

**List of actions taken by the Minister of Justice-Prosecutor General
Adam Bodnar violating the independence of judges and courts
and destabilising the functioning of the judiciary
between December 13, 2023 and February 29, 2024**

1. Numerous dismissals of judges from their secondment to the National Council of the Judiciary, the National School of Judiciary and Public Prosecution and the ordinary courts – without notifying these institutions, obtaining their opinions or any justification for their decisions. The dismissal of judges by the Minister of Justice, Adam Bodnar, e.g. on January 12, 2024, was made in complete disregard of European jurisprudence, in particular the judgment of the CJEU of November 16, 2021 (C-748/19 to C-754/19). In each case, decisions to revoke secondment were taken without the consent of the judge and without the application of objective criteria (see judgment of the CJEU of November 16, 2021 in cases C-748/19 to C-754/19, thesis 83). In some cases, the Minister of Justice unlawfully exempted judges from the obligation to perform work even within the scope of their judicial activities, even though he was neither their employer nor supervised the institutions to which they were posted. Undoubtedly, such actions affect the independence of judges as well as the functioning of courts and institutions which are independent of the minister.
2. Unlawful recognition by the letter of January 12, 2024 of National Prosecutor Dariusz Barski as a retired prosecutor and, consequently, finding that National Prosecutor Dariusz Barski was retired throughout his term as National Prosecutor, starting from March 18, 2022. At the same time, there was a deliberate omission of the applicable provisions of Article 47 § 1 and 2 of the Act of January 28, 2016 – Regulations Implementing the Law on the Public Prosecutor's Office (Journal of Laws of 2016, item 178), in order to infringe the powers of the President of the Republic of Poland resulting from Article 14 § 1 of the Act on the Public Prosecutor's Office, which provides that the National Prosecutor shall be dismissed from this function by the Prime Minister at the request of the Prosecutor General, but after obtaining the written consent of the President of the Republic of Poland. In addition, the Prime Minister Donald Tusk, at the request of the Prosecutor General Adam Bodnar, unlawfully (without any legal basis) created the position of acting National Prosecutor and nominated prosecutor Jacek Bilewicz for this position. This unlawful action of the Public Prosecutor General Adam Bodnar gives rise to the risk of questioning the validity and effectiveness of all decisions taken by him on the basis of the competences of the National Prosecutor under the Act of January 24, 2016 – Law on the Public Prosecutor's Office, including decisions directly affecting the procedural legitimacy of prosecutors who appear before courts. This means that there is a risk of paralysis of the judiciary, including paralysis of court proceedings.
3. Dismissal by the Minister of Justice, Adam Bodnar, of the President of the Regional Court in Radom during his term of office, bypassing thus the procedure set out in Article 27 of the Act of July 27, 2001. Law on the system of common courts (Journal of Laws of 2023, item 217, as amended), without the participation of the Board of the Court

and the National Council of the Judiciary. The act of dismissal was served on December 29, 2023, i.e. ten days after the start of the mandate, which violates the principle of judicial independence.

4. Dismissal by the Minister of Justice, Adam Bodnar, of the President of the Court of Appeal in Poznań and the Vice-President of the Court of Appeal in Poznań during their terms of office, in violation of the procedure set out in Article 27 of the Act on the Functioning of the Court, by adopting a resolution of the Board of the Court with the participation of an unauthorised person – a judge appointed by the Minister of Justice, which violates the principle of independence of the courts.
5. Issuance by the Minister of Justice, Adam Bodnar, of an act of dismissal of the President of the Appellate Court in Warsaw and the Vice-President of the Court of Appeal in Krakow in gross violation of Article 27(5) of the Act on the Courts of Appeal by ignoring the negative opinions of the boards of the competent courts of appeal.
6. Issuance of the Regulation of the Minister of Justice of February 6, 2024 amending the Regulation – Regulations of the Office of Common Courts (Journal of Laws, item 149) – inconsistent with:
 - a. Article 41 § 1 of the Act on the Functioning of the Courts – by going beyond the limits of the statutory delegation provided for therein, which does not contain the authorization of the Minister of Justice to determine the principles and premises for "excluding judges from hearing certain categories or even all categories of cases" when using the Random Case Assignment System (SLPS);
 - b. Article 92(1) of the Constitution of the Republic of Poland and Article 176(2) of the Constitution of the Republic of Poland – by the interference of the Minister's regulation with the content constituting statutory matter regulated by a hierarchically higher act – a statute;
 - c. Article 45(1) of the Constitution of the Republic of Poland – by the introduction by the Minister of Justice in the challenged amending regulation of the grounds for the absolute exclusion of a judge, which violates the right to a fair trial set out in Article 45(1) of the Constitution in its aspect of the proper formation of the court and the safeguarding of the efficient and unthreatened excessive length of the proceedings;
 - d. Article 179 of the Constitution of the Republic of Poland – by violating the principle of independence. The Minister of Justice, as an organ of the executive power, may not exclude or designate groups of judges authorised to hear a specific catalogue of cases in a basic act – a regulation;
7. Article 190(1) of the Constitution of the Republic of Poland – by challenging the decision of the constitution-maker in the form of the procedure for appointing judges by the President of the Republic of Poland on the proposal of the National Council of the Judiciary, by means of a sub-statutory act. The original wording of the explanatory memorandum to the draft regulation explicitly indicated the possibility of the President of the Republic to challenge the appointment of a judge to office - as the reason for introducing the act.

Based on resolutions
of the National Council of the Judiciary