

Amendment 112

Jadwiga Wiśniewska, Joachim Stanisław Brudziński, Elżbieta Kruk
on behalf of the ECR Group

Report

A9-0138/2020

Juan Fernando López Aguilar

Determination of a clear risk of a serious breach by the Republic of Poland of the rule of law
2017/0360R(NLE)

Motion for a resolution

Paragraph 56 a (new)

Motion for a resolution

Amendment

56 a. Recalls that international law does not recognise the so-called right to abortion and no binding treaty recognises such a right, and that the ECHR has repeatedly stressed that the right to private life cannot be interpreted as consenting to the so-called right to abortion; recalls that such a right cannot, furthermore, be considered to emerge as an international custom, since in the vast majority of countries which allow access to abortion, such access constitutes immunity from criminal proceedings and is not defined as a right;

Or. en

11.9.2020

A9-0138/113

Amendment 113

Jadwiga Wiśniewska, Joachim Stanisław Brudziński, Elżbieta Kruk
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A9-0138/2020

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Motion for a resolution

Subheading 25

Motion for a resolution

Amendment

***Hate speech, public discrimination,
violence against women, domestic
violence and intolerant behaviour against
minorities and other vulnerable groups,
including LGBTI persons***

deleted

Or. en

Amendment 114

Jadwiga Wiśniewska, Joachim Stanisław Brudziński, Elżbieta Kruk
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Determination of a clear risk of a serious breach by the Republic of Poland of the rule of law
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Motion for a resolution**Paragraph 57***Motion for a resolution*

57. ***Urges the Polish authorities to take all necessary measures to firmly combat racist hate speech and incitement to violence, online and offline, and publicly condemn and distance itself from racist hate speech by public figures, including politicians and media officials¹⁰⁸, to address prejudices and negative sentiments towards national and ethnic minorities (including Roma), migrants, refugees and asylum seekers and to ensure effective enforcement of the laws outlawing parties or organisations that promote or incite racial discrimination¹⁰⁹; calls on the Polish authorities to comply with the 2019 recommendations of the United Nations Committee on the Elimination of Racial Discrimination¹¹⁰;***

Amendment

57. ***Stresses that the Polish Government conducts monitoring of crimes motivated by prejudice, and the scope of that monitoring includes information about preparatory proceedings for hate crimes conducted (by the police) throughout the country; points out that hate crimes, due to their high social harmfulness, are included in the Priorities of the Police Commander in Chief; notes that educational activities are also conducted in order to provide police officers with the knowledge and skills necessary to prevent and combat hate crimes;***

¹⁰⁸ EP Resolution of 15 November 2017, para. 18; PACE, Resolution 2316 (2020) of 28 January 2020 on the functioning of democratic institutions in Poland, para. 14; UN Human Rights Committee (HRC), Concluding observations on the seventh periodic report of Poland, 23 November 2016, CCPR/C/POL/CO/7, paras 15-18.

¹⁰⁹ United Nations Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-second to twenty-fourth periodic reports of Poland, August 2019.

¹¹⁰ Ibid.

Or. en

Amendment 115

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Motion for a resolution**Paragraph 58***Motion for a resolution*

58. *Is deeply concerned by the Polish Deputy Minister of Justice's recent declaration that Poland should denounce the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention); encourages the Polish authorities to give practical and effective application to that Convention, including by ensuring application of the existing legislation across the country, as well as the provision of a sufficient number and quality of shelters for women who are victims of violence and their children;*

Amendment

58. *Welcomes the actions of Polish authorities condemning xenophobic and fascist hate crime or hate speech and calls on Polish authorities to further take appropriate actions in that regard;*

Or. en

Amendment 116

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Motion for a resolution**Paragraph 59***Motion for a resolution*

59. *Notes* that the *May 2020 LGBTI Survey II conducted by the European Union Agency for Fundamental Rights highlights an increase in intolerance and violence in Poland towards LGBTI persons and complete disbelief in the government's combat against prejudice and intolerance by Polish LGBTI respondents, recording the lowest percentage across the Union (only 4 %), and the highest percentage of respondents avoiding going to certain places for fear of being assaulted, harassed or threatened (79 %)*;

