Supreme Court and the Act on the Structure of Ordinary



Courts applied to the procedure for dismissing court presidents and the matter of the retirement of judges. The draft amendment to the Act on the Constitutional Tribunal provided for the publication of the judgments of the Constitutional Tribunal, the printing of which was prevented by Prime Minister Beata Szydło in 2016.

30 March

The Polish Sejm received a further members' bill amending the Act on the Supreme Court (Sejm form no. 2390).

Among the main changes introduced by this amendment are the changes in the procedure for electing the First President of the Supreme Court. In light of the procedure proposed by the amendment, a potential vacancy in that position will be filled under the full control of the executive. Until the vacancy in the Supreme Court is filled, the person in charge and representing the Supreme Court will be an institution, which is alien to the Polish Constitution, of a judge to whom the President of the Republic of Poland entrusts the management of the Supreme Court (a similar solution was introduced in the case of a judge who is the acting president of the Constitutional Tribunal).

03 April

The new Act on the Supreme Court of 8 December 2017 (Journal of Laws 2018, item 5) entered into force.

The judges of the liquidated Military Chamber of the Supreme Court retired.

The Act provided, among other things, that three months after its entry into force, judges aged over 65 years would retire, including the First President of the Supreme Court, Małgorzata Gersdorf, whose constitutional term ended in April 2020. It introduced a new model of disciplinary proceedings for judges and a separate Disciplinary Chamber, as well as a second new Chamber of Extraordinary Control and Public Affairs, which will decide on the validity of elections – lay judges chosen by the Senate will also adjudicate there. It also introduces the institution of an extraordinary complaint against final court judgements from the last twenty years.

12 April

The Polish Sejm passed amendments to the Act on the Supreme Court, the Act on the Structure of Ordinary Courts and the Act on the Constitutional Tribunal (Sejm Form No. 2388, 2389 and 2390).

The Acts changed the procedure for electing the First President of the Supreme Court, placing it under the control of the executive. They introduced the institution of a judge entrusted with the management of the Supreme Court by the President of the Republic of Poland, an institution unknown to the Polish Constitution (a similar solution was introduced in the case of the judge who was an acting president of the Constitutional Tribunal).

Other changes applied to the procedure for dismissing court presidents and retiring judges, as well as providing for the publication of judgments of the Constitutional Court, which Prime Minister Beata Szydło prevented from being printed in 2016.

17 April

The Court of Justice of the EU ruled on nature conservation in the Białowieża Forest. The CJEU found that Poland had breached its obligations and infringed EU law by logging in the Białowieża Forest.

10 May

The Polish Sejm enacted another amendment to the Act on the Supreme Court and Certain Other Acts (Sejm Form No. 2480).

The amendments provided, among other things, that an extraordinary complaint could only be submitted by the Prosecutor General or the Ombudsman.

The bill had been submitted to the Sejm 10 days earlier.

04 June

Minister of Justice Zbigniew Ziobro appointed a new Disciplinary Commissioner of the Judges of the Ordinary Courts. This was Piotr Schab. Two weeks later, the MoJ appointed his new deputies, namely Michał Lasota and Przemysław Radzik. The stage of selection of the commissioners by the NCJ was omitted in the procedure of their appointment.

06 June

The UN Human Rights Council published a special report by the UN Special Rapporteur, Diego Garcia-Sayan, on the threat to the Polish judiciary from interference by the legislative and executive powers. It was written after Garcia-Sayan's visit to Poland in October 2017.

In his opinion, the Polish government has the right to reform the judicial system in order to improve its efficiency and accountability. However, the measures adopted by the ruling majority are not adequate to the declared objectives. Their main effect, if not the main objective, is to limit the constitutionally protected principle of the independence of the judiciary and to allow the legislative and executive authorities to interfere with the administration of justice. As a result, the independence of the judiciary in Poland is currently under threat.

07 June

120 NGOs and more than 16,000 citizens appealed to the European Commission to immediately refer the Act on the Supreme Court to the Court of Justice of the European Union.



*'Almost 40% of the Supreme Court judges may be forced to take early retirement on 3 July, under the unconstitutional Act on the Supreme Court. They will be replaced by nominees of the already politicised National Council of the Judiciary, which is fully controlled by the government.'*

28 June

The General Assembly of Judges of the Supreme Court passed a resolution

*We, the judges of the Supreme Court, participating in the General Assembly of the Judges of the Supreme Court on 28 June 2018, remembering the oath taken as judges and faithful to the Constitution of the Republic of Poland, which is the supreme law of the Republic of Poland, state that, in accordance with directly applicable Article 183, para. 3 of the Constitution of the Republic of Poland (Article 8, para. 2 of the Constitution of the Republic of Poland), until 30 April 2020, Supreme Court Judge Prof. Małgorzata Gersdorf is the First President of the Supreme Court, heading the institution in which we perform our service to the public.*

29 June

A proclamation by the President of the Republic of Poland of 24 May 2018 announcing 44 vacant judicial positions in the Supreme Court was published in the Official Journal of the Republic of Poland, 'Monitor Polski'. The announcement did not contain the Prime Minister's countersignature.

02 July

The European Commission has launched an urgent infringement procedure to protect the independence of the Supreme Court due to a lack of progress through dialogue with Poland on the rule of law and the imminent implementation of a new pension system for Supreme Court judges. According to the EC, the new Act on the Supreme Court breaches the principle of independence of the judiciary, including the principle of the non-removability of judges.

04 July

According to the new Act on the Supreme Court, 27 Supreme Court judges aged 65 and over, including First President of the Supreme Court, Małgorzata Gersdorf, will be retired.

They came to the court to continue fulfilling their duties. The Supreme Court published the judges' declarations of willingness to continue to hold the position of Supreme Court judge.

06 July

Meetings were held at the Supreme Court between First President Małgorzata Gersdorf and representatives of Amnesty International, the European Network of Councils for the Judiciary (ENCJ), the European Network of EU First Presidents of European Courts, and the Consultative Council of European Judges to the Council of Europe (CCJE).

The meetings were about the current situation at the Supreme Court.

20 July

The Sejm passed the Act amending the Law on the Structure of Ordinary Courts and Certain Other Acts.

The Act amended the transitional provisions of the Act on the Supreme Court for the fifth time in order to accelerate the election of the First President of the Supreme Court – before the CJEU issues its ruling. The lawmakers wanted to elect a new First President of the Supreme Court, even though the term of office of the then First President was not due to end until 2020.

Candidates to the office of judge of the Supreme Court are deprived of the right to appeal to the court. In its opinion on the bill, the Supreme Court indicated that the legislative changes that were introduced are an example of the extremely instrumental use of the law to achieve short-term political goals.

The law was published in the Journal of Laws on 26 July and entered into force on 10 August 2018.

02 August

The Supreme Court (Labour and Social Security Chamber, in a panel of seven judges) referred five questions to the CJEU for a preliminary ruling on the reduction of the retirement age for judges to 65. The Supreme Court simultaneously suspended the application of these provisions. (CJEU case ref.: C-522/18).

In an unsigned statement, the Chancellery of the President assessed that the decision was issued without a proper legal basis and has no effect on the President of the Republic of Poland. Marshal of the Senate, Stanisław Karczewski acknowledged the Supreme Court ruling as being a revolt. The MoJ spokesperson accused the Supreme Court judges of ignorance of the law. The acting President of the Constitutional Tribunal, Julia Przyłębska, commented that the Supreme Court judges breached the constitution. Her deputy, Mariusz Muszyński, stated that such nonsense as the Supreme Court's decision could not even have been invented by the most undereducated student in an after-party stupor. On 6 August 2018, a representative of the Office of the National Council of the Judiciary stated that the NCJ would not comply with the order of the Supreme Court of 2 August 2018.

23 August

Prosecutor General Zbigniew Ziobro sent a request to the Constitutional Tribunal regarding the provisions on the basis of which the Supreme Court submitted the requests for preliminary rulings to the CJEU on 2 August 2018.

23 August

The neo-NCJ selected 12 candidates for the Disciplinary Chamber of the Supreme Court in an accelerated procedure. Among them are six prosecutors (four from the National Prosecutor's Office), three legal counsels, two judges and one academic.

