



MEDEL urges the French authorities to abandon their plan to restrict the freedom of expression of members of the judiciary.

AFTER POLAND AND HUNGARY, FRANCE?

It is with the greatest concern that MEDEL takes note of the will of French authorities to question the freedom of expression of the magistrates and, through it, to undermine the independence of the French judiciary.

Two days after the European Court of Human Rights decision *SARISU PEHLIVAN v. Turkey* of 6 June 2023 (which reminds that the professional organizations of judges are central actors of civil society whose statements must benefit from a "high level of protection" since they are part of a "debate on questions of public interest"), the French Senate changed the French magistrates statute to drastically restrain the freedom of expression of the judges unions whenever the issue isn't directly linked with their professional practice.

This attack must be taken all the more seriously since it expressly targets the positions taken by the magistrates' union and which merely reminded the mission of preserving fundamental rights which is incumbent on the judicial authority in any democratic society and the independence which must be recognized accordingly. Positions adopted on the occasion of a vast police operation implemented in Mayotte with the official aim of combating irregular immigration but in a context where it was to be feared the deployment of excessive repression, several officials local politicians who openly called for extrajudicial action against foreigners.

This attack appears to us to be all the more worrying in that it comes a few weeks after the Minister of Justice, who was also prosecuted for illegal taking of interest, officially informed the Superior Council of the Judiciary of his "questions" on the limits judges' freedom of expression.

While claiming to work for the rule of law in Europe, it would seem on the contrary that French authorities have chosen to follow in the footsteps of the Polish and Hungarian governments in their endeavour to challenge the independence of the judiciary, at the risk of exposing France to infringement proceedings before the courts of the European Union.

MEDEL reminds, as recognized by all European bodies and in particular the Council of Europe, the European Court of Human Rights and the Court of Justice of the European Union, that participation in public debate on questions of general interest – and in particular on the level of effective protection of public rights and freedoms – is for the magistrates not only a right, but also a duty.

MEDEL therefore urges the French authorities to abandon their plan to restrict the freedom of expression of members of the judiciary and, on the contrary, to work making the “country of the declaration of human rights” the spearhead of a reinforcement structures of the rule of law within Europe.

June 13, 2023

