



COMMISSIONER FOR HUMAN RIGHTS

Warszawa,

**Adam Bodnar**

**VII.070.5.2019.MAW**

**Mrs.  
Ingibjörg Sólrún Gísladóttir  
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on December 12, 2019, a draft of a group of deputies was submitted to the Sejm: on amending the Act - Law on the structure of common courts, the Act on the Supreme Court and some other acts (Sejm paper No. 69). The content of the draft is strongly related to the enforcement of the right to independent court and the right to a fair trial, provided for in Article 45 of the Constitution of Poland of 2 April 1997 (Dz. U. No. 78, item 483 as amended) and Article 6 of the European Convention on Human Rights (ECHR), freedom of association provided for in Article 58 of the Constitution and Article 11 of the ECHR, as well as of the freedom of expression provided for in Article 54 of the Constitution and Article 10 of the ECHR.

According to Article 208(1) of the Constitution of the Republic of Poland and Article 1(2) of the Act of 15 July 1987 on the Commissioner for Human Rights (Dz. U. of 2018, item 2179 as amended), the Commissioner safeguards the rights and freedoms of individuals and citizens, as laid down in the Constitution and other normative acts, including the Convention for the Protection of Human Rights and Fundamental Freedoms

and the EU Charter of Fundamental Rights. For this reason, the draft is within the area of my interest as the Commissioner for Human Rights.

The doubts regarding the matter are raised by the individual solutions provided for in the draft, and by the practically marginalized participation of the society's representatives in the legislative works. It should be clearly emphasized that the indicated regulations will significantly affect the possibility of opening disciplinary proceedings against judges, significantly limit exercise of their right to association and freedom of expression resulting in a chilling effect.

I have already raised the issue a number of times on the media and commented on the initial assumptions of the draft law. I submitted an opinion with my major legal concerns, on grounds of both constitutional and European standards, to the Parliament. Please find enclosed the abovementioned opinion.

I am confident that we share a dedication to constitutional democracy, which is the foundation of our common values. I consider you as a great ally in protecting human rights in Poland. Therefore, pursuant to the provisions of the Act of 15 July 1987 on the Commissioner for Human Rights (Dz. U. of 2014, item 1648, as amended), I decided to respectfully request you to consider intervention on this matter by drawing up and submitting an opinion of the Office for Democratic Institutions and Human Rights of the OSCE, regarding the aforementioned bill. The Office for Democratic Institutions and Human Rights of the OSCE carries out, *inter alia*, the evaluation and revision of legislation in the OSCE member states, and supports national initiatives aimed at improving the efficiency and transparency of legislative systems. Therefore, the opinion of your Office on the matter will be of exceptional value.

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