

Hon. Andrzej Duda
President of the Republic of Poland

Chancellery of the President of the Republic of
Poland
Ul. Wiejska 10
00-902 Warszawa
Poland

listy@prezydent.pl
bdi@prezydent.pl

Paris, August 1, 2017

Object: Infringements of the rule of law in Poland

Your Excellency,

Within the framework of the reform of the existing judicial bodies, the Polish Parliament adopted, the 13th of July 2017, a law relating to the National Council for the Judiciary. According to this act its actual members can be revoked, and new members can be reappointed, by the Sejm. Moreover, the Parliament also adopted the law on the Ordinary Courts Organisation, which allows the Minister of Justice to arbitrarily dismiss court presidents without any control. Lastly, a draft law has been introduced to the Parliament the 18th of July providing that only the judges of the Supreme Court indicated by the Minister of Justice would remain initially active for an interim period until the President of the Republic has made a final selection of the judges who will be allowed to stay in office following a special verification procedure.

The French Conseil National des Barreaux, the Barreau de Paris and the Conférence des Bâtonniers, representative bodies of the profession of Lawyer in France, note that after the serious concerns expressed among the European Institutions and the civil society, you took the decision to use your veto power, in accordance with the request of the European Bars Council (CCBE) in its letter of 18th of July.

We welcome your decision and congratulate you for this latest step, as the provisions of these draft legislation would sensibly weaken the separation of powers in Poland and would lead to a deny of the rule of law, inconsistent with the Constitutional, European and International standards, by placing the Judiciary under the control of the Government and the Parliament.

Moreover we consider that such interference into the Judiciary would infringe the right for a fair trial of the Polish citizens, protected by the European Convention of Human rights and the Polish Constitution.

Your initiative is in line with the safeguarding of the rule of law in Poland, which is a European cardinal value strengthening our Union. In this context, we will remain alert to the legislative evolutions and we invite you to maintain your course of action.

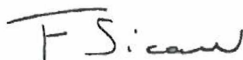
On July 26, the European Commission published a recommendation which expresses its serious concerns. It states that if the Member States enjoy a wide margin of discretion in the organization of their judicial system, the independence of the Judiciary is a fundamental principle that must be guaranteed as an obligation deriving from the European Law and a prerequisite to the implementation of the Treaties. The European Commission suggests your government to adopt immediate and appropriate measures and mentions the possibility of initiate the article 7 TEU procedure simultaneously with the infringement procedure launched the 29 of July.

We recall that the independence of the judiciary is an essential component in maintaining the rule of law in a democratic society. It is guaranteed by the United Nations Basic Principles on the Independence of the Judiciary, which provide that it is assured by the State and enshrined in the Constitution or the law of the country and that it is the responsibility of the institutions to respect it, and by the United Nations International Covenant on Civil and Political Rights. The principle is also set out in the Charter of Fundamental Rights of the European Union, in the European Convention on Human Rights, in the Recommendation 2010/12 of the Committee of Ministers of the Council of Europe and in several opinions of the Advisory Council of European Judges. Poland, which has adhered to this principle, has enshrined it in its Constitution.

Therefore, we can only support you in the process of fully implementing the European Commission's recommendation and encourage you to strengthen the constructive dialogue with the Commission in order to find a lasting solution and to remedy the systemic threat against the rule of law.

Faithfully yours,

Barreau de Paris



Frédéric SICARD
Bâtonnier de l'Ordre des Avocats
de Paris

**Conseil National des
Barreaux**



Pascal EYDOUX
Président du Conseil National
des Barreaux

Conférence des Bâtonniers



Yves MAHIU
Président de la Conférence des
Bâtonniers



Copy to:

Mr. Antonio TAJANI, President of the European Parliament
Mr. Donald TUSK, President of the European Council
Mr. Jean-Claude JUNCKER, President of the European Commission
Mr. Frans TIMMERMANS, Prime Vice-President of the European Commission
Mr. Emmanuel CRABIT, Head of the unit "General justice policies and judicial systems" in the Directorate General for Justice of the European Commission

Mr. Pierre SELLAL, Représentant Permanent auprès de l'Union européenne

Messrs. Presidents of the Polish Bars
Mrs. Maria ŚLAZAK, Head of the Polish Delegation before the CCBE

Mr. Ruthven GEMMEL, President of the CCBE
Mr. Philip BUISSERET, Secretary General of the CCBE
Mrs. and Messrs. Heads of the Delegations before the CCBE

Mrs. and Messrs. French Members of the European Parliament
Mrs. and Messrs. Polish Members of the European Parliament