

# HR HELSINKI FOUNDATION for HUMAN RIGHTS

**41st SESSION OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL  
23 June 2018**

Item 3  
Interactive dialogue with the United Nations  
Special Rapporteur on independence of judges & lawyers

Helsinki Foundation for Human Rights Statement

*Delivered by Malgorzata Szuleka, Helsinki Foundation for Human Rights  
Check against delivery*

Thank you, Mr/Madam Chairperson.

Helsinki Foundation for Human Rights welcomes the Special Rapporteur's on independence of judges and lawyers report and thanks him for focusing on this extremely important issue of exercising the fundamental rights by judges and prosecutors.

Mr/Madam Chairperson.

Helsinki Foundation for Human Rights strongly supports one of the main conclusions of the Special Rapporteur report that it is paramount to strike an appropriate balance between the rights of judges and prosecutors and the legitimate interest of the national authorities in protecting the independence, impartiality and authority of their institutions.

However, in countries facing democratic crisis such as Poland, Hungary or Romania we continue to observe how the matter of exercising freedom of speech or freedom of assemblies is used to put even greater pressure on judges and prosecutors.

Since 2015, Poland has been facing a constitutional crisis – over last four years, the governing majority adopted almost 20 different pieces of legislation regulating the work of judiciary system. Judges who protested against the way in which the changes were introduced as well as alarmed about the unconstitutionality of these laws are facing the threat of disciplinary proceedings. The disciplinary system, which was changed in 2018 giving the Minister of Justice wide competences to influence the proceedings, is also used against the judges who issue decisions unfavourable from the perspective of the governing majority.

Over last four years, we also have been observing a growing number of disciplinary proceedings against prosecutors which remain related to their public and educational activity and which are initiated on the alleged grounds on violating the independence of the office.

In the opinion of the Helsinki Foundation for Human Rights, using the disciplinary proceedings against judges and prosecutors who speak in defence of the rule of law violates democratic standards and creates an atmosphere of oppression.

Mr/Madam Chairperson,

We look forward to engaging with the Special Rapporteur to take a robust approach in addressing these issues, and encourage him, amongst other initiatives, to closer monitor the disciplinary proceedings against judges and prosecutors launched on the basis of political grounds.

We urge all States to provide their full support to the Special Rapporteur in fulfilling his responsibilities while holding the mandate, especially by granting invitations to the Special Rapporteur, and to accept his recommendations.

Thank you.