

**Opening Remarks**  
**Liebe Committee**  
**European Parliament**

José Igreja Matos

First of all, allow me to thank you, Mr. President Juan Lopez Aguilar, in the most vivid manner the honour that represents for the European Association of Judges to be present in this meeting.

Allow me also to state, at the very beginning, how positively impressed I was by the draft interim report about Poland in discussion. The facts assessed in the report are eloquent and self-explanatory of the present situation of Polish judiciary. This detailed and thorough document is also moving in the right direction regarding the proposed measures.

For the future I sincerely hope that European Judges succeed in having a more intense cooperation with the European Parliament, in general, and with the LIBE Committee, in particular. Let's work closer and together to protect Rule of Law.

The European Association of Judges is, by far, the biggest organization representing judges. We are formed by the leading national associations of judges in 44 countries, practically all of those on our continent. EAJ is also a regional branch of the International Association of Judges representing associations of 92 countries from the five continents. This remarkable dimension was developed during more than six decades since IAJ was founded back in 1953.

The longevity and growth of our organization is largely explained by our absolute detachment of any political intervention. We are totally apolitical. However our main mission is judicial independence and rule of law, not more but certainly not less.

A judge ought to be independent. As the Court of Justice of EU clearly pointed out that means not being subject to any hierarchical constraint or subordinated to any institutional body; that means not taking orders from any source whatsoever and that means to be protected against external or internal pressures.

If a State deprives a judge of his/her independence, one cannot be considered a judge anymore; we could probably be mentioned as a very qualified expert, skilled on Legal Sciences. We can even enjoy of an easier daily work not challenging any litigants that are powerful or politically protected – but, in the end, we will not be judges, will not be at the service of all our fellow citizens.

For sure those who are listening now are well aware of what is happening in Poland. As your report acutely demonstrates, the recent so-called judicial “reforms”, considering their interaction and overall impact, forced a systemic breach of the rule of law and, in the end, will annihilate judicial independence.

The European Association of Judges has, since day one, relentlessly denounced the attacks on our independent Polish colleagues. The continuous alerts and warnings of EAJ were, several times, taken in cooperation with the most relevant international institutions of the judiciary: ENCJ, Network of Presidents of Supreme Judicial Courts, Special Rapporteur of UN on the independence of judges and lawyers, OSCE, CCJE, etc.

Starting back in 2015 with the “capture” of the Constitutional Court, not anymore an independent tribunal, and ending in recent days with the attacks on freedom of expression of judges and the activities of their association, initiating hundreds of disciplinary procedures (accompanied by salary cuts) against Polish judges, the situation is so severe that profusely justifies the proposals of this Report.

On January 11, in an historical moment, hundreds of judges from dozens of European countries marched on the streets of Warsaw. Walking along with the judges, thousands of Polish citizens plead us, several times bursting into tears, to uphold the values of democracy and rule of law. In the final speech, in front of the national parliament, my words, as president of EAJ, tried to conveyed the resilient fortitude of European Judges: We, judges, who defend on each day, in each court, the Rule of Law and not the Rule of Men declare - without judicial independence the essence of European Union will cease to exist.

During the past years, the Polish authorities disregarded all the recommendations put forward by the European Association of Judges. Even more, with only one exception, they continue to bluntly ignore ECJ rulings, dismantling, step by step, the principle of separation of powers.

Despite the actions taken by EU authorities including the triggering of Article 7, the decay of Rule of Law in Poland is now worse than ever.

Some concrete measures must be urgently taken, namely:

- To put forward the request of immediate interim measures regarding the new selection rules of the First President of the Supreme Court;

- In order to avoid the “fait accompli”, strategy used by the Polish Government, the stages for an infringement procedure should be limited in time by the Commission reducing the present timelines of 2 months to 1 month (maximum).

Regarding the excellent report of LIBE Committee I would like to underline the particular importance of the following lines of action that EAJ fully endorses:

- Regulation on the protection of the Union’s budget in order to concretely considered the withdraw of EU Funds to Member States that disregard the Rule of Law;

- Call on Commission to urgently launch infringement actions namely in relation to the legislation on the Constitutional Tribunal, to the provisions on the powers of the Extraordinary Chamber, since its composition suffers from the same faults as the Disciplinary Chamber;

- By way of interim measures, to calls on the Commission to request CJEU to suspend the activities of the new NCJ and to guarantee that the so-called “muzzle law” be paralyzed.

That said, let me also add that infringement procedures and interim measures, despite of their immense value, will not be enough to address the systemic rule of law violations in Poland; this is not a mission for ECJ – this is a duty that convokes directly the executive authorities within the EU. Also the forthcoming annual Report on Rule of Law, a very welcomed additional tool, runs the risk of being ignored or downplayed by Member States that simply are against basic rule of law safeguards.

In fact, it should be assumed that an increasing number of leaders in Central and Eastern Europe have dropped even the pretence of playing by the rules of democracy. For the future it is crucial to preserve our fundamental values now more than ever also to affront dystopian temptations in times of pandemic.

EU needs a Marshall Plan for Rule of Law or, at least, the European judges would like to perceive the “Marshall Plan” levels of determination to solve the economic crisis being also employed for the crucial topic of judicial independence.

Among judges of several countries rapidly grows a sad sourness when dealing with the increasing obstacles to impartially and independently. There is a concrete danger of a copy-paste phenomenon of the examples of Poland and Hungary to other countries, including EU states.

The three networks that embody the European Judges – the Network of Presidents of Supreme Judicial Courts, the European Network of Councils for the Judiciary and the European Association of Judges – have shown, on different occasions,

a strong determination in defence of judicial independence in Poland. On a letter signed by the three presidents to the president of the European Commission our words could not be more explicit: without an independent judiciary in all Member States, the Union will end as a common space for Democracy.

As Commissioner Didier Reynders expressed in a previous meeting with this Committee it became desperately essential that European politicians rapidly take concrete steps in a way that protects Rule of Law. Quoting a phrase attributed to Dante in “Divine Comedy”: “The hottest places in Hell are reserved for those who in time of crisis preserve their neutrality.”

In this context, EAJ’s publicly share the concern expressed by the Rapporteur with the passiveness of EU authorities in addressing the grave situation of Rule of Law in Poland.