

Another purge in the Supreme Court. We know the details of PiS's plan

'Rzeczpospolita' found out the details of the changes in the Supreme Court. Only judges vetted by the NCJ will adjudicate in it. The remainder will retire or move to the ordinary courts.

Published on: 02/11/2021, 18:25 | Marek Domagalski, Wojciech Tumidalski

Other than the liquidation of the Disciplinary Chamber of the Supreme Court (which is one of the key conditions set by Brussels), we are facing a much bigger reform at the top of the judiciary. The Supreme Court is to undergo a revolutionary change that is comparable to the reinstatement of this court after the political changes of 1989.

According to the plan, not only will the structure of the ordinary courts be flattened. The extensively reformed Supreme Court will not be large, because, instead of the current five chambers, there would only be two: the Public Law Chamber and the Private Law Chamber. They would only deal with extraordinary complaints, the assessment of the validity of elections and responses to legal questions, which would ensure uniformity of judgments.

The current judges of the Criminal, Civil, Labour, Extraordinary Control and Public Affairs and Disciplinary Chambers would be required to submit declarations to the First President of the Supreme Court as to whether or not they wish to continue adjudicating.

The five-chamber Supreme Court currently has 94 judges, 42 of whom are new

Those who have already been in the Supreme Court for at least ten years would be able to retire on 100% pay.

Those wishing to continue to adjudicate would have to undergo an appraisal by the National Council of the Judiciary, whose opinion would be sent to the president. He would specify a place for the Supreme Court judges in one of the two new chambers or in the new provincial courts.

The same would apply to those judges who received a negative opinion from the NCJ. Judges sent out into the field would retain their salary and title: former judge of the Supreme Court.

'If the bill were to come into effect, the question is whether the objective is to streamline proceedings and make the judiciary more citizen-friendly, or to pacify the Supreme Court and send the government's critics into retirement?' asks Judge Michał Laskowski, president of the Criminal Chamber of the Supreme Court. He believes that the offer to the 'old' Supreme Court judges is designed so as to make them choose retirement.

'This is a downright immoral proposition,' assesses Professor Anna Rakowska-Trela, a constitutional expert from the University of Łódź.

'In principle, such a solution is clearly in conflict with the guarantees of judicial independence protected by the principle of their irremovability. Although Article 180, para. 5 of the Constitution provides for the possibility of exceptions in this respect in the event of changes in the structure of the judiciary, such solutions require far-reaching caution,' comments Aleksander Stępkowski, judge and press officer of the Supreme Court. *'A reduction in the number of judges would involve some kind of*

appraisal and verification mechanism, which the first president of the Supreme Court would certainly consider unacceptable, as she has repeatedly emphasised.'

There is also a problem with the National Council of the Judiciary and its current politicised formula, with which, unlike EU factors, neither the government nor the Polish Constitutional Tribunal sees anything wrong. If its shape does not change, the consequences of the defectiveness of its recommendations to the new Supreme Court or the provincial courts will also affect the old judges who have not dealt with it before.

Main assumptions of the plan

- The Supreme Court is to consist of only two chambers, the Public Law Chamber and the Private Law Chamber.
- Supreme Court judges with at least 10 years of experience will be able to retire. They will submit such a declaration to the First President of the Supreme Court, who will forward it to the President. Those who take advantage of this procedure will retain a full salary of a Supreme Court judge until the age of 65.
- If a Supreme Court judge wishes to continue adjudicating, he will have to be appraised by the NCJ. It is unclear whether the shape of the Council will change.
- The President will be able to appoint those who receive a positive opinion from the NCJ to adjudicate in the new Supreme Court.
- The judges of the Supreme Court without a positive appraisal of the NCJ who are not selected for the Supreme Court will be transferred to the courts of appeal (provincial courts in the new structure).

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