



**HUNGARIAN BAR ASSOCIATION  
PRESIDENT**

SENT BY REGISTERED MAIL & E-MAIL

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and

Mrs. Beata Szydlo  
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Budapest, 2 August 2017

Re.: Draft laws in Poland effecting the judicial system

Dear Mr. President,  
Dear Mrs. Prime Minister,

I am writing you on behalf of the Hungarian Bar Association, the supreme organ of the Hungarian lawyers.

Back in July we have read with great concern the draft laws submitted to the Parliament for approval related to the Supreme Court, the National Council of the Judiciary and the common court system. We are also familiar with the letters sent by various international and European lawyers organizations, bar associations, law societies and individual lawyers to express their concerns.

We fully share all the concerns that have been expressed by our fellow organizations and colleagues so far, in particular the proposals in which (i) the Minister of Justice, the Parliament and the President would have enjoyed privileges to appoint judges of the Supreme Court and (ii) the executive power was aiming at exercising full supervision over the judiciary and its National Council. This contemplated supervision would clearly undermine the autonomy and the independence of the judiciary and would go against the rule of the separation of the legislative, administrative and judicial powers, cornerstone of the rule of law and the democracy.



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In addition, such a close control over the appointment of Supreme Court judges and members of the National Council of the Judiciary would certainly qualify as a direct political influence on the judiciary.

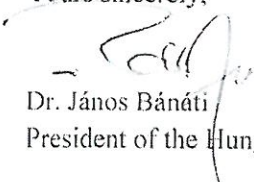
I trust you would agree that the right to have access to an independent court is one of the most important human and constitutional right of all citizens of any nations. However, with the appointment of the judges of the Supreme Court and the election of the members of the National Council of the Judiciary by lawmakers and governmental executive bodies, i.e. the people having the political power, and with the powers granted to the so elected National Council the independence of the judiciary will likely disappear.

We were pleased to learn that President Andrzej Duda declared not to sign the Act on the Supreme Court and Act on National Council of Judiciary. However, the legislative intention has not come to the end, and further drafts will likely follow the first ones. Therefore we felt obliged to express and communicate to you our sincere concerns regarding any sort of legislation which aims at or may result in undermining the autonomy and independence of the judiciary in Poland.

In Hungary, for example, the National Council of the Judiciary (Országos Bírói Tanács) comprising the President of the Kúria (Supreme Court of Hungary) and 14 members, all elected by secret vote by the delegate assembly of the judiciary, further comprising judges independently elected by various courts representing the entire judiciary in Hungary. In all member states of the European Union and in all democratic states the autonomy and independence of the judiciary is guaranteed institutionally.

Thank you for your attention to this letter. We look forward with great interest to hearing about positive news about the contemplated legislation effecting the judicial system of the Republic of Poland.

Yours sincerely,

  
Dr. János Bánáti  
President of the Hungarian Bar Association

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