

Inside the system Ziobro built

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Minister of Justice Zbigniew Ziobro

The most dangerous minister in the EU

No member state in the history of the EU has ever gone as far in subjugating its courts to executive control as the current Polish government. In a few years, PiS has changed the whole system of appointment, promotion and disciplining of judges and prosecutors, with a view to strengthening executive control. It captured the Constitutional Tribunal. It dismissed the members chosen by judges on the National Council of the Judiciary, the body responsible for the nomination of judges and safeguarding the independence of the judiciary. It replaced them by members chosen by the parliamentary majority.¹ Already by the end of 2017, The Council of Europe's Venice Commission was warning that the changes to the judicial system bore "a striking resemblance with the institutions which existed in the Soviet Union and its satellites."²

In October 2019, the governing coalition of three parties narrowly won Poland's parliamentary election. With 235 deputies in the lower chamber of the Polish parliament, the Sejm, this coalition had a post-election majority of 5 in the 460 members parliament:

- *Law and Justice Party* (PiS) led by Jarosław Kaczyński won 201 seats.
- *Agreement*, led by Jarosław Gowin, won 18 seats.
- *Solidarity Poland*, led by Zbigniew Ziobro, won 16 seats.

After this election, Zbigniew Ziobro was the leader of the smallest of these coalition parties. And yet, as justice minister he has accumulated more power than any minister of justice ever before in any European democracy. Today Ziobro holds the key in the ongoing battles with the European Commission and the European Court of Justice (ECJ). He has made clear many times that he will oppose the implementation of many ECJ rulings, including the 15 July judgement. These, he has warned, "*are not binding* for the authorities who act based on the Polish constitution. Submission to these rulings would be blatantly unlawful."³ He accused the EU of acting in a colonial manner, like a hostile Empire attacking Polish sovereignty.

How Ziobro's system works

To understand how the system Ziobro has constructed affects the daily professional life of Polish judges let us imagine the case of a judge working at the biggest court in the country, one of the two Warsaw regional courts. We'll call her Magda. She is 42 years old, the average age of a Polish judge. Magda is experienced, she takes her job seriously, sees herself as an apolitical servant of her state and wants to remain in her job until the end of her professional life.

Imagine that Magda is given a sensitive case: a business deal that involves prominent members of the governing party and is of interest to the government, or a criminal case that Ziobro, the minister of justice and prosecutor general, has expressed strong views on, as he is wont to do. Is Magda "protected against external interventions or pressure liable to impair her independent judgment", as the ECJ put it in its February 2018 Portuguese verdict? Could Ziobro threaten, pressure or punish her?

Yes, he could. In fact, new disciplinary procedures make it all too easy. In Poland judges risk a disciplinary procedure in case of "misconduct, including an obvious and gross violation of

¹ See: ESI and Batory Foundation, [Poland and the end of the Rule of Law](#), 29 May 2018, p. 3.

² Venice Commission, [Opinion No. 904/2017](#), 11 December 2017.

³ Onet, [„Ziobro o wyroku TSUE: nie ma możliwości realizacji bezprawnych postanowień”](#), 21 July 2021.

legal provisions and impairment of the authority of the office.”⁴ A hierarchy of public servants is in charge of initiating disciplinary investigations to establish whether such misconduct has taken place.

At the top of this hierarchy are Ziobro’s three national disciplinary officials [in Polish: Rzecznik Dyscyplinarny Sędziów Sądów Powszechnych], appointed directly by him. In June 2018, the minister appointed Piotr Schab as the head, and Michal Lasota and Przemyslaw Radzik as deputies. Schab in turn appointed more 56 disciplinary officials, one in each of the 11 courts of appeal and the 45 regional courts.



Piotr Schab – Michal Lasota – Przemyslaw Radzik

As a judge at the regional court in Warsaw, Magda would, ordinarily, fall under the responsibility of the disciplinary officer of the Warsaw court of appeals, appointed by the Ministry of Justice. But she might also face an investigation by Schab, Lasota or Radzik if they, or Ziobro himself, so decided. The charge might relate to criticizing the current judicial reforms or sending preliminary questions to the ECJ, or to the content of a judgement. She would then be asked to justify her behavior in writing. She might be questioned. Media would report on her case. She might be summoned and questioned about the entirely unrelated behavior of other judges, something that has already happened and is illegal, as Adam Bodnar, the country’s former Human Rights Commissioner, has pointed out.⁵ In some cases no legal representatives have been allowed to be present at such interrogations.⁶

If an investigation by a disciplinary officer into Magda’s conduct concluded without charges being made, the minister of justice might himself insist that it continues anyways. The minister might appoint his own special disciplinary official to take over and pursue her case. Theoretically, any disciplinary investigation can last for as long as the minister decides.

