

**To the attention of Chief Justice Donal O’Donnell, in his capacity as President of the
Network of the Presidents of the Supreme Judicial Courts of the EU**
(<https://network-presidents.eu/>)

19 February 2026

Re: Memorandum regarding Ms M. Manowska’s membership in your Network

Authors:

Professor Laurent Pech, Sutherland School of Law, University College Dublin; Clinical co-director of the CEU Rule of Law Clinic and co-director of the Good Lobby Profs

Dr. Oliver Mader M.A. (KCL), attorney-at-law, Kanzlei Mader

1. This memo concerns Ms M. Manowska’s membership in your Network of the Presidents of the Supreme Judicial Courts of the EU. It is connected to the email we sent to your Secretariat dated 28 January 2026 in which we submitted inter alia a number of questions regarding your Network’s compliance with relevant judgments of the European Court of Human Rights (ECtHR) and the Court of Justice of the EU (CJEU).
2. Our main submission is that Ms Manowska’s membership should have been at the very least suspended on account of the ECtHR’ judgment of 3 February 2022 in *Advance Pharma Sp. z o.o. v. Poland*. In this judgment, the Court established that Ms. Manowska was one of a number of new “judges” appointed in a defective procedure characterised by *manifest irregularities* in breach of domestic law and *in violation* inter alia of a ruling of Poland’s Supreme Administrative Court.
3. By way of introduction, and as outlined by the ECtHR in a decision rejecting a complaint she lodged with the Court in 2025,¹ “Ms M. Manowska has been a judge since 1996. In 2004 she was appointed to the Warsaw Court of Appeal. She was awarded a post-doctoral degree (*habilitacja*) in law by the University of Warsaw in 2010. Between March and November 2007, she held the post of Deputy Minister of Justice with responsibility for the judiciary, under Minister Z. Ziobro. In 2016, the Minister of Justice appointed her head of the National School of the Judiciary and Public Prosecution.”
4. As will be further detailed below, Ms M. Manowska was subsequently irregularly appointed a judge of Poland’s Supreme Court in October 2018 in a procedure characterised by the ECtHR as a “blatant defiance of the rule of law” (Part I of this memo) before being irregularly appointed First President in May 2020 (Part II). In her (irregular) capacity as First President, Ms M. Manowska has since engaged in a sustained pattern of unbecoming behaviour and has played a direct role inter alia in organising the systemic violation of CJEU orders and judgments (Part III).

¹ *Manowska v. Poland and Other applications* (dec.), nos. 51455/21 and five others, notified on 9 May 2025, CE:ECHR:2025:0401DEC005145521, para. 5. This decision is analysed infra.

I. – Ms M. Manowska’s illegal appointment to Poland’s Supreme Court

I.A. – ECtHR case law

5. Ms. Manowska’s membership of your Network should have been at the very least suspended in 2022 following the judgment of the ECtHR in *Advance Pharma Sp. z o.o. v. Poland* in which the Strasbourg Court held that the Civil Chamber of Poland’s Supreme Court, consisting of newly but *irregularly* appointed judges, is not an independent and impartial tribunal established by law.

ECtHR Judgment of 3 February 2022 (First Section), <i>Advance Pharma Sp. z o.o. v. Poland</i>, CE:ECHR:2022:0203JUD000146920 in a nutshell

Violation of Article 6(1) ECHR (right to an independent tribunal established by law) with regards to the Civil Chamber of the Polish Supreme Court on account of undue influence exercised by the legislative and executive powers on the procedure for appointing judges to the Civil Chamber of Poland’s Supreme Court. This amounted to a fundamental irregularity that adversely affected the entire process and compromised the legitimacy of the Civil Chamber.

6. As the ECtHR outlined, Ms Manowska was one of the new “judges” appointed *in manifest breach of domestic law and in violation inter alia of a ruling of Poland’s Supreme Administrative Court* of 27 September 2018 suspending the resolution of the (no longer independent²) National Council of the Judiciary (hereinafter: “neo-NCJ”) nominating inter alia Manowska to the Supreme Court. As the ECtHR stressed, the deliberate disregard of a binding judicial decision and interference with the course of justice in order to minimise the validity of a pending judicial review of the appointment of judges could “only be characterised as blatant defiance of the rule of law” (para. 334). To put it briefly, Ms Manowska’s membership of your network is directly connected to this blatant defiance of the rule of law.

7. In addition to the violations of the ECHR committed by Polish authorities to create a fait accompli as regards inter alia Ms Manowska’s appointment, additional violations of the ECHR were committed so as to prevent lawful judges from applying for a post as a judge of the Civil Chamber of Poland’s Supreme Court. The most recent judgment of relevance in this respect is the ECtHR judgment of 9 May 2025 in the case of *Sadomski v. Poland*.

