



**STATEMENT
OF
THE EUROPEAN CRIMINAL BAR ASSOCIATION (ECBA)**

The European Criminal Bar Association (ECBA) is an association of independent specialist defence lawyers. The association itself is wholly independent and free from outside interference. The primary purpose of ECBA is to be a leading group of independent criminal defence lawyers in the Council of Europe promoting the fundamental rights of persons under criminal investigation, suspects, accused and convicted persons.

The Executive Committee of the ECBA has received recently alarming information concerning the current situation of judges in Poland.

According to this information, there are multiple ongoing disciplinary proceedings and other repressive measures against judges. It appears that many judges are subject to disciplinary prosecution for their critical remarks concerning the Parliament or the Government representatives in relation to the state of judicial independence in Poland. These proceedings create a chilling effect as they are intended to intimidate judges who strive to act independently, and suppress criticism of unconstitutional changes to the laws regulating the Polish judicial system which have been introduced over recent years. The increasing number of such proceedings, as well as the reasons given for their initiation demonstrate their political character.

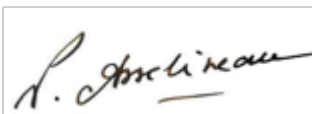
Moreover, there are cases in which disciplinary charges were directed against judges merely in relation to their judicial decisions or to the reasoning of such decisions. One of the judgements issued by the Disciplinary Chamber of the Supreme Court on March 22, 2019 constitutes a clear example: a judge was punished for a disciplinary offence due to the merits of her decision. The judge was accused of a clear and blatant offense of legal provisions because she had reversed pre-trial detention of the suspect on the grounds that the suspect was not assisted by a defence

counsel in a case in which legal representation was mandatory (there were doubts as to the sanity of the suspect). Although the judge's decision was compatible with the case-law of the European Court of Human Rights, it was found inappropriate by the Minister of Justice. The Minister became directly involved in the disciplinary case and brought the case to the newly created Disciplinary Chamber of the Supreme Court. According to the accused judge, the way the proceedings took place in the Disciplinary Chamber suggest that the final decision in her case was already made before the hearing took place. In this context it is worth noting that the Disciplinary Chamber of the Supreme Court was established in a way which raises doubts as to its independence and therefore, compliance with the Polish Constitution.

Recent news in the media indicate that disciplinary proceedings against judges in Poland are accompanied by smear campaigns coordinated by the Ministry of Justice and targeted against members of the judiciary. The Deputy Ministry of Justice, Łukasz Piebiak apparently conspired to send out anonymous accusations that Krystian Markiewicz, head of the independent Polish Judges Association "IUSTITIA", and Piotr Gonciarek, a member of IUSTITIA, who both had criticized anti-constitutional reforms of the judiciary, have had problems in their personal lives. This is manifestly an attempt by the executive to discredit their authority as judges.

Considering the above information, the ECBA expresses grave concerns regarding the repression and obstructions facing judges in Poland. Arbitrary and politically motivated repressive proceedings and actions undertaken against many Polish judges may lead to the violation of the right to a fair trial guaranteed to everyone by the Polish Constitution and the European Convention on Human Rights.

Yours respectfully,

A handwritten signature in black ink, enclosed in a thin black rectangular border. The signature is cursive and appears to read "V. Asselineau".

Vincent Asselineau, Chair of the ECBA

London, 29th October 2019