

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# POLAND: JUDGES WHO TURNED TO EU'S COURT OF JUSTICE MUST NOT BE HARASSED

The authorities in Poland have accused two judges of “possibly” committing a disciplinary offence after they sought clarification from the Court of Justice of the European Union (CJEU) regarding whether new disciplinary proceedings against judges were compatible with EU law.

On 11 and 12 December respectively, Judges Ewa Maciejewska and Igor Tuleya received letters from the deputy Disciplinary Prosecutor for Common Courts implying that they had committed a “juridical excess” (*eksces orzeczniczy*). Both judges have 14 days to provide a written explanation for their action. The disciplinary process against them was initiated because the judges separately submitted preliminary questions to the CJEU, which is a power granted to courts in the member states under the EU law.

Amnesty International is alarmed by the action taken by the deputy Disciplinary Prosecutor against the judges and the wider campaign of harassment and intimidation of judges who are or who are perceived to be critical of the authorities. Targeting and harassing judges by subjecting them to disciplinary proceedings merely for submitting a request to the CJEU amounts to undue interference with their function and undermines the independence of the judiciary.

“I consider the allegations against me to be a ‘penalty’ for sending preliminary requests to the CJEU,” Judge Maciejewska told Amnesty International.

“The letter from the deputy Disciplinary Prosecutor and the framing of my alleged delict [offence] as ‘juridical excess’ is not only an attempt to harass judges. It is also undermining the right of any court in Poland to refer questions to the CJEU. I hope the judges will not allow the authorities to break their [judges] backs,” Judge Tuleya told Amnesty International.

Both judges were first summoned in September as witnesses to provide explanations, in relation to their referrals to the CJEU, to the deputy Disciplinary Prosecutor. The Disciplinary Prosecutor for Common Courts, Piotr Schab, told Amnesty International in a meeting in October that the summons were not related to the judges’ request to the CJEU. The letters of the deputy Disciplinary Prosecutor to the judges appeared to contradict this statement. Another source of concern is the tactic used by the authorities to summon the judges first as witnesses, in order to gather information, only to accuse them subsequently, relying on the lower protections afforded to witnesses to avoid other safeguards.

Amnesty International calls on the authorities in Poland to drop disciplinary proceedings against judges merely for their requests to the CJEU to clarify the compatibility of Polish law with EU law. The authorities must ensure that judges are able to carry out their duties independently and without fear of reprisals.

### BACKGROUND

Amnesty International has [documented](#) that the reform of judiciary has been used as a pretext to undermine the independence of the judiciary in Poland. Judicial independence is an essential requirement of the right to a fair trial, which is of crucial importance to guarantee and ensure the enjoyment of other human rights.

A critical component of the reform of the judiciary in Poland is the new provision for disciplinary proceedings. Amnesty International has already raised concerns that the new model of disciplinary proceedings does not include adequate due process guarantees and presents a risk that such proceedings will be used against judges who rule in politically sensitive cases, including cases that involve anti-government [protesters](#). An analysis of the new legislative framework – pursuant to the reform of the judiciary – has concluded that the Minister of Justice has effective control over the disciplinary proceedings.