ECtHR Judgment of 9 May 2025 (First Section), <i>Sadomski v. Poland</i>, CE:ECHR:2025:0509JUD005629721 in a nutshell

Violation of Article 6 § 1 ECHR as regards the scope of judicial review in a dispute initiated by a Polish judge who unsuccessfully applied for a post as a judge of the Civil Chamber of the Supreme Court of Poland. The applicant challenged the decision of the neo-NCJ but despite a stay ordered by Poland’s Supreme Administrative Court regarding the appointments in dispute, the candidates recommended by the neo-NCJ were appointed by the President in breach of the Supreme Administrative Court’s order. Mr Sadomski’s appeal was ultimately successful as the Supreme Administrative Court later annulled the neo-NCJ’s recommendation, but he was not able to have his application re-examined.
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² In a judgment of 6 May 2021, the Supreme Administrative Court held, pursuant to the CJEU judgments of 19 November 2019 and 2 March 2021, that the NCJ did not offer guarantees of independence from the legislative and executive branches of power in the process of appointment of the judges. Further references available in the ECtHR Judgment of 3 February 2022 (First Section), *Advance Pharma Sp. z o.o. v. Poland*, no. 1469/20, paras 49-54, 206 and 209.

8. In the case of *Sadomski v. Poland*, the ECtHR was forced to reexamine the irregularities of the appointment procedure which benefited inter alia Ms Manowska, but did so from the point of view of the (lawful) judges who were not able to compete for one of the available posts as a judge of the Civil Chamber of the Supreme Court of Poland. In this judgment, the Court recalls that Ms Manowska was one of the seven candidates recommended for appointment on 28 August 2018 by the (no longer independent) NCJ, hence its informal name as neo-NCJ.³ By contrast, Judge Sadomski was not recommended and as the ECtHR held, Polish authorities rendered the relevant interim order and then the final judgment of the Supreme Administrative Court (in the applicant’s favour) “inoperative to the applicant’s detriment, thus depriving the domestic rulings of all practical effects” (para. 96).

9. On the same day the Court issued its judgment in *Sadomski v. Poland*, the ECtHR notified Ms. Manowska and the other five irregularly appointed Supreme Court judges of its decision to reject their complaints in relation to the proceedings before Poland’s Supreme Administrative Court aimed at reviewing the validity of their appointments to the Supreme Court.⁴

10. In its inadmissibility decision, the Strasbourg Court reiterated “its negative assessment of the actions undertaken by the executive and legislative branches of the Respondent State with a view to securing the applicants’ appointment [i.e., the *irregular* appointments of Manowska et al] and extinguishing any legal or practical effects of judicial review” (para. 107). Prior to this criticism, the Court recalled that Ms Manowska and the other applicants voluntarily took their oath of office “despite the arguments raised by organisations of judges and lawyers as to the validity of the competition” they wilfully participated in (para. 95).

I.B. – CJEU case law

11. The case law of the CJEU ought to similarly lead your Network to suspend Ms. Manowska’s membership. Multiple judgments beginning with the CJEU judgment of 19 November 2019 in Case C-585/18, *A.K. (Independence of the Disciplinary Chamber of the Supreme Court)*, may be relied upon in support of this position, but for the sake of concision it is sufficient to refer for the purposes of this memo to the CJEU judgment of 7 November 2024 in Case C-326/23.

<p>Judgment of 7 November 2024 (Fifth Chamber) in Case C-326/23, <i>Prezes Urzędu Ochrony Konkurencji i Konsumentów</i>, EU:C:2024:940 in a nutshell</p>

<p>The judge of the Civil Chamber, who makes up the single-judge formation which referred the questions to the Court for a preliminary ruling, does not constitute a ‘court or tribunal’ within the meaning of Article 267 TFEU, with the result that that request must be declared inadmissible. This is justified on account of the flaws in the process leading to the appointment of the referring judge which are identical to those in the procedure for the appointment of judges of the Extraordinary Review and Public Affairs Chamber, and are sufficient, in themselves, to give rise to legitimate and serious doubts as to the independence and impartiality of that judge, notwithstanding the fact that he was appointed to a chamber which does not have the same characteristics as the Extraordinary Review and Public Affairs Chamber.</p>

³ See para. 9, fn 1: “Ms M. Manowska (subsequently appointed First President of the Supreme Court), Mr J. Grela, Mr M. Krajewski, Ms J. Misztal-Konecka, Mr T. Szanciło, Mr K. Zaradkiewicz and Ms B. Janiszewska. The above-mentioned persons, save for Ms Janiszewska, were the applicants before the Court (see *Manowska v. Poland and Other applications* (dec.), nos. 51455/21 and five others, 9 May 2025).”

⁴ *Manowska v. Poland and Other applications* (dec.), nos. 51455/21 and five others, notified on 9 May 2025, CE:ECHR:2025:0401DEC005145521.

12. With reference to various findings and assessments made, first, by the ECtHR in the judgment of 3 February 2022 in *Advance Pharma* and, secondly, by Poland's Supreme Administrative Court in a judgment of 6 May 2021, the CJEU confirmed that its prior findings in relation to the "new" judges appointed to the Extraordinary Review and Public Affairs Chamber, apply to all of the "new" judges appointed to the Civil Chamber, i.e., Ms Manowska's Chamber (see esp. paras. 30-35).