Amendment

59. *Recalls* that the *Constitution of the Republic of Poland confirms the prohibition of discrimination against anyone on any grounds*;

Or. en

Amendment 117

Jadwiga Wiśniewska, Joachim Stanisław Brudziński, Elżbieta Kruk
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Determination of a clear risk of a serious breach by the Republic of Poland of the rule of law 2017/0360R(NLE)

Motion for a resolution**Paragraph 60 – introductory part***Motion for a resolution**Amendment*

60. *Recalls, also in the context of the 2020 presidential campaign, its stance as expressed in its resolution of 18 December 2019, when it strongly denounced any discrimination against LGBTI people and the violation of their fundamental rights by public authorities, including hate speech by public authorities and elected officials, the banning of and inadequate protection against attacks on Pride marches and awareness-raising programmes, the declarations of zones in Poland free from so-called ‘LGBT ideology’ and the adoption of ‘Regional Charters of Family Rights’, discriminating in particular against single-parent and LGBTI families; notes the lack of any improvement in the situation of LGBTI persons in Poland since the adoption of that resolution and that mental health and physical safety of Polish LGBTI people are particularly at risk; recalls the condemnation of such actions by the Polish Commissioner for Human Rights, who filed nine complaints to administrative courts arguing that the LGBTI-free zones violate Union law, and by the Commission and international organisations; recalls that spending under cohesion funds must not discriminate on the basis of sexual orientation and that municipalities acting as employers must respect Council Directive 2000/78/EC¹¹¹, which prohibits discrimination and*

60. *Reiterates its call that discrimination against LGBTI people by persons performing public functions, including hate speech, and violation of personal rights should be denounced, and calls on the Commission to condemn such discrimination;*

harassment on the ground of sexual orientation in employment¹¹² ; calls on the Polish authorities to implement the relevant case law of the Court of Justice and the European Court of Human Rights and in that context to address the situation of same sex spouses and parents with a view to ensuring their enjoyment of the right to non-discrimination in law and in fact¹¹³ ; condemns the law suits against the civil society activists who published the so-called “Atlas of Hate” that documents cases of homophobia in Poland; strongly invites the Polish government to ensure the legal protection of LGBTI people against all forms of hate crime and hate speech;****

¹¹¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).

¹¹² European Commission, DG REGIO, letter to the authorities of the Polish regions of Lublin, Łódź, Lesser Poland, Podkarpackie and Świętokrzyskie, 27 May 2020. See, as well, Judgment of the Court of Justice of 23 April 2020, Associazione Avvocatura per i diritti LGBTI, C-507/18, ECLI:EU:C:2020:289.

¹¹³ Judgment of the Court of Justice of 5 June 2018, Coman, C-673/16, ECLI:EU:C:2018:385; Judgment of the European Court of Human Rights of 2 March 2010, Kozak v. Poland (application no. 13102/02); Judgment of the European Court of Human Rights of 22 January 2008, E.B. v. France (application no. 43546/02); Judgment of the European Court of Human Rights of 19 February 2013, X and Others v. Austria (application no. 19010/07); Judgment of the European Court of Human Rights of 30 June 2016, Taddeucci and McCall v. Italy (application no. 51362/09); Judgment of the European Court of Human Rights of 21 July 2015, Oliari and Others v. Italy (applications nos.

18766/11 and 36030/11); Judgment of the European Court of Human Rights of 14 December 2017, Orlandi and Others v. Italy (applications nos. 26431/12, 26742/12, 44057/12 and 60088/12); Judgment of the European Court of Human Rights of 14 January 2020, Beizaras and Levickas v. Lithuania (application no. 41288/15).