28 August

The neo-NCJ selected 20 candidates for the Chamber of Extraordinary Control and Public Affairs of the Supreme Court and 7 for the Civil Chamber of the Supreme Court.

29 August

The Voivodship Administrative Court in Warsaw overturned the decision of the head of the Chancellery of the Sejm making the lists of support for candidates to the NCJ secret.

09 September

The first summonses of judges of the ordinary courts to provide explanations before disciplinary commissioners. The cases mainly apply to critical statements about changes in the justice system.

Bartłomiej Przymusiński, Igor Tuleya, Ewa Maciejewska, Krystian Markiewicz and Olimpia Barańska-Małuszek issued the summonses.

12 September

President of the Republic of Poland, Andrzej Duda, informed seven judges of the Supreme Court of the date of their retirement as of 12 September 2018.

This applied to judges who had submitted declarations of their willingness to continue to hold the office of Supreme Court judge, while the President of the Republic of Poland did not agree to this. The neo-NCJ had previously formulated negative opinions about them. The President notified the judges of this without waiting for the ruling of the CJEU on the Supreme Court's questions about the compatibility with European law of the procedure for reducing the retirement age of judges.

The notices were not countersigned by the Prime Minister.

The judges of the Supreme Court still considered themselves to be active judges of the Court; they were removed from office and their oath as judges against their will.

They simultaneously refrained from adjudicating.

12 September

The Supreme Court (Labour Chamber) submitted further requests for preliminary rulings to the CJEU on the independence of the judiciary.

The questions applied to the method of selecting members of the National Council of the Judiciary and its consequences for the validity of the election of judges of the new chamber of the Supreme Court.

The questions arose in the case of the appeal of Supreme Administrative Court Judge Andrzej Kuba against the resolution of the neo-NCJ giving a negative opinion on the further performance of his duties (CJEU ref.: C-585/18).

17 September

The European Network of Councils for the Judiciary (ENCJ) suspended the membership of the National Council of the Judiciary in the network, acknowledging that the Polish neo-NCJ no longer satisfies the requirement of independence of the executive and legislative powers.

19 September

The Supreme Court (Labour Chamber) has referred further questions to the CJEU for preliminary rulings on the provisions of the Act on the Supreme Court regarding the reduction in the retirement age of judges.

The questions were submitted in connection with the examination of motions for security in cases brought by two Supreme Court judges against the Supreme Court to establish the existence of a service relationship of a judge of the Supreme Court in active status (case ref. III PO 8/18 and III PO 9/18 / CJEU reference C-624/18 and C-625/18).

20 September

The President of the Republic of Poland appointed ten people to the Disciplinary Chamber (neo-judges).

4 September

The European Commission took Poland to the EU Court of Justice for breaching the principle of independence of the judiciary.

According to the EC, the Act on the Supreme Court is incompatible with EU law; by reducing the retirement age, it breaches the principle of irremovability of judges, and therefore also the principle of their independence. (C-619/18).

25 September

The Supreme Administrative Court suspended the execution of the resolutions of the neo-NCJ on presenting (not presenting) candidates for the position of judge of the Supreme Court in the Criminal Chamber to the President of the Republic of Poland.

26 September

The Supreme Court judges who were gathered at the Assemblies of the Criminal Chamber and the Chamber of Labour and Social Insurance passed resolutions in which they deemed it

pointless to call Assemblies to elect candidates for the posts of Presidents of the Chambers, as the posts of Presidents of those Chambers were already filled.

27 September

In two more cases, the Supreme Administrative Court suspended the execution of resolutions of the neo-NCJ on presenting (not presenting) candidates for judges in the Civil Chamber and the Chamber of Extraordinary Control and Public Affairs of the Supreme Administrative Court to the President of the Republic of Poland.

03 October

The Supreme Court (Labour Chamber) referred four questions to the CJEU for preliminary rulings. The questions were the same as those presented on 2 August 2018 and applied to the principle of the irremovability of judges, as well as the independence of the courts. (case ref. II PK 153/17 / case ref. CJEU C-668/18).

08 October

The Supreme Administrative Court issued further decisions in cases of appeals against resolutions of the neo-NCJ in the recruitment to the Supreme Court. The Supreme Administrative Court suspended the execution of the resolution with respect to the candidate to the Civil Chamber and set aside the motion of the candidate to the Disciplinary Chamber.

10 October

The President of the Republic of Poland, Andrzej Duda, appointed 27 people to the Civil Chamber, the Criminal Chamber and the Chamber of Extraordinary Control and Public Affairs (neo-judges).

The President ignored the rulings of the Supreme Administrative Court suspending the execution of the resolutions of the neo-NCJ.

The new judges were not admitted to adjudicate in the Civil Chamber and the Criminal Chamber.

17 October

Minister of Justice, Zbigniew Ziobro, requested the Constitutional Tribunal to conclude that Article 267 of the Treaty on European Union is incompatible with the Polish Constitution to the extent to which it allows Polish courts to refer questions on the justice system to the CJEU for preliminary rulings.

19 October

The Vice-President of the CJEU applied interim measures suspending the application of the provisions on the reduction in the retirement age of Supreme Court judges.

22 October

The First President of the Supreme Court, Małgorzata Gersdorf, called on all the judges of the Supreme Court encompassed by the application of the CJEU's interim measures to appear in the Supreme Court to take up judicial service.

22 retired judges had appeared at the Supreme Court by the end of October, and cases were already assigned to some of them.

21 November

The Polish Sejm received a members' bill on the amendment of the Act on the Supreme Court constituting the implementation of the interim measures of the CJEU (Sejm form no. 3013).

The bill was processed at an express pace. It was submitted, passed through three readings and was voted on in Parliament in one day.

The law extended the retirement age of Supreme Court judges back to 70.

It reinstated First President of the Supreme Court, Małgorzata Gersdorf, President of the Civil Chamber of the Supreme Court, Dariusz Zawistowski, and President of the Criminal Chamber of the Supreme Court, Stanisław Zabłocki, in their positions. The Act became effective on 01 January 2019.

21 November

The Supreme Administrative Court submitted 2 requests for preliminary rulings to the CJEU in a case involving appeals by judges against resolutions of the neo-NCJ on the presentation (lack of presentation) of applications for appointment to serve as a judge of the Supreme Court.

The questions applied to the form of the procedure for appointment to the Supreme Court and its impact on the independence of that court (ref. II GOK 2/18) (CJEU case ref.: C-824/18).

27 November

The National Council of the Judiciary filed a motion with the Constitutional Tribunal to examine the constitutionality of the provisions of the Act on the NCJ. (K 12/18).

The motion applied to the constitutionality of the manner in which members of the NCJ are selected, the ability of the Supreme Court and the Supreme Administrative Court to examine resolutions of the NCJ, and the possibility of the Supreme Court and the Supreme Administrative Court to apply interim measures (namely to suspend a decision until it is resolved by a court).

17 December

The Grand Chamber of the CJEU confirmed the order of the Vice-President of the CJEU of 19 October 2018 on the application of interim measures in the case of the Act on the Supreme Court (C-619/19 R).

2019

14 January

Paweł Adamowicz, Mayor of Gdańsk, died.

During the final of the Great Orchestra of Christmas Charity (Wielka Orkiestra Świątecznej Pomocy) Paweł Adamowicz was stabbed by an assassin who burst onto the stage after he delivered a solemn speech. Rallies were held on the following days, in memory of Paweł Adamowicz throughout Poland, which were attended by thousands of people.

20 February

Amendments to the Rules of the Supreme Court entered into force, making it necessary for hearings to be scheduled for neo-judges.

20 February

The President of the Republic of Poland appointed two people to the Supreme Court, one each to the Criminal Chamber and the Chamber of Extraordinary Control and Public Affairs.

23 March

The Disciplinary Chamber at the Supreme Court admonished Judge Alina Czubieniak for her ruling. This was a case in which the judge overturned the detention of an intellectually disabled 19-year-old who was deprived of a defence counsel. This is the first such judgment issued by the Disciplinary Chamber reprimanding a judge for a ruling. .

25 March

The Constitutional Tribunal issued a judgment on the motion of the neo-NCJ and a group of PiS senators (K 12/18) to examine the constitutionality of the provisions of the Act on the NCJ.

