



AEQUITAS NEWSLETTER Nr 13

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ARTICLE BY JUDGE PIOTR SZYDŁOWSKI ON THE FUNCTIONING OF THE NATIONAL COUNCIL OF THE JUDICIARY BEFORE 2018

On August 13, 2025, "Rzeczpospolita" published an article entitled "Return to the Corporate Past" by Piotr Szydłowski, a member of our association and judge of the District Court in Suwałki.

In a brilliant analysis, the author describes the functioning of the National Council of the Judiciary (KRS) established before 2017. He demonstrates how the Council was controlled by a minority of judges, and how the ostensibly democratic competition system—through unclear criteria and the essentially undemocratic method of selecting KRS members—evolved into a tool for co-opting selected judges into an elite that controls all personnel matters of the common courts. We highly recommend it.

<https://pro.rp.pl/sady-i-prokuratura/art42842201-powrot-do-korporacyjnej-przeszlosci>

AWAITING OF ASSISTANT JUDICIAL JUDICATORS OF THE PROVINCIAL ADMINISTRATIVE COURTS FOR JUDICIAL APPOINTMENTS

The Office of the Commissioner for Human Rights has been receiving complaints from individuals nominated by resolutions of the National Council of the Judiciary for appointment as assessors of provincial administrative courts. These nominations, signed by the President of the Republic of Poland, have been awaiting the required countersignature from the Prime Minister for several months..

The Commissioner for Human Rights stressed that the delay has negative consequences not only for the candidates themselves – also in terms of the constitutional right of access to public service (Article 60 of the Constitution of the Republic of Poland), but above all affects the right of citizens to court, who have to wait longer for the resolution of an administrative case.

The Commissioner for Human Rights also recalled that the mere fact of appointing a judicial assessor at the request of the National Council of the Judiciary, whose composition is sometimes questioned in the public sphere, does not automatically result in the loss of independence for this reason alone.

<https://serwis.gazetaprawna.pl/orzeczenia/artykuly/9860047,asesorzy-sadow-administracyjnych-bez-nominacji.html>

THE COLLEGES OF THE DISTRICT COURT IN KATOWICE ASSESSED THE APPLICATIONS FOR THE DISMISSAL OF THE VICE PRESIDENTS

On August 8, the Board of the District Court in Katowice issued a negative opinion regarding the Minister of Justice's intention to dismiss Judge Piotr Kotula, Vice-President of the District Court in Katowice, and Tycjan Kotara, Vice-President of the Katowice-Wschód District Court.

This is next negative opinion – following the one issued by the District Court in Gdańsk – expressed by a court body - regarding Minister Waldemar Żurek's intention to dismiss its presidents. It should be emphasized that in June, the Board of the Katowice court had already issued a negative opinion on the same matter, preventing the previous Minister of Justice, Adam Bodnar, from dismissing Vice-President Piotr Kotula. In this context, the statements of the Minister of Justice or the president of the Association of Polish Judges Iustitia may be surprising, suggesting that a negative opinion of the board is not binding for the minister when intending to dismiss a court president.

It seems that the boards of the district courts evaluate the Minister of Justice's applications individually and carefully, and it is difficult to expect that their decisions could change within two months.

https://katowice.wyborcza.pl/katowice/7,35063,32176808,minister-waldemar-zurek-przegral-glosowanie-w-katowicach-w.html?_gl=1*1ech8yc*_gcl_au*MTYzMzc5NjkzMjMi4xNzQ5NDUzMDMy*_ga*MTkxMzIxNzUzMy4xNzMzODE3MDUx*_ga_6R71ZMJ3KN*cze3NTUxNzY2OTIkbzmxOSRnMCR0MTc1NTE3NjY5MiRqNjAkbDAkaDA.#s=S.TD-K.C-B.6-L.1.duzy

RESOLUTION OF THE NATIONAL COUNCIL OF THE JUDICIARY ON LUSTRATION OF JUDGES' DEPARTMENTS

The Presidium of the National Council of the Judiciary, in its resolution of 7 August 2025, announced the lustration of the reports of judges for whom the National Council of the Judiciary has not adopted a resolution on continuing to hold the position after reaching the age entitling them to retirement.

As a reminder, common court judges retire by operation of law upon reaching the age of 65. The only exception is a decision by the National Council of the Judiciary regarding the possibility of holding office after reaching that age. This matter is significant because the issuance of a judgment by a retired judge constitutes an absolute ground for appeal, and such a judgment must be set aside, as determined by the Supreme Court's Criminal Chamber in its judgment of June 26, 2025 (III KK 211/25).

https://x.com/KRS_RP/status/1954872927712903260?t=2iViUMiJ3Udtw6RLbFM4wA&s=09

DOES THE PRIME MINISTER HAVE THE EXCLUSIVE COMPETENCE TO PUBLISH THE JOURNAL OF LAWS AND THE MONITOR POLSKI ?

The District Court in Zamość was hearing an appeal against a judgment in which the convicted person was sentenced, among other things, to a mandatory lifetime driving ban pursuant to Article 42 § 3 of the Penal Code. This provision was found unconstitutional by the judgment of the Constitutional Tribunal of 4 June 2024 (SK 22/21) to the extent that it obliges the court to impose a lifetime driving ban on all motor vehicles in the event of committing an offence specified in Article 178a § 4 of the Penal Code (in the event

of recidivism in the event of driving a motor vehicle under the influence of alcohol or a narcotic substance). However, the judgment of the Constitutional Tribunal has not been published.

In this situation, **the District Court in Zamość has submitted a legal question to the Constitutional Tribunal regarding the constitutionality of the statutory provision authorizing the Government Legislation Centre to publish the Journal of Laws and the Polish Monitor.**

The Constitutional Tribunal is scheduled to address this legal question at a hearing scheduled for September 23, 2025. (P 3/25).

<https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/12799-dozywotni-zakaz-prowadzenia-pojazdow-mechanicznych>

<https://trybunal.gov.pl/sprawy-w-trybunale/art/wylaczna-kompetencja-prezesa-rady-ministrow-do-wydawania-dziennika-ustaw-i-monitora-polskiego>

<https://share.google/gzMzihGwMaQrxzRIh>

NOTIFICATION TO THE PROSECUTOR'S OFFICE SUBMITTED BY JUDGES IGOR TULEYA AND PAWEŁ JUSZCZYSZYN

Judges Igor Tuleya and Paweł Juszczyzyn have filed reports to the prosecutor's office regarding possible criminal offenses committed by four judges of the now-defunct Disciplinary Chamber of the Supreme Court. The report is based on Article 227 of the Penal Code, which covers criminal liability for individuals impersonating public officials. In the opinion of the report's authors, the former Disciplinary Chamber was not a court, and therefore the individuals sitting on it did not have the status of judges, despite their posing as such.

The Polish Association of Judges "Aequitas" will closely monitor the further development of the report.

<https://oko.press/tuleya-i-juszczyzyn-chca-scigania-czlonkow-izby-dyscyplinarnej-za-podzywanie-sie-pod-sedziow-sn?s=09>