13. This means that according to the CJEU, the flaws in the process leading to the appointment of Ms Manowska and indeed, all of the "new" judges to the Civil Chamber, "are sufficient, in themselves, to give rise to legitimate and serious doubts, in the minds of individuals, as to the independence and impartiality of that judge, notwithstanding the fact that [he/she] was appointed to a chamber which does not have the same characteristics as the Extraordinary Review and Public Affairs Chamber" (para. 35). The CJEU further confirmed that "the circumstances capable of giving rise to such systemic doubts relate, in principle, to the *individual situation* of the judge or judges who submit a request under Article 267 TFEU and, in particular, *to the irregularities committed during their appointment* within the judicial system concerned, and not to the fact that those judges are assigned to a given panel of judges" (para. 36, emphasis added).

14. In short, it follows from the CJEU judgment of 7 November 2024 in Case C-326/23 that Ms Manowska **cannot lawfully adjudicate** cases either in a single-judge formation or as a member of a larger formation. If she were to do so, the adjudication formation would *cease* to constitute a court or tribunal within the meaning of EU law on the mere basis of her (irregular) presence on the bench.

15. The CJEU has subsequently held in a judgment of 4 September 2025 in Case C-225/22, *AW 'T'*, concerning the Chamber of Extraordinary Control and Public Affairs of Poland's Supreme Court that any decision taken by such a body must be regarded as null and void on account of the fundamental irregularities which characterised the appointments of the "new judges" sitting on this body, where necessary to ensure the primacy of EU law.⁵ The CJEU further explicitly held that no consideration based on the principle of legal certainty or linked to the alleged finality of the decision can stand in the way of such a consequence.

16. It follows from this judgment that the mere presence of a single "new judge" or more accurately, pseudo-judge (such as Ms Manowska) on any adjudicating formation of Poland's Supreme Court suffices to *deprive this body of its status as an independent and impartial tribunal previously established by law*, within the meaning of EU law on account of their improper appointment.

17. It further follows from the fundamental irregularities which characterised the appointments of these "new judges" that their *judicial acts must be held null and void* in national cases governed by EU law where such a consequence is essential to ensure the primacy of EU law. Only Ms Manowska's internal organisational measures adopted in her (irregular) capacity as First President of the Supreme Court do not have to be automatically found in breach of the second subparagraph of Article 19(1) TEU *provided* that multiple conditions outlined by the CJEU in *Daka* (examined *infra*) are met.

II. – Ms M. Manowska's irregular appointment as First President

⁵ Judgment of 4 September 2025 (Fourth Chamber), Case C-225/22, *AW 'T'*, EU:C:2025:649.

18. The appointment of Ms Manowska as First President of Poland’s Supreme Court, following her prior and grossly irregular appointment to the Supreme Court “in blatant defiance of the rule of law”, was denounced by associations of judges and legal experts as irregular from the very start of her appointment as First President. Furthermore, Ms Manowska’s irregular appointment as First President followed the prior and grossly irregular appointment of an interim First President.⁶ In essence, Ms Manowska’s current role has only been made possible by a succession of manifestly irregular procedural steps reminiscent of the manifestly irregular steps which resulted in the capture of Poland’s Constitutional Tribunal, a process which was found to violate both ECHR and EU rule of law requirements.⁷

The capture of Poland’s Supreme Court: A brief chronology⁸

23 May 2020: The General Assembly of Judges of the Supreme Court elected five candidates for the post of First President of the Supreme Court – Leszek Bosek, Tomasz Demendecki, Małgorzata Manowska, Joanna Misztal-Konecka and Włodzimierz Wróbel. All the candidates, except for Professor Włodzimierz Wróbel were appointed to the Supreme Court on a motion of the neo-NCJ.

The Acting First President of the Supreme Court, Aleksander Stępkowski, refused to adopt a resolution on the submission of candidates for the position of the First President of the Supreme Court to the President.

95 votes were cast. W. Wróbel received 50 votes, *M. Manowska 25 votes* (emphasis added), T. Demendecki 14 votes, L. Bosek 4 votes and J. Misztal-Konecka 2 votes.

On 26 May 2020: The President of the Republic of Poland, Andrzej Duda, appointed “neo-judge” Małgorzata Manowska as First President of the Supreme Court notwithstanding the source of her 25 votes, i.e., votes from illegally appointed judges (such as Manowska herself) who cannot lawfully adjudicate as per the case law of the ECtHR and CJEU. This was the second time President Duda engaged in actions that the ECtHR previously described as being in “blatant defiance of the rule of law”.⁹

19. To quote M. Krajewski and M. Ziółkowski writing in May 2020,

Yesterday, the President of Poland appointed Małgorzata Manowska as the First President of the Supreme Court. Manowska cannot be considered an independent judge in light of the judgment of the ECJ in *A.K. v Sąd Najwyższy* and the subsequent rulings of the Polish Supreme Court. Moreover, she was endorsed as a candidate for the First President by other ‘members’ of the Supreme Court whose independence is

