

Strasbourg, 17th of May 2017

To the Congress of Polish Lawyers

Honourable representatives of the Polish Judiciary,

The latest efforts of the Polish government to reform the justice system have met with fierce criticism. To date, a number of national and international institutions have raised concerns about proposed legislation on the National Council of the Judiciary, laws regulating the functioning of the court system, not to mention the Constitutional Tribunal.

Forthcoming new selection mode of the Council members allowing justice minister to appoint judges practically without the participation of the judiciary may be convincingly identified as questionable in light of the European standards. Significant increase of the government's ability to influence court decisions raise serious concerns with respect to key democratic principles, in particular the separation of powers and the independence of the judiciary. All of these are a prerequisite for the respect for the fundamental values enshrined in Article 2 of the Treaty of the European Union.

As jointly observed by the European Networks of Councils for the Judiciary (RE CJ) — *the proposed regulations raise serious doubts as to their compliance with democratic standards. It is possible that the amendments might entail negative effects on the separation of powers and the independence of the judiciary, as they might lead to a decisive influence of politicians over the selection of judges.* Similar positions with regard to the reforms have been expressed by the Polish Ombudsman, the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Council of Europe Commissioner for Human Rights as well as the Polish National Council of the Judiciary.

As members of the European Parliament, we share these concerns, thereby confirming the vital importance that the EU attaches to the shared principles which guarantee a proper functioning of democratic systems. Although their perception may vary in form and shape in each member state, the separation of powers and the independence of the judiciary is a universal value enshrined in Polish Constitution, the EU treaties as well as other international declarations and conventions. The selection and appointment of judges should be based on objective criteria rather than on political affiliations.

In this light, we cannot allow politicisation of the appointment process of judges. We are aware that we in the European Parliament should strengthen every effort which supports Polish society in order to prevent any possible danger that would jeopardise the independence and impartiality of the judiciary. We will do everything which is in our competencies to assure access to the independent, well-functioning, ethical and competent judiciary in Poland.

We support your line of defence against the reforms. We admire your strength and courage. We also understand how significant it is to promote awareness of the separation of powers for the proper functioning of democracy - a common goal for both us in the European Parliament and you as legal professionals.

Finally, we express our hope that this gathering, supported by various respectable institutions, will help to increase awareness among Polish government that there is no consent for changes to the justice system which are inconsistent with the fundamental principles of a democratic state.

Yet again, it needs to be stressed that the separation of powers is key to a well-functioning democracy!

We welcome the debate at the Congress today and wish you a lot of success.

Yours sincerely,

Jan Philipp Albrecht MEP, Germany, Greens/EFA

Heinz K. Becker MEP, Austria, EPP

Michał Boni MEP, Poland, EPP

Carlos Coelho MEP, Portugal, EPP

Anna Maria Corazza Bildt MEP, Sweden, EPP

Frank Engel MEP, Luxembourg, EPP

Ana Gomes MEP, Portugal, S&D

Esteban González Pons MEP, Spain, EPP

Rebecca Harms MEP, Germany, Greens/EFA

Gunnar Hökmark MEP, Sweden, EPP

Sophie in 't Veld, MEP, the Netherlands, ALDE

Jeroen Lenaers MEP, the Netherlands, EPP

Krzysztof Łybacki MEP, Poland, S&D

Roberta Metsola MEP, Malta, EPP

Claude Moraes MEP, UK, S&D

Julia Reda MEP, Germany, Greens/EFA

Marietje Schaake MEP, the Netherlands, ALDE,

Birgit Sippel MEP, Germany, S&D

Róża Gräfin von Thun und Hohenstein MEP, Poland, EPP

Cecilia Wikström MEP, Sweden, ALDE

Tomáš Zdechovský MEP, Czech Republic, EPP