

**Humiliate in order to subordinate –
the black PR campaign against Polish
judges run by executive.**

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I. General overview of legal changes undermining independence of the Polish judiciary.

I.1 Political subordination of the Prosecutors Office (PO).

In April 2016 ruling camp took political control over the PO by combining functions of the Minister of Justice (MoJ) and Prosecutor General + increase of his investigative powers + exchange of the top prosecutors.

I.2 Hostile takeover of the Constitutional Court (CC).

December 2016 Polish CC subordinated to executive power after illegal & unconstitutional hostile takeover: small Law and Justice (L&J) majority of seats in Parliament is able to adopt any law, even unconstitutional,

I.3 Changes in law on the organization of ordinary courts.

Entered in August 2017, gave the MoJ exclusive power to appoint Presidents of common courts + to dismiss all presidents and vice-presidents of ordinary courts within 6 months (applied in respect of 160 persons),

I.4 Political subordination of the National Council of the Judiciary.

Accomplished in March 2018 by switching the right of election of 15 judges-members from the judges'self-governemt to Parliament, enabled ruling camp political control over appointment and promotion of judges

General overview of legal changes undermining independence of the Polish judiciary - continuation.

I.5 The new Act on Supreme Court created two entirely new Chambers:

- **Disciplinary Chamber** (separate court, not provided by Constitution),
 - the politicised second instance disciplinary court for judges,
- **Chamber of Extraordinary Complaints and Public Affairs** - gives the executive control over legal scrutiny of :
 - elections (to Parliament, Eur. Parliament, presidential), referendums,
 - energetic sector, telecommunication sector, railway transport sector,
- **I.6 The new mode of disciplinary proceedings in respect of judges.**

- judges of the first instance disciplinary courts are elected by MoJ,
- MoJ appoints Main Disciplinary Commissioner for Judges + 2 deputies,
- the Main Disciplinary Commissioner appoints disciplinary commissioners at the regional and appellate courts,
- permits to carry out a hearing in justified absence of a judge or counsel,
- allows to apply evidence obtained without judicial control and in violation of law (incl. from operational control of telephone conversations),

II. First attempt of so called „great reform” of the judiciary.

- On 12 July 2017, just before midnight, out of the blue, the group of MPs directed to the Parliament the draft law amending the Act on the Supreme Court (SC).
- The draft introduces revolutionary, unconstitutional changes, if introduced they would subordinate the SC to the ruling party, breaking system of checks and balances.
- accompanied by massive amendments of Acts on the Organization of ordinary courts and on the National Council of the Judiciary (NCJ).
- Parliamentary debates over the laws on NCJ, Ordinary Courts and SC triggered the biggest wave of public protests since the L&J came to power.
- The demonstrations lasted from 12 to 25 of July growing into force. Hundreds of thousands of Poles in 250 cities gathered in front of courts.
- Quite surprisingly, on 24 of July, President Duda vetoed two of three bills aimed at placing Polish courts firmly under political control: draft law on NCJ and draft law on SC.

Evening demonstration in front of Supreme Court.



Demonstrats demanding presidential veto on the market sqare in Wrocław



III. The black PR campaign against judges.

III.1 The defamation „billboard campaign” against the judiciary.

- Sept 2017 - the great billboard/TV/press/Internet negative campaign against judges. Cost - more than 2 mln EURO, conducted by National Foundation, created to promote Poland abroad, financed by 17 biggest state owned companies controlled by managers nominated by L&J.
- **The government:** campaign was designed to promote the great reform of the justice system.
- **In fact:** the black PR action run by L&J showing judiciary in distorting mirror by describing disc. proceedings + real/ alleged court mistakes.
- Almost “true” example concerned judge who stole trousers from the shop. Situation has happened, the website didn’t mention that the judge, has been retired for many years + mentally ill.
- Judges described as a “privileged caste”. In terms of colors the campaign was black and white. **The judges situated on the black side, depicted as examples of lack of competence, corruption & indolence.**

The defamation „billboard campaign” against the judiciary – continuation 1.



Example of the billboard from the campaign at the highway.

The defamation „billboard campaign” against the judiciary – continuation 2.



