STATEMENT ON THE CURRENT SITUATION OF THE JUDICIARY IN POLAND

Background

On March 13th 2026 the Sejm (the lower house of the Polish Parliament) elected four new judges in accordance with Article 191 of the Constitution. Pursuant to this article the 15 judges of the Constitutional Court are elected by the Sejm.

The Law on the Constitutional Court stipulates that elected judges must take their oath before the President of the Republic prior to assuming their duties. As the President of the Republic consistently refused to administer the oath to the four elected judges, they took the oath during a ceremony before Parliament — to which the President had been invited but did not attend— and submitted a written copy of their oath to the President of the Constitutional Court, intending to assume office. However, the President of the Constitutional Court did not allow them to do so.

At its plenary meeting in Luxemburg on May 22nd 2026 the European Association of Judges (EAJ) adopted a Statement on the situation of the judiciary in Poland. In it, the EAJ expressed its concern regarding the situation at the Constitutional Court in Poland, where four judges had been unable to commence their duties as judges sitting in that tribunal as a result of an intervention by the President of Poland and the President of the Constitutional Court. The EAJ urged the Polish authorities to comply fully with the decision of the European Court of Human Rights (ECtHR ruling of May 5th 2026 (application 17392/26) so that this situation could be resolved. In this ruling, the Republic of Poland was ordered to ensure that its competent public authorities refrain from obstructing the assumption and performance of judicial duties by the judges of the Constitutional Court.

Assessment

The EAJ once again expresses its concern regarding the situation at the Constitutional Court in Poland, where not just four but now five judges elected by the Sejm are unable to take up their posts as judges at the Court due to obstructionist measures of the President of the Republic and the President of the Constitutional Court.

As already noted, the unlawfulness of this situation has been confirmed by the ruling of the European Court of Human Rights of 5 May 2026 (17392/26), in which the ECtHR unanimously issued an interim measure ordering the Republic of Poland to ensure that its competent public authorities refrain from obstructing the assumption and performance of judicial duties by the judges of the Constitutional Court elected by the Sejm.

The EAJ again reminds the Polish authorities that it is a duty of a member state of the Council of Europe to implement judgments of the ECtHR. Further, in its opinion, adopted at its 148th plenary

session on 9–10 October 2026, the Venice Commission also emphasised the need to enable duly elected judges to carry out their duties (CDL-AD(2026)031).

The actions of the President of the Republic and the President of the Constitutional Court in preventing the judges duly elected by the Sejm from sitting on the Constitutional Court mean that the Court must continue to be regarded as not having been duly constituted. In doing so, these two office-holders have created a constitutional crisis which adversely affects the proper functioning of the system of justice in Poland.

Therefore

The EAJ once again calls on the Polish authorities, in particular the President of the Republic of Poland and the President of the Constitutional Court, to comply fully with the judgement of the ECtHR and thereby resolve this wholly unacceptable situation. The Constitutional Court is currently unable to function, thereby depriving citizens of the protection of their fundamental rights and freedoms, which are guaranteed at national and constitutional level precisely by the Constitutional Court. Any further inaction will lead to a worsening of the constitutional crisis in Poland.

The EAJ also urges all international bodies responsible for upholding standards of judicial independence to cooperate and provide support in this matter