
Le Président
The President

Mr Stanisław Karczewski
Marszałek Senatu
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Brussels, 3 April 2017

Re: Reform of the National Council for the Judiciary of Poland (Krajowa Rada Sądownictwa - KRS) and the organization of the judiciary

I am writing to you on behalf of the Council of Bars and Law Societies of Europe (CCBE), which represents the bars and law societies of 45 countries, and through them more than 1 million European lawyers.

The CCBE would like to express its deep concern about the legislative works, which aim to radically alter the organization and functioning of the National Council for the Judiciary of Poland. The National Council for the Judiciary is a constitutional body of the state acting as a guardian of the independence of the courts and of judges. It has played a critical role in rebuilding the democratic system in Poland. Preserving its independence is a basic guarantee of maintaining the stability of the Polish legal system.

The proposed amendments to the Act on the National Council of the Judiciary may lead to infringement of the principles of the independence of courts, the independence of judges, and the separation of powers, significantly influencing the citizenry's ability to seek justice before independent and impartial courts. Our reasonable concerns have been heightened, in particular, by the changes to the organizational structure of the National Council for the Judiciary, the proposed mode of appointing judges to said Council, and the interruption of the term of office for members of this body guaranteed under the Constitution of the Republic of Poland. The proposed amendment to the functioning of the National Council for the Judiciary does not guarantee maintaining the separateness of the judiciary and the division of powers.

Basic principles on the independence of the judiciary have been endorsed by the General Assembly of the United Nations in the resolution of 1985. Furthermore, Article 14(1) of the International Covenant on Civil and Political Rights stipulates that every individual has the right to a fair and public hearing by a competent, independent and impartial tribunal. A similar provision is contained in Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms, to which Poland is a party, as well as the Constitution of the Republic of Poland.

Preserving the principle of the independence of the judiciary guarantees the protection of every citizen. Concurrently, it guarantees the stable functioning of the state as a whole. Thus, the independence of courts and of judges is not a privilege enjoyed by the individuals who hold judicial offices. Instead, it becomes a guarantee for exercising the citizenry's subjective rights.

Out of deep concern for these common, fundamental principles of the administration of justice, the CCBE calls to ensure the independence of the courts and to respect and safeguard the independence of the judiciary - to refrain from introducing the planned amendments concerning the organization and functioning of the administration of justice due to their infringement upon the aforementioned rules and their undermining of the principle of public confidence in the state and its laws.

Yours sincerely,

A handwritten signature in black ink, reading "Ruthven Gemmell". The signature is written in a cursive, slightly slanted style.

Ruthven GEMMELL
President