

## They belong to a politicised association and disagree with the reform of the judiciary. Who are the judges who overruled the anti-LGBT resolution?

Wojciech Biedroń, portal: wpolityce.pl, 16 July 2020



author: LGBT

The media connected with the judicial ‘caste’ and the opposition are praising the ‘brave’ judges from Radom who overruled the anti-LGBT resolution in Klwów. We checked. Two of the three judges adjudicating in this case at the Voivodship Administrative Court in Radom are members of the extremely politicised judicial association, Themis. The same one that Judge Waldemar Żurek is affiliated to and which has been waging war with the United Right government for years.

### VIII SA/Wa 42/20 – Judgment of the Voivodship Administrative Court in Warsaw

<b>Judgment date</b>	15/07/2020	non-final judgment
<b>Date of receipt</b>	14/07/2020	
<b>Court</b>	Voivodship Administrative Court in Warsaw	
<b>Judges</b>	Artur Kot Iwona Owsieńska-Gwiazda Marek Wroczyński (leading rapporteur)	
<b>Symbol with description</b>	645 cases not covered by the basic symbols 601-644 and 646-652 6391 complaints about resolutions of the municipal council il (Article 100 and 101a of the Act on municipal self-government)	
<b>Accused authority</b>	Municipal Council	
<b>Outcome</b>	The resolution was held to be invalid in whole	

### **SENTENCE**

After considering the complaint filed by the Ombudsman about the resolution of the Klwów Municipal Council of 17 June 2019, no. VI/51/2015 on the adoption of the declaration “Municipality of Klwów free

of the LGBT ideology” at the hearing of 15 July 2020 in Radom, the Voivodship Administrative Court in Warsaw, comprising the following bench: Presiding Judge, Marek Wroczyński, Judge of the Voivodship Administrative Court (rapporteur), Judges Iwona Owsieńska-Gwiazda, Judge of the Voivodship Administrative Court, Artur Kot, Judge of the Voivodship Administrative Court, Dominika Jeromin, Court Clerk, finds the contested resolution is invalid in whole.

They are Artur Kot and Iwona Owsieńska-Gwiazda. The latter was once a member of the Iustitia association and is currently a member of the Themis association. This is an extremely politicised association that has been battling with the reforms of the justice administration prepared by Zbigniew Ziobro. It also actively participates in the witch hunt against the Polish authorities in Brussels.

### Judge objected to the changes

Judge Artur Kot, who was in the bench adjudicating on the cancellation of the anti-LGBT resolution, also belongs to the same association. This judge opposed submitting special declarations in which judges provided information on which associations they belong to and to which political parties they belonged before they put on the judge's toga.

***“(…) I express my unambiguous objection stating that the obligation imposed on me to submit the declaration is an excessive and disproportionate interference in the right specified in the Constitution to the protection of the private and family life, to which every citizen of the Republic of Poland is entitled, breaches the freedom of creed, as well as the freedom of assembly and the freedom of association. (…)”***

– wrote Judge Kot in his declaration.

#### Declaration

As a judge of the Voivodship Administrative Court in Warsaw, I declare that I do not belong and have not belonged to a political party and I do not conduct any activities breaching the principle of independence of the courts and the impartiality of judges and therefore I satisfy the requirements of Article 178, para. 3 of the Constitution of the Republic of Poland.

I simultaneously express my unambiguous objection stating that the obligation imposed on me to submit the declaration is an excessive and disproportionate interference in the right specified in the Constitution to the protection of the private and family life, to which every citizen of the Republic of Poland is entitled, breaches the freedom of creed, as well as the freedom of assembly and the freedom of association. In particular, it breaches Article 47, Article 51, para. 2, Article 53, para. 7, Article 58, para. 1 of the Constitution of the Republic of Poland, Article 8, Article 9 and Article 11 on the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as Article 7, Article 10 and Article 12 of the EU Charter of Fundamental Rights. In the long term, the failure of judges to express their objection to the breach of the constitutionally guaranteed rights can bring about the deprivation of citizens of real court protection and guarantees of their rights.

Given the right of citizens to an independent trial by an impartial court, without having anything to hide with regard to my public activity, I voluntarily declare that I am a member of the THEMIS Association of Judges, with its registered office in Warsaw (since 2010 or 2011), as well as a member of the National Association of Administrative Court Judges, with its registered office in Warsaw (since 2018 or 2019).

Artur Kot  
Voivodship Administrative Court Judge

## Declaration

I, the undersigned,

IWONA OWSINSKA-GWIAZDA

forename and surname of the judge /court-assessor/-referendary

DEPUTY CHAIRPERSON OF THE DIVISION OF THE VOIVODSHIP ADMINISTRATIVE  
COURT IN WARSAW

position, place of employment

pursuant to Article 88a § 1 of the Law on the Structure of Ordinary Courts (Journal of Laws of 2019, item 52, as amended), in connection with Article 29 § 1 of the Law on the Structure of Administrative Courts (Journal of Laws of 2019, item 2167, as amended), declare:

*since 08/11/1999 Member of the Association of Polish Judges IUSTITIA, with its registered office in Warsaw*

*since 23/12/2006 Member of the Radom Association of Lawyers, with its registered office in Radom*

*since 19/09/2010 Member of the Association of Judges THEMIS, with its registered office in Warsaw*

declaration on membership of an association, including associations – specifying the name and seat of the association, the post held and the period of membership

2)

NOT APPLICABLE

declaration on the post held in the authority of a foundation not conducting business – specifying the name and seat of the foundation and the period of holding the post

3)

I WAS NOT A MEMBER OF A POLITICAL PARTY

declaration on membership of a political party before being appointed to the office of judge, as well as during the period of holding the office before 29 December 1989, indicating the name of the party, posts held and the period of membership.

In his declaration, the judge also encouraged other judges to disobey the provisions of the amended Act, which imposes the obligation on them to disclose their membership of associations.

*“The failure of judges to object to the breach of constitutionally guaranteed rights can, in the long term, bring about the deprivation of citizens of real judicial protection and the guarantee of their rights,”*

– explained Judge Kot in his declaration in which he ultimately admits to being a member of the ‘Themis’ association.

### The media supported the judges

However, the controversial decision of the judges of the Voivodship Administrative Court in Radom encountered the approval of the media that openly support the dangerous LGBT ideology, as well as the rebellion of the judicial ‘caste’.

***“Andrzej Duda, a member of the group in power, won the elections. Therefore, the control mechanism restraining the ruling majority, namely the president vetoing laws, could not be restored. But there are still independent***

***courts. This time, independence was demonstrated in the case of discrimination against non-heteronormative people, which is promoted by the government and Andrzej Duda himself,”***

– wrote Ewa Siedlecka, a journalist from the ‘Polityka’ weekly.

Nobody is accusing judges of breaching their own rules and breaking the law. However, the fact that their associations are waging a political war against a legally elected authority gives rise to a whole host of doubts. Just like the decision to repeal resolutions adopted by democratically elected municipal councils at the request of the residents themselves.

Link to the original publication in Polish:

<https://wpolityce.pl/polityka/509648-wiemy-kim-sa-sedziowie-ktorzy-uchylili-uchwale-anty-lgbt>