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Prof. dr hab. Małgorzata Gersdorf

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entitled "Challenges to the Rule of Law in Poland and Europe"

Ladies and Gentlemen,

First of all, let me thank you for the honour of being invited to today's event. I would also like to congratulate the organizers on the choice of the main theme of the conference. In contemporary Europe the rule of law seems to be the issue of key importance for the both European Union as the whole and each of its Member States.

Ladies and Gentlemen,

Older than the oldest written constitutions, the idea of Europe is essentially a notion of the rule of law based on the affirmation of human dignity and freedom. Such belief may be found in Homer's words; in Book Nine of *The Odyssey*, he contrasts the rule of those governed by law created at gatherings with foreigners, who would find such governance alien. We owe our intuition of the content of law as sourced in supremacy-independent values rather than randomness to Sophocles and his *Antigone*. Such European identity of the Constitution of the Republic of Poland has been expressed in the notion of the rule of law, endorsed by its provisions and stipulating that public authorities shall act on basis and within limits of law, natural and inalienable human dignity recognised as its source, as duly provided for in Article 30 of the Constitution of the Republic of Poland. Pursuant to Article 2 of the same, the Republic of Poland is a democratic law-abiding state following the principles of social justice. In the light of our Constitution, the rule of law requires conformity to legislation as well as compliance with constitutional provisions in view of values reflected and protected therein.

The rule of law requires citizens and authorities alike to conform to legal provisions. It is also a system of governance safeguarding the rights and freedoms of individuals against authority-related threats, by subjecting all decisions taken by authorities to the Constitution to the end of ensuring that those in power abide by the letter of law.

In light of the case law of the Court of Justice of the European Union and the European Court of Human Rights, and of expert opinions of the European Commission for

Democracy through Law, principles defining the fundamental importance of the rule of law include the following:

- Principle of legalism, standing for a transparent, responsible, democratic and pluralistic lawmaking process;
- Certainty of law;
- Separation of powers;
- Prohibition of arbitrary action by executive authorities;
- Independent and impartial courts of law;
- Effective judicial review, including the monitoring of respect for fundamental rights;
- Equality before the law[1].

These principles constitute a coherent system. The breach of but a single rule weakens the others. Over recent years of Polish political practice, we have been confronted with violations to each of the principles listed herein, in terms of restrictions to judicial independence in particular.

A state wherein law is unstable and is constantly modified, and wherein legislation – such as the Supreme Court Law – is amended multiple times over short periods, depending on political need, is not a state respecting the rule of law. A *Sejm* passing laws in the absence of deputies representing the opposition – having been refused admission to the deliberations and voting room – as was the case in 2016 – does not create law, but rather a pretence thereof.

Ladies and Gentlemen,

The rule of law empowers citizens as well as the state itself. European history, accounts of most recent years included, has served to corroborate the accuracy of the following observation by Plato: *"For wherever in a State the law is subservient and impotent, over that State I see ruin impending; but wherever the law is lord over the magistrates, and the magistrates are servants to the law, there I descry salvation and all the blessings that the gods bestow on States"* (*Laws*, Book 4).

Respect for truth is the essence of the rule of law. Authority based upon lies regarding the current Constitution, political opponents, judges and the law, the past and the present is not one abiding by the letter of law. Authority which chooses to alter the meaning of words, and – in a manner consistent with Orwell's predictions – refers to the

[1] Cf. justified motion pursuant to Article 7 clause 1 of the Treaty on European Union regarding the rule of law in Poland, COM(2017) 835 final.

destruction of judicial independence as *"a reform of the judiciary"* is not one obeying the letter of law.

A state whose leaders change the system and violate the rule of the separation of powers by passing laws without amending the Constitution is not a state of law. The *"principle of constitutional supremacy"* stipulated in the Constitution remains the foundation of the rule of law[2]. Yet this principle morphs into constitutional fiction once deprived of content by stipulating that the aforementioned constitutional supremacy shall take on the form of majority rule with the capacity to bestow any content upon constitutional norms, including content tantamount to one causing erosion to the foundations of a democratic state of law, such foundations – to quote a Constitutional Court ruling of many years – *"necessarily including human dignity on the one hand, and avoidance of arbitrary action by those in authority on the other"*[3].

Ladies and Gentlemen,

A state wherein the boundaries between law and unlawfulness are obscured for reasons of the constitutionality of laws being ruled upon in Constitutional Court by persons not called thereto in conformity to the Constitution is not one abiding by the letter of law.

