



DeutscherAnwaltVerein



The Law Society
of England and Wales



Orde
van
Vlaamse
Balies

8 June 2020

Małgorzata Manowska
First President
of the Supreme Court
plac Krasińskich 2/4/6
00-951 Warsaw
Poland

Dear Madam,

We are writing to express our concerns about the situation of judge Igor Tuleya against whom a criminal case has been initiated.

According to the publicly available information the National Prosecution Office has motioned the Disciplinary Chamber of the Supreme Court to waive judge Igor Tuleya's immunity in order to press criminal charges against judge Tuleya on grounds that he neglected his duties and overstepped his powers by allowing the hearing regarding possible crimes committed during the session of the lower chamber of Parliament in December 2017 to be open to public and recorded by journalists. According to the prosecutor, the judge disclosed a secret of the investigation to unauthorized persons. However, according to the art. 95b of the Polish Code of Criminal Procedure the president of the court or the judge himself may discretionarily decide on openness of a hearing, which is, in principle, closed to public. Hence the claim of the prosecution office has no legal basis.

Notwithstanding the above, we would like to point out the importance of the ruling of April 8, 2020 of the Court of Justice of the European Union, in the case C-791/19, where the following interim measures were applied: 1) suspending the operation of the Disciplinary Chamber as either a first or second instance court in disciplinary cases against judges, and 2) ordering the Disciplinary Chamber of the Supreme Court to refrain from presenting any pending cases for consideration by any panels which do not meet the requirements of judicial independence, as defined in particular in the CJEU judgement of 19 November 2019 in cases C-585/18, C-624/18 and C-625/18. Indisputably the interim measures apply *a fortiori* to judge Tuleya's case.

We are calling upon you to undertake all necessary actions that are within your power to bring about that either the proceeding be suspended as long as the interim measures applied by the CJEU are in force or the case be heard by a different chamber of the Supreme Court.

Every judge performing professional duties according to the law in a democratic country should be free from fear of retribution from the State, so that the judicial independence, integrity of the administration of justice and the rule of law may be preserved.



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