The Tribunal ruled that the provision on the election of 15 judge-members of the NCJ by the Sejm is consistent with the Constitution of the Republic of Poland. The Constitutional Tribunal simultaneously declared that the provision allowing an appeal to be filed with the Supreme Administrative Court against resolutions of the NCJ containing requests for the appointment of Supreme Court judges is unconstitutional. A stand-in judge was included in the bench.

03 April

The European Commission launched a case against Poland with regard to the new system of disciplinary measures against judges that undermines their independence and does not provide the necessary guarantees that protect them against political control.

10 April

The Disciplinary Chamber operating at the Supreme Court issued a resolution of the full chamber stating that its 'judges' had been lawfully elected and were therefore entitled to adjudicate. Notwithstanding the doubtful status of the Disciplinary Chamber, the resolution encountered criticism because the judges were adjudicating in their own case.

17 April

The Polish Sejm received a ninth bill on the amendment of the Act on the Supreme Court and Certain Other Acts (Sejm Form No. 3396). The amendments applied, among other things, to the increase in the jurisdiction of the Disciplinary Chamber, the procedure for filling functional posts in the Supreme Court and the abolition of the admissibility of appealing against resolutions of the NCJ in individual cases regarding appointment to the office of a judge of the Supreme Court.

26 April

After less than 10 hours, the Polish Sejm passed the Act amending the Act on the National Council of the Judiciary and the Law on the Structure of Administrative Courts (the bill was submitted to the Sejm on 17 April 2019 as an Act amending the Act on the Supreme Court and Certain Other Acts).

24 June

The Grand Chamber of the CJEU issued a judgment on the Act on the Supreme Court (C-619/18) stating that Poland had failed to fulfil its obligations as a Member State by introducing legislation reducing the retirement age for Supreme Court judges and granting the President the right to extend the service of the judges.

26 June

The Supreme Administrative Court submitted another question for a preliminary ruling on appeals against resolutions of the neo-NCJ in recruitment to the Supreme Court. The question was related, among other things, to the fact that the competence for considering such appeals had been taken away from the Supreme Administrative Court. (II GOK 2/18) [C-824/18]

27 June

The Advocate General of the CJEU presented an opinion, in a case arising from questions from the Supreme Court, in which he considered that the Disciplinary Chamber did not satisfy the requirements of independence in the meaning of EU law because of the role played by the legislative bodies in the selection of the 15 judges of the members of the NCJ.



28 June

The Supreme Administrative Court finally set aside the complaint filed by the head of the Chancellery of the Sejm regarding the secrecy of the lists of support for the candidates to the neo-NCJ, acknowledging that the lists of judges supporting the candidacies of the members to the NCJ constitute public information and are subject to disclosure.

29 July

The President of the Office for Personal Data Protection decided to examine the compliance of the procedure of providing access to the lists of support to the NCJ with Polish and European law and ordered the Chancellery of the Sejm to refrain from making these lists public.

The decisions of the President of the Office for Personal Data Protection were a pretext for further withholding the lists of support by the Chancellery of the Sejm, despite the final judgment of the Supreme Administrative Court.

09 August

A group of MPs submitted a motion to the Constitutional Tribunal regarding the law on the NCJ (ref. K 16/19).

In response to the ruling of the Supreme Administrative Court of 28 June 2019 ordering the disclosure of the lists of support of the candidates to the NCJ, MPs from the ruling party requested that the Constitutional Tribunal declare that the provisions of the Act on the NCJ understood in the way they were interpreted by the Supreme Administrative Court are unconstitutional.

19 August

A so-called 'hate scandal' erupted. The media revealed that the Deputy Minister of Justice Łukasz Piebiak is behind the organised hate campaign with respect to judges who oppose the changes to the justice system implemented by PiS.

Deputy Minister Piebiak resigned.

01 October

The Court of Appeal in Warsaw issued a final judgment in the case of a breach of the personal rights of Judge Justyna Koska-Janusz by the Minister of Justice Zbigniew Ziobro by publishing an announcement on the Ministry's website regarding the shortening of her secondment to the regional court and ordered an apology.

10 October

The European Commission referred a complaint to the CJEU regarding the new system of disciplinary measures against judges in Poland and to request that the case be dealt with in an accelerated procedure. (C-791/19).

13 October

Elections to the Polish Sejm and Senate ending in a victory for Law and Justice (PiS). The victorious electoral committee won a parliamentary majority enabling it to form an independent government once again. PiS lost its majority in the Senate in the elections.

19 November

During the meeting of the General Affairs Council of the European Union, the Finnish Presidency wanted to adopt a common position assessing the so-called 'dialogue on the rule of law'. Poland and Hungary opposed the position. The Finnish Presidency adopted the document in the form of its own conclusions and not as a document of the whole Council.

19 November

The Court of Justice of the EU issued a judgment on the independence of the National Council of the Judiciary and the Disciplinary Chamber (Joined Cases C-585/18, C-624/18 and C-625/18).

The CJEU ordered Polish judges to independently assess the legality of the neo-NCJ and the Disciplinary Chamber, taking into account the criteria indicated by the Court (the so-called 'independence test') and once again confirmed that the organisation of the judiciary in a Member State must comply with EU law, including guaranteeing independence.

The Court specified that, in order to verify whether the Disciplinary Chamber is an independent court, the Supreme Court should conduct, among other things, an assessment of how the neo-NCJ was appointed and how it exercises its powers, as well as under what circumstances the Disciplinary Chamber was established.

The judgment of the CJEU means that each court is obliged, *ex officio* or on request, to assess whether another court consisting of judges appointed by the neo-NCJ or the newly established chambers of the Supreme Court (including the Chamber for Extraordinary Control and Public Affairs) satisfy the criteria of independence under EU law.

Despite the ruling of the CJEU, the Disciplinary Chamber of the Supreme Court has not refrained from adjudicating, although its judgments may be challenged as a result of the assessment of the legality of its adjudication.

20 November

While considering an appeal in a case in which a judge nominated by the neo-NCJ ruled in the first instance, in implementing the CJEU judgment of 19 November 2019, the Regional Court in Olsztyn asked the Head of the Chancellery of the Sejm to submit originals or officially certified copies of the lists of support of judges elected to the new NCJ.



The court decided to check whether this judge satisfies the requirements of independence and impartiality.

Judge Paweł Juszczyszyn was a member of the bench. .

21 November

The Disciplinary Chamber upheld the judgment in the case of Judge Alina Czubieniak, but waived the administration of a penalty.

21 November

Kamil Zaradkiewicz - a neo-judge appointed to the Civil Chamber of the Supreme Court, submitted legal questions to the Constitutional Tribunal at the request of neo-NCJ regarding the exclusion of neo-judges from hearing cases.

28 November

Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts Michał Lasota initiated disciplinary proceedings against Paweł Juszczyszyn, who was the first to comply with the CJEU judgment and ordered the Chancellery of the Sejm to disclose the lists of support for the neo-NCJ.

04 December

Deputy Disciplinary Ombudsman of the Judges of the Common Courts Przemysław Radzik presented 55 charges of disciplinary offences to Krystian Markiewicz, a judge of the Regional Court in Katowice, President of the Iustitia association of judges, in connection with a letter which Judge Markiewicz sent to the presidents and judges of the disciplinary courts regarding the CJEU's judgment of 19 November 2018 and called on them not to refer cases to the Disciplinary Chamber and to suspend proceedings until the CJEU clarifies the status of the people appointed to that chamber

05 December

The Supreme Court (Labour Chamber) issued a judgment in the first of three cases in which requests were submitted to the CJEU for preliminary rulings regarding the independence of the Disciplinary Chamber and the neo-NCJ, and which the CJEU heard on 19 November 2019 (case ref. III PO 7/18).

The Supreme Court held that the Disciplinary Chamber is not a court in the meaning of the law and that the current NCJ is not an impartial and independent body. The interpretation contained in the CJEU judgment of 19 November 2019 is binding on every court in Poland.

06 December

Disciplinary Commissioner of the Judges of the Ordinary Courts Piotr Schab initiated disciplinary proceedings against the Warsaw judge, Anna Bator-Ciesielska, and presented her with five charges in connection with her refusal to rule together with Judges Radzik and Lasota, who had been seconded by Zbigniew Ziobro to the District Court in Warsaw.

