



Syndicat de la juridiction  
administrative



**USMA**  
Union Syndicale  
des Magistrats Administratifs

## STATEMENT

The two French administrative judges' unions, SJA and USMA,  
support without reservation the Polish judges for the defence of the rule of law in Europe

The independence of the Polish judiciary is increasingly weakened by the repeated attacks of their national authorities since 2015. These attacks are characterised by a progressive political control on the Polish National Council of the Judiciary and the appointment of judges, the questioning of the independence of prosecutors, the takeover of disciplinary proceedings initiated against judges and the instrumentalisation of these proceedings for the benefit of the power in place. These measures are part of a campaign to denigrate the justice system, carried out by politicians and media close to the government.

Article 2 of the Treaty on European Union (TEU) includes the rule of law among the values of the Union. Article 19 of the TEU and Article 47 of the Charter of Fundamental Rights of the European Union guarantee effective judicial protection, by means of an appeal before an independent and impartial tribunal. Thus, the independence of the judiciary is protected as such by European law (CJEU, GC, 27 Feb. 2018, *Associação Sindical dos Juizes Portugueses / Tribunal de Contas*, case C-64/16), since each national judge is a European judge too.

Referring to these fundamental principles, the Court of Justice of the European Union held that the Polish authorities failed to comply with their obligations by undermining the independence of the judiciary (CJEU, GC, June 24, 2019, *Commission v. Poland*, case C-619/18; Nov. 5, 2019, case C-192/18; July 15, 2021, case C-791/19). The Court previously issued provisional measures suspending the effects of the contested decisions (CJEU, GC, Dec. 17, 2018, case C-619/18 R). It also adjudicated in several preliminary questions introduced by Polish courts in this regard (CJEU, GC, 19 Nov. 2019, case C-585/18, C-624/18 and C-625/18; March 26, 2020, case C-558/18 and C-563/18; March 2, 2021, case C-824/18). The judges at the origin of these preliminary questions were submitted to disciplinary proceedings.

Advocate General Tanchev recently concluded, on April 15, 2021 in cases C-487/19 and C-508/19, that the President of the Polish Republic was still undermining the independence of the judiciary by seeking to obstruct the exercise of an effective remedy against illegal appointments of judges before the Supreme Administrative Court of Poland, and by ignoring the rulings of the latter. The right to an effective remedy before an administrative court and the respect for the *res judicata* resulting from its decisions are however fundamental elements of the rule of law.

The European Court of Human Rights pinned that the illegal appointments made to the Constitutional Court of Poland (7 May 2021, case n° 4907/18), and the dismissal of a judge without an effective remedy against this decision (29 June 2021, case n° 26691/18 and 27367/18) both violated the right to a fair trial.

The principles of justice, solidarity and mutual trust are not empty words. This is why the two French unions of administrative judges, SJA<sup>1</sup> and USMA, affirm publicly their full support to all Polish colleagues fighting for their independence, backed by the independent association of Polish judges and prosecutors *Iustitia*.

Faced with the intent of the Polish authorities not to respect these court rulings, USMA and SJA bring their support to the Court of Justice of the European Union and the European Court of Human Rights and recall that their decisions are vested fully and legitimately with the authority of *res judicata* towards the national States.

SJA and USMA underline that a preliminary question to the CJEU and, more generally, actions taken by judges to protect their independence shall in no way be a ground for a disciplinary proceeding. Both unions invite the Commission to continue without failing to bring before the CJEU Poland's breaches of its obligations.

Beyond appeals to the CJEU, USMA and SJA urge the European Commission, the European Parliament and the Council to act institutionally towards Polish national authorities with the objective to restore the rule of law in Poland.

SJA and USMA are committed to defend the independence of the judiciary and the rule of law. They express their deepest concerns about the situation in Hungary and Turkey, and generally express their solidarity with all colleagues from European states where rule of law is threatened, regardless of whether they are administrative or judiciary judges.

At the national level, USMA and SJA call on the French authorities to support European efforts to restore the independence of the Polish judiciary and to safeguard the rule of law in Poland.

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<sup>1</sup> Founding member of the the Association of European Administrative Judges (AEAJ)