⁶ On 1 May 2020, the Polish President promoted to acting First President of the Supreme Court one of the individuals unlawfully appointed to the Civil Chamber of the Supreme Court in breach of the freezing order of the Supreme Administrative Court previously mentioned. The new procedure itself is also not compatible with the Polish Constitution as well as EU and ECHR judicial independence standards. For further analysis, see L. Pech and P. Wachowiec, ‘1460 Days Later: Rule of Law in Poland R.I.P’, *VerfBlog*, 15 January 2020 (part II): <https://verfassungsblog.de/1460-days-later-rule-of-law-in-poland-r-i-p-part-ii/> (‘Bearing in mind that at least 43 nominees of the (unlawfully operating) neo-NCJ are members of the Supreme Court, the new procedure virtually guarantees that the post will fall to one of (the ruling party’s) chosen ones. And should the said procedure fail, which is unlikely but better safe than sorry as the saying goes, the President of the Republic will be given an exclusive right to appoint an interim First President’).

⁷ See most recently the CJEU judgment of 18 December 2025 (Grand Chamber) in Case C-448/23, *Commission v Poland (Contrôle ultra vires de la jurisprudence de la Cour - Primauté du droit de l’Union)*, EU:C:2025:975.

⁸ Free Courts report, *3000 Days of Lawlessness*, p. 23, <https://wolnesady.org/files/3000-days-of-lawlessness-Report-WS-EN-Final.pdf>

⁹ See *Advance Pharma*, op. cit., para. 345: “That breach was compounded and, in effect, perpetuated by the legislature’s and the President of Poland’s actions taken in blatant defiance of the rule of law in order to render meaningless the judicial review of the NCJ’s resolution recommending the candidates.”

in doubt rather than the majority of the General Assembly of the Supreme Court as required by the Polish Constitution [...]

The two chairmen appointed by the President of Poland single-handedly rejected all inconvenient requests and proceeded with the election of five candidates without seeking a final confirmation by the majority of the General Assembly. Only one of the five candidates thus elected, Włodzimierz Wróbel, obtained the majority of votes of the General Assembly (i.e. 50 votes of the judges) but the President of Poland chose Manowska who obtained a minority of votes (i.e. 25 votes). In our view, the judges of the Supreme Court appointed before 2018 were right to demand the exclusion of the new members from the General Assembly [...]

The problem is that Manowska has been appointed to the Supreme Court at the request of the unconstitutional National Council of Judiciary. The constitutionality of her appointment is also in doubt. Moreover, she has been considered as not providing the sufficient appearance of independence in light of the ECJ judgment in *A.K. v Sąd Najwyższy*. Despite all the allegations by top legal experts regarding the unconstitutionality of the procedures for judicial appointments and the election of the new First President of the Supreme Court, she accepted both the ‘appointment’ to the Supreme Court and the office of its First President. Last but not least, she pointed out that resolution of the Supreme Court that had followed the ECJ’ judgement would be reconsidered and annulled in the nearest future. In other words, she has chosen a different path regarding the independence and impartiality than ‘old’ judges of the Supreme Court and the ECJ.¹⁰

20. Ms. Manowska’s pattern of unbecoming behaviour and direct role in organising the systemic violation of multiple orders and rulings from both domestic and European courts will be reviewed in Part III of this memo.

21. As far as her (irregular) appointment as First President is concerned, it can be seen from the analysis reproduced above and published in May 2020 that it seems unlikely that **your network could not have been unaware of the multiple and manifest irregularities surrounding both her initial appointment to Poland’s Supreme Court and subsequent appointment as First President.**

22. Multiple critical reports making the same points have been published by Council of Europe and EU bodies. To quote for instance from the European Commission’s rule of law report of September 2020 (references omitted):

A few months before the end of the term of office of the Supreme Court’s previous First President, a new law, adopted by the lower house of the Parliament (Sejm) amended the procedure for appointment of the new First President [...] On 1 May 2020, the President of the Republic appointed an acting First President, from among the judges who, according to the aforementioned Supreme Court resolution, are no longer empowered to adjudicate. The selection procedure was subject to controversy, in particular as the acting First President refused to exclude from that procedure members of the Disciplinary Chamber in spite of the lack of guarantees of their independence. On 26 May 2020, the President of the Republic appointed *a new First President who is also one of the judges who, according to the aforementioned Supreme Court resolution, are no longer empowered to adjudicate.*¹¹ (emphasis added)

¹⁰ M. Krajewski and M. Ziółkowski, ‘Can an Unlawful Judge be the First President of the Supreme Court?’, *VerfBlog*, 26 May 2020: <https://verfassungsblog.de/can-an-unlawful-judge-be-the-first-president-of-the-supreme-court/>

¹¹ European Commission, 2020 Rule of Law Report. Country Chapter on the rule of law situation in Poland, SWD(2020) 320 final, 30 September 2020, p. 6. See also O. Mader, “Polexit? Hungarexit? Quo vadis EU? Reflexions on the latest solutions provided by EU constitutional law in the face of a persistent rule of law misery”, *ALJ* 2022, pp. 47-69 [50].

