

Resolution of the Plenary Session
of Council of Bars and Law Societies of Europe (CCBE)
dated 24th of November, 2017

The Council of Bars and Law Societies of Europe (CCBE) which represents the bars and law societies of 45 countries and through them over one million of European lawyers.

CCBE is deeply concerned about proposed changes in Polish judiciary system.

The current legislation works conducted by the Sejm (the lower chamber of the Polish Parliament) of the Republic of Poland relative to the bills on the Supreme Court and the National Council of the Judiciary provide for a number of solutions which contravene the provisions of the Polish Constitution as well as the human rights protection standards and fundamental freedoms set by the international law.

The initiated by the Solidarity movement democratic transformations in Poland led to passing in 1997 of the Constitution as supported by the majority of Poles in the referendum. This Act is grounded on respecting freedom and justice as well as the guarantees of the separation of powers (aka *trias politica* model).

The said separation-based autonomy of the judiciary from the legislature and the executive and the related principle of independence of judges serve the right of each and every person to have their case reviewed by the court in a fair and open manner and without the undue delay.

The solutions introduced in the bill on the Supreme Court can materially limit the independence of the judiciary and the autonomy of judges by: 1) enabling representatives of the executive to exert influence on the setup and way of working of the Supreme Court; 2) lowering the age at which judges would retire and applying the said rules to the current Supreme Court Judges; 3) applying the summary procedure for lifting the judges' immunity; 4) ensuring a privileged position for the newly formed Disciplinary Chamber of the Supreme Court and its president; 5) appointing the Extraordinary Disciplinary Proceedings Representative as an entity competent to institute extraordinary proceedings upon request of a representative of the executive; and 6) introducing the institution of the extraordinary complaint, whereby final and binding rulings issued many years earlier can be corrected.

The solutions given in the bill on the National Council of the Judiciary can limit the independence of the judiciary by: 1) adopting a mechanism of election of judges – members of the National Council of the Judiciary – by the Parliament which contravenes the

Constitution of the Republic of Poland; and 2) shortening the term of office of the current National Council of the Judiciary.

For the above reasons CCBE calls Polish authorities to withdraw from any changes in law which violate Polish constitution.