In the event of a trial, Magda’s case would be taken up by special disciplinary judges at one of 11 appeals courts, who have, courtesy of recent changes, all been appointed for six-year terms by the minister of Justice. Ziobro decides just how many such disciplinary judges there should be at each court of appeal, should the need for more compliant judges arise. At the Warsaw court of appeals the minister appointed 15 disciplinary judges. The president of the new and controversial disciplinary chamber at the Polish Supreme Court – himself appointed by a National Council of the Judiciary now packed with pro-government loyalists - would select which of the 11 courts of appeal would decide Magda’s disciplinary case. The judge that would

⁴ Art. 107 § 1, Law on the Organisation of Ordinary Courts.

⁵ Rzeczpospolita, [“RPO: Sędzia nie może być przesłuchany jako świadek ws. Dyscyplinarnej”](#), 25 October 2018.

⁶ Rzeczpospolita, [“Postępowanie dyscyplinarne sędziego Tulei: Dubois wyproszony z przesłuchania”](#), 10 October 2018.

hear her case would then be chosen by lot, from the list of those previously appointed by the minister of justice.

If she is found guilty of misconduct, penalties range from an admonition to a reduction in her salary or dismissal. Magda would likely appeal any negative ruling. Her appeal would then go to the disciplinary chamber of the Supreme Court in Warsaw and its 12 members, which was established in 2018. The president of the disciplinary chamber, who determined in which of Poland's 11 courts of appeal Magda's disciplinary trial would take place, would now select two of the other eleven members of his chamber to decide on her appeal, together with a lay judge appointed by the Senate.

Imagine that Magda manages to navigate this system and pursues her career without incurring the displeasure of the minister of justice and that, one day, she is herself appointed a Supreme Court judge. The threat of arbitrary investigations of possible misconduct would continue to hang over her head. In such a case *both* her first and her second instance disciplinary trial would take place before the disciplinary chamber of the Supreme Court itself: at first instance her adjudicating panel would consist of one to three judges, on appeal it would consist of three.

A breakdown in six steps

In its 15 July judgement the ECJ referred to the recent “structural breakdown” of the Polish judiciary. This breakdown proceeded in several steps.

The Constitutional Tribunal

Everything began with an assault on Poland's Constitutional Court, called the “Constitutional Tribunal”, in late 2015, just weeks after PiS' election⁷ By December 2017, the European Commission warned that the constitutionality of laws “can no longer be verified and guaranteed by an independent constitutional tribunal.”

Since late 2016, the Constitutional Tribunal, led by a close friend of PiS-leader Kaczyński, Julia Przyłębska, had become a reliable defender of whatever the government wanted it to do. Przyłębska, has a close relationship with Jarosław Kaczyński, who visits her in her apartment across the street from the Tribunal. Kaczyński explained on TV that “she is a private acquaintance. I really like visiting her.”⁸ Even judges on the Tribunal appointed by PiS are publicly uncomfortable about this close relationship. In November 2019 judge Jarosław Wyrembak accused Julia Przyłębska of scheduling hearings in accordance with PiS party interests, manipulating the composition of panels and adjusting dates of hearings to exclude some judges from adjudicating certain cases.⁹ The judge spoke about pressure to attend secret meetings with government politicians.¹⁰

As of today, all the Constitutional Tribunal's judges have been chosen by the PiS majority. One of the judges appointed in 2019 was Stanisław Piotrowicz, a former PiS member of parliament and a leading architect of PiS' judicial reform. Piotrowicz is a former communist prosecutor, who had worked during the period of martial law and prosecuted members of the anti-communist opposition. He was a member of the communist party for 22 years. In 1984 the

⁷ This story is told here: Batory [and ESI](#), „Where the law ends”, 29 May 2018.

⁸ Wprost, [“Jarosław Kaczyński: Julia Przyłębska to moje towarzyskie odkrycie”](#), 13 May 2019.

⁹ Onet.pl, [“Poważne zarzuty wobec Przyłębskiej”](#), 18 November 2019.

¹⁰ RMF24, [“Trybunał Konstytucyjny – je st gorzej, niż wygląda z zewnątrz”](#), 5 December 2019.

communist regime awarded him a Bronze Cross of Merit. He became a constitutional tribunal judge with 230 votes (a simple majority of those voting) in the Sejm. He is now spearheading the fight against the ECJ in the Constitutional Tribunal.