One of the judges commented: *“The situation, in which one of branches of state authority pays to organize a negative campaign against another branch of state authority of the same state, is so peculiar that even George Orwell or Monty Python could not have come up with that”.*

IV. Black PR activity of politicians in respect of Polish judiciary.



- Prime Minister Mateusz Morawiecki – on 15 Dec. 2017, at the meeting with the President of the Republic of France, he compared Polish judges and Polish courts to courts of Vichy France collaborating with the Nazis,

Prime Minister Morawiecki.

- Numerous speeches (Dec. 2017 – interview Washington Examiner, Dec. 2017 - meeting with Pres. Macron, Jan. 2018 – interview for European journalists, April 2019 statement for Le Figaro, April 2019 – interview at the New York University) including two main thesis:
 - **Polish judiciary is a part of post-communist pact** – complete absurd, as the average Polish judge is 42, so 30 years ago (change of a political system) was 12,
 - **Polish judges are corrupted** - equally ridiculous – according to the data submitted by the SC between 2007 and 2017 only one judge was disciplinary sentenced for taking a bribe.
- May 2018 – interview for “Polish newspaper” – PM suggests that among judges of Kraków Regional Court there is an “organized crime group”.

Minister of Justice – Public Prosecutor General Zbigniew Ziobro



Commenting on the conclusions of the Conference of Polish Lawyers in Katowice on 3 March 2017 he suggested that ***judges who would directly apply the Constitution or international treaties can face disciplinary proceedings.***

Mr. Jarosław Kaczyński leader of the ruling party



In his famous speech of September 2018 J. Kaczyński revealed that **one of the reasons of great reform of the judiciary is the ojkofobia** (hate to homeland) among judges. It concerned judges who decided in favor of German citizens in estate cases concerning grounds in former Prussia.

Vice Minister of Justice Łukasz Piebiak



- Judges not standing on the side of the State in the proceedings are **black sheeps which should be removed from judicial profession**,
- Reform of the public prosecution office was easy, as not protected by the Constitution, whereas the reform of the judiciary is hampered by the Constitution

V. „Kasta” or „the troll farm at the Ministry of Justice”

V.1 Modus operandi of „kasta” group.

- in the period from November 2016 to the summer of 2018, operated a think tank in the Ministry of Justice that supervised and coordinated illegal persecution of individual judges who negatively assess the pseudo-reform of the judiciary.
- these were slanderous and defamatory propaganda activities involving Internet haters, undertaken in cooperation with pro-government media.
- according to media publications, the brain of the group leading the slandering of judges was a team of 12 judges promoted to high positions in the administration of justice after Zbigniew Ziobro became the Minister of Justice, who communicated via the whatsapp internet messenger, where they founded a discussion group called „kasta” .
- the group's activities were led by judge Łukasz Piebiak, one of the closest associates of the Minister of Justice - Prosecutor General Zbigniew Ziobro.

„Kasta” or „the troll farm at the Ministry of Justice” continuation 1 (modus operandi of Kasta)

- Łukasz Piebiak was promoted to the position of Deputy MoJ by Zbigniew Ziobra, and according to common knowledge as a former member of "Iustitia", he served as a staff member there, showing Zbigniew Ziobro candidates for work in the Ministry, neo-KRS-e, or newly nominated presidents of courts.
- Łukasz Piebiak, who had the nickname „chieftain" as part of the discussion group, supervised and approved her most important activities.
- The members of the „kasta" discussion group exchanged information on "rebellious" judges, and invented slander tactics that they implemented through cooperation with online haters,
- the most active of which was Emilia Sz. - the wife of judge Tomasz Sz., one of the members of the „kasta", who signed their publications on the internet with the nickname 'Emi' or 'Little Emi'.
- Łukasz Piebiak, judge Jakub Iwaniec employed at the MoJ, and later Judge Arkadiusz Cichocki contacted her directly from among the „kasta” members.
- According to the media investigation by "Onet", portal Emilia Sz received remuneration for her "activity",

„Kasta” or „the troll farm at the Ministry of Justice” continuation 2

V.2 The most spectacular actions of „kasta”

a) In respect of Krystian Markiewicz, president of „Iustitia”.