The European Commission has recommended that Poland allow three judges elected to the Constitutional Court in accordance with the Constitution to adjudicate. This recommendation has not been implemented.

Independence or impartiality are difficult to come by under circumstances of the status of the adjudicator well-nigh directly depending on whether the party he/she owes his/her position to remains in power.

Such circumstances are a threat to the rule of law, as the right to adjudication exercisable by persons sitting in Court is questioned by justices of other courts. Consequently, the margin between a ruling and its opposite, between law and unlawfulness – or between law and lawlessness indeed – is obscured in a manner dangerous to citizens of the state: the possibility of an effective plea regarding the Court's adjudicating panel being raised undermines the certainty of law. Constitutional Court justices whose rulings may be upheld for the sole reason of the absence of any legislation providing for a review of the compliance of such rulings with the letter of law cannot be considered independent: such judges are dependent on the survival of the political majority in power. A change to political conditions would then be tantamount to the advent

[2] Quoted from the Constitutional Court's justification of the judgement in case U 4/06.
[3] Quoted from the Constitutional Court's justification of the judgement in case K 32/04.

of potential premises for questioning the Court's legitimacy; consequently, the Court becomes particularly dependent on the political situation, which in turn might impact the adjudication process. The doctrine has identified *"symptoms of an adjudication crisis involving the veiling of the distance between ruling content and political preferences of the ruling majority"*[4], while the existence of a constitutional court *"makes sense only if institutionally and politically independent of the parliament and government agencies"*[5].

Ladies and Gentlemen,

Threats to the rule of law have been caused by statutory amendments to constitutional rules regarding the National Council of the Judiciary. Pursuant to the Constitution, this body is charged with safeguarding the independence of courts and impartiality of judges; its duties include in particular the process of appealing to the President with motions to appoint justices. According to the Constitution, the Council shall be composed of i.a. 15 justices, formerly elected by the judicial community. Yet as a result of statutory changes introduced in 2018, the constitutional term of office of Council members was terminated, whereas electable justices (Council members) were elected not by the judiciary, but rather with a major contribution from the *Sejm*. Such process does not warrant the independence of the Council – or, consequently, of any persons whose appointments were filed for by the Council with the President. Therefore, any persons whose candidatures had been tabled before the President were improperly appointed by the same. Subsequently, a court adjudicating in a process involving aforementioned persons is not an independent court of law as provided for by relevant legislation. The same conclusion ought to be drawn with regard to persons appointed to the Supreme Court. Failing independence of the National Council of the Judiciary has been examined in proceedings before the Court of Justice of the European Union.

A state wherein the process of judicial appointment is affected by an authority composed of persons elected thereto in violation of the Constitution is not one abiding by the letter of law.

Ladies and Gentlemen,

I shall now proceed to present negative consequences caused by Supreme Court-related statutory amendments to the rule of law. Related legislative initiatives were accompanied by a propaganda campaign embarked upon by representatives of public authorities and the public media they wield power over, said campaign based on a bogus

[4] Cf. L. Garlicki, *Polskie prawo konstytucyjne* (*Polish Constitutional Law*), Warsaw 2018, p. 404.
[5] *Ibidem*.

claim of this Court's communist past. Notably, the term of office of all justices appointed to the Supreme Court pre-1989 (which was when Poland regained her sovereignty, as duly confirmed in the preamble to the Constitution) expired by law in 1990. The process of vetting justices in Poland was multi-faceted. The National Council of the Judiciary rejected motions for consent to adjudicate upon reaching the age of retirement (65) in case of justices with regard to whom impartiality-concerning objections had been raised (511 individuals were refused such consent over the period of 1990-2000 alone). Justices were obliged to file vetting statements; statutory proceedings were initiated against judges who had violated the principle of judicial impartiality in the years 1944-1989. Furthermore, since the average waiting time for a case to be resolved reached just over six months, the argument that the Supreme Court requires change for reasons of operational inefficiency is untruthful as well[6].