On 22 July 2021, the European Court on Human Rights (ECtHR) in Strasburg concluded in a judgement that the Polish Constitutional Tribunal “cannot be considered to safeguard independence in the exercise of its constitutional powers.” The ECtHR also warned that some of the Tribunal’s recent actions “must be characterised as an affront to the rule of law and the independence of the judiciary.”¹¹



Lukasz Piebiak
Former deputy minister of justice
Coordinated smear campaigns
against critical judges



Stanislaw Piotrowicz
Judge at Constitutional Tribunal
Former PiS MP and architect of “judicial reform”
Former communist prosecutor

The Ministry of Justice

From the very outset in 2015 Ziobro sought to remould the ministry of justice as an instrument of his will. As his deputy minister Lukasz Piebiak explained in February 2018: “Judges should always be on the side of the state ... the conduct of judges is dangerous when the judges turn against the legislative and executive authorities.” In August 2019, it emerged that Piebiak himself, together with other officials in the Ministry of Justice, organized a smear campaign against judges that were critical of his reforms. Piebiak used his access to classified material to collect private information on 20 judges and leaked it to pro-governmental activists who put it on social media. Two members of the National Council of the Judiciary and a judge from the Disciplinary Chamber of the Supreme Court were also involved. Piebiak noted in his emails that he kept his “boss” informed. An independent news portal obtained and published transcripts of conversations between Piebiak and pro-PiS activists about this smear campaign. When a collaborator worried about the legality of these smear campaigns Piebiak responded: “We don’t jail people for doing good things.”¹²

The current deputy minister, Sebastian Kaleta, is no stranger to controversy, constantly pouring oil into the flames of EU-Polish relation. He has long accused the ECJ of causing an “implosion of the EU from within” for its support to the rule of law. In April 2020 he asserted that “the European Union simply does not have the authority to assess the legality of constitutional bodies in a member state.” Earlier in 2021 he described the assessment by the advocate general of the ECJ that Poland’s disciplinary regime violated EU law as “another attack on Poland”, claiming that “The elites in Brussels are trying to interfere with Poland’s systemic sovereignty

¹¹ ECtHR, [Case of Reczkowicz v. Poland, Judgment](#), 22 July 2021.

¹² Onet.pl, [“Śledztwo Onetu. Farma trolli w Ministerstwie Sprawiedliwości, czyli ‘za czynienie dobra newsadzamy’”](#), 19 August 2019.

in the field of justice. We are observing another act of this political theatre today.’ In July 2021 he told the Financial Times that any attempt to fine Poland for non-compliance with the ECJ’s decision would be “illegal.” The ECJ, he explained, was simply “aiming to exacerbate the anarchy in the judiciary.”¹³

Prosecutor’s Office

Since March 2016 Ziobro also controls Poland’s prosecutors, as the new majority in parliament merged the roles of minister of justice and prosecutor general into a single post. Ziobro appoints all prosecutors, instructs them, and can intervene in all cases. He can disclose documents related to any investigation to whomever he wishes.

Ziobro quickly purged the prosecutors’ office. Within a few months he dismissed 1,000 of 6,100 prosecutors. He replaced the heads of all 11 provincial prosecutor’s offices and 44 of 45 regional prosecutor’s offices. He dismissed 90 percent of the heads of 342 district prosecutors’ offices. He changed the heads of departments at all levels as well as department directors. He promoted prosecutors he likes, some twice in a year. Critics were put under heavy pressure. Lex Super Omnia, a Polish association of prosecutors, noted that almost every critical statement by prosecutors results in disciplinary actions. The president of the association faced so many proceedings that, he noted, “it is impossible to keep track of all of them.” In January 2021, some prosecutors who had been critical of changes in the prosecution were transferred to remote locations far away from where they lived, sometimes with only two days’ notice.

Courts and their presidents

In July 2017, Ziobro was given absolute discretion for a period of six months to appoint and dismiss all presidents of ordinary courts (district, regional and appeal courts) in Poland. He used this power extensively. He was then given extensive permanent powers to appoint court presidents, as well as to dismiss them on vague grounds of “gross or persistent failure to perform professional duties” or if the continuation of the president in office “cannot be reconciled with the interests of justice.”