- In June 2018, after Łukasz Piebiak's approval, in order to discredit the President of "Iustitia" Krystian Markiewicz, Emilia Sz. sent to all branches of "Iustitia", to media supporting the power camp, and to Krystian Markiewicz himself, slandering him, A 4-page anonymous regarding his private life.
- In total, about 2.5 thousand emails and post cards were sent regarding the alleged lover of Krystian Markiewicz,
- In order to accomplish this task, Łukasz Piebiak personally gave Emilia Sz. the address of Krystian Markiewicz. Another member of the "caste" Jakub Iwaniec provided Emi with detailed information about the 5-year-old child of Krystian Markiewicz, as well as the telephone numbers of his alleged lover and her husband.
- Emilia Sz. expressed her fear that she would not be responsible for the crime because of this action. Łukasz Piebiak reassured her in a message sent by whatsapp messenger: ***"We do not imprison for doing good".***

„Kasta” or „the troll farm at the Ministry of Justice” continuation 4 – the most spectacular actions

b) In respect of President of the Supreme Court.

- the most shocking action of Emilia Sz. concerned sending the President of the SC prof. Gersdorf cards with the words "Fuck off."
- In July 2018, an attempt was made, in violation of the Constitution, to remove prof. Gersdorf from the position of the President of the SC, which was blocked in October 2018 by interim measure applied by the CJEU. To support Małgorzata Gersdorf, judges and lawyers from all over Poland sent her postcards with words of support.
- At that time, Konrad Wytrykowski, recently promoted to judge of the Disciplinary Chamber of the SC in the forum of the „kasta” group, proposed sending the President of the Supreme Court cards with slogan „fuck off”
- Emilia Sz., in her anonymous Twitter account, urged Internet users to send postcards with a vulgar slogan.
- Then to the SC, next to cards with support for prof. Gersdorfshe also began to receive vulgar cards calling her to resign.

„Kasta” or „the troll farm at the Ministry of Justice” continuation 5 – the most spectacular actions

c) In respect of judge Gąciarek

- Another spectacular action of slandering the judge organized by Emilia Sz. in cooperation with Łukasz Piebiak concerned board member of the Warsaw branch of Iustitia - judge Piotr Gąciarek.
- Judge met a woman via the Internet, to whom he borrowed a larger sum of money, for which she was subsequently convicted of extortion for non custodial sentence.
- Thanks to Emilia Sz. manipulated information on May 2018, in the TVP1 program controlled by the ruling camp, in the "Alarm" series, the convicted woman was presented as a victim of judge Gąciarek, who, using his acquaintances and professional position, led to her being punished.
- Commenting on the program devoted to judge Gąciarek, Łukasz Piebiak wrote to Emilia Sz., via the whatsapp that *"he can only be grateful for such beautiful and flourishing activities"*. After the broadcast of the program, Łukasz Piebiak informed her that *"he was just sending the boss to make him happy."*
- At that time, the immediate superior of Łukasz Piebiak was MoJ - Prosecutor General Zbigniew Ziobro.

„Kasta” or „the troll farm at the Ministry of Justice” continuation 4

V.3 Composition of a „kasta” group.

As it was mentioned before casta consisted of 12 judges, among them:

- Deputy MoJ, Mr. Piebiak,
- 3 judges (Dudzicz, Drajewicz, Nawacki) who subsequently, in March 2018, became the members of politicized neo NCJ,
- 2 judges (Radzik, Lasota), who subsequently, in December 2018 became deputies of a main disciplinary commissioner for judges,
- 1 judge (Wytrykowski) who subsequently, in December 2018 became a member of newly created Disciplinary Chamber of the S.C.,
- other members were promoted for positions of presidents of courts.
- **As you can see, the "caste" has become the starting point for many brilliant careers of judges who had never stood out before**

VI. Piebiak's task force at the Ministry of Justice

- In September 2018 the Minister of Justice – Prosecutor General established 'Task force at the office of the Minister of Justice in proceedings taken against judges and trainee judges' which has the objective of *'preparing analyses and presenting recommendations to the Minister of Justice'* on disciplinary proceedings (**Piebiak's task force**).
- The Deputy MoJ, Łukasz Piebiak (head) + main Disciplinary Commissioner for judges + his two deputies + the member of the commission on disciplinary liability of judges established within neo NCJ.
- 6 of 9 members of Piebiak's Task Force were ex "kasta" members.
- The absence of any specific indications of the task force's responsibilities in combination with its membership and lack of any information from its 10 months long activity suggest that the task force's focused on selecting judges who should be harassed on political grounds + establishing the type of harassment for a specific judge.

