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Paris, August 18, 2017

Mr. Andrzej Duda

The President of the Republic of Poland
The Chancellery of the President of the Republic of Poland
Wiejska 10 Street
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Poland

Transmission by Email: kontakt@kprm.gov.pl

Dear Mr. President,

The Union Internationale des Avocats (UIA - International Association of Lawyers) and the International Association of Judges (UIM - IAJ) remain profoundly concerned by the recent changes in legislation that reorganize the judiciary in your country.

As the UIA has expressed in previous communications, these changes gravely undermine the independence of the judiciary in Poland and threaten the Rule of Law.

The European Association of Judges, a Regional Group that belongs to the International Association of Judges, addressed an appeal to Your Excellency in order to defend the Rule of Law and to affirm established European standards regarding the Judiciary.

Our organisations applaud Your Excellency's recent decision to veto the Law on the National Council for the Judiciary and the Law on the Supreme Court, two of the controversial laws which would have seriously increased the power of the executive and legislative branches over the judiciary.

However, we sincerely regret Your Excellency's decision to sign, on July 25, the legislation amending the law on the Ordinary Courts Organisation. This recent legislation is a significant and dangerous limitation on judicial independence and separation of powers.

Under this new legislation, the Minister of Justice will have power to appoint and dismiss presidents and vice-presidents of courts without being bound by any concrete criteria, and there is no right to judicial review of such decisions by the Minister. Although the National Council of the Judiciary would be able to block a dismissal, it would require a 2/3 majority vote.

We are deeply concerned that these newly-granted powers of the Minister of Justice significantly threaten the independence of the presidents of courts when exercising their judicial function, particularly when acting in sensitive cases. As noted in the European Commission's recommendation issued on July 26, 2017, these changes could result in direct political pressure on judges: *"For example, a court president who is called upon to deliver a judgment in a sensitive case against the State may feel the pressure from the Minister of Justice to follow the position of the State in order to avoid being dismissed as a court president"* (C (2017) 5320, para 20).

The effectiveness of the right to a fair trial and to all human rights depends on free and independent courts and judges exercising their professional functions without external and improper influence, pressure, threats or interferences.

Therefore, any legislation must protect the independence of the judiciary as a fundamental element in upholding the Rule of Law in a democratic society.

Our organisations join many other voices, in particular that of the UN Special Rapporteur on the Independence of Judges and Lawyers, Mr. Diego García Sayán, as well as the already mentioned European Association of Judges (EAJ) and the Federation of European Bars (FBE), in calling upon you to consider our well-founded concerns and take action to safeguard the independence of the judiciary.

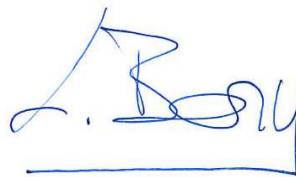
To this end, we respectfully urge Polish authorities to take all necessary measures, as required by the separation of power, to:

- ensure that the legislation amending the law on Ordinary Courts Organisation is withdrawn or amended in order to ensure compliance with the Polish Constitution and international and European standards on judicial independence;
- ensure that any present or future reform to Poland's judiciary system upholds the Rule of Law, is consistent with international standards in judicial independence, and is developed in close cooperation with the judiciary and all interested stakeholders.

Yours sincerely,



Christophe Régnard
UIM-IJA President



Laurence Bory
UIA President