



Deutscher **Anwalt** Verein



## **Joint Declaration**

**16 July 2021**

As the leaders of the legal communities in Germany, Paris and Warsaw, we express our utmost concern about the recent developments in the context of the Polish judicial reforms.

Independence of the judiciary, a necessary check and balance that protects democracies from authoritarian impulses, is under sustained threat in Poland. The decision of the Polish Constitutional Tribunal issued last Wednesday, 14 July 2021, ruling that temporary injunctions issued by the European Court of Justice regarding Poland's judicial reforms, and in particular the Disciplinary Chamber created at the Supreme Court, are not binding, is the most recent and glaring step in this regard.

This decision is incompatible with both the basic principles and values under European Union law and also the Polish Constitution. Access to justice and the rule of law are only protected if judges, prosecutors and advocates are able to exercise their offices free of any interference or threat of interference. Since the creation of the disciplinary chamber of the Polish Supreme Court this is no longer the case in Poland. Repressive proceedings against judges, prosecutors and advocates for their actions in defence of the rule of law, are being initiated more and more often, despite temporary injunctions and judgments by both the European Court of Justice and the European Court of Human Rights to the contrary.

The Constitutional Tribunal's decision is incompatible with the Polish Constitution, as there is no contradiction between the Constitution and the European Union treaties, establishing the CJEU and defining its jurisdiction – as has clearly been decided in the judgement of the Polish Constitutional Tribunal of 11 May 2005 in case K 18/04, issued when Poland joined the European Union.

We also note that the decision of the Constitutional Tribunal of 14 July 2021 was issued with the participation of an illegitimately appointed judge, in breach of the standards defined in the ECHR judgement in *Xeroflor v. Poland*.

If left unchecked, the current campaign against judicial independence in Poland will cause further deterioration of the Polish justice system, severely limiting its

critical role of upholding Poland's Constitution and the rights of its citizens, and thereby eroding the rule of law.

We call once again upon the Polish legislative and executive authorities to take all necessary steps to restore the rule of law, the independence of the judiciary and respect for European law.



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