

Council of Europe
The Secretary General

Strasbourg, 18 July 2017

Dear Speaker,

I am writing to you to express my concern regarding the new parliamentary draft law on the Polish Supreme Court that was introduced last week before the Sejm.

An efficient, impartial and independent judiciary is the cornerstone of any functioning system of democratic checks and balances. Supreme Courts in our member states have a crucial role to play in this context. They offer safeguards against arbitrariness and ensure respect for the rule of law and for the rights and liberties guaranteed by the European Convention on Human Rights.

With this in mind, I am particularly concerned by the provisions of the draft law on the Supreme Court which, upon entry into force, will terminate the mandate of all judges of the Supreme Court - except those judges selected to continue their mandate. This would be contrary to the principle of irremovability of judges, which guarantees the maintenance of their independence. This principle is enshrined in Council of Europe standards.

The new draft law also has to be seen in conjunction with other texts adopted recently in Poland on the judiciary and which raise concerns, such as the draft law on the National Council for the Judiciary, adopted last week. The Council of Europe's Consultative Council of European Judges (CCJE) and others had issued critical opinions on this text, notably in view of its implications for the constitutional principle of the separation of powers and the independence of the judiciary. These opinions appear to have been largely ignored.

The pace at which and the procedure by which the new draft law on the Supreme Court was submitted also raise questions. Given the role played by the judiciary, both the executive and the legislature must be particularly cautious when considering legislative amendments directly affecting its independent functioning. The drafts should be properly and publicly debated by parliaments and adequately justified. The public, including all relevant stakeholders, should have a meaningful opportunity to provide input.

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Mr Marek Kuchciński
Speaker of the Sejm
Poland


F - 67075 Strasbourg Cedex
France

Tel. + 33 (0)3 88 41 20 51
+ 33 (0)3 88 41 20 00

Fax: + 33 (0)3 88 41 27 99
+ 33 (0)3 88 41 27 40

Through you, I am appealing to the Polish Sejm to uphold Council of Europe standards and not to proceed hastily with the examination and adoption of the draft law on the Supreme Court.

Yours sincerely,



Thorbjørn Jagland

*F - 67075 Strasbourg Cedex
France*

*Tel. + 33 (0) 3 88 41 32 87
+ 33 (0) 3 88 41 20 00*

*Fax: + 33 (0) 3 88 41 27 40
+ 33 (0) 3 88 41 27 99*