



## AEQUITAS NEWSLETTER (Nr 8)

July 5, 2025

**RESOLUTION OF THE SUPREME COURT OF 1 JULY 2025, STATING THE VALIDITY OF THE ELECTION OF KAROL NAWROCKI AS PRESIDENT OF THE REPUBLIC OF POLAND**

**Members of the AEQUITAS Judges' Association participated in the Supreme Court hearing regarding the validity of the election of the President of the Republic of Poland (case file reference I NSW 9779/25), and it was an excellent lesson in civics.**

The hearing began by dismissing formal motions to recuse judges of the Extraordinary Control and Public Affairs Chamber from hearing the case and referring the motion to the Labor and Social Security Chamber for consideration, as **the procedure for recusing a judge is unknown under electoral law, and there is no statutory reference to the Code of Civil Procedure in this regard**. It was noted that, pursuant to the Supreme Court Act, the validity of elections is determined by the Extraordinary Control and Public Affairs Chamber, and the CJEU's case law regarding the status of the Extraordinary Control and Public Affairs Chamber clearly indicates that assessing the status of this chamber within the meaning of Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms does not apply to national electoral law, which is excluded from the provisions of the Treaty on European Union. It was noted that while the Prosecutor General is a participant in proceedings concerning election protests, which are reviewed under Article 322 of the Electoral Law, he has a completely different status in proceedings to determine the validity of elections, which are conducted under Article 324 of the Electoral Law.

**By the date of the resolution, all election protests had been reviewed. Although 54,645 had been received, 53,487 protests were left unreviewed due to formal deficiencies, as requested by the Prosecutor General.** At the meeting, despite not changing his position in the proceedings, he argued that these protests should also be reviewed on their merits. Meanwhile, 49,527 protests contained an incorrect PESEL number, as the PESEL number of the MP who submitted the protest template was entered instead of the PESEL number of the person filing the protest. 3,960 protests were prepared using a template provided by the MEP and also contained formal deficiencies that made them impossible to recognize, such as a missing signature, a missing PESEL number, the missing name and surname of the protester, or even the fact that the protester was underage.

**As it turned out, errors occurred in fewer than 100 polling stations out of over 32,000, representing a mere 0.003% of the total. However, the most important allegations boiled down to expert opinions and statistical analyses of alleged anomalies, for which there was no evidence.**

It was also emphasized that the Electoral Code does not provide for a recount, but only allows for the inspection of ballots when specific allegations require it, and the mere desire to reconsider everything is not such a requirement. It was found that none of the irregularities in the protocols, nor all the irregularities



taken together, constitute grounds for declaring the elections invalid, and any irregularities may be the subject of verification proceedings conducted by the prosecutor's office.

## PRINCIPLES OF ORGANIZING RELIGIOUS EDUCATION IN PUBLIC KINDERGARTENS AND SCHOOLS

In its judgment of 3 July 2025 (U 2/25), the Constitutional Tribunal, having considered the application of the First President of the Supreme Court from April 2025 to examine the compliance of: the Regulation of the Minister of Education of 17 January 2025 amending the Regulation on the conditions and manner of organizing religious education in public kindergartens and schools (Journal of Laws, item 66) with Article 12 paragraph 2 of the Act of 7 September 1991 on the Education System (Journal of Laws of 2024, item 750, as amended) in conjunction with Article 92 paragraph 1, Article 25 paragraph 3 and Article 2 and Article 7 of the Constitution, with: Article 53 paragraph 3 in conjunction with Article 48 paragraph 1 of the Constitution in conjunction with Article 1 points 1 and 5 of the Education Law, Article 12 paragraph 1 in conjunction with § 2 of the Concordat between the Holy See and the Republic of Poland, signed in Warsaw on 28 July 1993 (Journal of Laws of 1998, No. 51, item 318) in conjunction with § 9 and § 91 § 1 and 2 of the Constitution, **ruled that the aforementioned regulation of the Minister of Education of 17 January 2025 is inconsistent in its entirety with § 12 § 2 of the Act of 7 September 1991 on the Education System (Journal of Laws of 2024, item 750, as amended) in conjunction with § 92 § 1, § 25 § 3, § 2 and § 7 of the Constitution of the Republic of Poland.**

The provisions of the contested regulation created the basis for reducing the number of hours of religious education in schools to one lesson per week and introduced the requirement to organize religious education immediately before the start of compulsory educational classes referred to in Article 109 paragraph 1 point 1 of the Act of 14 December 2016 - Education Law, scheduled for a student on a given day, or immediately after the end of these classes. Furthermore, they prevented the teaching of religion in the manner specified in the curriculum for this subject and thus violated the right of parents to provide their children with moral and religious education and teaching in accordance with their beliefs in a manner that took into account the child's degree of maturity and the rights of children and young people to education and to upbringing and care appropriate to their age and development. Consequently, they violated the principle of protecting citizens' trust in the state and the law it establishes, the principle of labor protection and the obligation to pursue a policy aimed at full, productive employment.

