



Europe, November 23th, 2020

Honorable Charles Michel

Four European Associations of Judges and Prosecutors directly address you since we are deeply concerned about the most recent events and the continuous attacks against the independence of judiciary in Poland.

The European Court of Justice (ECJ) has issued a number of judgments critical of Poland's compliance with EU law, in particular Case C-619/18, on 24 June 2019, and Case C-192/18, on 5 November 2019.

On 8 April 2020, upon request of the European Commission, the ECJ issued interim measures in case C-791/19 R, ordering the Disciplinary Chamber of the Polish Supreme Court to cease hearing disciplinary procedures against Polish judges, while the proceedings as to whether it is an independent body complying with the requirements of EU law are pending.

The ruling of the ECJ is, obviously, mandatory to Poland. But it has been blatantly ignored by the Disciplinary Chamber in order to continue its unlawful activities. The European Commission, the guardian of the EU treaties, is fully informed about these undisputable facts.

Let us specifically refer to a recent decision of this Disciplinary Chamber of 18 November 2020 against a Polish judge, Mr. Igor Tuleya, who has openly and actively stood up to defend the Rule of Law.

This decision concerned the removal of Judge Tuleya's immunity in order to enable criminal proceedings against him for exercising his judicial discretion during a proceeding in his courtroom. By this decision the Disciplinary Chamber overturned its first instance decision and granted the prosecutor's motion to waive his immunity. Judge Tuleya was also suspended from all judicial duties and his remuneration was cut with 25%.

We recall that on 12 October 2020 the Disciplinary Chamber of the Polish Supreme Court lifted the judicial immunity of Beata Morawiec, judge of the District Court in Kraków and chair of Polish Judges Association Themis. She was suspended from all judicial duties and a 50% salary cut was imposed.

Unfortunately there are many more Polish judges currently facing abusive disciplinary or criminal proceedings for carrying out their judicial functions in accordance with the principle of judicial independence, or for exercising their freedom of expression, association or assembly as a means to defend the rule of law. The Disciplinary Chamber should be prevented from proceeding with any activities until the final decision of proceedings in Case C 791/19. As long as the Disciplinary Chamber continues to operate, serious (irreparable) damage to Polish judges is done and the chilling effect on the Polish judiciary is even further increased.

An independent judiciary is not only a corner stone for the Rule of Law but also essential to safeguard the principle of Mutual Trust within EU national judiciaries. Both requirements are fundamental pillars for the definition of European Union as such. The rule of law is an internationally agreed principle on which the Union and its member states were built. Independent judges are entrusted to serve the citizens in an impartial manner.

Seen the gravity of the situation we therefore call upon the Council of the European Union to clearly and unequivocally uphold the fundamental value of judicial independence in the European Union and its Member States and therefore to urgently respond to the Polish rule of law crisis and make sure that the government of Poland veers away from the previously chosen path and takes all appropriate steps to restore and respect the independence of the judiciary.

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