



AEQUITAS NEWSLETTER Nr 21

October 11, 2025

SUPREME COURT RULING RECALLED BY RADIO WNET

In its ruling of July this year, the Supreme Court's Criminal Chamber accepted a prosecutor's appeal against a lower court's ruling in a disciplinary case. While this situation may not be unusual, we are informing about it because **the Supreme Court (composed of judges appointed to the Supreme Court before 2018, including one member who began his judicial career by being nominated by the Council of State) found that the waiver of the accused judge's immunity by the now-defunct Disciplinary Responsibility Chamber was effective.** The lower court found that the Disciplinary Responsibility Chamber, as a defunct body, could not waive the judge's immunity, and therefore dismissed the proceedings. Thus, **the Supreme Court confirmed once again that the "problems" regarding court staffing are primarily media-related.**

<https://wnet.fm/2025/10/03/stary-sad-najwyzszy-wbija-noz-w-plecy-waldemara-zurka-zaskakujacy-wyrok-w-izbie-karnej>

REGULATION OF THE MINISTRY OF JUSTICE REGARDING THE ASSIGNMENT OF CASES TO JUDGES

On October 1, 2025, an amendment to the Rules of Procedure for Common Courts entered into force. This, among other things, introduces new, highly controversial rules for assigning cases to judges. Instead of drawing lots, in accordance with Article 47a of the Act on the Organisation of Common Courts, which stipulates that judges draw cases, the regulation stipulates that, in cases heard in "trio" panels, only the reporting judge will draw the case, with the division head selecting the remaining two adjudicators. This provision, at first glance inconsistent with the wording of the Act, raises serious doubts about its compliance with EU law, is harmful to citizens (the two assigned judges do not have to be from the same division where the case is pending), and could cause chaos, is currently being widely commented on, including by members of our Association.

The change in regulations also included the rules of the percentage allocation of cases to judges. As a reminder, a judge without a position has 100% influence, while a judge serving in a position or engaged in other activities has a reduced allocation. **The change reduced the inflow of cases to 5-15% for members of the Codification Commission. This is a very interesting solution, considering that Commission members are generously compensated for their work (ranging from PLN 2,500 to PLN 10,000 per month), the results of their work are largely unseen, and the operating costs of each commission have exceeded or approached**

one million złoty. Here, we refer to our articles on the heavy sums taxpayers spend on projects that have no chance of being signed by the president.

<https://share.google/M9ncz1GXKAa6VWB2b>

<https://www.rp.pl/opinie-prawne/art43129031-prof-andrzej-olas-o-ruchu-ministra-zurka-prawnicy-musza-bic-na-alarm>https://www.rp.pl/opinie-prawne/art43125641-ewa-szadkowska-gdy-nie-wiadomo-o-co-zurkowi-chodzi-chodzi-o-neosedziow?utm_medium=Social&utm_source=Facebook&fbclid=IwVERTSANQOg1leHRuA2FIbQIxMAABHlvqbiW3kUEfXinpq0XDLebsOWI0_CF9HuPCLKgplpuMomt-h8txmhMYXcd7_aem_1ZxII67pegyRlqRXFFCfyg#Echobox=1759725615
<https://www.prawo.pl/prawnicy-sady/przydzial-spraw-sedziom-czy-minister-mogl-wprowadzic-zmiany-rozporzadzeniem-co-z-orzeczeniami,535251.html>
<https://www.rp.pl/sady-i-trybunaly/art43136191-sedziowie-z-komisji-kodyfikacyjnych-nie-napracuja-sie-w-sadach>

LEGAL OPINION ON THE CJEU JUDGMENT OF 4 SEPTEMBER 2025

We encourage to read the legal opinion of Dr. Monika Smusz-Kulesza, Judge of the District Court in Łódź, member of the board of the National Association of Judges AEQUITAS, regarding the judgment of the Court of Justice of the European Union of September 4, 2025, case C-225/22.

The opinion also takes into account previous European case law and outlines the consequences of the judgment for the Polish justice system..

<https://www.prawo.pl/prawnicy-sady/wyrok-tsue-z-4-wrzesnia-konsekwencje-dla-wymiaru-sprawiedliwosci-opinia-sedzia-smusz-kulesza,535184.html>

LEGAL QUESTION FROM THE NATIONAL COUNCIL OF JUDICISRY TO THE CONSTITUTIONAL BOARD REGARDING THE REGULATION REGARDING THE ASSIGNMENT OF CASES TO JUDGES

The National Council of the Judiciary has filed a motion with the Constitutional Tribunal to review the constitutionality of an amendment to the regulation by Minister of Justice Waldemar Żurek concerning the random case assignment system for judges (SLPS). The National Council of the Judiciary accuses the Minister of exceeding his statutory authority and demands a safeguard – a ban on the application of the new provisions until the Constitutional Tribunal adjudicates the case.

In the contested amendment, Minister Żurek introduced the possibility that, if necessary to improve the efficiency of a department, the head of the department could decide that cases heard by a panel of three judges would be assigned by the system only to one judge, while the remaining two members would be appointed by the head of the department, according to the rules established by the court president after consulting the relevant court's board. The random case assignment system has become optional, which critics say could lead to manual control of panels of judges.

The changes have drawn criticism – President Karol Nawrocki has described them as an "ostentatious act of lawlessness," and some judges have accused the Minister of attempting to eliminate the independent random selection of judges.

<https://wiadomosci.wp.pl/system-przydzialy-spraw-sedziom-jest-wniosek-do-tk-7208699491773408a>