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Reference: **B1931**

Attn: EU Member States Ministers

07 December 2018

Dear Minister,

I am writing to you ahead of the upcoming General Affairs Council (GAC) on 11 December when Article 7.1 TEU proceedings regarding both Poland and Hungary are expected on the agenda to share Amnesty International's concerns on the situation in both countries.

Attached you will find Amnesty International's latest [briefing](#) on the situation of the judiciary in Poland. On 19 October, the Court of Justice of the EU (CJEU) demanded that the Polish government immediately suspend application of the law which lowers the retirement age of Supreme Court judges from 70 to 65. Under the law, 27 Supreme Court judges were forced to retire in July. Despite arguing to the contrary, the Polish government has not fully implemented the interim measures. While the recent amendment to the Law on the Supreme Court reinstates the judges who were forced to retire, it does not explicitly guarantee that these judges will continue to enjoy "the same status and the same rights and working conditions as they did before the Law on the Supreme Court entered into force" as required by the CJEU's interim measures. Further, the National Council of the Judiciary (NCJ) continues proceedings to recruit new judges of the Supreme Court and still refers to the judges who were reinstated as 'retired judges'.

The attached briefing provides information on judges facing disciplinary proceedings after having spoken out against measures undermining the independence of the judiciary or after submitting preliminary questions on the reform of the judiciary to the CJEU. While the number of judges currently directly affected by disciplinary proceedings is estimated at 20, the effect of those proceedings likely goes beyond these individual cases. Judges interviewed by Amnesty International spoke about how ongoing disciplinary proceedings against some judges had already had a "chilling effect" in various courts across Poland. Those questioned during the disciplinary proceedings describe the atmosphere as extremely hostile.

Amnesty International remains seriously concerned about ongoing attacks on the judiciary in Poland and its implications for the future of the European Union. Therefore we urge EU Member State Ministers to continue to take this matter very seriously and, in the context of the ongoing Article 7.1 TEU proceeding, to urge Polish authorities to address all of the Commission's recommendations and halt the harassment of judges. It is imperative that Poland is brought back in line with the EU's founding principles and no efforts should be spared to accomplish this. In addition, we call on both the Commission and the Council to not only assess the judicial 'reform' in the strict legal sense, but also the impact this is having on those working in the judicial system and on the people the system is meant to protect.

We share the attached briefing on recent developments in Poland to help inform your discussions next week. On Hungary, please find attached our joint letter with Human Rights Watch, the International

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Federation for Human Rights (FIDH), Reporters Without Borders (RSF) and the Open Society European Policy Institute (OSEPI).

We stand ready to assist with any further information you may require in the preparation of all further debates on these issues.

Yours sincerely,

Covadonga de la Campa



Interim Head of the European Institutions Office and Advocacy Director  
Amnesty International