

Communication

On 5 May 2020, acting First President of the Supreme Court Dr habil. Kamil Zaradkiewicz issued a regulation enforcing, to the extent of the powers of the First President of the Supreme Court, the decisions of the CJEU of 8 April 2020 in case C-791/19 R. The Regulation suspends the referral of new disciplinary cases of judges lodged with the Supreme Court – the Disciplinary Chamber until relevant further decisions are issued, among others, by the Constitutional Tribunal. Such cases will temporarily be kept on file in the Secretariat of the First President of the Supreme Court.

Considering that the CJEU decision is addressed to all competent bodies of the State, to the extent of their powers, it was necessary to revoke a prior decision of the former First President of the Supreme Court which went beyond the powers of the First President of the Supreme Court and beyond the obligations arising from the CJEU decision. In particular, bodies which oversee the functioning of courts (i.e., court presidents or deputy presidents) have no power to interfere with the case law, i.e., with proceedings pending, in this case, before the Supreme Court – the Disciplinary Chamber. That would be a flagrant violation of the principle of independence of judges and courts and the principle of legality, enshrined both in the Constitution of the Republic of Poland and the established case law of Polish and international courts and tribunals. The First President of the Supreme Court cannot substitute for other bodies of the Supreme Court, including the Presidents heading the Chambers (including the Disciplinary Chamber) to the extent of their powers, in the potential enforcement of the CJEU decision.