Or. en

Amendment 118

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Motion for a resolution**Paragraph 61***Motion for a resolution*

61. *Notes* that the **lack** of independence of the judiciary in Poland **has already begun affecting** mutual **trust** between Poland and other Member States, **especially** in the field of judicial cooperation in criminal matters, **given that national courts have refused or hesitated to release Polish suspects under the European Arrest Warrant procedure due to profound doubts about the independence of the Polish judiciary; considers the threat to the uniformity of the Union legal order posed by the deterioration of the rule of law in Poland to be particularly serious; points out that mutual trust between the Member States can be restored only once respect for the values enshrined in Article 2 TEU is ensured;**

Amendment

61. *Recognises* that the **issue** of independence of the judiciary in Poland **is an area under the exclusive competence of that Member State and cannot constitute grounds for mutual mistrust** between Poland and other Member States, **including** in the field of judicial cooperation in criminal matters;

Or. en

Amendment 119

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Motion for a resolution**Paragraph 62***Motion for a resolution*

62. ***Calls on*** the Polish government ***to comply*** with all provisions relating to the rule of law and fundamental rights enshrined in the Treaties, the Charter, the ECHR and international human rights standards, and ***to engage in an honest*** dialogue with the Commission; ***stresses that such dialogue needs to be conducted in an impartial, evidence-based and cooperative manner; calls on the Polish government to cooperate with the Commission pursuant to the principle of sincere cooperation as set out in the TEU; calls on*** the Polish government to swiftly ***and fully*** implement the rulings of the Court of Justice and to respect the primacy of Union law;

Amendment

62. ***Affirms that*** the Polish Government ***is complying*** with all provisions relating to the rule of law and fundamental rights enshrined in the Treaties, the Charter, the ECHR and international human rights standards, and ***that it is engaging directly in*** dialogue with the Commission; ***acknowledges the measures taken by*** the Polish Government to swiftly implement the rulings of the Court of Justice and to respect the primacy of Union law;

Or. en

A9-0138/120

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A9-0138/2020

Determination of a clear risk of a serious breach by the Republic of Poland of the rule of law
2017/0360R(NLE)

Paragraph 63

Amendment

63. *Calls on the Council and the Commission to refrain from narrowly interpreting the principle of the rule of law, and to use the procedure under Article 7(1) TEU to its full potential by addressing the implications of the Polish government's action for all the principles enshrined in Article 2 TEU, including democracy and fundamental rights as highlighted in this report;*

Or. en

Amendment 121

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Determination of a clear risk of a serious breach by the Republic of Poland of the rule of law
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Motion for a resolution**Paragraph 64***Motion for a resolution*

64. ***Calls on*** the Council to resume ***the*** formal hearings - ***the last of which was held as long ago as December 2018 - as soon as possible and to include in those hearings*** all the latest and major ***negative developments*** in the areas of rule of law, democracy and fundamental rights; ***urges the Council to finally act under the Article 7(1) TEU procedure by finding that there is a clear risk of a serious breach by the Republic of Poland of the values referred to in Article 2 TEU, in the light of overwhelming evidence thereof as displayed in this resolution and in so many reports of international and European organisations, the case law of the Court of Justice and the European Court of Human Rights and reports by civil society organisations;*** strongly recommends that the Council ***address concrete*** recommendations ***to Poland, as provided for in Article 7(1) TEU, as a follow-up to the hearings, and that it indicate deadlines for the implementation of those recommendations;*** ***calls furthermore on the Council to commit to assessing the implementation of these recommendations in a timely manner;*** ***calls on the Council to keep Parliament regularly informed and closely involved and to work in a transparent manner, to allow for meaningful participation and oversight by all European institutions and bodies and by civil society organisations;***

Amendment

64. ***Sees no need for*** the Council to resume formal hearings ***in the context of taking into account*** all the latest and major ***clarifications provided by the Polish authorities and the findings of this procedure*** in the areas of rule of law, democracy and fundamental rights; strongly recommends that the Council, ***when formulating possible*** recommendations, ***conduct a dialogue with the Polish authorities in accordance with the principle of partnership and respect for Polish sovereignty, especially in areas not covered by Union competences;***