10 December

The First President of the Supreme Court, Małgorzata Gersdorf, issued a statement that the continuation of operation of the Disciplinary Chamber poses a serious threat to the stability of the legal order in Poland and called on the judges of the Disciplinary Chamber to refrain from all adjudicatory activities in the cases they are handling.

12 December

A bill amending the Act on the Structure of Ordinary Courts, the Act on the Supreme Court and Certain Other Acts, referred to as the muzzle, repressive or disciplinary act, was received by the Polish Sejm.

15 December

Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts Przemysław Radzik initiated disciplinary proceedings against Aleksandra Janas and Irena Piotrowska, judges of the Court of Appeal in Katowice, for submitting legal questions to the Supreme Court on the legality of the neo-NCJ.

The Commissioner accused the judges of overstepping their powers by granting themselves the authority to determine and assess the method in which the constitutional bodies of the state operate.

16 December

A debate was held in the European Parliament on the state of democracy in Poland and Hungary. Parliamentarians from other countries accused the Polish government of attacking the rule of law in Poland, increasing the government's influence on the courts and being passive in implementing the Commission's recommendations. It was acknowledged that Polish democracy was dying.

20 December

The Polish Sejm passed the so-called Muzzle Act.

10 January

Visit of the Venice Commission to Poland in connection with the enactment of the so-called Muzzle Act.

10 January

The Network of the Presidents of the Supreme Judicial Courts of the European Union issued a statement on the situation in Poland in which it expressed its deep concern that interference by the Polish authorities will have the effect of not only undermining the rule of law and the independence of the judiciary but also of undermining mutual trust in the administration of justice.

11 January

The March of a Thousand Togas was held in Warsaw with the participation of judges and legal professionals from many European countries. 30,000 people took part in the march, which was an objection to the Muzzle Act and the repression of judges.

13 January

The Disciplinary Court at the Court of Appeal in Wrocław pointed out that the Disciplinary Commissioner and his deputies do not have the competence to institute proceedings against judges of district and regional courts on their own initiative, but purely against judges of courts of appeal and presidents of courts of appeal and regional courts. This is the first judgment in which the court explicitly states that there are no legal grounds for the activities of the Commissioner and his Deputies. The judgment was passed in Judge Olimpia Barańska-Matuszek's disciplinary case.

15 January

In two cases, the Supreme Court (Labour Chamber) again held that the Disciplinary Chamber does not constitute an independent and impartial court because of the circumstances of its establishment, the scope of its competence, its composition and the participation of the neo-NCJ in its constitution (III PO 8/18, III PO 9/18).

15 January

The First President of the Supreme Court, Małgorzata Gersdorf, presented a request for the panel of the combined Chambers of the Supreme Court – the Civil Chamber, the Criminal Chamber and the Labour and Social Security Chamber (old Chambers) – to resolve a legal issue regarding the correctness of the membership of a court with the involvement of neo-NCJ judges (case ref. BSA I-4110-1/20).

22 January

The Marshal of the Sejm petitioned the Constitutional Tribunal to resolve an alleged competence dispute between the Polish Sejm and the Supreme Court and between the President of the Republic of Poland and the Supreme Court regarding the motion of the First President of the Supreme Court. (Kpt 1/20).

According to the Supreme Court, the justification of the motion of the Marshal of the Sejm demonstrates a complete misunderstanding of the nature of a competence dispute. The Supreme Court concluded that the motion was filed in bad faith, not to resolve a real dispute on competence, but to prevent the Supreme Court from exercising the powers granted to it by the lawmakers themselves.

23 January

The combined Chambers of the Supreme Court, the Civil, Criminal and the Labour and Social Insurance Chambers, adopted a historic resolution, from which it transpires, among other things, that improper staffing of the Supreme Court, the ordinary courts and military courts arises when their bench includes a person selected by the neo-NCJ.

The Supreme Court stipulated that rulings made by neo-judges cannot be challenged until a resolution is passed. The exception here is the Disciplinary Chamber, whose rulings have been defective from the very beginning of its operation and may be contested.

The Supreme Court additionally stipulated that improper staffing of the court can only be found in the ordinary courts if the defectiveness of the process of appointing a judge in specific circumstances leads to a breach of the standard of independence and impartiality. (case ref. BSA I-4110-1/20)

An attempt was made by the ruling party and its affiliated bodies to block the adoption of the resolution. First, on 21 January, the Disciplinary Chamber approached the Constitutional Tribunal with questions and then Marshal of the Sejm Elżbieta Witek, found an alleged 'competence dispute' between the Sejm and the Supreme Court and asked the Tribunal to settle it. Julia Przyłębska announced that she was suspending the proceedings in the Supreme Court, which was negated by the First President of the Supreme Court, who acknowledged the competence dispute to be apparent and not involving the Supreme Court's authority to issue resolutions.

23 January

The Disciplinary Commissioner for prosecutors initiated proceedings against Katarzyna Gembalczyk, a member of the authorities of Lex Super Omnia, an association that is critical of Zbigniew Ziobro. The Commissioner wanted to know why she was dressed in a toga at the March of a Thousand Togas.

24 January

Prime Minister Mateusz Morawiecki sent a motion to the Constitutional Tribunal to examine the constitutionality of the resolution of the combined chambers of the Supreme Court of 23 January (U 2/20).

24 January

The Voivodship Administrative Court in Warsaw revoked the decision of the President of the Personal Data Protection Office of 29 July 2019 on the lists of support for neo-NCJ. (case ref. II SA/Wa 1927/19).

28 January

The Constitutional Tribunal suspended the application of the resolution of the combined chambers of the Supreme Court of 23 January until the Constitutional Tribunal resolves the case of the – alleged – competence dispute (case ref. Kpt 1/20) between the Polish Sejm and the Supreme Court, and between the President of the Republic of Poland and the Supreme Court.

31 January

The Supreme Court (Chamber of Extraordinary Control and Public Affairs) received a motion from the Prosecutor General to annul the judgment of the Labour and Social Insurance Chamber of the Supreme Court of 5 December 2019 (case ref. I NO 11/20).

04 February

The Disciplinary Chamber indefinitely suspended Paweł Juszczyszyn, a judge of the Olsztyn District Court, for attempting to examine the legality of the neo-NCJ and the status of a judge appointed by it. The Chamber acknowledged that he had no right to do this.

The suspension was to remain in force until a final disciplinary ruling was issued in this case. At the same time, the Disciplinary Chamber reduced the judge's salary by 40%.

The disciplinary case has not ended to this day.

14 February

The so-called 'Muzzle Act' entered into force, introducing, among other things:

- disciplinary liability of judges for acts or omissions that can prevent or significantly impede the functioning of the judiciary, for actions questioning the effectiveness of a judge's appointment and for *'public activities that cannot be reconciled with the principles of independence of the courts and the impartiality of judges'*;
- the extension of the powers of the disciplinary commissioners of judges, who have gained jurisdiction to prosecute all ordinary court judges;
- obligation of judges and prosecutors to declare their affiliation with political parties and associations;
- the prohibition of the collegium and the self-governing association of judges to undertake 'political matters', and *'in particular it is prohibited to adopt resolutions undermining the principles of the functioning of the authorities of the Republic of Poland and its constitutional bodies'*;
- the amended procedure for electing the First President of the Supreme Court – the right to nominate a candidate for this position was given to any judge of the Supreme Court;
- the quorum required to elect the First President of the Supreme Court has been reduced (the minimum is 32 judges);
- in the absence of the First President, the President of Poland will be able to entrust his duties to a Supreme Court judge of his choice;
- the exclusive right of the Disciplinary Chamber to hear motions to lift the immunity of judges and prosecutors in both the first and second instances;
- the exclusive right of the Chamber of Extraordinary Control and Public Affairs to rule on legal issues regarding the impartiality of a judge or the independence of the court;
- the right of the Chamber of Extraordinary Control and Public Affairs to rule on the status of a judge or his right to administer justice and on the independence of the court and the impartiality of the judge.

14 February

The Chancellery of the Sejm posted the lists of support for the candidates for the National Council of the Judiciary on its website. This is a result of the judgment of the Voivodship Administrative Court in Warsaw of 24 January 2020 overturning the decision of the President of the Personal Data Protection Office.

