

Repression against Judge Mazur for criticizing Manowska. He is being prosecuted by an anonymous disciplinary commissioner

Mariusz Jałoszewski, OKO.press, 7 September 2022.

Link to the original publication in Polish: <https://oko.press/represje-wobec-sedziego-mazura-za-krytyke-manowskiej-sciga-go-anonimowy-rzecznik-dyscyplinarny/>

Judge Dariusz Mazur from Kraków, known for his defence of the rule of law, is being subjected to disciplinary action for criticizing Małgorzata Manowska acting as the First President of the Supreme Court. He demanded that Manowska implement the CJEU rulings.

Judge Dariusz Mazur of the Regional Court in Kraków, vice president of Themis, an association of judges known for its defence of the free courts, was charged with a disciplinary offence of failing to uphold the dignity of a judicial office. He was also alleged to have breached the Constitution and the judge's code of ethics.

His 'fault' is that he gave two interviews to the Onet portal in July 2021, in which he harshly criticized Małgorzata Manowska, a neo-judge in the position of First President of the Supreme Court. The second half of July 2021 was a hot period in Poland. The CJEU issued two rulings on 14 and 15 July declaring the Disciplinary Chamber of the Supreme Court illegal and suspending its operations. However, Manowska did not freeze the Chamber, but rather reactivated it, and Judge Dariusz Mazur criticized her for that. Now, these two interviews have been qualified as activities that are incompatible with the principle of the non-politicization and independence of the judiciary.

Interestingly, Judge Mazur is being prosecuted by an anonymous disciplinary commissioner. The decision to initiate disciplinary proceedings and raise charges was issued by the deputy disciplinary commissioner at the Court of Appeal in Lublin. However, the commissioner did not sign the order. There is only a signature of a senior clerk confirming that the order is in compliance with the original. This is not the only shortcoming of this decision. It also lacks an elaborate statement of reasons, which is in conflict with Article 94 of the Criminal Procedures Code.

Disciplinary proceedings against Judge Mazur must have been initiated by the deputy commissioner, Dorota Janicka, a neo-judge of the Court of Appeal in Lublin in the last days of her term of office. The order regarding the disciplinary charge is dated 20 July – Mazur was on leave and has only just received it. Meanwhile, a new deputy disciplinary commissioner at the Lublin Court of Appeal, Bartosz Kamieniak, was appointed on 25 July. He is also a neo-judge, having been appointed by Chief Disciplinary Commissioner Piotr Schab.

The president from Kraków wanted Mazur's prosecution

The idea of prosecuting Judge Dariusz Mazur originated from the president of the Regional Court in Kraków, Dagmara Pawełczyk-Woicka, Minister Ziobro's nominee and currently head of the illegal neo-NCJ.

The strike against Mazur was no accident. He is also the press officer of the Association of Judges, 'Themis'. He often makes statements in the media and has a sharp tongue. He fiercely criticizes Minister Ziobro and his people in the courts. Mazur is also known in the legal community abroad. He supports other repressed judges and prosecutors whom he defends, such as the former head of Lex Super Omnia, Prosecutor Krzysztof Parchimowicz.

Pawełczyk-Woicka did not like Mazur's words from the interview with Onet on 16 July 2021. As the Themis press officer, he commented to the portal about two CJEU rulings on the illegal Disciplinary Chamber and Małgorzata Manowska's refusal to implement them while this was taking place.

Mazur accused her of possibly committing an offence under Article 231 of the Penal Code, namely exceeding her powers and failing to fulfil her official duties. He said that, by restoring the work of the Chamber, Manowska had rejected EU law. He warned that Poland would lose billions in EU funds for failing to implement the CJEU rulings, which is already happening because the EU is not paying Poland billions from the National Recovery Plan. He also warned that Poland would be fined millions of euros for failing to implement the CJEU rulings, and this is also happening.

The judge went on to say that Manowska was helping Julia Przyłębska's Constitutional Tribunal to unconstitutionally change the law, which he described as a legal crime. He emphasized that she should not hold any public office, including the office of judge, for that.

The president of the Regional Court in Kraków, Dagmara Pawanczyk-Woicka, reacted rapidly to this interview. She informed Mazur that she had called a meeting of the Board of the Regional Court (consisting of her and the presidents of the district courts, Ministry of Justice nominees). She urged him to express his deep regret for his words, namely to submit a statement of self-criticism, as in the times of the People's Republic of Poland.

Mazur refused. Instead, he gave a second interview to Onet (19 July 2021) in which he upheld his criticism of Manowska. He said, among other things, 'I consider the order of the First President of the Supreme Court to "unfreeze" the Disciplinary Chamber in defiance of the CJEU judgment to be a gross breach of the law. Meanwhile, in view of the function that Professor Manowska holds and her academic title, I describe her action, with full responsibility, as a legal crime. If a person holding the position of First President of the Supreme Court breaches the law so blatantly, how can ordinary citizens be expected to respect the law?'