<https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/zasady-organizacji-nauki-religii-w-publicznych-przedszkolach-i-szkolach-3>

## THE IDEA OF INTRODUCING A UNIFORM STATUS FOR JUDGES IS BEING REVIVED

The Ministry of Justice, supported by the generously compensated Judicial System and Public Prosecutor's Office Codification Commission, headed by Judge Krystian Markiewicz—who until recently served as President of the Polish Judges Association "Iustitia" and is a constant presence in public media and at conferences, steadfastly questioning the status of judges appointed after 2017, eagerly demanding their removal from the judicial profession—plans to explore the idea of introducing a uniform judicial status. **The principles of this "reform," its hidden purpose, and the consequences for citizens can be read in an article on praw.pl, which also includes a commentary by Judge Kinga Grzegorzczuk of the District Court in Łódź, a member of the Aequitas Association board, at the following link:**

<https://www.prawo.pl/prawnicy-sady/jednolity-status-sedziow-a-uregulowanie-statusu-sedziow-powolani-po-2017-r-,533690.html>

## KRS ELECTIONS – ARE WE DEALING WITH A GAME OF MARKED CARDS ?

On July 2, 2025, the daily newspaper "Rzeczpospolita" published an article by Piotr Szydłowski, Judge of the District Court in Suwałki, a member of the Aequitas OZS (Open Judiciary Association).

The judge **discussed the introduction of an amendment to the Act Amending the Act on the National Council of the Judiciary during the Senate proceedings, which introduced the principle of "one judge = eleven votes" for the election of the so-called judicial members of the National Council of the**

**Judiciary (NCJ), replacing the principle of "one judge = one vote."** If the Act was adopted with this amendment (fortunately, the President referred the Act to the Constitutional Tribunal), the election of the judicial members of the NCJ would in practice be left to the Iustitia Association, perhaps in alliance with the Themis Association. However, the influence of judges themselves on the election of NCJ members would be even less significant than before 2018, when the operation of the so-called cooperatives required an agreement between the presidents of several large appellate and district courts.

<https://pro.rp.pl/sady-i-prokuratura/art42625721-wybory-do-krs-czy-mamy-do-czynienia-z-gra-znaczoymi-kartami>

#### **A LETTER TO THE "SONS" OF HEROSTRATES ABOUT THE ELEMENT OF HATE STRONGER THAN FIRE, BUT ABOUT THE EVEN STRONGER VOICE OF THE CITIZENS**

**On July 2, 2025, in the daily newspaper "Rzeczpospolita," an article by Iwona Szalacha, a judge of the District Court in Rzeszów and a member of the Aequitas OZS, appeared.**

In the form of a powerful letter to the "sons" of Herostratus, the judge writes about the consequences of political experiments on the courts and society, and raises the question: has judicial reform become a spectacle of revenge, and is rewriting law a project for citizens or only for "steadfast" activists?

<https://pro.rp.pl/sady-i-prokuratura/art42625731-list-do-synow-herostratesa>

#### **RETIREMENT OF JUDGE OF THE CONSTITUTIONAL TRIBUNAL PROF. KRYSZYNA PAWŁOWICZ**

**Professor Krystyna Pawłowicz has filed a motion to retire and will cease serving as a judge of the Constitutional Tribunal on December 5, 2025.** The General Assembly of Judges of the Constitutional Tribunal adopted a resolution to retire the judge at the beginning of June 2025. Her retirement before the end of her term is due to the fact that Judge Krystyna Pawłowicz was deemed permanently incapable of performing the duties of a judge of the Tribunal by the medical examiner of the Social Insurance Institution. Krystyna Pawłowicz has been a judge of the Constitutional Tribunal since 2019.

<https://trybunal.gov.pl/wiadomosci/uroczystosci-spotkania-wyklady/art/komunikat-w-sprawie-stk-prof-krystyny-pawlowicz>