Changes concerning the Supreme Court involved a lowering of the retirement age for Supreme Court judges upon their 65th rather than 70th birthday, which change affected 40% of justices. Consequently, and in violation of the Constitution, the six-year term of office of the First President of the Supreme Court was reduced statutorily. Pursuant to new legislation, justices wishing to remain in office for a further three years could seek consent from the President of the Republic of Poland, once an opinion of the National Council of the Judiciary had been secured. The purpose of the regulation was not only to make judges dependent on the President of the Republic of Poland; it was also retroactive in nature and tantamount to the dismissal of justices in office, as it did not affect newly-appointed judges only. Furthermore, the Supreme Court structure was amended, two new chambers duly introduced: the Disciplinary Chamber (in all actuality constituting a separate court – independent of the First President – within the Supreme Court), and the Extraordinary Control and Public Affairs Chamber. Moreover, the extraordinary complaint institution was introduced, the measure allowing all post-1997 judicial rulings to be challenged.

In the wake of new Supreme Court Law provisions, the European Commission initiated proceedings in July 2018 for reasons of European Union legislation having been violated. In October 2018, the Court of Justice of the European Union ruled to the effect of applying temporary measures; consequently, Supreme Court justices forced to retire were reinstated. In June 2019, the Court of Justice of the European Union ruled that legal

[6] Cf. the Supreme Court. Position on the White Paper concerning the reform of the judiciary, Warsaw 2018.

provisions forcing Supreme Court justices to retire had been in violation of European Union law.

Ladies and Gentlemen,

The independence of courts of law and impartiality of judges – and thus the rule of law – have been fundamentally restricted following the merger of Prosecutor General and Minister of Justice positions. Consequently, the Minister of Justice, whom the Constitution only mentions as a member of the National Council of the Judiciary, an agency appointed to safeguard the independence of courts and impartiality of judges, has morphed into a body not only equipped with statutory competencies affecting judges, but also authorised to supervise prosecutors appearing in court as parties in trial. Prosecution has also been considerably strengthened in the area of litigation. This is how a system threat arose to the independence of courts and impartiality of judges alike, becoming a hazard to the rule of law as well.

Amendments to the Common Court System Law introduced in 2017 provided the Minister of Justice and Prosecutor General in one with competencies to take arbitrary action to dismiss presidents and vice-presidents of common courts without justification. Exercising this particular measure (until February 2018), the Minister of Justice dismissed nearly 150 court presidents and vice-presidents across Poland, replacing them with individuals enjoying the minister's approval. These competencies were changed in April 2018 under pressure from the European Commission. Today, the Minister of Justice may dismiss a president of the court in specific cases only (e.g. of breach to professional duties) once the opinion of the board of the court has been sought – yet the Minister of Justice remains the agency responsible for appointing a new official.

Legal provisions regarding the retirement age of common court judges were amended in 2017. Pursuant to new legislation, women and men could remain in office upon their 60th and 65th birthdays, respectively, consent of the Minister of Justice pending; nonetheless, the minister's decision was discretionary in nature and not subject to judicial review. Two hundred and nineteen justices filed respective motions by April 2018; the minister issued his consent in 69 cases, having examined 130 motions[7]. These provisions were changed in April 2018 under pressure by the European Commission. The retirement age for judges was set at 65, the Minister of Justice duly deprived of authority to decide whether a judge may remain in office. Yet the legislator failed to resolve the

[7] Cf. Helsinki Foundation of Human Rights: *Rządy prawem zamiast rządów prawa. Zagrożenia dla ochrony praw człowieka w Polsce w latach 2015-2019* (*Ruling with Law rather than Rule of Law. Threats to Human Rights Protection in Poland in the Years 2015-2019*), Warsaw 2019, p. 28.

matter of restoring adjudication rights to justices not permitted to remain in office pursuant to amended regulations, pronounced inconsistent with European Union law in June 2019 by the Advocate General of the Court of Justice of the European Union. On 5 November, the Court of Justice of the European Union pointed out that the changes in question were discriminatory against women.

Changes introduced in 2018 to disciplinary proceedings against judges are hugely important in terms of restricting the independence of courts and impartiality of judges, as well as a threat to the rule of law. Disciplinary proceedings wherein the Minister of Justice was only authorised to file a motion for respective proceedings to be initiated have been replaced with a new model. Pursuant to the new concept, the Minister of Justice shall appoint justices of disciplinary courts at courts of appeal and decide as to the appointment of Disciplinary Spokespersons (and their deputies) at common courts. Proceedings may take place in the absence of the justice in question, a judge acquitted by a disciplinary court of the first instance potentially convictable by a court of appeal. The practice of initiating disciplinary proceedings against justices speaking out openly in defence of the independence of courts and impartiality of judges is particularly notable, albeit pursuant to the Constitution, such is the only form of public activity allowable for representatives of the judiciary. The overall threat to the rule of law has resulted in disciplinary proceedings being recognised as a measure forcing judges to engage in specific adjudicating behaviour: coerce them to abandon the practice of references for preliminary rulings. The Disciplinary Chamber of the Supreme Court passed a disciplinary sentence against a judge for having annulled a pre-trial detention decision issued in respect of a person with intellectual disability who had no legal counsel during the first pre-trial hearing. This case brought an intervention by the UN Special Rapporteur on the Independence of Judges and Lawyers.