The Kraków judges then stood firmly behind Mazur. More than 70 judges from the Court of Appeal and Regional Court in Kraków signed a statement in his defence. They supported his criticism of Manowska, especially the charge that she had committed a 'legal crime'. They criticized her unfreezing of the Disciplinary Chamber, emphasizing that this decision 'undermines her qualifications as a judge'.

They also wrote that prosecuting Mazur breaches the principle of freedom of expression and represents a return to the 'Bolshevik and communist practices of forcing self-criticism while facing the threat of being held liable'. But the signatories of the letter were also targeted. They were summoned to the secretariat or called to explain their signatures.

Mazur: I uphold my criticism of Manowska

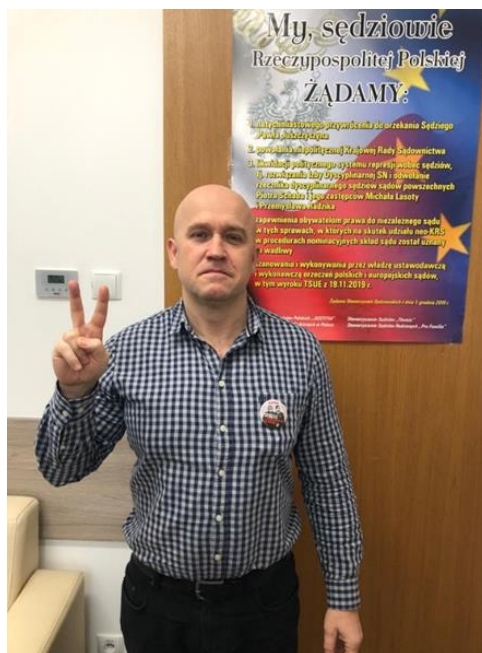
The Board of the Regional Court in Kraków decided to request disciplinary action for Mazur for overstepping the limits of criticism. The case went to the deputy disciplinary commissioner at the Court of Appeal in Lublin, who raised the charge against the judge.

Judge Mazur is surprised by the disciplinary action, because he had not previously received any letters on this. There was also no investigation preceding the initiation of disciplinary action.

The judge believes the decision of the Lublin disciplinary commissioner is incomplete and does not satisfy the requirements of Article 94 of the Criminal Procedures Code, which is applicable in disciplinary cases. It arises from this provision that the decision to raise the charges must be signed by the person issuing it by name. And it is not.

‘It follows from the case law of the ECtHR that the charge should be concretized in fact and in law, so that it is clear what the act consists of and what the misconduct consisted of,’ Judge Dariusz Mazur tells OKO.press. Meanwhile, the accusation and its justification are eight lines of text, expressed laconically. ‘I gave the interview in my capacity as the press officer of the Association of Judges, ‘Themis’. Is merely granting an interview now a disciplinary offence? I don’t know how to address this. But I uphold everything I said to Onet at that time,’ adds Judge Mazur.

He emphasizes that Manowska was elected to the office of judge of the Supreme Court with the involvement of the neo-NCJ (its legality was challenged by the ECtHR and the CJEU). And she received the post of First President of the Supreme Court as a result of a procedure with respect to which the legal judges of the Supreme Court raised numerous objections. Therefore, the legality of Manowska’s election as First President of the Supreme Court can be contested.



Judge Dariusz Mazur, in the background of one of the posters in defence of the rule of law, for which he was prosecuted with Judge Maciej Czajka. Photo: own archive

How Judge Mazur was prosecuted

This is not the first disciplinary case against Judge Dariusz Mazur for his activities in defence of the free courts. He was previously prosecuted together with another judge, Maciej Czajka, on the instructions of the Kraków court authorities for hanging posters in the court in defence of the rule of law. Neither the police nor the prosecutor's office wanted to deal with the case, so the deputy disciplinary commissioner of the Kraków Court of Appeal, Tomasz Szymański, was notified, but he discontinued the proceedings.

But Minister of Justice Zbigniew Ziobro did not let up. The case was transferred to the deputy disciplinary commissioner at the Court of Appeal in Rzeszów, Janusz Szarek. However, he too refused to prosecute Judges Mazur and Czajka.

The commissioner concluded that the judges had acted within their right to criticize changes to the judiciary, and found nothing offensive in the posters. He even praised the action of the judges, acknowledging that they were acting in the public and social interest, namely the independence of the courts and judges and the principle of the separation of powers.

Judge Mazur was also facing disciplinary action for his statement to TVN 24 (Poland's largest independent news and current affairs channel on TV) about the president of the Court of Appeal in Lublin, Jerzy Daniluk, who was transferred 'on paper' to the court in Siedlce so that he could receive a housing allowance. The head of Iustitia, Krystian Markiewicz, and Judge Barbara du Chateau also had to explain their statements on the same matter.