14 February

The Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts initiated disciplinary proceedings against a judge of the Regional Court in Jelenia Góra, Andrzej Żuk, for asking legal questions of the Supreme Court about the status of a judge promoted by the neo-NCJ.

26 February

The National Prosecutor's Office requested the Disciplinary Chamber to lift Judge Igor Tułeya's immunity in order to be able to press criminal charges against him for failing to fulfil his official duties and for overstepping his rights for the ruling issued on 18 December 2017 on the sitting of the Sejm in the column hall.

This is the first such motion to be heard by the Disciplinary Chamber of the Supreme Court under the so-called Muzzle Act.

03 March

The Constitutional Court discontinued the proceedings on the motion of a group of MPs regarding the provisions of the Act on the NCJ (ref. K 16/19) in connection with the disclosure by the Chancellery of the Sejm of lists of support for candidates to the neo-NCJ.

25 March

Due to the state of the Covid-19 epidemic, the Government imposed a ban on movement (apart from going to work or satisfying the most urgent needs). The ban was imposed without declaring a state of natural disaster, by way of a regulation.

As the courts later confirmed by acquitting those punished for breaching this ban, it was introduced without proper grounds and breached the constitutional rights and civil liberties, while the spring 2020 pandemic restrictions grossly breached the law.

Another example of a gross breach of the law was the temporary ban on entry into forests introduced in April 2020.

08 April

The Court of Justice of the EU ordered an interim measure by which it suspended the activity of the Disciplinary Chamber operating at the Supreme Court in disciplinary cases of judges pending a ruling ending the proceedings on the system of disciplinary liability of judges in Poland initiated by a complaint from the European Commission.

09 April

The Disciplinary Chamber filed a motion with the Constitutional Tribunal to examine the compatibility with the Polish constitution of provisions of EU law obliging Member States to implement interim measures ordered by the CJEU related to the shape of the structure and functioning of the constitutional bodies of judicial authority of that state.

09 April

The First President of the Supreme Court, Małgorzata Gersdorf, issued a statement in connection with the order of the CJEU of 8 April 2020, in which she called on the neo-judges of the Disciplinary Chamber to immediately refrain from any activity related to the examination of cases and ordered that all case files be handed over. The Disciplinary Chamber disregarded the summons.

20 April

First President of the Supreme Court Małgorzata Gersdorf issued an order by which she suspended the activities of the Disciplinary Chamber in cases involving judges.

In the order, she also suspended the president of the Disciplinary Chamber from exercising some of his powers, specified the method of registering cases for action in matters that lie within the competence of the Disciplinary Chamber and required the transfer of case files to other Chambers of the Supreme Court.

The Disciplinary Chamber did not implement the order and did not transfer any cases.

20 April

The Constitutional Tribunal held that the resolution of the combined chambers of the Supreme Court of 23 January is incompatible with the Constitution and the EU treaties (U 2/20).

The rapporteur in the case was former PiS MP, Stanisław Piotrowicz.

However, the Tribunal held that the resolution is an act of internal law and, as such, may be assessed by the Tribunal.

Three judges of the Constitutional Tribunal submitted dissenting opinions to the judgment: Leon Kieres, Piotr Pszczółkowski and Jarosław Wyrembak. In their opinion, among other things: *'The Tribunal interfered with the case law of the Supreme Court.'*

21 April

When settling the alleged competence dispute, the Constitutional Tribunal held that the Supreme Court does not have the competence to give a law-making interpretation of the provisions of the law on matters of the judiciary by way of a resolution; only the legislature can make changes to the judiciary; the appointment of judges is the prerogative of the president and the Supreme Court does not have the competence to supervise this. (Kpt 1/20).

The rapporteur in the case was former PiS MP, Krystyna Pawłowicz.

In the justification, the CJEU also held that the CJEU had overstepped its rights and that the CJEU judgment of 19 November 2019 was non-binding.

23 April

Prosecutor Ewa Wrzosek of the Warsaw-Mokotów District Prosecutor's Office opened an investigation into the threat arising from holding elections in connection with the pending Covid-19 epidemic. On the same day, the deputy head of the Warsaw-Mokotów Public Prosecutor's Office, Edyta Dudzińska, discontinued these proceedings and, on the following day, the National Prosecutor ordered disciplinary proceedings to be initiated against Prosecutor Ewa Wrzosek.



24 April

National Prosecutor Bogdan Świączkowski demanded that the First President of the Supreme Court, Małgorzata Gersdorf, provides a written explanation about the suspension of the Disciplinary Chamber of the Supreme Court. In his opinion, the First President of the Supreme Court breached the principle of the separation of powers in this way and overstepped the scope of the CJEU's order of 8 April 2020.

29 April

The European Commission initiated a procedure against breaches of EU law by the Polish government in connection with the so-called Muzzle Act, which has been in force since 14 February 2020.

30 April

Professor Małgorzata Gersdorf's term of office as First President of the Supreme Court ended.

01 May

The President of the Republic of Poland entrusted neo-judge Kamil Zaradkiewicz with the performance of the duties of the First President of the Supreme Court until elections are held and a new First President of the Supreme Court is nominated.

05 May

In performing the duties of the First President of the Supreme Court, Kamil Zaradkiewicz revoked the order suspending the work of the Disciplinary Chamber issued by the previous First President of the Supreme Court, Małgorzata Gersdorf. In citing the interim measure issued by the CJEU, he suspended the transfer of new disciplinary cases to the Disciplinary Chamber, but only those that apply to judges.

07 May

The Presidential elections ordered for 10 May 2020 were cancelled. The State Electoral Commission has announced that it is not possible to vote voting in the Presidential elections ordered for 10 May 2020. The direct reason for this was the enactment of the Act on special support instruments in connection with the spread of the SARS-CoV-2 virus of 16 April 2020 (Journal of Laws item 695), which deprived the State Electoral Commission of the instruments needed to perform its duties.

On the day of the elections, polling stations remained closed while the State Electoral Commission issued a resolution stating that it was not possible to vote for candidates in the Polish Presidential elections ordered for 10 May 2020.

This was one of the elements of the agreement between the heads of the two parties belonging to the ruling coalition, Jarosław Gowin and Jarosław Kaczyński, which was concluded the day before. They undertook that their parties would support the envelope election law under the assumption that voting would not take place on 10 May and new elections would then be ordered.

08 May

The meeting of the Assembly of Judges of the Supreme Court dedicated to electing candidates to the position of First President of the Supreme Court, which had been called by Kamil Zaradkiewicz, began.

The assembly was held on 8, 9, 12, 13, 22 and 23 May.

09 May

The law on the so-called envelope elections, namely assuming that the presidential elections ordered for 10 May 2020 would be held only via postal voting, entered into force. (Journal of Laws, No. 2020, item 827)

The Act, which, in connection with the Covid-19 epidemic, was to enable the presidential elections to be held under a sanitary regime, was submitted to the Sejm on 6 April 2020 and was enacted on the same day.

Constitutional doubts and numerous negative opinions, including those of the OSCE Office for Democratic Institutions and Human Rights and the Supreme Court resulted in the Senate passing a resolution on 5 May to reject the Act. The Sejm rejected the Senate's position and referred the Act to the President.

In connection with the work on the Act, on 16 April 2020, Prime Minister Mateusz Morawiecki ordered the Polish Post Office and the State Security Printing Works to print and prepare the distribution of election packages. The Prime Minister did this illegally because, at the time this decision was being issued, the special Act on the envelope elections had not yet entered into force and the State Electoral Commission had the exclusive right to order the printing and distribution of the ballot sheets.

15 May

Following the resignation of Kamil Zaradkiewicz, the President of the Republic of Poland entrusted neo-judge Aleksander Stępkowski with the performance of the duties of the First President of the Supreme Court, including the management of the Supreme Court, until the appointment of a new First President of the Supreme Court.

23 May

The General Assembly of Judges of the Supreme Court elected five candidates for the post of First President of the Supreme Court – Leszek Bosek, Tomasz Demendecki, Małgorzata Manowska, Joanna Misztal-Konecka and Włodzimierz Wróbel. All the candidates, except for



Professor Włodzimierz Wróbel were appointed to the Supreme Court on the motion of the neo-NCJ.