The power to appoint and dismiss court presidents is hugely important. These presidents have considerable influence on the working lives of the judges under their authority. These powers include assigning judges to divisions and “determining the manner of their participation in the assignment of cases”; dismissing heads of divisions and their deputies; withdrawing, reassigning and adding judges to cases in the interests of “the efficiency of proceedings”; ordering inspections (by “inspecting judges”) of all activities of courts under their authority; “reviewing the efficiency of proceedings in individual cases”; and reprimanding the presidents of lower courts for management errors and reducing their salaries.

The National Council of the Judiciary

In 2017 the PiS-majority remodelled the National Council of the Judiciary, which selects candidates for appointment as judges by the President of the Republic. Fifteen of the 25 members of the National Council of the Judiciary were previously elected by judges themselves, as is common practice across Europe for such bodies. These fifteen judges are now elected by the majority in the Sejm, the lower chamber of the Polish parliament. The other

¹³ Rule of Law Poland, “[Justice Minister Zbigniew Ziobro on the CJEU ruling: it is unacceptable to us](#)”, 3 March 2021.

members are: four members *from* the Sejm itself, two members from the Senate, one representative of the President of the Republic, the president of the Supreme Court and the president of the Supreme Administrative Court ... and Ziobro as minister of justice. 23 of the 25 positions are now directly appointed by political authorities, the vast majority belonging to the governing coalition.

This National Council of the Judiciary controls judicial appointments, including to the Supreme Court and its newly created disciplinary chamber

The disciplinary system

Before the creation of the new disciplinary regime in 2018, disciplinary officers were selected by the National Council of the Judiciary, a majority of whose members were chosen by judges. Judges in disciplinary trials were chosen at random among all judges in the courts of appeal.

Today the minister of justice appoints the individuals involved in investigating, prosecuting and judging disciplinary charges against ordinary judges and can intervene in every case. It is an extraordinary degree of influence over some 10,000 judges at Poland's different courts: 7,000 work at 321 district courts [sąd rejonowy], another 2,000 at 45 regional courts [sąd okręgowy] and 700 at 11 courts of appeal [sąd apelacyjny].¹⁴

Ziobro can appoint a special disciplinary official to investigate any of Poland's almost 10,000 ordinary judges. Even if such an investigation is closed, Ziobro can appoint another disciplinary official to examine the same allegations and issue binding instructions how to conduct the investigation. In 2018 Ziobro appointed new permanent national disciplinary officials. These began to initiate disciplinary investigations against judges who have been particularly outspoken in their criticism of the judicial reforms. In 2019 this process accelerated, with a new law adopted in December completing the destruction of judicial independence. As Laurent Pech, Patryk Wachowiec and Dariusz Mazur have written, "In practice, this means that any Polish judge at any point in time can now be the subject of arbitrary disciplinary investigations, proceedings and/or sanctions (including dismissals), initiated, conducted and adopted by unlawful bodies (as a matter of EU law)—not to forget the subject of arbitrary criminal proceedings—for fulfilling their EU law duties and applying EU rule of law requirements."¹⁵

Ziobro also appoints the disciplinary court judges who hear disciplinary cases. His ability to ensure that ideologically aligned judges hear disciplinary cases will not erode over time: while they are appointed for six-year terms he can increase their number at any moment. And he can reward them in the future, as he appoints all court presidents.

Nowhere else in the EU is there such a concentration of power over the judiciary in the hands of just one man. No other European democracy, including Hungary, has a system like the Polish one today.¹⁶ In countries respectful of the rule of law the disciplinary system for judges is meant to prevent abuse. Not so in Poland.

¹⁴ There are also administrative courts, supervised by the Supreme Administrative Court, and military courts.

¹⁵ Laurent Pech, Patryk Wachowiec and Dariusz Mazur, "[Poland's Rule of Law Breakdown: A Five-Year Assessment of EU's \(In\)Action](#)," Hague Journal on the Rule of Law 13 (2021): 1–43.

¹⁶ "[A comparative analysis on Disciplinary systems for European judges and prosecutors](#)", 2012.

In its ruling on 19 November 2019 the ECJ set out standards of judicial independence to be used in assessing the legality of the new disciplinary chamber in Poland's Supreme Court.¹⁷ On 5 December 2019, the labour chamber of the Polish Supreme Court ruled that the disciplinary chamber failed to satisfy these criteria, not least because all its members had been appointed by the new National Council of the Judiciary, whose own composition has been used to ensure party political influence over judicial appointments.¹⁸

Ziobro responded by warning that “the last word regarding the organization of the judiciary in Poland belongs to the Constitutional Tribunal.”¹⁹ The head of the prime minister's office declared that the Constitutional Tribunal should adjudicate on the issue.²⁰

Pro-government parliamentarians raised the stakes further, tabling a draft law on 12 December 2019 that introduced a range of *new* disciplinary offences, specifically targeting judges who might apply the recent ECJ ruling on the independence of Polish courts. This law entered into force within a few weeks, allowing the dismissal of judges for applying rulings from the ECJ without a prior decision by the Constitutional Tribunal allowing this. In this way the PiS-controlled Constitutional Tribunal was set up as the sole arbiter of the application of EU law in Poland. The Polish government now challenged the supremacy of EU law directly.

