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RESOLUTION OF THE SUPREME ADMINISTRATIVE COURT'S COLLEGE OF SEPTEMBER 29, 2025

In its resolution of September 29, 2025, the Supreme Administrative Court (SAC) addressed letters from the Prosecutor General questioning the continued adjudication of judges appointed after 2017 at the request of the National Council of the Judiciary in administrative courts. The letters indicated that these judges may have violated the law and requested the repayment of their salaries.

The SAC's Board emphasized that the case law of the CJEU and the ECtHR does not automatically recognize the appointment of a judge by the National Council of the Judiciary as of 2018 as a violation of the right to an independent court. European courts have not questioned the participation of these judges in adjudicating panels. The enforcement of the ECtHR pilot judgment (Waleśa v. Poland) falls within the competence of the legislature, not the judiciary. Parties may request a review of a judge's independence under Article 5a of the Law on Judiciary.

In the opinion of the Supreme Administrative Court's Board, the cessation of adjudication by 38 Supreme Administrative Court judges would risk paralyzing the court and violating citizens' rights to have their cases heard without delay.

This is a balanced and courageous position that protects the stability of the justice system and the interests of citizens.

<https://www.nsa.gov.pl/aktualnosci/ogloszenia/uchwala-kolegium-naczelnego-sadu-administracyjnego-z-dnia-29-wrzesnia-2025-r/>

THE PRESIDENT WILL APPOINT A COUNCIL FOR REPAIRING THE STATE SYSTEM

President Karol Nawrocki announced the creation of the Council for the Reformation of the State System – a forum that will work to restore the rule of law and prepare proposals for systemic changes. The Council will be a pluralistic body composed of experts, lawyers, and representatives of various political groups.

The initiative aims to streamline relations between state institutions, strengthen judicial independence, and prepare the ground for a new Constitution, the draft of which is expected to be ready by 2030. The President emphasized that the activities will be conducted in full respect of the

current Constitution and democratic principles, and that the Presidential Palace will become a space for constructive debate on the future of the Republic of Poland's political system.

In our opinion, this is an ambitious and responsible initiative that can contribute to rebuilding citizens' trust in state institutions, especially the courts, and strengthening the foundations of the rule of law.

<https://www.prezydent.pl/aktualnosci/wypowiedzi-prezydenta-rp/listy/prezydent-w-najblizszych-tygodniach-powolam-rade-ds-naprawy-ustroju-panstwa,108155>

**NOTIFICATION TO THE FIRST PRESIDENT OF THE SUPREME COURT
OF A SUSPECTED CRIME
COMMITTED BY MINISTER OF JUSTICE WALDEMAR ŻUREK**

The First President of the Supreme Court, professor Małgorzata Manowska, filed a notice of suspicion of committing a crime by Waldemar Żurek in the form of exerting an unlawful threat to influence the official activities of the Supreme Court, i.e. an act specified in Article 232 § 1 of the Penal Code.

The above action is related to letters sent in September of this year to the named Supreme Court Judges. The Minister indicated in them that the participation of these Judges in adjudicating and adopting resolutions is not part of the exercise of judicial power and, if the remaining characteristics are met – with respect to the persons undertaking these actions – may be assessed in concrete terms as an abuse of power as defined in Article 231 § 2 of the Penal Code, or may be considered as misappropriation of public office as defined in Article 227 of the Penal Code.

According to the First President, the attempt to present persons duly appointed to the office of Supreme Court judges as *de facto* usurping these functions constitutes not only an unjustified attack on the authority of the Supreme Court, but must also be assessed as a conscious creation of a false factual situation, aimed at provoking a reaction from law enforcement authorities and delegitimizing the judgments issued by the entire Supreme Court. Judges do not abuse their powers or usurp public office, but act within the mandate stemming from the Constitution and the act of appointment by the President of the Republic of Poland. Therefore, the announcement that they will face criminal prosecution is completely baseless and purely instrumental. **It is not intended to protect the law, but to exert pressure and intimidate the addressees into abandoning their judicial duties.**

Thus, there can be no doubt that the author of the letters, by pointing out the possibility of initiating unfounded criminal proceedings against judges undertaking official acts, is using an unlawful threat to influence the official acts of the Supreme Court. The indicated circumstances determine that all the elements of the act specified in Article 232 § 1 of the Penal Code are met. Considering the fact that the named addressees of the letter are judges of the Supreme Court, and therefore a constitutional body referred to, among others, in Article 175 § 1 and Article 183 § 1 and 2 of the Constitution of the Republic of Poland, exerting an unlawful threat to influence their official acts also exhausts the elements of the offense specified in Article 128 § 3 of the Penal Code.

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CONSTITUTIONAL TRIBUNAL JUDGMENT ON HATE SPEECH

On September 30, 2025, the Constitutional Tribunal considered the President of the Republic of Poland's motion regarding the grounds for criminalizing hate speech.

In case number Kp 3/25, the Tribunal ruled that the provisions of the Act amending the Penal Code, insofar as they introduce grounds of disability, age, gender, or sexual orientation into Article 53 § 2a item 6 of the Penal Code – specifying aggravating circumstances in the case of crimes motivated by hate, into Article 119 § 1 of the Penal Code – the crime of discrimination, into Article 256 § 1 of the Penal Code – the crime of propagating Nazism, communism, fascism or another totalitarian system, and into Article 257 of the Penal Code – the crime of assault on grounds of xenophobia, racism, or religious intolerance, are inconsistent with the Constitution.

<https://share.google/LAP6HJZslpwmVPf5G>

A ONE-SIDED NARRATIVE, A DISCRIMINATORY SELECTION OF SPEAKERS AND A CONTINUED RELIANCE ON OPINIONS INSTEAD OF REGULATIONS

A Polish-German seminar on the rule of law in Poland in 2018-2023 in terms of the needs and expectations of the justice system and law enforcement agencies was held in Wustrau (Germany) on September 30 and October 1 this year. The seminar was organized by the National School of Judiciary and Public Prosecution in cooperation with the German Academy of Judges.

To ensure a one-sided narrative, speakers were selected based on their shared views. The list of speakers primarily included representatives of the "Iustitia" judges' association and Deputy Minister of Justice Dariusz Mazur. However, despite being entrusted with preparing a paper on "The Election of Supreme Court Judges in Poland," Judge Monika Smusz-Kulesza was informed that due to "program changes," she would no longer deliver the prepared paper, and that the paper on the topic would be presented by SSN Bohdan Bieniek.

Unfortunately, it should be assumed that **the organizers came to the conclusion that the judge's narrative would not fit in well with the speeches of other speakers, especially since the topic assigned to her was not removed from the program but assigned to another person.**

All speakers – regardless of the topic – spoke about the flaws of the National Council of the Judiciary, the flaws of the new chambers and judges in the Supreme Court, the flaws of the Constitutional Tribunal, the destruction of judicial independence by the Law and Justice party (PiS), and the flaws of judges nominated since 2018, perpetuating a false message. Most of the presentations were not based on any legal provisions and, in fact, only the opinions of the speakers were expressed, based on purely political messages.

<https://niezalezna.pl/polska/sedziowie-z-polski-jada-do-niemiec-mowic-o-praworzadnosci-nagle-odkryli-ze-ktos-moze-popsuc-ich-narracje/552908>