

#FreeCourtsFreeElectionsFreePoland

We, as representatives of a civic society, hereby raise our objections to the amendments being prepared to the Acts on the National Council of the Judiciary and the Supreme Court. We also protest against the method of working on these propositions. We represent highly differentiated communities, but the connection between us is our objection to the abuse of authority by the current parliamentary majority which, despite not having the right to change the Constitution, is attempting to do so through normal statutes.

We would all like to draw your attention to three issues related to these drafts.

Firstly, all the solutions proposed to date terminate the term of office of the current National Council of the Judiciary and give politicians the right to appoint judges to the Council. Such a solution is in gross conflict with the Constitution. According to Article 187, para. 1, item 2 in connection with Article 10 of the Polish Constitution, judges may only be elected to the National Council of the Judiciary by judges. The suggestion of “dividing” the places for judges in the National Council of the Judiciary among political parties is just as illegal as only one party taking over these places. This means breaking the law. We would like to emphasize that the Council’s main responsibility is to protect the autonomy of the courts and the independence of the judges, which means, among other things, defending the courts against the influence of politicians. It will be impossible to fulfil this task if the Sejm decides to choose judges for the Council.

Secondly, the propositions that are being put forward pose a threat to democratic elections in Poland, because, in addition to terminating the term of office of the 1st Chairman of the Supreme Court in conflict with the Constitution and forcing many judges to retire, the chamber of the Supreme Court, which confirms the validity of elections, is to be appointed from scratch, precisely by politicians. This means that it will be possible to contest every outcome of elections by a politically dependent court.

Thirdly, it is with great regret and disappointment that we should emphasize that the bills prepared by President Andrzej Duda have simply been forced upon society. They were not subjected to public consultations. This happened even though, after the July demonstrations, the President must have been aware of how particularly important the independence of the courts is to all citizens. The public was able to obtain information on the discussions being held behind the scenes between the President and representatives of the PiS party and their results only from the so-called media “leaks”. Who worked on these Acts, what detailed options were considered, and what was ultimately agreed upon, remain secret. Such a method of working has nothing to do with transparency of law-making. This is particularly dangerous in the case of Acts of particular significance to every citizen, which are, after all, the Acts on the National Council of the Judiciary and the Supreme Court. These Acts apply to the rights of each of us – citizens of Poland. This is why we are demanding consultations and a public hearing before any work on these bills is undertaken in the Sejm.

We would like to emphasize that the introduction of these amendments will mean that Poland will definitively cease to be a democratic state of law. If independent general courts cease to exist, nothing will stand in the way of restricting the civic rights and duties written into the Constitution in the future without having a sufficient majority.

We are aware of many shortcomings in the administration of justice and have many ideas on how to change these shortcomings, but we would like to emphasize that none of the President’s proposals to date resolve any procedural or substantive weaknesses of the Polish judiciary. Quite the contrary. They pose a threat of destabilizing the administration of justice and isolating Poland in the European Union and in the international arena.

Therefore, we request the immediate stoppage of parliamentary work on the Acts on the National Council of the Judiciary and the Supreme Court and demand the start of extensive public consultations on this.

If the Acts are passed by the Sejm and the Senate, we expect two vetoes from the President. We shall not give away the independence of the judiciary, free elections and a democratic state of law!

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