The Acting First President of the Supreme Court, Aleksander Stępkowski, refused to adopt a resolution on the submission of candidates for the position of the First President of the Supreme Court to the President.

95 votes were cast. W. Wróbel received 50 votes, M. Manowska 25 votes, T. Demendecki 14 votes, L. Bosek 4 votes and J. Misztal-Konecka 2 votes.

23 May

50 judges of the Supreme Court issued a statement in which they appealed to the President to think before making his decision on the appointment of the First President of the Supreme Court. In the statement, they pointed to numerous shortcomings and irregularities that had taken place during the Assembly. They emphasised that the selection of the president from among candidates chosen in a defective procedure would not contribute to the strengthening of the rule of law in Poland and would undermine confidence in the Supreme Court. The judges pointed out that the lack of a resolution of the Assembly, which they had requested, means that the procedure for selecting candidates had not been completed, so no new president of the Supreme Court can be appointed.

25 May

In response to the statement of the Supreme Court judges, the acting First President of the Supreme Court, Aleksander Stępkowski said that the statements of the judges were disinformational, the procedure had been completed, the difficulties during the Assembly were caused by the judges themselves, who tried to force the application of procedures other than those provided for by law through a vote.

26 May

President of the Republic of Poland, Andrzej Duda, appointed Małgorzata Manowska as First President of the Supreme Court.

28 May

The Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts initiated disciplinary proceedings against Waldemar Żurek in connection with a lawsuit seeking a declaration that Kamil Zaradkiewicz is not a judge and that his appointment was ineffective.

02 June

In response to a question from neo-Judge Kamil Zaradkiewicz, the Constitutional Tribunal ruled that the status of judges cannot be questioned if they are appointed by the President.

This is yet another ruling of the Constitutional Tribunal legalising people appointed on the motion of the neo-NCJ as judges and declaring the examination and questioning of the right of such people to adjudicate to be unconstitutional.

09 June

The Disciplinary Chamber, ruling in the first instance, did not agree to lift of Judge Igor Tuły's immunity.

12 June

The General Assembly of Supreme Court Judges was not held for the first time since 1990. It lacked a quorum because not all the neo-Judges turned up.

The assembly was called at the request of the legal judges of the Supreme Court, who wanted to adopt critical resolutions at it regarding the election of the new president of the Supreme Court and the activities of the Disciplinary Chamber.

The meeting was postponed and has not taken place to this day.

22 June

The Venice Commission and the Directorate General for Human Rights and the Rule of Law of the Council of Europe issued critical opinions on the so-called Muzzle Act.

15 July

The Supreme Court submitted requests for preliminary rulings to the CJEU in cases brought before the Labour and Social Insurance Chamber to establish that a judge of the Supreme Court does not have a service relationship.

The lawsuits filed by judges of the ordinary courts apply to the establishment of whether the neo-judges of the Supreme Court nominated by the defectively elected neo-NCJ are legitimate judges.

16 July

The Civil Liberties Committee of the European Parliament (LIBE) adopted a report on the state of the rule of law in Poland, critically commenting on the changes introduced.

07 August

The court ordered the temporary arrest of Margot, a transgender LGBT activist, for destroying the Right to Life Foundation's (*Fundacja Pro- Prawo do życia*) van.

In reaction to the court's decision, a spontaneous protest was held in Warsaw – a barricade in front of the headquarters of the Campaign Against Homophobia, where the police were supposed to be holding Margot.

This was one of the first protests in a democratic Poland to be brutally suppressed by the police, during which the police detained 48 protesters. Lawyers from the Szpila Collective provided pro bono legal aid to the detainees.

Solidarity protests were held throughout Poland on 8 August and the following days, gathering tens of thousands of people.

The actions of the police during Rainbow Night were widely condemned around the world as being unjustified, inadequate and disproportionate.

Margot was vouched for, among others, by Halina Bortnowska-Dąbrowska, Rev. Adam Boniecki, Rev. Michał Jabłoński, Ewa Jassem, Maja Komorowska, Sylwia Poleska-Peryt, Paula Sawicka, Rabbi Michael Schudrich, Jacek Taylor, Rev. Alfred Marek Wierzbicki and Stanisław Wojciechowicz.

The court lifted Margot's temporary arrest after 21 days.

09 September

Ombudsman Adam Bodnar's five-year term of office ended. The Sejm and the Senate have not managed to appoint a new Ombudsman to date.

16 September

The National Prosecutor's Office submitted a motion to the Disciplinary Chamber operating at the Supreme Court to lift Judge Beata Morawiec's immunity with the intention of pressing charges against her of embezzling public funds, acting to the detriment of the public interest in order to gain financial benefits, abusing rights and accepting financial benefits.

The allegations with respect to the judge are related to the fact that she is the president of the Themis association of judges which defends the free courts and criticises minister Ziobro's 'reforms'. Judge Morawiec won a civil case against Minister of Justice Zbigniew Ziobro. The minister is to apologise to her for the ministry's communication defaming her reputation after she was dismissed from the position of president of the Regional Court in Kraków.

13 October

The Disciplinary Chamber lifted the immunity of Beata Morawiec, judge of the Regional Court in Kraków, on the motion of the Internal Affairs Department of the National Prosecutor's Office (I DO 42/20).

22 October

The Constitutional Tribunal ruled that a provision of the 1993 anti-abortion law permitting abortion in the case of severe and irreversible foetal disability or incurable disease threatening its life is inconsistent with the Polish Constitution.

The ruling triggered a wave of mass protests.

18 November

The Disciplinary Chamber lifted the immunity of a judge of the Regional Court of Warsaw, Igor Tuleya, in a final and binding decision, suspended him from his duties as a judge and reduced his salary by 25% (II DO 74/20).

The Prosecutor's Office wants to charge the judge for letting the media into the courtroom for the announcement of the ruling in December 2017 in the case of PiS's voting on the budget in the Sejm's Column Hall in December 2016.

18 November

On the day he was suspended from his duties, the Warsaw Regional Court (with Judge Igor Tuleya being a single-person bench) submitted four questions to the CJEU for preliminary rulings. He wants the EU Court to assess whether the Disciplinary Chamber can lift the immunity of judges, suspend them and whether its decisions are valid.

03 December

The European Commission sent an additional letter of formal notice to the Polish government over the continued functioning of the Disciplinary Chamber.

The Commission provided notice of the addition of new allegations in the infringement procedure against Poland over the legislative changes, which was initiated on 29 April 2020.

The Commission pointed out that Poland is breaching EU law by allowing the Disciplinary Chamber to decide on matters that directly affect judges.

08 December

In the Chamber of Extraordinary Control and Public Affairs, the Supreme Court dismissed the motion of the Prosecutor General in a session held *in camera* on the annulment of the judgment of the Chamber of Labour and Social Insurance of the Supreme Court of 5 December 2019.

09 December

The Warsaw Regional Court submitted further requests for preliminary rulings to the CJEU in connection with Judge Igor Tuleya's suspension.

The questions were presented in one of the cases that were taken away from Judge Igor Tuleya, after the Disciplinary Chamber lifted his immunity and indefinitely suspended him as a judge

in mid-November. The court has doubts as to whether it can handle the case instead of Tuleya, as he was suspended by the Disciplinary Chamber, whose independence and impartiality has been questioned, and which should refrain from ruling because of the application of the interim measures by the Court.

## 2021

15 January

National Prosecutor Bogdan Świączkowski seconded seven independent prosecutors to work in different prosecution offices, often several hundred kilometres from home. Simultaneously, some of them were demoted to the lowest-level prosecutor's offices.

21 January

78 active and retired Supreme Court judges issued a statement protesting against the punitive secondments of prosecutors sent to work several hundred kilometres from home and defending the repressed judges who are being prosecuted for their decisions by the National Prosecutor's Office.

27 January

The European Commission announced that it is moving to the next stage of its infringement proceedings against the Polish government with regard to the so-called Muzzle Act which has been in force since 14 February 2020.

18 February

The Polish Sejm received a presidential bill amending the Act on the Supreme Court (Sejm form no. 935).

18 February

The European Commission called on Poland to comply with the CJEU judgment of 17 April 2018 on nature conservation at the Białowieża Forest. According to the EC, the Polish authorities have not fulfilled all the guidelines of this ruling.