23. One may further add that the current Polish government has decided to no longer refer to Ms Manowska as the First President of Poland's Supreme Court but instead describes her as "acting head" on account of her illegal appointment to the Supreme Court and status as so-called "neo-judge", i.e., an individual irregularly appointed to a court by the no longer independent neo-NCJ.¹²

24. In the absence of an infringement action lodged with the CJEU akin to the infringement action lodged by the Commission in respect of Poland's "Constitutional Tribunal", in which the Commission successfully challenged inter alia the composition of this body on account of the serious irregularities vitiating the appointment of its President and three of its members,¹³ the CJEU was only able to indirectly review the defective nature of Ms Manowska's appointment as First President of Poland's Supreme Court.

25. The most significant and recent ruling of the CJEU in this respect is *Daka*. In this preliminary ruling case, the referring court submitted that Manowska and the individual presiding over the Civil Chamber of Poland's Supreme Court were "appointed judges of the Sąd Najwyższy (Supreme Court) in the same irregular circumstances as those examined by the Court of Justice in the case which gave rise to the judgment of 6 October 2021, *W.Ż. (Chamber of Extraordinary Control and Public Affairs of the Supreme Court – Appointment)* (C-487/19, EU:C:2021:798)."¹⁴ In response to the questions from the referring court, the Court held "that the irregularities in the appointment of the First President and the Chamber President" do not automatically render unlawful as a matter of EU law their internal organisational acts as "persons unlawfully appointed as judges".¹⁵

26. For the purposes of this memo, however, the most important aspect of this CJEU judgment is that the Court accepted the referring court's findings according to which Ms Manowska and the President of the Civil Chamber were "appointed under conditions incompatible with the requirements of the second subparagraph of Article 19(1) TEU".¹⁶

27. As regards the ECtHR, following its ruling in *Advance Pharma*, the Court has not deemed it necessary to review the irregularities surrounding Ms Manowska's appointment as First President as it had already established the prior, defective nature of her appointment to Poland's Supreme Court which *makes her involvement in any judicial proceedings inherently incompatible with Article 6(1) ECHR*.

28. This is not surprising as the ECtHR similarly abstained from reviewing the irregularities surrounding the appointment of Poland's Constitutional Tribunal on account of its prior findings on the unlawful composition of this body.¹⁷ From an ECHR point of view, Ms

¹² "Poland's new justice minister to dismiss dozens court heads in move to "clean up" judiciary", Notes from Poland, 31 July 2025: <https://notesfrompoland.com/2025/07/31/polands-new-justice-minister-to-dismiss-dozens-court-heads-in-move-to-clean-up-judiciary/>

¹³ Judgment of 18 December 2025 (Grand Chamber), Case C-448/23, *Commission v Poland (Contrôle ultra vires de la jurisprudence de la Cour - Primauté du droit de l'Union)*, EU:C:2025:975.

¹⁴ Judgment of 1 August 2025 in Joined Cases C-422/23, C-455/23, C-459/23, C-486/23 and C-493/23 [*Daka*], EU:C:2025:592, para. 32.

¹⁵ P. Filipek, "Decline of Judicial Independence Standards in EU Law? *Daka* (C-422/23)", *EU Law Live*, Issue 88, 16 October 2025, <https://eulawlive.com/op-ed-decline-of-judicial-independence-standards-in-eu-law-daka-c-422-23/>

¹⁶ [*Daka*], op. cit., para. 87

¹⁷ Judgment of 14 December 2023 in Case of *M.L. v Poland*, no. 40119/21, CE:ECHR:2023:1214JUD004011921, para. 174

Manowska's grossly irregular appointment to Poland's Supreme Court is by itself capable of vitiating the legal force to be attached to any judgment issued by a bench in which she sat.

III. – Unbecoming behaviour, including direct involvement in the violation of domestic and European rulings

29. Ms Manowska's unbecoming behaviour was noted by several international and national organisations from the very start of her (irregular) term as First President. To give an early example, one may refer to the European Commission's rule of law report of July 2021:

The current First President of the Supreme Court, appointed as reported last year following a *contested procedure*, has taken decisions giving rise to concerns, in particular seizing the Constitutional Tribunal on controversial issues, including to limit the right to access to documents and *requesting to shield newly appointed Supreme Court judges - including herself - from having their status contested in cases pending before the Supreme Court*. The First President also seized the Chamber of Extraordinary Control and Public Affairs to *recuse certain Supreme Court judges from cases in which they had already made a preliminary ruling request to the Court of Justice*. On 16 July 2021, the First President of the Supreme Court issued a statement which refers to the judgment of the Constitutional Court of 14 July 2021 and, considering that EU law does not cover matters regarding the organisation and functioning of the Member States' judiciary, *informs about the repeal of the instruction for the Disciplinary Chamber of the Supreme Court suspending its activity in disciplinary proceedings against judges*.¹⁸ (emphasis added)

30. In this single paragraph alone (further references available in the European Commission's report), Ms. Manowska is directly connected with three gross violations of EU law by

- (i) asking the captured Constitutional Tribunal, an unlawfully composed body (as established at the time by the ECtHR in *Xero Flor v. Poland*¹⁹ and confirmed subsequently by the CJEU in Case C-448/23), to shield individuals such as herself from having their status as Supreme Court judges challenged as is required under EU law in situations where there are doubts regarding compliance with "established by law" requirements (see Case C-204/21);
- (ii) arbitrarily recusing lawful judges from cases following their referrals to the Court of Justice so as to prevent them from applying the Court's preliminary rulings regarding the status of neo-judges such as herself; and
- (iii) disregarding the resolution of Poland's Supreme Court of 23 January 2020²⁰ holding that any past and future decision of the "Disciplinary Chamber" must be considered null and void as well as the multiple orders and judgments of the Court of Justice regarding the same illegal body (see Joined Cases C-585/18, C-624/18 and C-625/18 and Case C-791/19).