VII. @KastaWatch – anonymous TT portal.

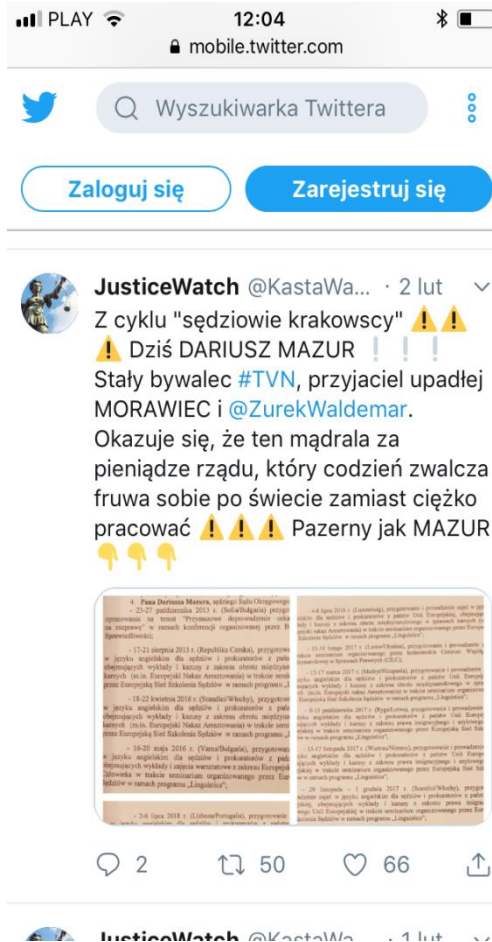
Started its activity in November 2018, after expiry of Emilia's activity,

In theory – the informal, spontaneous portal of „L&J” supporters who hate Polish judges, **including a lot of hate speech, defamatory statements** in respect of judges.

Probably the new „invention” of the special task force of the vice-Minister of Justice Łukasz Piebiak (comprising of him, Central Disciplinary Commissioner and his 2 deputies + member of the neo NCJ office responsible for disc. proceedings).

They leaked a lot of information from the personal files of judges or from files of disciplinary proceedings in respect of judges, published not easily accessible documents (some classified).

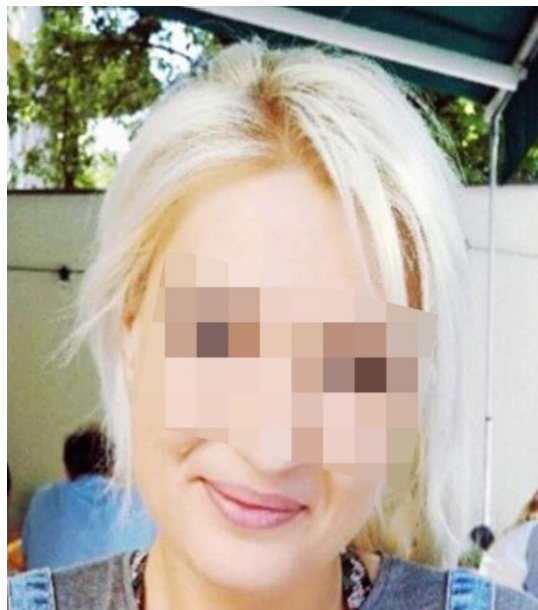
KastaWatch – anonymous TT portal – continuation 1.



VIII. End of „kasta” activity - background of media investigation.

- in the second part of 2018 the „Kasta” get rid of Emilia + stopped paying,
- Judge Tomasz Schydt, a member of „Kasta” and Emilia’s husband started divorce proceedings.
- two judges attacked by Emilia in the Internet sued her for compensation for violation of personal rights,
- Emilia asked Piebiak for help, but he said „it is your problem”.
- Then Emilia, who has had a love affair with another member of „Kasta” group (Mr. Cichocki) published his naked picture in the Internet.
- Mr. Cichocki reported it to the public prosecution office.
- That is why, in March 2019 the Emilia’s house was searched and prosecutors secured Emilia’s computer and phone including proofs of her internet communication with members of „Kasta”.
- Minister Ziobro claims that he was not informed about that by subordinate prosecutors.