24 February

The Court of Appeal in Warsaw issued a judgment in which the court ruled that Igor Tuleya is uninterruptedly a judge of an ordinary court of the Republic of Poland, with immunity and the right to adjudicate attached to that office. (II AKz 1394/20)

The court was considering the complaint of the prosecutor's office against Tuleya's last ruling, which was issued before his suspension, in which he submitted requests to the CJEU for preliminary rulings.

25 February

The Polish Sejm enacted the 11th amendment to the Act on the Supreme Court which changes the principles of choosing Supreme Court Presidents managing the work of the individual Chambers, grants the President of the Republic of Poland the power to entrust the performance of the duties of the President of a Chamber to a chosen judge of a given Chamber, and grants the First President of the Supreme Court the power to freely define the benches in each Chamber which hear legal issues in larger panels and to determine the order in which these cases, which are most important to citizens and the authorities, are heard

02 March

The CJEU ruled on the requests for preliminary rulings submitted by the Supreme Administrative Court in 2018 regarding the nomination of judges to the Supreme Court by the neo-NCJ. (C-824/18).

The Court held that those in power cannot deliberately change the law so as to prevent the questions of the NSA from being answered. It emphasised that Member States are obliged to ensure that courts are independent – even in terms of the appointment of judges.

According to the CJEU, although EU law does not always require judicial candidates to have the right of appeal, in a situation such as that arising in the recruitment to the Supreme Court, the existence of an appeal is necessary to dispel doubts about the independence of people appointed as a result of such recruitment.

According to the CJEU, since Polish law provided for the possibility of appealing against a resolution of the neo-NCJ, the authority cannot introduce changes that would make this right ineffective or ostensible.

02 March

Julia Przyłębska, who manages the Constitutional Tribunal stated that the suggestions contained in the CJEU ruling regarding the operation of the ordinary courts in Poland constitute a clear breach of the constitutional order of the Republic of Poland and therefore grossly extend beyond the arrangements of the Treaty, breaching the foundations of the EU's activity as a community of sovereign states.

03 March

PiS asked the government to pass a resolution to send a request to the Constitutional Tribunal to address the CJEU ruling, fragments of which question the supremacy of the Constitution over all sources of law in the Republic of Poland.

15 March

The Disciplinary Chamber received a request from the National Prosecutor's Office to detain and bring Judge Igor Tuleya by force to the prosecutor's office in order to charge him and question him as a suspect.

16 March

The Internal Affairs Department of the National Prosecutor's Office filed a petition to lift the immunities of three judges of the Supreme Court, including Professor Włodzimierz Wróbel, who justified the resolution of the joint chambers of the Supreme Court of 23 January 2020 and was the only one to receive the support of the majority of Supreme Court judges in the election of candidates to the office of First President of the Supreme Court.

The prosecutor's office intends to charge them with the inadvertent failure to settle cases in accordance with the applicable laws. According to the prosecutor's office, they brought about the unlawful detention of two people in prisons.

17 March

The Supreme Court issued a statement signed by the President of the Criminal Chamber and the President of the Extraordinary Control Chamber, pp. First President of the Supreme Court, in which he presented the details of the case in which the prosecutor's office requested the immunities of three judges of the Supreme Court to be lifted.

It arises from the statement that there were irregularities, but they arose from secretarial office errors. Disciplinary proceedings were conducted in the Supreme Court and the employees responsible for the errors were punished.

17 March

More than 60 Supreme Court Judges issued a statement objecting to the practice of the Prosecutor's Office directing motions to lift the immunity of judges based on allegations related to the adjudication process. The judges objected to the Disciplinary Chamber assessing the legitimacy of the applications, its independence and impartiality have been effectively undermined by the judgments of the CJEU, the Supreme Court and the ordinary courts.

According to the judges of the Supreme Court, the submission of requests to lift immunity is an example of the instrumental use of the law to discredit judges who are critical of changes to the justice system in the eyes of the public and is simultaneously an attempt to incite a chilling effect on other judges.

In their statement, the judges draw the attention of the public domestically and abroad to the progressing process of dismantling the democratic state system of the rule of law of the Republic of Poland.

20 March

National Public Prosecutor Bogdan Świączkowski requested the Supreme Court to hand over the files of cases being heard by the Criminal Chamber and information on the organisation of work in the Criminal Chamber, as well as in the Labour and Social Insurance Chamber.

The files in which the National Public Prosecutor's Office is interested are 25 cases regarding appeals against rulings of the disciplinary court for attorneys, which were examined by the Criminal Chamber in connection with CJEU rulings that fell within the jurisdiction of the Disciplinary Chamber.

22 March

The Regional Court in Katowice referred questions to the Court of Justice of the EU for a preliminary ruling on the status of judges who were nominated and promoted by the neo-NCJ. The questions apply to almost a thousand judges.

The court asked, among other things, whether it is possible to speak of a legal court if its composition includes people appointed by the neo-NCJ, since *'the current NCJ, which was elected in conflict with the provisions of the Polish Constitution and statutes, is not an independent body and does not include representatives of the judiciary appointed to its membership independently of the executive and legislative authorities (...)'*.

22 March

The Court of Appeal in Kraków held that the Disciplinary Chamber had not lifted the immunity and had not effectively suspended Judge Beata Morawiec. The court ruled that the Chamber could not list the immunity of judges because its adjudicatory activities had been suspended by the Court of Justice of the EU in April 2020.

31 March

The European Commission referred a case against Poland to the Court of Justice of the EU in connection with the Muzzle Act and requested, as interim measures, *inter alia*, the suspension of the consideration of cases of lifting immunity by the Disciplinary Chamber and the suspension of the effectiveness of all decisions issued to date by the Chamber in this respect.

15 April

Julia Przyłębska's Constitutional Tribunal ruled that the article that allows the Ombudsman to hold his office after the expiry of his term if a successor has not been elected is inconsistent with the Polish Constitution. It therefore removed Adam Bodnar from the position of Ombudsman.

The Tribunal examined the constitutionality of the provision of the Act on the Ombudsman extending the term of office of the Ombudsman in the situation where a successor is not elected



after the expiry of his constitutionally prescribed five-year term. Bodnar's term expired on 9 September 2020. PiS MPs filed the request with the tribunal in this case.

A stand-in judge took part in the ruling.

15 April

CJEU Advocate General Evgeni Tanchev issued opinions on two preliminary questions regarding the status of people appointed to the Supreme Court on the motion of the neo-NCJ (C-487/19 and C-508/19).

In the opinions, he concluded that the two newly-established chambers of the Polish Supreme Court cannot satisfy the requirements laid down in EU law if the judges in them were appointed to office in gross breach of national rules on the appointment of judges to that court.

The Advocate concluded that a national court should assess the manifest and intentional nature of that breach and its gravity.

16 April

The 11th amendment to the Act on the Supreme Court entered into force. Earlier, the Polish Parliament rejected most of the Senate's amendments. (Journal of Laws, No. 2021, item 611)

The Act changes the principles of election of the Presidents of the Supreme Court who manage the work of the individual Chambers along the lines of the election of the First President of the Supreme Court, grants the President of the Republic of Poland the power to entrust the performance of the duties of the President of a Chamber to a chosen judge of a given Chamber, and grants the First President of the Supreme Court the power to freely define the benches in each Chamber which hear legal issues in larger panels and to determine the order in which these cases, which are most important to citizens and the authorities, are heard.

20 April

The Parliamentary Assembly of the Council of Europe rejected the Polish government's nominations for judges of the European Court of Human Rights in Strasbourg. The Council asked Poland to put forward new people. Earlier, on 9 April, the nominees were rejected by the Council of Europe's Commission for the election of judges of the European Court of Human Rights.

The main reason for the rejection of the list of Polish candidates was the transparent procedure for nominating candidates.

The 9-year term of the judge of the European Court of Human Rights from Poland, Krzysztof Wojtyczyk, ends on 31 October 2021.

22 April

After two days of late-night hearings, the Disciplinary Chamber of the Supreme Court refused to give its consent to detaining and forcibly bringing Judge Igor Tuleya for questioning, simultaneously questioning the legitimacy of lifting the judge's immunity in the oral justification of this decision.

However, this decision has not resulted in a change in Judge Igor Tuleya's situation – the judge is still deprived of the ability to adjudicate and receives a significantly reduced salary.

