

Resolution of the Plenary Session of Council of Bars and Law Societies of Europe (CCBE)

24/11/2017

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

The CCBE is deeply concerned by the proposed changes to the Polish judiciary system.

The current legislative work conducted by the Sejm (the lower chamber of the Polish Parliament) of the Republic of Poland, relating to Bills on the Supreme Court and the National Council of the Judiciary, have a number of resolutions which contravene provisions of the Polish Constitution, as well as human rights protection standards and fundamental freedoms set by international law.

The democratic transformations initiated by the Solidarity movement were supported by the majority of Poles through a referendum, which led to the passing of the Polish Constitution in 1997. This Act is grounded in the respect of justice and freedom, as well as the guarantee of the separation of powers (aka *trias politica* model).

The judiciary branch must remain autonomous from the legislative and executive branches, as the independence of judges serves the right of every person to have their case reviewed by the court in an open and fair manner without undue delay.

The resolutions introduced in the Bill on the Supreme Court can 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 the functioning of the Supreme Court;
- 2) lowering the age by which judges would retire, and applying the rules to current Supreme Court judges;
- 3) applying a summary procedure for lifting 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 the request of a representative of the executive branch; and
- 6) introducing the "extraordinary complaint" procedure, whereby final and binding rulings issued many years earlier can be changed.

The provisions of the Bill of the National Council of the Judiciary can limit the independence of the judiciary by:

- 1) adopting a mechanism for the 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, the CCBE calls on the Polish authorities to withdraw any changes in law which violate the Polish Constitution.