31. In 2022, the European Commission further noted that:

The First President of the Supreme Court publicly stated that *the implementation of Court of Justice rulings concerning the judiciary constitutes a breach of Polish law*, calling on the political authorities to address the situation through a legislative proposal. The First President also publicly criticised decisions of other Supreme Court judges whereby they annulled rulings of lower instance courts or decided on the recusal of judges in defiance of the case law of the Constitutional Tribunal. *The First President also requested, that a disciplinary investigation be opened against Supreme*

¹⁸ European Commission, 2021 Rule of Law Report. Country Chapter on the rule of law situation in Poland, SWD(2021) 722 final, 20 July 2021, p. 9.

¹⁹ Judgment of 7 May 2021 in *Xero Flor w Polsce sp. z o.o. v. Poland*, no. 4907/18.

²⁰ Resolution of the joint Chambers of Poland's Supreme Court of 23 January 2020, BSA I-4110-1/2.

*Court judges in view of the content of a judicial decision they took, of the composition of the bench, and of doubts as to their impartiality.*²¹ (emphasis added)

This paragraph aptly summarises a sustained pattern of unbecoming behaviour coupled with deliberate non-compliance with CJEU rulings and threats aimed at judges seeking to uphold Polish and European rule of law requirements.

32. In 2023, the European Commission was forced to reiterate that:

There are serious doubts whether a number of Supreme Court judges, including its First President, comply with the requirement of a tribunal established by law [...] These doubts also apply to the status of the First President of the Supreme Court itself. Furthermore, a preliminary ruling of the Court of Justice related to a judicial appointment to the Chamber of Extraordinary Control has so far not been implemented. The President of the Labour Chamber of the Supreme Court raised concerns about the handling of case files by the First President of the Supreme Court in sensitive cases concerning judicial independence, alleging that the Supreme Court can no longer administer justice. Furthermore, the First President of the Supreme Court, refused to swear in 26 out of 30 lay judges of the Supreme Court following their appointment by the Senate on 7 October 2022.²²

Again, Ms Manowska is directly connected with actions aimed inter alia at preventing compliance with CJEU rulings. Some of her actions also arguably amount to criminal acts as will be outlined below.

33. Following the change of government in Poland, in addition to her prior and continuing efforts to undermine compliance with CJEU orders and judgments, Ms Manowska has sought to prevent rule of law restoration efforts as noted by the European Commission in its 2024 rule of law report:

On 20 February 2024, as set out in the Action Plan, the Government formally tabled a draft law in the Sejm aimed at restoring the independence of the NCJ. According to the draft law, judges, instead of the Sejm, would be empowered to select and appoint the 15 judges-members of the NCJ. The NCJ and the First President of the Supreme Court issued negative opinions, considering the draft law to be unconstitutional [...] As mentioned in the 2023 Rule of Law Report, several judges of the Supreme Court, including its First President, have been appointed to the Court in conditions considered by the ECtHR as violating the right to a court established by law. This continues to raise concerns, which meanwhile have led to dissent within the Supreme Court.²³

34. As the above official rule of law reports of the European Commission indicate, Ms Manowska has been therefore directly and personally involved in organising a systemic process of non-compliance with the orders and judgments of the CJEU in addition to making threats aimed at lawful judges seeking to uphold Polish and European rule of law requirements.

35. A particularly significant example concerns Ms Manowska's decision on 16 July 2021 to repeal a decree implementing a previous CJEU order to suspend the activities of the Disciplinary Chamber of the Supreme Court. This has resulted inter alia in allowing the infamous Disciplinary Chamber – an unconstitutional body found to also violate EU and ECHR

²¹ European Commission, 2022 Rule of Law Report. Country Chapter on the rule of law situation in Poland, SWD(2022) 521 final, 13 July 2022, pp. 9-10.

²² Bold in original. European Commission, 2023 Rule of Law Report. Country Chapter on the rule of law situation in Poland, SWD(2023) 821 final, 5 July 2023, pp. 7-8.

²³ European Commission, 2024 Rule of Law Report. Country Chapter on the rule of law situation in Poland, SWD(2024) 821 final, 24 July 2024, pp. 7-8

rule of law requirements²⁴ – to resume its unlawful suspension of Polish judges. Since then, both the CJEU and ECtHR have also established that the bodies Ms Manowska actively sought to work with – the Constitutional Tribunal and the Chamber of Extraordinary Control and Public Affairs – cannot be considered courts within the meaning of EU and ECHR law.

