

Resolution no 1/12/2015

of the Council of the Faculty of Law and Administration of the University of Warsaw  
of the 14th of December 2015

The Council of the Faculty of Law and Administration of the University of Warsaw

being convinced that the defence of the constitutional order,  
and the concern for the respect for the Constitution, as the supreme law of the Republic, safeguarding  
protection of the basic human rights and freedoms,  
is a particular obligation of the whole community of jurists,

expresses its serious concern in the wake of acts undertaken at the Parliament and by the President, which undermine the constitutional principle of separation of powers (art. 10 and art. 173 of the Constitution), and the principle of legality (art. 2 and 7 of the Constitution), infringing the independence of the Constitutional Tribunal and of the judges, violating thereby the foundations of the democratic state of law.

Principal objections are caused in particular by:

1. adoption by the majority of Sejm of the 8th Term, without any legal basis, of resolutions allowing deprivation of the legal force of the prior election of the five judges of the Constitutional Tribunal;
2. refusal by the President to swear in the three judges of the Constitutional Tribunal elected on the 8th of October 2015, notwithstanding the fact that the Tribunal has expressly confirmed the constitutionality of their election;
3. non-application by the Sejm of the injunction of the Constitutional Tribunal, halting the election of the new judges until the confirmation of the constitutionality of the election made on the 8th of October;
4. hasty acceptance by the President of the oath from the new judges, whose election procedure raises reasonable constitutional doubts;
5. unacceptable omission on the part of the President of the Council of Ministers of publication of the Constitutional Tribunal judgment of the 3rd of December 2015;
6. seizure, constituting a flagrant breach of the Constitution, of the judicial functions of the courts by the President of the Republic, through a decision on discontinuance of the proceedings against pardoned individuals not yet validly and finally convicted.

As law professors, teachers of the generations of lawyers, together with the representatives of the students and of the doctoral students of our faculty, we assert that such actions demonstrate disrespect for the law, create incentives for its instrumentalisation, and lessen its status as the source and a guarantee of the civic freedoms.

The constitutional courts are a constant and necessary element of the state's institutional standards in contemporary, democratic Europe, of which we form an important part. All actions weakening the Constitutional Tribunal and undermining its authority constitute not only a breach of the constitutional order of the Republic of Poland, but also of European democratic values.

The Council of the Faculty of Law and Administration of the University of Warsaw urges the President, Sejm and the Government of the Republic of Poland to fully respect the regime of the Republic of Poland founded on the principle of separation of powers, and to publish and implement the judgments of the Constitutional Tribunal of the 3rd and 9th of December 2015.

Warsaw, on the 14th of December 2015