



Europe, May 30<sup>th</sup> 2022.

The undersigned European associations of judges and prosecutors, having taken notice of the attached letter sent on 23<sup>rd</sup> of May 2022 by five associations of Polish judges: “IUSTITIA” Association of Judges, “Themis” Judges Association, Association of Family Judges in Poland, “Pro Familia” Family Judges Association and Polish Association of Administrative Court Judges (further: the Polish judges letter) to

Madam President of the European Commission,

Vice-Presidents and Commissioners,

President and Vice-Presidents of the European Parliament,

Chairperson of the LIBE Committee,

Have decided to issue this

#### **JOINT STATEMENT IN SUPPORT OF THE POLISH JUDGES LETTER**

The undersigned European associations fully endorse the above-mentioned letter of 23<sup>rd</sup> of May 2022.

The recent initiative of the Polish Government and the Polish Parliament, to replace the existing Disciplinary Chamber of the Supreme Court by another body (the Professional Responsibility Chamber) does not meet the criteria established by European courts to re-establish the Rule of Law in Poland.

Rule of law undoubtedly means following the European standards of an independent judiciary and also imposes on all relevant authorities the duty to execute and therefore to fully implement and comply with the judgements of the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR).

Both are still not the case in Poland.

The recent election of the new composition of National Council of the Judiciary (NCJ) contradicts the European standards of an independent Council, that require that at least half of its members must be judges elected by their peers. According to the CJEU the composition of the NCJ where 23 of the 25 members have been appointed by the Polish executive or legislature or are members thereof gives rise to legitimate doubts as to the independence of the NCJ. The ECtHR has meanwhile established that the NJC is a body that lacks sufficient guarantees of independence from the legislature and the executive. Renewing the term of office of the NJC with four more years without restoring the composition of the NCJ to a state consistent with both the Polish Constitution and in line with the judgements of the CJEU and the ECtHR is not only a sign of the unwillingness of the Polish authorities to completely restore the Rule of Law, but also forms a direct challenge to the CJEU and should lead to a new infringement procedure by the European Commission. The consequences of four more years of functioning of this unlawful body may be disastrous for Poland and for the common judicial area in the European Union as pointed out in the Polish judges letter.

Also, the new disciplinary body as proposed in the draft bill falls short of complying with the decisions of the European Courts, and will not prevent the Polish executive to exert control over judges, thus further undermining their independence.



The legislation on the appointment and the discipline of judges should truly comply with the judgements of the CJEU and ECtHR. Reality has shown to European authorities in recent years that the Rule of Law cannot be bargained or traded, as it is one of the cornerstones on which the European Union is founded. Therefore, the respect for its basic principles must be kept outside of any political or financial negotiation.

In view of the above stated, the undersigned associations

- **express their strong determination to continue their support to Polish judges and citizens in their endeavours until an independent judiciary, which is freed from undue influence of the other powers of state, is really restored,**
- **note that the recent changes adopted by the Polish Government and the Polish Parliament are not sufficient to comply with the decisions of European courts (CJEU and ECtHR) in what regards the restoration of the Rule of Law;**
- **urge the European authorities, especially the European Commission and the European Council, to use all tools at their disposal to convince the Polish authorities to sincerely and fully restore the independence of the judiciary, which has been seriously eroded in recent years;**
- **express their full solidarity to all the independent Polish magistrates that keep fighting for the independence of the Judiciary.**

Edith Zeller

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