



### **Resolution on the situation in France**

The EAJ took note of the draft organic law “regarding the opening, modernization and accountability of the judiciary” presented by the French government in February 2023 and which is currently being discussed by the Parliament.

The EAJ notes that this reform comes at a time when attempts at destabilization have been denounced over the past three years by French magistrates. The EAJ also notes that disciplinary proceedings against magistrates have tripled in France between 2020 and 2022. Several disciplinary proceedings occurred in a context of conflict of interest of the Minister (who referred those proceedings to the Council even though he had prior cases as a lawyer tried or prosecuted by the same magistrates). These proceedings ended in dismissal of the charges.

The number of such political interferences could increase by enactment of the draft organic law.

The EAJ is particularly concerned by the proposal to extend the possibilities of referral to the Superior Council of the Judiciary by the litigant and the conditions of admissibility of complaints from litigants and strengthens the powers of investigation of the commissions in charge of addressing these complaints (the commissions are part of the Council). Even though the commissions have dismissed a complaint, their decisions will be communicated to the Minister. This mandatory transmission will give litigants the power to indirectly refer a case to the Minister, who can then order any further investigations against a magistrate and finally refer himself the case to the Council.

Such possibilities may be especially dangerous due to the fact that the composition of the Council violates European standards since its members are not, for the most, magistrates. The Consultative Council of European Judges, from the Council of Europe, regularly writes that “a substantial majority of judges elected by their peers is necessary to defend the independence of the judiciary and magistrates”.

EAJ acknowledges that an independent judiciary needs also to be accountable, but such accountability should follow European standards.

Any influences of the executive power on disciplinary decisions should be avoided. It is the task of the Disciplinary commission within the CSM to filter the claims. A transmission of such claims to the minister of justice must be seen as an undue influence of the government on the judicial power and a means to threaten the judge concerned.

EAJ therefore urges the French authorities to refrain from introducing such provisions in the amended law.