Threat to the rule of law is concurrent to subjecting the judiciary to executive authority exercised by politicians. A judge potentially expecting disciplinary proceedings to be initiated because of negative political appraisal of his/her work may lose his/her internal sense of impartiality, a *per se* condition of exercising it.

The capacity issued to the executive power – of having every final court judgement questioned by the Extraordinary Control and Public Affairs Chamber, newly-established at the Supreme Court – is a threat to the rule of law. This is how the executive branch has gained the possibility to impact court adjudication. Such solution allows the judiciary to be subjected to politicians in specific cases. The principle of the separation of powers has thus been obliterated.

Changes to the judiciary have also resulted in a slowdown in judiciary operations – the average time of court proceedings has stretched from 4 months in 2015 to 5.4 months in 2018[8].

Ladies and Gentlemen,

A state wherein the Prime Minister obstructs the publication of Constitutional Court rulings; the Speaker of the *Sejm* does not respect a Supreme Administrative Court judgement ordering the disclosure of statements of support for National Council of the Judiciary candidates; and the President, contrary to a Supreme Administrative Court judgement, accepts the oath from Supreme Court justices, is not one abiding by the letter of law.

A state wherein a person sentenced by a non-final court judgement and pardoned by the President of the Republic of Poland (said pardon pronounced legally unacceptable by the Supreme Court) is called to the office of the Minister of Home Affairs is not one abiding by the letter of law.

A state wherein politicians of the ruling party stand in opposition to law and democracy, judges and citizens, the nation and constitution; and judges are attacked in national propaganda campaigns with the use of billboards and online hate organised at the Ministry of Justice is not one abiding by the letter of law.

Ladies and Gentlemen,

The history and experience of the previous century have allowed us to grasp that the rule of law in a democratic state has to be based upon values reflective of human dignity, delineating boundaries for the power of the majority as well as of sovereign authority. Impartial and independent courts of law – with a capacity to appraise the constitutionality of actions taken by legislative and executive branches – are guardians of all values listed as well as guardians of liberty. The aforementioned has a major impact on the role of the judiciary in a democracy. The impartiality and independence of the judiciary remains a foundation of any democratic state of law, a keystone for modern liberal democracies, and a foundation of the rule of law.

In a democratic state of law, wherein the power of the majority is restrained by rights due to the minority – as duly reflected in the formula of constitutional democracy – the source of legitimising the judiciary lies not in election results, parliamentary elections in

[8] *Ibidem*, p. 33.

particular – but rather in the capacity to adjudicate irrespective of the will or interest of political parties. Political parties control the legislative branch, which may occasionally include constitutional courts subjected to a parliamentary majority. They also control the executive branch; consequently, the citizen remains fundamentally dependent on politicians, even if having refused them his/her support at election time. The judiciary is the only instance capable of protecting citizens against such dependency, provided that judges remain impartial and courts of law – independent. Such capacity – arising from the systemic positioning of the judiciary – is the deciding factor for the legitimisation of the judiciary in a democratic state.

Some countries in Europe have rejected such interpretation of constitutional democracy; of liberal democracy, in essence. In Poland, the rejection process is taking place with no amendments to the Constitution, state agencies increasingly subordinate to the parliamentary majority, regardless of how they ought to remain independent thereof, as stipulated in the Constitution.

The Constitution of the Republic of Poland reflects the assumptions of liberal democracy, wherein the will of the majority does not constitute a source of human rights; a democracy, wherein human rights – to quote Immanuel Kant – *"must be held sacred by man, however great the cost and sacrifice to the ruling power"* (*„Zum ewigen Frieden"*). The Constitution is an expression of the rules of democracy, wherein human rights are forged in dialogue, related knowledge developing continuously.

