



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

### Statement by the Executive Board of the ENCJ on the situation in Poland

The Executive Board of the ENCJ is greatly dismayed to learn that both the lower and the upper house of the Polish Parliament last week approved two reforms which have been the subject of trenchant criticism over the past year. Furthermore, also last week a draft law was introduced in Parliament that affects the composition of the Supreme Court.

The first law which has been approved is the reform of the Polish Judges' Council. This reform was analysed by the Executive Board of the ENCJ on [30 January 2017](#), when it was pointed out that there had been no meaningful consultation with the Polish Judges' Council; that this reform involves termination of the mandate of the Polish Judges' Council's members; that the appointment of the judicial members of the Judges' Council by Parliament is not in line with the ENCJ's standards and that the establishment of two assemblies within the Polish Judges' Council (the first one formed by the 15 judges appointed by Parliament and the second one including six members from the Polish Parliament, the Minister of Justice, a representative of the Head of State, the President of the Supreme Court and the President of the High Administrative Court), allied with a requirement that any resolution by the Judges' Council has to be adopted by both assemblies sitting separately, gives a substantial role to politicians in the selection and appointment of judges.

The second law approved by Parliament gives the Minister of Justice the power to dismiss court presidents and substitute them within the next six months after the entering into force of this new law.

These laws will inevitably involve an erosion in judicial independence with an equally inevitable impact on the Rule of Law.

So, too, the draft law introduced on 12<sup>th</sup> July which involves the dissolution of the current Supreme Court by imposing retirement on its members and giving the Minister of Justice the discretionary power to designate those judges who shall remain in active service.

The ENCJ's Executive Board considers that this is a very grave situation.

Indeed, at the ENCJ's recent General Assembly in June 2017, the [Paris Declaration](#) included this statement:

*"The developments and planned judicial reform in Poland continue to raise serious concern as they could seriously endanger the separation of powers which is vital to the maintenance of the Rule of Law. The ENCJ reiterates that a key requirement for maintaining and enhancing mutual trust between judicial authorities in the EU, as a basis for mutual recognition, is the independence, quality and efficiency of each of the judicial systems and respect in every state for the Rule of Law."*

So serious are the concerns about the developments in Poland that Councils for the Judiciaries across Europe have echoed these sentiments over the past few months. Specifically, statements have been made by:

[Conseil Supérieur de la Justice](#) Belgium

[Supreme Judicial Council](#), Bulgaria

[Državno Sudbeno Vijeće](#), Croatia

Association of Council of State Judges, Greece

[Association of Judges of Ireland](#)

[Consiglio Superiore della Magistratura](#), Italy

[Tieslietu Padome](#), Latvia

[Teiseju taryba](#), Lithuania

[Raad voor de rechtspraak](#), Netherlands

[Conselho Superior da Magistratura](#), Portugal

[Consiliul Superior al Magistraturii](#), Romania

Sudna Rada, Slovakia

[Sodni Svet](#), Slovenia

[Consejo General del Poder Judicial](#) , Spain

[Judges' Council of England and Wales](#)

[Judges' Council of Scotland](#)

It is imperative that judicial independence is respected by governments. A democratic system based on the Rule of Law can only properly function if judges' independence is safeguarded. Furthermore, as made clear in the Paris Declaration and in an earlier statement issued by the ENCJ's Executive Board on [26 April 2017](#), judicial independence is critically important in maintaining and enhancing mutual trust between judicial authorities in the EU. Judicial independence also plays a central and indispensable role in ensuring respect for EU law.

Brussels, 17 July 2017