

MEDEL statement on the suspension of the Polish Judiciary Council by the ENCJ

The General Assembly of the European Network of Councils for the Judiciary (ENCJ) decided in its meeting of September 17th, 2018, to suspend the membership of the Polish Judiciary Council (KRS - Krajowa Rada Sądownictwa).

The ENCJ concluded that currently the KRS is not "independent of the executive and legislature" and therefore is not capable of ensuring "the final responsibility for the support of the judiciary in the independent delivery of justice".

Although deeply regretting that the situation had to reach this outcome, MEDEL wishes to express its full support to the decision of the ENCJ.

After changes of law implemented in December 2017, KRS became fully dependent of the executive and legislative powers. This happened despite the changes have received unequivocally negative opinions of national and European organisations of judges, prosecutors and lawyers.

In its Cracov Declaration of December 18th, 2017, MEDEL stressed that the new composition of the KRS not only violates European standards compiled by Venice Commission and ENCJ, but also the Polish Constitution. Current KRS, composed of judges elected by politicians, does not comply with the statutory regulations of the ENCJ. This conclusion stems not only from the analysis of relevant law, but also from the observations of the activity of current members of KRS. The election process of candidates to the higher level courts, especially the Supreme Court, fully confirmed our gravest concerns. The hearings of candidates have proven that the professional achievements have no significance today, the only election criteria is the loyalty to the ruling party. Politically dependent KRS recommended to Supreme Court fully loyal persons despite disciplinary penalties (a few prosecutors and a solicitor), or a prosecutor responsible for torturing an interrogated person (interrogated a woman during childbirth) - while rejecting independent professors and judges with significant professional expertise. During one of the hearings, all candidates were asked, whether they consider prof. Małgorzata Gersdorf as the President of the Supreme Court. The positive recommendations were given only to those who gave a negative answer.

Sadly, KRS was one of the founding members of ENCJ, a body setting up standards for other countries. It is symptomatic that KRS follows the steps of the Turkish High Council, suspended from its observer rights in ENCJ in 2016. A hope remains, that the vast majority of Polish judges rugged in their independence, will finally defend the rule of law in Poland. Medel stays with them and will always support them in their fight for an independent judiciary.

September 19th, 2018