

Resolution of the National Board of the Association of Polish Judges "Iustitia" 11th of December 2018

We hereby declare that the body performing the function of the National Council of the Judiciary, which, contrary to the provisions of the Constitution of the Republic of Poland, was elected entirely by politicians, has no legitimacy of the judicial environment. It was clearly confirmed by several dozen assemblies of judges, as well as the results of a nationwide poll and referendum carried out in this case. About 90% of judges believe that this body does not exercise its constitutional function, which is to uphold the independence of the courts and the independence of the judges. This body does not react to unlawful actions of the disciplinary spokesman of common courts 'judges and his deputies, who relate to judges' statements in the media, criticising of harmful changes in the Polish judiciary, as well as the circumstances of the judges issuing judgments - preliminary questions to the CJEU. These omissions should be assessed as the consent of the authorities associated with the Minister of Justice-Prosecutor General to create a "chilling effect" against the judges. The judges raise very serious reservations to the way this body is dealing with, by ignoring the opinions of the judges 'self-government at the way the judges' promotions is carried out, rejecting judges who stand out with very good work, and recommending judges with average or poor results of their work, including the present members of body performing the function of the National Council of the Judiciary.

On November 22, 2018, the body performing the function of the National Council of the Judiciary appealed to the Constitutional Tribunal for determination of non-compliance with the Constitution of the Republic of Poland by the election of judges by politicians. The constitutional right of the National Council of the Judiciary was instrumental in the way that, as a result of this proceeding, contrary to the conclusions contained in the complaint, confirm the legality of the election of members of this body. Ms. Julia Przyłębska elected by the same parliamentary majority and acting as the President of the Constitutional Tribunal, has already announced the recognition of this case on January 3, 2019. In spite of this and the resolutions of the judges 'assemblies and associations' appeals to abstain from promotion procedures until the CJEU has considered the questions for a preliminary ruling, the body performing the function of the National Council of the Judiciary continues proceedings and assesses candidates for promotion in order to present them to the President for appointment. The manner of appointing and promoting judges can have very serious consequences in the future, because judgments issued by persons appointed in a defective procedure could be easily challenge.

Source: <https://www.iustitia.pl/en/activity/informations/2713-resolution-of-the-national-board-of-the-association-of-polish-judges-iustitia-11th-of-december-2018>