



Zagreb/Rome 9th February 2022

STATEMENT

European Association of Judges has been informed that member of the Board of Polish Association of Judges "Iustitia" - member of EAJ judge Joanna-Hetnarowicz-Sikora from the District Court in Słupsk on 29 November 2021 took a decision to exclude a judge from a case upon a motion from a party to the case. The decision was based on the fact that the person was nominated to the judicial position by the politicized neoNCJ and that might impair the trust of the parties of the case to such court.

This decision was reported by the Regional Prosecutor in Gdańsk to the Minister of Justice/Prosecutor General.

On 30 January 2022 the deputy Disciplinary Prosecutor for judges Michał Lasota initiated a case against judge Hetnarowicz-Sikora stating that she severely abused the law by questioning the nomination of another judge and the existence of his employment.

On 8 February 2022 the Minister of Justice/Prosecutor General Zbigniew Ziobro issued an order of immediate suspension of Judge Joanna Hetnarowicz-Sikora in her judicial duties for a month or until a decision of a disciplinary court because she can bring harm to the interests of the justice system.

And finally, today on 9 February 2022 while judge Joanna Hetnarowicz-Sikora was in session, adjudicating cases. Just before her last case on 14:00, she was delivered the above decisions together with the decision of the president of the court in Słupsk to execute the suspension ordered by the Minister of Justice.

Our Colleague was stopped to go on with the case hearing and had to explain to the parties what happened.

The reason behind this action is the mere fact that judge applied numerous judgments of the Court of Justice of the European Union (C-624/18, C-625/18 (19.11.2019), C-487/19 (6.10.2021) and the European Court of Human Rights (Advance Pharma vs. Poland (application no. 1469/20) – 03.02.2022) where it was decided and indicated that the Polish National Council of Judiciary ever since 2018 is dependent on the political power and therefore persons it nominated for judicial positions do not fulfil the requirement of properly nominated court within the meaning of Article 6 of the European Convention of Human Rights and so far questioned in her courtroom, in her case, upon one party's complaint the authority of a judge appointed by dependent Council of Judiciary.

The actions of the deputy disciplinary prosecutor and the Minister of Justice constitute direct breach of the CJEU order of 14 July 2021 (case C-204/21), in which the Court stated that Poland should suspend the regulations which allow the disciplinary liability of judges to be incurred for having examined compliance with the requirements of independence and impartiality of a tribunal previously established by law, within the meaning of Article 19(1) TEU in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union. These decisions were also in breach of CJEU judgment of 15 July 2021, stating that the judges of ordinary courts should not be subject to disciplinary responsibility for their judicial decisions.

This example shows disturbing fact that Polish authorities are ignoring basic principles of independence of judiciary and separation of state powers and especially the principle that judges should not ever be call upon

their responsibility for the decisions delivered in exercising their duties (CM Recommendation 2010(12) para 66. and 68.).

This example shows that Polish authorities are ignoring decisions of ECJ and ECtHR.

Such actions from Polish authorities are designed and exercised to develop fear among judges if they will perform their duties independently, impartiality following the supreme principle of rule of law which is binding not only for judges, but also for members of other state powers and all citizens of EU.

For this reasons EAJ is urging the European Commission and Council of Europe to use all means to bring the Polish authorities to accept their obligations and, in particular, to ensure that the decisions of the Court of Justice and European Court for Human Rights are respected and that implementation of the measures necessary to give effect to their decisions is not further delayed. Such measures include declaring the decisions issued by the unlawful Disciplinary Chamber null and void.

A handwritten signature in black ink, appearing to read 'Duro Sessa', with a long horizontal stroke extending to the right.

President of EAJ

Duro Sessa