From that moment on, this summer's showdown was inevitable. On 14 July 2021, the deputy president of the ECJ called on Poland to immediately suspend the disciplinary chamber. The same day a five-member panel of the Constitutional Tribunal, chaired by former communist prosecutor and former PiS MP turned constitutional judge Stanisław Piotrowicz, dismissed the ECJ:

“The EU Treaty, to the extent that the ECJ imposes interim measures relating to the system and jurisdiction of Polish courts, is inconsistent with Articles 2, 7, 8, and 90 of the Constitution and is not covered by the rules of direct application.”

How dissent is repressed – Judges Żurek and Tuleya

Magda is a fictional character, but she has plenty of homologues in real life. As Laurent Pech, Patryk Wachowiec and Dariusz Mazur have written, by March 2021 “arbitrary, politically motivated disciplinary and explanatory proceedings are currently pending against at least 81 Polish judges” and preliminary disciplinary steps were taken against more than 1,200 judges. Among them two of the most prominent are Judges Żurek and Tuleya.

Waldemar Żurek grew up in a small town about 20 miles southeast of Katowice. As a teenager he daubed the walls with anti-communist slogans. When the communist regime finally fell, he was twenty. Inspired by the promise of democracy and the prospect of just laws applying equally to all people, he enrolled in law school. He completed his studies at Jagiellonian University and became a judge at the Regional Court in Cracow; for over 14 years he was also its spokesman. He was widely respected judge and was twice being voted on to the National Council of Judiciary by his peers. It was a position he held until 2018, by which time he had become embroiled once again in a fight for the values that had inspired him in his youth.

¹⁷ ECJ, Joined Cases C-585/18, C-624/18 and C-625/18, A. K. and Others, ECLI:EU:C:2019:982 (19 November 2019).

¹⁸ Case III PO 7/18.

¹⁹ TVN24, “[Wyrok TSUE w sprawie KRS i Izby Dyscyplinarnej Sadu Najwyzszego](#)”, 19 November 2019.

²⁰ Wirtualna Polska, “[Michał Dworczyk o wyroku TSUE: Może Trybunał Konstytucyjny będzie musiał goocenić](#)”, 19 November 2019.



Wladimir Żurek – dissident in an EU member state

When the newly elected PiS government started attacking the Constitutional Tribunal in 2015 Judge Żurek decided to organize protests. He encouraged other judges to join him. As a well-respected judge, and the elected spokesperson of both the Cracow regional Court and the National Council of the Judiciary, he was well-placed to speak out. He was also placing himself directly in the line of fire. Żurek began receiving threats almost immediately. In October 2016, he commented:

“A judge needs a thick skin, but what is happening since the autumn of 2015 is without precedent. ... Personally, I am attacked in different ways. Most often I receive calls from the restricted phone numbers at different times of the day and night. I recently received email message that threatened me that I would be attacked when I’m with my family shopping at the mall! These types of threats worsen in relation to the number of judges, but the situation has become so serious that some NGOs have begun a program to monitor attacks on the courts.”²¹

Much worse was to follow. He was stripped of his role as spokesperson of the Cracow Court in January 2018, shortly after minister Ziobro appointed a new court president. He was then transferred to a new division within the Court and handed a large number of long overdue cases. When he complained, a disciplinary case was opened against him. 10 more have followed in its wake – more than against any other judge – for participating in protests, for tweeting his disapproval of a Supreme Court appointment, for publicly complaining about pressure put on his pregnant wife and elderly parents.

Other arms of the state have also been mobilised against him. The Central Anticorruption Bureau (CBA) announced in March 2021 that after five years of investigation involving

²¹ [Verfassungsblog](#), „[The National Council of the Judiciary is under attack in different ways](#)”, 11 October 2016.

prosecutors, the police and the treasury police Waldemar Żurek is to go on trial for failing to pay 820 zloty (less than EUR 200) in sales tax on a 37-year-old tractor. Since 2016 he was repeatedly summoned for questioning and his neighbours in a small village in Bieszczady mountains were interrogated too. All this time, Żurek has continued to receive anonymous threats by phone and letter. His parents' house has been pelted with eggs. The tyres of his car have been slashed several times, as he continues to be vilified by pro-government media.

