



L'ASSOCIATION DU
BARREAU CANADIEN
THE CANADIAN
BAR ASSOCIATION

Cabinet du président
Office of the President

July 25, 2017

Via email: chrystia.freeland@international.gc.ca

The Honourable Chrystia Freeland, P.C., M.P.
Minister of Foreign Affairs
Global Affairs Canada
125 Sussex Avenue
Ottawa, ON K1A 0G2

Dear Minister Freeland:

Re: Independence of the Judiciary in Poland

The Canadian Bar Association has been following judicial reform initiatives in Poland with increasing disquiet. I am writing to urge your government to call on Polish authorities to respect the independence of the judiciary as a fundamental aspect of democracy and international human rights.

The CBA is a national association of over 36,000 lawyers, judges, law students, Québec notaries and law professors. Among our primary objectives are improvement in the law and the administration of justice, and promoting the rule of law and fair justice systems in Canada and internationally.

The CBA is a member of the International Bar Association (IBA), which has written to President Duda of the Republic of Poland, also expressing concerns. The CBA and the IBA share a deeply held conviction that a healthy democracy is founded on principles that include respect for the independence of the judiciary. Indeed, the UN Basic Principles on the Independence of the Judiciary establish this as an international human rights standard.

The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE), of which Canada is a member state, reviewed draft legislation which would replace the existing Judicial Council – which it describes as a body whose main purpose is to guarantee judicial independence in Poland – with judicial representatives selected by the legislature rather than the judiciary. The draft legislation would also terminate the mandates of judges currently sitting on the Judicial Council. The ODIHR recommended that the proposed legislation be reconsidered in its entirety and that other

judicial reform proposals, for example, those affecting the appointment and assignment of judges in the common (local) courts, be subject to a comprehensive regulatory impact assessment.

The International Commission of Jurists (ICJ) has recently called attention to Bill 1727 which, if approved, would dismiss all judges of the Supreme Court of Poland, with replacements (reinstatements or new appointments) to be decided by the Minister of Justice.

We are encouraged by recent news that President Duda has vetoed the proposals affecting the Supreme Court and the Judicial Council, which he has announced as an effort to promote further negotiation between state actors. However, the situation remains fluid and the impact of the ensemble of judicial reforms remains unclear.

Canada and Poland enjoy close bilateral relations. We urge the government of Canada to exercise its influence with Polish authorities to encourage reform initiatives supportive of a impartial and independent judiciary.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. Basque', with a stylized flourish at the end.

René J. Basque, c.r./Q.C.

c.c.

Jacek Trela, Prezes NRA
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