Pursuant to the axiology of European integration, Europe is essentially an axiological category of sorts, tying in with the related civilisation and expressing affirmation of human rights. The European legal order features constitutional pluralism, based (in light of the Treaty on European Union) on the foundation of respect for member states' *"national identities"*, *"inherent in their fundamental structures, political and constitutional"* (Article 4 clause 2 of the Treaty). Notwithstanding the above, respect for national identity (pursuant to Article 7 of the Treaty) does not extend to acceptance of breaches to European values identified in Article 2 of the Treaty as the Union's foundation, as duly expressed in the introduction of a capacity to suspend *"certain rights deriving from the application of the Treaties to the Member State in question"*, should the state be found to be breaching European values *"in a serious and persistent manner"*. Consequently, the Treaty as well as the practice of its enforcement[9] provide grounds for functional differentiation to attitudes

[9] Cf. J. H. H. Weiler: *Epilogue: Living in a Glass House. Europe, Democracy and the Rule of Law*, in: C. Closa, D. Kochenov, ed.: *Reinforcing Rule of Law Oversight in the European Union*, Cambridge 2016, p. 316.

towards European values in the Union, matters of boundaries to the majority rule in particular.

The Treaty practice, in all actuality accepting a form of unique equilibrium in sabotaging or ignoring European values as defined by the Treaty[10], or in declaring that they shall not be respected *"in areas of public morality, family law, as well as protection of human dignity or respect for physical and moral human integrity"*[11], allows European Union member states to remain therein, even if they question the liberal democracy paradigm[12] defining the Union's axiological identity. Reference sources include a belief that *"aggression against fundamental European values"* takes place *"on behalf of national democracies as an expression of the will of the people, reflected in election results"*[13]. Consequently, the survival of the European Union's axiological tissue in its Treaty-based form – based on an assumption of majority rule being subject to restriction by human rights – depends on the social acceptance of thus perceived European values in European Union member states.

Impartial judges of independent courts may play a key role in promoting European values, tantamount to axiological foundations of democracy. Without judges, the European dream of rule of law will not come true. In that sense, a democratic Europe is a Europe of judges, provided that they have the capacity for respecting and defending European values[14]. The progressing attrition of these values, the tension between ideals and reality arising from the extent of social inequalities[15] and arrogance of the elites, as well as consequences of subjecting social policy to international rivalry objectives[16] have all become a threat to the subtle infrastructure of the rule of law[17], largely formed by the legal culture of the law of the judiciary. The threat in question tends to be played up in some member states for temporary political benefits despite the inherent risk of promoting nationalistic tendencies, while it might well be concluded that *"a newly nationalistic Europe*

[10] As proven by developments concerning the European Commission's recommendations of July 27th 2016 concerning the rule of law in Poland.
[11] Quoted from the Declaration of the Republic of Poland regarding the Charter of Fundamental Rights of the European Union, in: J. Barcz, ed.: *Przewodnik po Traktacie z Lizbony* (*Guidebook to the Treaty of Lisbon*), Warsaw 2008, p. 634.
[12] Cf. M. Tushnet: *Advanced Introduction to Comparative Constitutional Law*, Cheltenham. Northampton 2014, p. 114.
[13] Cf. J. H. H. Weiler: *op. cit.*, p. 314.
[14] Cf. R. Piotrowski: *Judges and European Democracies*, Studies and Analyses of the Supreme Court, Warsaw 2019, vol. VIII, pp. 59 *et seq.*
[15] Cf. J. E. Stiglitz: *Cena nierówności* (*The Price of Inequality*), Warsaw 2015, pp. 227 *et seq.*
[16] Cf. K. Kraus, T. Geisen, T. Piątek: *Państwo socjalne w Europie* (*Social State in Europe*), Toruń 2005, p. 407.
[17] Cf. E. Łętowska: *Państwo prawne na peryferiach Europy* (*State of Law on the Peripheries of Europe*), http://publica.pl/teksty/letowska-panstwo-prawa-na-peryferiach-europy-61676.html.

*will not be reborn in its old form"*[18]. The survival of social internalisation of values bestowing meaning upon European integration remains uncertain; while Europe owes her identity and global uniqueness to these values, neither have been confirmed in any written constitutional rules.

Respect for European rule of law requires courts of law entitled to exercise the preliminary ruling mechanism to remain independent, as *"only such courts may be trusted with the loyal enforcement of European Union law in line with the case law of the Court of Justice of the European Union. The effective protection of rights laid out in European Union law requires respective domestic courts to remain free of all political pressure, especially if applied by public authorities in breach of these rights"*[19].