Ziobro's prosecutors also started looking into his affairs. They came across an old property dispute with his ex-wife. The case had already gone through three instances, including to the Supreme Court, and all instances had ruled in his favour. The prosecutor general – Ziobro – decided to challenge these decisions, using a recently adopted law that allowed previously decided cases to be reopened, on the basis that the judgments were “incompatible with a democratic state of law.” On 30 June 2021, the newly established so-called extraordinary chamber of the Supreme Court overturned its previous ruling – in proceedings that were closed to the public and Żurek himself.

Igor Tuleya was born in 1970, the same year as Wladimir Żurek, in Lodz, but grew up in Warsaw. His career followed a similar path. He became a judge in 1996 and was appointed to the regional court of Warsaw in 2010. Like Żurek, he has been an outspoken critic of the PiS' governments judicial take-over. He has also angered minister Ziobro and the ruling party with several judgments.

Like Żurek he has been no stranger to public vilification. His official persecution started in 2018, once the reforms to the disciplinary system kicked in, enabling Ziobro's three leading disciplinary Officers – Schab and his deputies Radzik and Lasota – to launch a series of disciplinary investigations against him. One was launched for speaking to a young public about the rule of law and criticizing judicial reforms in the media. Another was prompted by his request for a preliminary ruling from the ECJ regarding disciplinary proceedings against judges. So far, none of the investigations has been closed.

In April 2020, after the ECJ ordered Poland to suspend the disciplinary chamber, the very body that would be a court of last instance in Tuleya's cases, the focus of the ministry of justice shifted to intimidating judges through prosecutors, who are also controlled by Ziobro. Since judges enjoy judicial immunity, criminal investigations require their immunity to be lifted first. A law from February 2020 assigned the power to do so to the new disciplinary chamber. That same month the prosecutor's office requested the waiver of Tuleya's immunity. He was accused of abuse of power in connection with the disclosure of information in a trial concerning the ruling party. In June 2020, a single judge in the disciplinary chamber refused to lift his immunity. The prosecutor's office appealed. Then, in November 2020, a three-member panel of the disciplinary chamber lifted his immunity. If faced with a trial he might be punished with up to two years' imprisonment.

Marek Safjan, a former President of the Polish Constitutional Court, and currently a judge at the ECJ in Luxembourg, warned:

“Today we are dealing with a sanction against a judge who, based on his or her independent conviction, sought to perform his functions, serving the rule of law and defending citizens. This situation poses a risk to all of us.”²²

²² Onet, „Izba Dyscyplinarna SN uchyla immunitet sędziemu Tuleyi. Prof. Safjan: do tej rozprawy nigdy nie powinno dojść”, 8 November 2020.

Tuleya in turn declared that he would ignore the ruling as he did not recognize the “so-called disciplinary chamber.”²³ He was nonetheless suspended from work and his salary was immediately reduced by 25 per cent. When he protested to the president of his court in Warsaw that he was still meant to work, as no “court within the meaning of the Constitution and EU law” had removed his immunity, the president and vice president of his court refused this demand. No surprise: the president and vice-president of the Warsaw court are none other than Schab and Radzik, Ziobro’s chief disciplinary officers, appointed to these positions by Ziobro himself.

As the former president of the Polish Supreme Court, Małgorzata Gersdorf, wrote in late 2020:

“Even though the Polish Constitution and the state system have not changed in terms of the supreme law of the land, the top organs of the judiciary have been hollowed out internally: this was primarily due to the court-packing and the deepening ideologisation of legal life. In the current state of affairs, the Polish Constitutional Court and the National Council of the Judiciary have become façades and no longer play their usual roles. They participate in an organised system of pressure on judges.”²⁴

Unless the ECJ succeeds in getting the Polish government to restore the independence of courts and access to effective legal protection also for individuals who the government dislikes it is only a question of time before Poland will be an EU member with political prisoners.

²³ Gazeta Wyborcza, [“Izba Dyscyplinarna uchyliła immunitet sędziego Tulei”](#), 18 November 2020.

²⁴ Małgorzata Gersdorf, Mateusz Pilich, *Judges and Representatives of the People: a Polish Perspective* Published online by Cambridge University Press: 26 October 2020.