



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

To: Judge Mazur, President of the KRS

From: Judge Sterk, President of the ENCJ

Subject: ENCJ membership of the KRS

Brussels, 21 February 2020

Mister President Mazur,

I write to you on an important matter.

Earlier this month the Executive Board discussed the recent developments in the judiciary in Poland, especially the role of the KRS in these developments.

These developments, and the supposed active role of the KRS in them, are reasons for the Executive Board to raise the question whether the Executive Board should propose to the General Assembly that the KRS be expelled from the ENCJ as a member.

In order to be able to take a fully informed decision on this important matter the Executive Board would like to ask some questions.

1. Is the allegation correct that the lists of supporting judges in the appointments procedure of the members of the KRS show 50 judges narrowly associated to the Minister of Justice?
2. Is it true that the KRS-member Nawicki was appointed without the legally required number of 25 signatures of judges?
3. Is it true that the Minister of Justice said in the Parliament (Senate) that he proposed judges to be appointed in the KRS who, in his opinion, were ready to cooperate in the reform of the Judiciary. If so, to what extent does the current composition of the KRS represent the Polish judges?
4. Is it true that the KRS fully supports the reforms of the government, especially the Law of 20 December 2019?

5. Is it true that the KRS never defended judges who spoke against the reforms of the government?
6. Is it true that the KRS (publicly) supports disciplinary proceedings against judges who:
  - have been speaking out against the reforms of the government in public?
  - have been asking preliminary questions to the ECJ in their judgements?
  - have been applying the criteria of the ECJ judgement of 19 November 2019 in their judgements?
7. If you answer questions 4, 5 and (parts of) question 6 positively, how does this support fit into the prime task of an ENCJ council of the judiciary to defend the independence of the judiciary as a whole and the independence of individual judges?
8. If you answer (parts of) question 6 positively, how does this relate to the ENCJ's aim to operate within the framework of the European Area of freedom, security and justice, and the rules and values it stands for?
9. What would you like to bring up yourself what you feel is of interest to the Executive Board in this matter?

The Executive Board would like to receive KRS' reasoned answers by Friday 13 March 2020.

Regards,



Judge Kees Sterk  
President ENCJ