



Brussels, 20 September 2017

## **Open Letter to the General Affairs Council and Member States regarding the situation in Poland**

Dear Minister,

On 25 September, the General Affairs Council will debate the situation in Poland for the second time this year. On this occasion, we are writing to reiterate our concerns and our previous call on you to act to protect the rule of law and human rights in Poland. Despite repeated warnings by the European Commission, other international bodies and civil society organisations, the Polish government has continued to undermine the rule of law, tighten its grip on media and backslide on human rights protection. These actions violate the European Union's (EU) founding principles as enshrined in Article 2 of the Treaty on European Union (TEU) and warrant a firm and prompt reaction by all EU institutions and Member States. We therefore urge you to speak out, both during the General Affairs Council meeting and in your public communications, against this situation and to support the European Commission's endeavour to bring the matter to the Council under Article 7(1) TEU.

At its meeting on 16 May, the Council expressed support for the Commission's determination to pursue its dialogue with the Polish government under the EU Framework to strengthen the Rule of Law (the Rule of Law Framework) and find a constructive solution to the issues identified in concert with the Polish authorities. However, no progress has been made since. On the contrary, the Polish authorities have continued to act with complete disregard for the Commission's recommendations, and new changes have been introduced since then which further undermine the independence of the Polish judiciary.

Indeed, as already stressed in our letter of 15 May, the changes impacting the Constitutional Tribunal and the judiciary are part of a much wider systemic attack undermining checks and balances and respect for human rights in Poland since October 2015. The powers of the executive

have been significantly expanded at the expense of other institutions, undermining the separation of powers, an essential component of the rule of law. The changes have also restricted media freedom, freedom of expression and assembly, the right to asylum, the right to privacy and women's sexual and reproductive rights. Worryingly, there are now new proposals expected to be adopted by the Parliament by the end of the year which would impinge upon the independence of the media and limit NGO access to independent funding.

Although these harmful initiatives have been met with a strong response by civil society, the government's reaction to large protests further confirms its resolve to silence critical voices.

In this context, we welcome the Commission's decision to extend its scrutiny under the Rule of Law Framework to cover more recent issues related to the independence of the judiciary, and to move forward with an infringement procedure over the Law on the Ordinary Courts Organisation, launched on 28 July. We concur with the Commission's assessment that the dialogue with the Polish authorities under the Rule of Law Framework has reached an endpoint and support the Commission's determination to use all tools at its disposal to ensure respect by this Member State for its obligations under the Treaties.

We therefore call on the Council to stand by the Commission and the European Parliament and hold the Polish government to account for its failure to respect its obligations under the Treaties. It is crucial for the three institutions to form a united front in defending the founding principles of the EU and to support the people of Poland in their effort to maintain a society in which these are upheld. The Council should voice clear support to the Commission in taking the next step and launching the procedure laid down in Article 7(1) TEU, in order for the matter to be formally placed on the Council agenda. It is time for the Council to adopt an official position on the whole range of rule of law and human rights violations in Poland, along with clear calls to bring Polish authorities to full respect of the principles enshrined in Article 2 TEU, as is required from all Member States.

We look forward to your response and we stand ready to provide any further information you may require.

Yours sincerely,

AEDH (European Association for the Defence of Human Rights)

Amnesty International

FIDH (International Federation for Human Rights)

Human Rights Watch

Reporters Without Borders