36. Another emblematic example of Ms Manowska’s behaviour being incompatible with membership of your network concerns CJEU Case C-487/19. In January 2022, “despite the bench of the Supreme Court setting a date of 30 January 2022 to hear the case of Judge Waldemar Żurek, Małgorzata Manowska refused to allow the judges of the Civil Chamber of the Supreme Court to hand over the files that had been returned from the Court of Justice of the EU following the judgment of 6 October 2021 in this case”.²⁵ Instead, on 26 January 2022, another “neo-judge”, Joanna Misztal-Konecka, the (irregularly appointed) President of the Civil Chamber of the Supreme Court, “illegally changed the membership of the bench that was to implement the CJEU judgment of 6 October 2021 on the status of all neo-judges in the Supreme Court on 31 January. She removed Supreme Court Judge Dariusz Zawistowski (one of the legal judges of the Supreme Court) from the bench and co-opted four neo-judges to the bench, Tomasz Szanciło, Kamil Zaradkiewicz, Jacek Grela and Małgorzata Manowska”.²⁶

37. In light of the above, it is unsurprising to see Ms Manowska the subject of several disciplinary proceedings and a criminal investigation. As shown above, Ms. Manowska has indeed a record of proactively disregarding rulings from both *domestic* and *European* courts.²⁷ To the best of our knowledge, the most recent complaint against Małgorzata Manowska has been filed with the Provincial Administrative Court in Warsaw by Dawid Miąsik, a (lawful) judge of the Labour and Social Security Chamber of Poland’s Supreme Court.²⁸ In a nutshell, Judge Miąsik is challenging a decision of Ms Manowska to appoint an interim president of the Labour Chamber and in this context, he has raised *inter alia* her irregular appointment as First President.

²⁴ See *inter alia* the CJEU judgments in the following cases: Case C-585/18, *A.K. (Independence of the Disciplinary Chamber of the Supreme Court)*, EU:C:2019:982; Case C-791/19, *Commission v Poland (Disciplinary regime for judges)*, EU:C:2021:596; Case C-204/21, *Commission v Poland (Independence and private life of judges)*, EU:C:2023:442. And see *inter alia* the ECtHR judgments in the following cases: *Reczkowicz v. Poland*, no. 43447/19; *Juszczyszyn v. Poland*, no. 35599/20; *Morawiec v. Poland*, CE:ECHR:2026:0205JUD004623820.

²⁵ Free Courts report, *op. cit.*, p. 35.

²⁶ *Ibid.*, p. 36.

²⁷ See e.g. M. Jałoszewski, “A first investigation against Manowska of the Supreme Court to be conducted”, *OKO.press*, 11 November 2022, <https://www.do2024.iustitia.pl/en/activity/informations/4551-a-first-investigation-against-manowska-of-the-supreme-court-to-be-conducted> (“This is the first investigation involving Małgorzata Manowska, a neo-judge acting as the First President of the Supreme Court. And perhaps the first such investigation involving a judge cooperating with the current government who disregards court rulings on judges illegally suspended by the Disciplinary Chamber of the Supreme Court. It should be noted that the prosecution had previously refused to initiate proceedings at all in cases involving nominees of the current government. The investigation concerning Małgorzata Manowska was started on 25th October 2022 by prosecutor Krystyna Adamczyk of the Regional Public Prosecutor’s Office in Warsaw. The proceedings will be conducted of Manowska’s alleged committing an act under Article 231 of the Criminal Code, i.e. a failure to fulfil official duties. [...] The ruling concerned the claims of Judge Paweł Juszczyszyn of the Olsztyn District Court, who had been suspended by the illegal Disciplinary Chamber [...] However, Manowska disregarded the order imposed by the Olsztyn court. And now the prosecutor will deal with the case. The investigation may end with Manowska facing criminal charges or it may be discontinued.”)

²⁸ M. Jałoszewski, “Precedensowa skarga na Manowską do sądu: Nie jest pani I prezesem SN i nie może rządzić Izba Pracy” (“A precedent-setting complaint against Manowska to the court: You are not the First President of the Supreme Court and cannot govern the Labour Chamber”), *Oko.press*, 28 September 2025, <https://oko.press/precedensowa-skarga-na-manowska-do-sadu-nie-jest-pani-i-prezesem-sn-i-nie-moze-rzadzic-izba-pracy>

38. Beyond this pending complaint, it has been reported that as many as nine reports have been filed with the prosecutor's office regarding suspicion of a crime committed by Ms Manowska. Seven investigations are being conducted in relation to:²⁹

1/ The unlawful suspension of Judge Piotr Gąciarek by the illegal Disciplinary Chamber which was made possible by Manowska's decision to disregard CJEU orders and judgment of 15 July 2021 on the merits in Case C-791/19, *Commission v Poland (Disciplinary regime for judges)*, EU:C:2021:596;

2/ The unlawful suspension of Judge Maciej Ferek by the same body and for the same reason as mentioned above;