According to the case law of the Court of Justice of the European Union, the concept of independence presupposes in particular, that the body concerned exercises its judicial functions wholly autonomously, without being subject to any hierarchical constraint or subordinated to any other body and without taking orders or instructions from any source whatsoever, and that it is thus protected against external interventions or pressure liable to impair the independent judgment of its members and to influence their decisions[20]. Independence of the judiciary delineates the boundaries between politics and courts of law. Courts of law must be protected against external influence and/or pressure, as such factors may constitute a threat to independent adjudication by court members in cases they are responsible for handling[21].

According to the Court of Justice of the European Union, European Union member states are obliged *"to establish a system of legal measures and procedures securing effective judicial protection"*[22].

Pursuant to article 6 clause 1 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, all individuals have the right to a fair and public examination of their case, within a reasonable time and by an impartial court of law. In

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[18] Quoted from M. Król: *Europa w obliczu końca* (*Europe Facing the End*), Warsaw 2012, p. 198. Cf. E. Balibar: *Crisi e fine dell'Europa?*, Torino 2016, pp. 71 *et seq.*

[19] Quoted from K. Lenaerts: *Trybunał Sprawiedliwości i sądy krajowe: dialog oparty na wzajemnym zaufaniu i niezależności wymiaru sprawiedliwości* (*The Constitutional Court and Domestic Courts: Dialogue Based on Mutual Trust and Independence of the Judiciary*). Lecture delivered at the Supreme Administrative Court on March 19th 2018.

[20] Cf. the Court's ruling of February 27th 2018 in case C – 64/16, and case law referenced therein,

[21] Cf. the Court's ruling of September 19th 2006 in case C – 506/04.

[22] Quoted from the ruling of February 27th 2018 in case C – 64/16.

established case law of the European Court of Human Rights, the Court shall take the following factors into account when appraising whether a given body may be recognised as *"independent"* of the executive branch, the parliament, and parties to the case: 1) manner in which members of said body are appointed and 2) time in (judicial) office, 3) existence of guaranteed protection against external pressure, and 4) whether the body is perceived as independent[23], whereby the requirement itself is specified in the context of a subjective and objective impartiality test. *"Consequently, the original question concerns specific premises for whether the impartiality of a specific judge examining a specific case may be questioned (subjective test). Subsequently, it is deliberated whether given the entirety of factual circumstances and legal context, a third-party observer might justifiably conclude that the adjudicating body (judge) is insufficiently impartial"*[24]. The objective criterion relates to *"finding whether – personal circumstances of any members of the body notwithstanding – actual identifiable facts may give rise to doubts as to such body's or member's impartiality. The ultimate question is whether the specific case involves a justified reason to fear that the given adjudicating body suffers of insufficient impartiality"*[25]. Should the Court's adjudicating panel include a non-authorised judge – i.e. one elected to an occupied position, or appointed to the panel by an unauthorised person in breach of provisions of the given act of law – the finality of his/her ruling shall depend on political circumstances, to a degree justifying the belief that such given judge is insufficiently impartial.

Poland is facing a systemic threat to the rule of law, as duly confirmed by the European Commission, said threat involving restrictions to independence of courts of law and impartiality of judges.

Ladies and Gentlemen,

The primacy of politics over law is a contradiction to the rule of law – and yet such is the current condition of numerous states believed to be democratic. Law has become a servant to those in government, who use it for their own purposes. Rule of law stands in contrast to a system wherein the boundaries between law and lawlessness have become vague. This is why law practitioners are charged with the duty of ensuring that the authority of law be developed upon the common belief that it shall be serving the common good in a manner so efficient that conflicting rule of law-based democracy with a people or nation,

[23] Cf. P. Hofmański, A. Wróbel: comments to Article 6, in: L. Garlicki, ed.: *European Convention on the Protection of Human Rights and Fundamental Freedoms*, Warsaw 2010, p. 314.
[24] Cf. P. Hofmański, A. Wróbel: *op. cit.*, p. 317.
[25] *Ibidem*, p. 320, and case law referenced therein.

or placing judges in opposition to citizens shall become a fruitless exercise deprived of any political attractiveness.

I wish to hereby express my confidence that such is the purpose of this Conference. I also thank you for the honour of having been invited to present my point of view which ties firmly in with our local experiences, occasionally quite problematic.

Thank you for your attention.