

## Statement from the President of the CCBE regarding the situation in Poland

10/07/2018

The Council of Bars and Law Societies of Europe (CCBE) represents, through its National Bar members, more than 1 million European lawyers from 45 countries in the European Union, the European Economic Area, and wider Europe.

On 3 July 2018, 27 justices from the Supreme Court of Poland, including its President, Prof. Dr. Małgorzata Gersdorf, were forced to retire, which certain sources consider a purge on the Polish judiciary. Furthermore, the new procedure for appointing judges in Poland does not offer the same guarantees to ensure the independence of the judiciary, as those which existed under the previous procedure.

These changes are followed with increasing concern, as the independence of the judiciary from all types of interference is essential for the Rule of Law.

The CCBE joins Polish citizens, civil society associations and professional organizations who are publicly demonstrating their disagreement with the ongoing purges in the judiciary, and with the deterioration of the democratic establishment and the Rule of Law in Poland. We offer our full support to the judges of Poland, victims of this purge, which deeply affects the independence of the Judiciary and therefore the Rule of Law. The CCBE seconds [the statement](#) made by the Executive Board of the European Network of Councils for the Judiciary (ENCJ) on the situation in Poland, published 4 July 2018.

The European institutions are deeply concerned with the situation of the judiciary in Poland, and these concerns have been expressed on several occasions. On 15 November 2017, the European Parliament adopted a [resolution](#) on *“The situation of the Rule of Law and democracy in Poland”*, expressing its concern with the redrafted legislation and calling for *“an extensive debate at national level with all relevant stakeholders regarding judicial reform, which should uphold the Rule of Law and comply with EU law and European standards of judicial independence”*.

On 2 July 2018, the European Commission launched an infringement procedure against Poland, by sending a Letter of Formal Notice to the Government of Poland requesting information about the Polish Law on the Supreme Court. According to the European Commission’s [memo](#), an infringement procedure is launched when the Commission considers that a Member State is not respecting its obligations under EU law, and therefore takes legal action against the country. Therefore, this action by the Commission demonstrates how serious the situation of the judiciary is in Poland.

The executive in Poland is amplifying its influence on the judiciary through its recent measures. The separation of the three branches of Government – executive, legislative, and judicial powers – is essential for a democratic State. Furthermore, the effect of the judiciary’s situation in Poland is not limited to its national borders as the EU framework requires judicial independence in every Member State, in order to guarantee mutual trust by courts in all EU countries. European judges have indeed questioned the independence of the judiciary in Poland and, more specifically, the guarantee of due

process and fair trials in this country. The impact of the changes on the judiciary is alarming, as it is now within the discretion of the President of Poland to prolong the employment of judges who are now 65 years old.

Consequently, we formally urge the Polish authorities to take the appropriate measures to ensure the Rule of Law. Specifically, to halt actions related to the judiciary which undermine the Rule of Law in Poland.

The CCBE makes a plea for an impartial Polish judiciary, who is in charge of independently upholding the Rule of Law, a cornerstone of any European democracy.

Antonín Mokrý  
President of the CCBE