3/ Abuse of authority and concealment of documents (a complaint filed by Judge Krystian Markiewicz, former president of Iustitia, the largest association of judges in Poland) in a case filed with the Supreme Court and which has not resulted in a ruling due to Manowska withholding the case file;

4/ Abuse of authority (complaint filed by Judge Waldemar Żurek, current Polish Minister of Justice) on account of Manowska blocking the adjudication of cases concerning the status of neo-judges such as herself;

5/ Manipulation of the voting results in the Supreme Court's College during the pandemic (complaint filed by multiple lawful judges of Poland's Supreme Court);

6/ Failure to convene a full bench of the State Tribunal within the compulsory 45 days following submission of the request made in 2024;

7/ Failure to enforce the order of the District Court in Olsztyn concerning Judge Paweł Juszczyzyn issued in 2021 (in April 2025, the Court ordered a new investigation as it concluded that the prosecutor's office had sufficient evidence to bring criminal charges against Manowska.

39. In addition to the above, it was also reported in September 2025 that Judge Paweł Juszczyzyn filed another complaint against Ms Manowska for the crime of impersonating a public official (Article 227 of Poland's Criminal Code).³⁰

40. Beyond the different instances mentioned above, to get a more detailed sense of Ms Manowska's unbecoming behaviour both in terms of organising non-compliance with binding rulings and day-to-day (mis)management of Poland's Supreme Court, one may refer members of your Network to the motions to waive her immunity submitted in July 2025 by a prosecutor to the Professional Liability Chamber of Poland's Supreme Court in respect of Manowska's criminal liability under Article 231(1) of Poland's Criminal Code. This comes in connection with the findings made in a prior criminal investigation into her failure to fulfil her duties, inter alia, in relation to a final and binding decision of a Polish District Court issued on 10 May 2021 regarding the (illegal) Disciplinary Chamber.³¹

²⁹ Ibid.

³⁰ Ibid.

³¹ Prokuratura Krajowa (National Prosecutor's Office), Wnioski o wyrażenie zgody na pociągnięcie Małgorzaty Manowskiej do odpowiedzialności karnej (Requests for consent to bring criminal charges against Małgorzata Manowska), 16 July 2025, <https://www.gov.pl/web/prokuratura-krajowa/wnioski-o-wyrazenie-zgody-na-pociagniecie-malgorzaty-manowskiej-do-odpowiedzialnosci-karnej>. For a short summary in English, "Prosecutors seeks to strip Supreme Court chief justice of immunity to face criminal charges", *Notes from Poland*, 16 July 2025, <https://notesfrompoland.com/2025/07/16/prosecutors-seeks-to-strip-supreme-court-chief-justice-of-immunity-to-face-criminal-charges/>

41. To this day, Ms Manowska continues to promote individuals who like herself, cannot lawfully adjudicate³² on account of the fundamental irregularities that adversely affected their appointments to Poland's Supreme Court and whose judicial acts automatically amount to violations of Article 6(1) ECHR on this basis, while EU law requires them to be held null and void in national cases falling within the scope of EU law.

42. We contend that your Network cannot disregard the authority of multiple rule of law-related judgments from both the ECtHR and the CJEU. Ms Manowska and other individuals irregularly appointed to the Supreme Court do not meet inter alia the requirements of an independent and impartial tribunal established by law for the purposes of Article 6(1) of the Convention due to the systemic defect vitiating their appointments. As stressed by the ECtHR in its pilot-judgment the case of *Wałęsa v. Poland*, “[t]his situation raises grave concerns as to the continued functioning of the Supreme Court, the highest judicial authority of Poland, as a court which is “lawful” under the Convention” (para. 324).

43. Failure to take full account of the binding judgments outlined in this memo and Ms Manowska's personal role in organising a systemic process of non-compliance with these judgments, not only undermines the authority and legitimacy of your Network, it raises the most serious of questions regarding your Network's commitment to the rule of law at a time where courts and the rule of law face the most severe challenges both in Europe and beyond. If the presidents of EU supreme courts are unable to play their part when it comes to applying rule of law related judgments, why would anyone else bother complying with them?

44. Apart from the detrimental effect upon your own Network, any complacent handling of this situation entails a precedential effect for other networks, who could be tempted to align themselves with a negligent example. It further reinforces a legitimising effect with regard to backsliding, instead of promoting full restoration of judicial independence in order to align with the legal standards of the rule of law. Any curtailment in protecting the rule of law within a Member State of the EU is not an exclusive matter confined to the domestic jurisdiction, but is directly of concern to all other Member States, who together form a society based on solidarity and of shared foundational values.

We thank for your attention to this matter and look forward to your reply and action.

Professor Laurent Pech
RA Dr. Oliver Mader

³² M. Jałoszewski, “Manowska domyka kontrolę nad SN. Odwołała trzech przewodniczących wydziałów z Izby Pracy” (“Manowska is closing her grip on the Supreme Court. She has dismissed three department heads from the Labour Chamber”), *OKO.press*, 31 December 2025, <https://oko.press/manowska-domyka-kontrolę-nad-sn-odwolala-3-przewodniczących-wydziałów>