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To the Public Prosecutor General of the Republic of Poland,

Honorable Mr Zbigniew Ziobro, Minister of Justice

Vienna, 7<sup>th</sup> of June, 2020

Honorable Sir,

We address you as we are concerned about recent events and the increased attacks against the independence of judiciary in Poland.

By **order of 8<sup>th</sup> of April 2020 of the Court of Justice of the European Union (CJEU)** the Disciplinary Chamber of the Polish Supreme Court must not conduct disciplinary proceedings against judges.

However this **Disciplinary Chamber of the Supreme Court of Poland** has now issued a **summons for a (non-public) hearing against Judge Igor Tuleya** from the Regional Court in Warsaw for 9<sup>th</sup> of June 2020.

The hearing will be related to the question to **remove his immunity and open possible criminal proceedings** against him.

Background to the case is that this judge allegedly has committed an offence by allowing journalists to be present and record the oral justification of a decision (of 18<sup>th</sup> of December 2017). It is noteworthy that the case decided by judge Tuleya has concerned the allegation of fraudulent handling and vote-counting in the Polish parliament.

By allowing journalists to hear and record the justification of the decision in this case **judge Tuleya allegedly has disclosed a secret of the investigation to unauthorized personnel.**

It is argued that this **hearing of the Disciplinary Chamber** of the Supreme Court of Poland is not covered by the interim measures of CJEU because it is not a disciplinary procedure, but **part of a criminal procedure** (as the public prosecutor has asked to waive immunity).

We do not interfere into areas which fall into the competence of Polish judges, as the disciplinary or criminal character of such a question should be **decided by independent judges**.

However, this **quality of the disciplinary chamber is contentious** and the order of the CJEU is binding.

In addition, against the background of developments of the last years with respect to Polish judiciary and critical judgements we see **clear alarming signs by this new approach** to design and frame accountability of judges in general and judge Tuleya in specific. We have also been informed that he was one of the judges having referred a case to the Court of Justice of the European Union, facing now disciplinary allegations based on this fact.

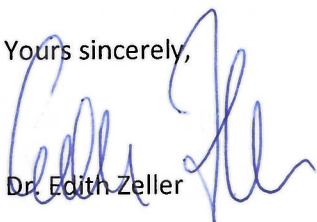
This upcoming hearing raises our concern that this step is obviously intended

- to **circumvent the binding order of the Court of Justice of the European Union of 8<sup>th</sup> of April 2020** and
- appears to **mask disciplinary allegations by initiation of criminal proceedings** and
- to **put pressure** not only on the individual judge - for the exercise of his judicial duties - but also on all members of **judiciary** by this move.

Honorable Prosecutor General, based on these considerations

- we express our deep **concern about this new approach** and
- we strongly urge you to **give orders to withdraw this application to remove the immunity of judge Tuleya** to open possible criminal proceedings until the contentious status of this Disciplinary Chamber of the Supreme Court of Poland is clarified.

Yours sincerely,



Dr. Edith Zeller

President of AEAJ