End of „kasta” activity – the background of media investigation, continuation



- Emilia, abandoned by „kasta” and left alone in hopeless situation made a screenshots of her communications with members of „kasta” and transferred it to the journalists,
- Her testimony is corroborated by traces of many of her actions in the internet, as well as in the public media

IX. Possible connection between Piebiak's special task force and @KastaWatch

- There are numerous clues that Piebiak's task force was a successor of „Kasta” and @KastaWatch account is a successor of Emilia:
 - 6 out of 9 members of the Team were previously members of the "kasta" group (Piebiak, Dudzicz, Szmydt, Lasota, Radzik, Cichocki),
 - both the activities of the "kasta" group and the Piebiak's Task Force were headed by Deputy Minister of Justice Łukasz Piebiak,
 - the main subject of activity of both Emilia Sz. and the @KastaWatch account was slandering and insulting defiant judges in the internet,
 - both Emilia Sz. and the @KastaWatch account, illegally and contrary to the Personal Data Protection Act, had access to the personal & disciplinary files of judges,
 - chronology of events in 2018,
 - messages published on the @KastaWatch account indicate close interdependence with the activities of "central" disciplinary commissioner,
 - there is no information that for 10 months of the @KastaWatch activity, the Prosecutor's Office led by Zbigniew Ziobro has taken any action against it

X. Legal assessment of Internet hate speech campaign.

- a slanderous online campaign against judges coordinated by employees of the Ministry of Justice could carry out the features of a number of types of crimes, including:
 - the exceeding of powers by public officials - Article 231 of the Penal Code (PC),
 - stalking - Article 190 and § 1 of the PC,
 - disclosure of information from criminal and disciplinary proceedings- Article 266 § 2 of the PC,
 - insulting a public official - Article 226 § 1 of the PC, and in relation to the First President of the Supreme Court also Article 226 § 3 of the PC,
 - slander by means of mass communication - Article 212 § 2 of the PC,
 - unlawful processing of personal data (Article 107 (1) of the Personal Data Protection Act),
 - maybe even activities in an organized criminal group (Article 258 § 1 of PC).

XI. Reaction of the government

- Reaction on media publications on the Piebak scandal:

- members of „kasta” Mr. Piebiak, Mr. Iwaniec and Mr. Schmydt and Cichocki were dismissed from their functions in the Ministry of Justice and neo NCJ
- Piebiak’s Task Force was dissolved

- This reaction was rather artificial, because of:

- lack of suspension of responsible persons in performing of judicial duties,
- lack of effective criminal investigation as well as disciplinary action,
- deputies of main disciplinary commissioner, members of neo NCJ, and the member of Disciplinary Chamber of SC involved in „Kasta” still untouched,
- Lack of any investigative action in respect of @KastaWatch account,

- It is hard to believe, but after such a huge scandal :

- two main disciplinary commissioner’s deputies involved in both „kasta” and Piebiak’s Task Force accelerated their efforts to disciplinary prosecute judges – victims of hate speech in the internet,
- @KastaWatch account is still active as anti-judicial hate speech centre

XII. CONCLUSION

- **Full control of the MoJ over the Prosecutors' Office, disciplinary proceedings and excessive administrative control over the judiciary has great potential of intimidation of judges (chilling effect generator).**
- **The idea of political subordination of the judiciary is supported by the massive black-PR campaign, including media, internet, billboards.**
- **All this forms of slandering of the judiciary and particular judges are either organized and financed or at least supported by the executive.**
- **Politically dependant Prosecution Office and the new model of disciplinary proceedings don't give judges any suport against black-PR campaign.**
- **Piebiak's Task Force as a center of coordination of politically motivated persecution of defiant judges was completely Putin-like project,**
- **The only protection that Polish judges can expect derives from judicial associations, independent media, some NGOs, EU institutions.**
- **A lie repeated 100 times becomes the truth – the negative campaign resulted in deterioration of public trust in the judiciary from over 40% to below 30%**



**Thanks
for your attention**