



The Bar Council



H.E. Mr Andrzej Duda, President of the Republic of Poland
H.E. Mr Tomasz Grodzki, Marshal of the Senate of the Republic of Poland
H.E. Ms Elżbieta Witek, Marshal of the Sejm of the Republic of Poland
H.E. Mr Mateusz Morawiecki, Prime Minister of the Republic of Poland

8 June 2020

Excellencies,

On 19 March 2020 the Bar Council of England and Wales (Bar Council) and the Bar Human Rights Committee of England and Wales (BHRC) wrote to you to express grave concern as to the motion filed by the National Prosecution Office to the Disciplinary Chamber of the Supreme Court (Disciplinary Chamber) to waive the immunity of Judge Igor Tuleya.

We called upon the relevant Polish authorities to respect their obligations under the Polish Constitution, the European Convention on Human Rights, and European Union law; to comply with the judgment of the Supreme Court of 5 December 2019; to respect the resolution of the Polish Supreme Court of 23 January 2020; to refrain from actions and statements attacking and vilifying judges and prosecutors; and to take all necessary measures to suspend the operation of the Disciplinary Chamber and end the politicisation of the new National Council of the Judiciary. We called for the arbitrary motion against Judge Igor Tuleya to be withdrawn without delay.

We understand that there is to be a hearing of the motion on 9 June 2020. Since 19 March there have been important developments.

On 8 April 2020 the Court of Justice of European Union specified in Case C-791/19 R (*Commission v Poland*) that Poland must immediately suspend the application of the national provisions on the powers of the Disciplinary Chamber of the Supreme Court with regard to disciplinary cases concerning judges. We are deeply troubled by the fact that this Order of the CJEU has not yet been complied with by Poland, despite it being fundamental to the preservation of the rule of law, the independence of the judiciary and a function of its Treaty obligations.

Furthermore, in two letters, dated 4 June 2020, addressed to the Prime Minister of Poland and the First President of the Supreme Court (copied to the President of the Court's Disciplinary Chamber), Adam Bodnar, the Polish Human Rights Commissioner (HRC), drew attention to this unacceptable situation.

We therefore repeat our call for the arbitrary motion against Judge Igor Tuleya to be withdrawn without delay, and for the hearing proposed for 9 June to be cancelled. To proceed will entail a

serious violation of EU law and of Poland's binding treaty obligations. Moreover, it will constitute irreparable harm to the notion of an independent judiciary in Poland, and therefore cause serious damage to the rule of law.



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