



CCBE and FBE joint Statement on the Rule of Law and the principle of mutual recognition.

The Council of Bars and Law Societies of Europe (CCBE) represents national European bars and law societies in their common interests before European and other international institutions. CCBE membership includes the bars and law societies of 45 countries from the European Union, the European Economic Area, and wider Europe.

The Federation of European Bars (FBE) represents local bars and law societies in their common interests. FBE membership includes local bars and law societies of 47 Council of Europe member states.

The CCBE and the FBE focus on rule of law issues and promote the rule of law. This requires an independent judiciary which is free from undue political interference, guaranteed access to justice and fair trial procedures. The right of access to an independent court is one of the primary elements underpinning the legal systems of states.

The rule of law is one of the common values upon which the European Union is founded. It is enshrined in Article 2 of the Treaty on European Union. Respect for the rule of law ensures trust in each other's judicial systems and enables judges and practitioners to cooperate and trust each other across borders. This principle of mutual trust has contributed a great deal to the EU integration process.

Mutual trust is of fundamental importance in the construction of a European Union Area of Freedom, Security and Justice that includes judicial cooperation in criminal matters based on mutual recognition of judicial decisions. The CCBE and the FBE are aware of how threats to the rule of law can have real implications on this mutual trust.

In 2017 the CCBE and the FBE communicated to President Andrzej Duda of Poland that violating or threatening the autonomy and independence of courts is not only an internal problem for Poland. It has consequences for the international legal community, as well as directly impacting the application of European Union law.

In this respect, the CCBE and the FBE are following recent developments whereby the Irish High Court has asked the Court of Justice of the European Union to rule on whether the changes to Poland's judiciary undermines its independence and jeopardises cooperation between Members States on the European Arrest Warrant. The question has been referred to the Court of Justice as the fundamental right to a fair trial cannot be guaranteed in Poland due to its system of justice no longer operating under the rule of law.

The European Arrest Warrant Framework Decision of June 2002 was the first example of a mutual recognition instrument in criminal law matters. The conclusions of the Tampere European Council in October 1999 recognised mutual recognition based on mutual trust as the cornerstone of judicial cooperation within the European Union. Today, we are seeing how violations of the rule of law can have a real impact upon mutual trust, and as a consequence the principle of mutual recognition and judicial cooperation.

Independent justice systems are essential in upholding the rule of law and ensuring confidence and trust in judicial systems. Without this confidence and trust the principle of mutual recognition as the basis for judicial cooperation will no longer function. The CCBE and the FBE urge that all measures are taken to ensure the existence of an independent judiciary free from undue political interference, to ensure access to justice and fair trial procedures and to ensure respect for the rule of law.