



Europe, 8 June 2022.

Mr. President,

On 9 March, on the occasion of the French Presidency of the European Union, one of the undersigned organisations wrote to your Minister of Justice to make him aware of the importance, to take resolute action in favour of the rule of law and the independence of the judiciary at a time when these pillars are the subject of rare attacks in certain Member States of the Union, in particular in Hungary and Poland.

Due to recent developments, as the French Presidency draws to a close, we have the honour to invite you to put this process into practice, conscious of the historical and specific commitment of France in the defence of European values, such as the Rule of Law. As you know, the European Commission and the Polish Government are currently discussing the arrangements for the disbursement of Community funds owed to Poland. Under the conditions laid down by the European institutions, the need for the Polish State to comply with the decisions of the Court of Justice of the European Union of 14 and 15 July 2021 declaring contrary to European law the reforms by which the government has established a disciplinary body which does not have the necessary guarantees of independence that judges could be held responsible for the content of their decisions.

In order to receive the funds promised, the Polish government recently submitted to the European Commission a draft law supposed to remedy these serious breaches of the rule of law. If the Polish authorities claim to have complied with European requirements, the analysis of the proposed amendments shows that this is not the case: the National Judicial Council would remain composed of a majority of members appointed by the executive power and the legislative power, and the “gag” law punishing judges who enforce European law over national law would not be repealed.

While the European Commission has recently indicated that an agreement with the Polish government is on track, it is the responsibility of France, in its capacity as President of the Union but also as the founding State of the European Community, to ensure that this agreement does not come at the expense of its fundamental values. In particular, it must ensure that, prior to any disbursement of European funds, the Polish authorities implement reforms that effectively restore the independence of the judiciary, by re-establishing in the National Judicial Council a parity of judges, and by eliminating any possibility of calling into question, directly or indirectly, the responsibility of judges on account of the content of their decision.

Working in this way to restore the rule of law is not only an intrinsic necessity in the light of the democratic values of the European Union. The existence in each Member State of a judicial system guaranteeing full respect for the rights and freedoms of citizens is a sine qua non for the sustainability of the European legal order. The mutual recognition of judicial decisions and the legal systems of each country presupposes that each State guarantees to its counterparts the



respect of the same standards and guarantees, starting with the right of every person to a fully independent justice. Already, the legitimacy of the decisions handed down by Polish judges who have been appointed by a national judicial council now subservient to the government is being questioned. If we allow such a situation to persist – at the risk of seeing it spread to other States – it is the very principle of a European construction based on integration by Law that is called into question.

We dare not believe that France, the homeland of human rights, is not doing everything in its power to prevent this process of disintegration. Federations gathering the vast majority of the associations of judges and prosecutors in Europe, the undersigned organisations stand ready to support and accompany all the efforts of the French government in this direction.

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