06 May

The Advocate General of the CJEU, Evgeni Tanchev, issued an opinion on the European Commission's complaint of 25 October 2019 regarding the new model of disciplinary liability of judges in Poland (C-791/19), recommending that the Court of Justice of the EU issue a judgment declaring that the Polish legislation on the system of disciplinary liability of judges is in conflict with EU law.

The Court of Justice of the EU will announce its judgment in this case on 15 July 2021.

06 May

The Supreme Administrative Court, implementing the CJEU judgment of 2 March 2021, ruling in 5 cases from appeals against resolutions of the neo-NCJ on the presentation (non-presentation) of candidates for positions of judges of the Supreme Court in the Civil Chamber and the Criminal Chamber, found that there was a gross breach of the law in the recruitments and revoked the contested resolutions. The Supreme Administrative Court found that the neo-NCJ was not a sufficiently independent body and that the announcement of vacancies in the Supreme Court lacked the countersignature of the Prime Minister.

07 May

The European Court of Human Rights in Strasbourg ruled that the choice in 2015 of three people (including M. Muszyński) to already filled judicial positions in the Constitutional Tribunal was defective, and that the decisions of Julia Przyłębska's Constitutional Tribunal made with the participation of stand-in judges breach the European Convention on Human Rights. By appointing a 'stand-in' judge to the Constitutional Tribunal, Poland has thereby breached the right to a fair trial and the right to a court hearing. (case of Xero Flor v. Poland)

The ECtHR concluded that Article 6 § 1 of the European Convention on Human Rights regarding the right to a fair hearing by a tribunal established by law was breached in this case.

This is the first judgment issued by an international body in the case of the Polish Constitutional Tribunal confirming that the election of 3 people to judicial positions in 2015 was defective and that the membership of the Constitutional Tribunal with their participation breached the right to a court/tribunal established by law.



10 May

The ECtHR communicated a further five cases of violations of the right to a court to the Polish government and has given all cases regarding the changes in the Polish judiciary an urgent status. These are the complaints of Judges Biliński and Juszczyzyn, among others.

10 May

The Regional Court in Olsztyn suspended the implementation of the Disciplinary Chamber's resolution on the suspension of Judge Paweł Juszczyzyn.

Judge Juszczyzyn sued the Disciplinary Chamber at the end of April for breaching his personal rights and is seeking acknowledgement that the Disciplinary Chamber is not a court in the meaning of Polish and European law. In order to secure his rights pending a judgment in the case, the judge applied for an interim measure and to be able to adjudicate in the meantime.

17 May

The Disciplinary Chamber of the Supreme Court adjourned the hearing on the lifting of the immunity of the President of the Labour and Social Security Chamber of the Supreme Court, Józef Iwulski, until 1 July.

The neo-judges accepted some of the dozen or so motions from the defence and decided to adjourn the hearing until 1 July and to call Professor Adam Strzembosz, former first president of the Supreme Court, as a witness.

19 May

A hearing was held before the Grand Chamber of the ECtHR in *Grzęda v. Poland*. The case applies to the expiry of the term of office of judges-members of the NCJ. Judge Jan Grzęda's term of office in the NCJ was shortened as a result of the amendment to the Act on the NCJ passed by PiS in December 2017. In his complaint to the ECtHR, he alleged that Poland arbitrarily terminated his term of office and breached his right to a court and an effective remedy.

20 May

The Advocate General of the CJEU presented an opinion on the preliminary questions posed by Judge Anna Bator-Ciesielska of the Regional Court in Warsaw and stated that 'EU law precludes the Polish practice of secondment of judges to higher courts'.

The question applies to the compatibility of the ability for a single person to make a decision on the promotion of judges (by the Minister of Justice) with the requirement of independence of the judiciary, as well as with the rights of the accused.

21 May

The Ministry of Justice sent a cassation appeal to the Supreme Court against the judgment ordering the Minister of Justice Zbigniew Ziobro to apologise to Judge Beata Morawiec for breaching her personal rights. In 2017, the Minister dismissed the judge from her position as president of the Regional Court in Kraków and posted a message on its website suggesting that the judge was involved in fraud committed by court directors.

31 May

After a secret session lasting many hours, the Disciplinary Chamber at the Supreme Court did not agree to prosecute Supreme Court Judge Włodzimierz Wróbel.

In justifying the decision, neo-judge Adam Tomczyński of the Disciplinary Chamber indicated in his oral reasons that Judge Wróbel should be subject to disciplinary proceedings and not criminal proceedings.

07 June

The Disciplinary Chamber at the Supreme Court amended the resolution issued in the first instance and refused to lift the immunity of Judge Beata Morawiec of the Regional Court in Kraków. Similarly, the suspension and the decision to reduce the judge's emoluments were also lifted. According to the neo-judges who made this decision, the evidence presented by the prosecutor's office does not indicate a sufficiently justified suspicion that the judge committed the crimes specified in the motion to lift her immunity.

Judge Morawiec is able to return to ruling after 238 days.

AS OF 17 JUNE 2021

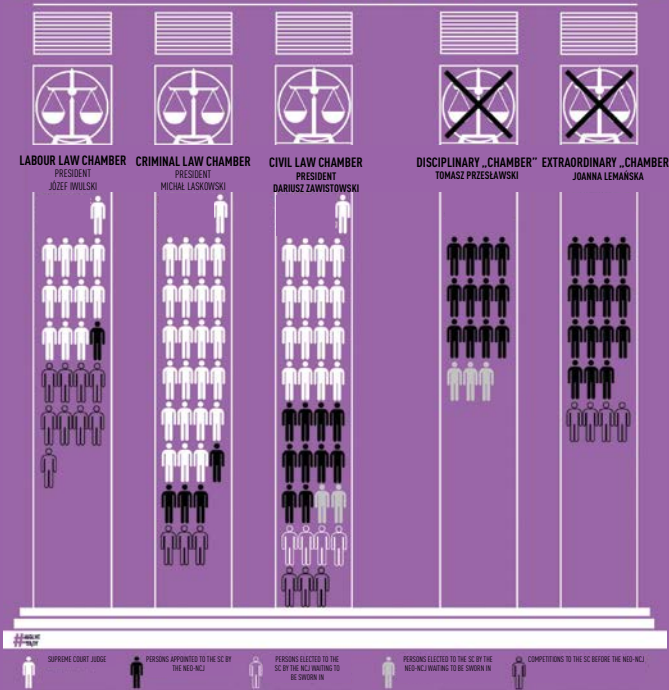
CONSTITUTIONAL TRIBUNAL

JULIA PRZYŁĘBSKA



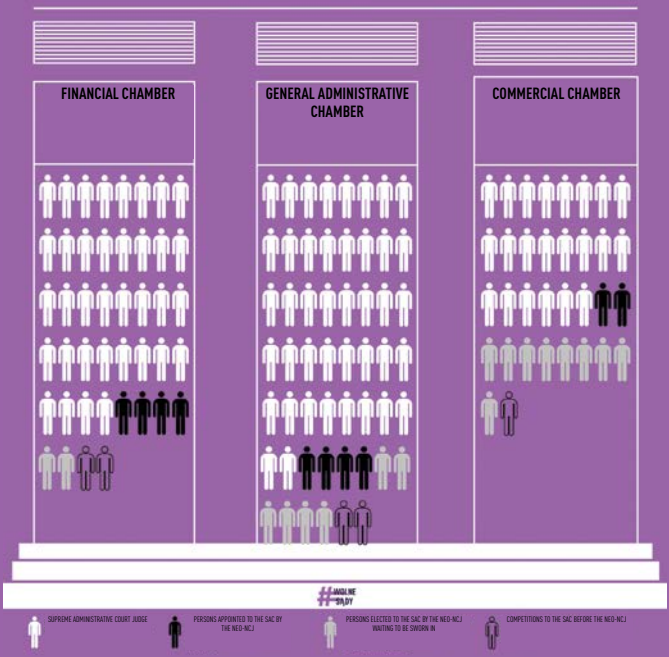
SUPREME COURT

MAŁGORZATA MANOWSKA



SUPREME ADMINISTRATIVE COURT

PRESIDENT MAREK ZIRK-SADOWSKI



#WOLNE  
SĄDY