

Amendment 82

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 34***Motion for a resolution*

34. ***Welcomes the Commission's initiation of*** infringement proceedings in relation to the aforementioned new provisions; calls on the Commission to request the Court of Justice to use the expedited procedure and to grant interim measures, when it comes to a referral of the case to the Court of Justice;

Amendment

34. ***Does not see, in the light of the explanations provided by the Polish authorities and the findings of the present proceedings, any grounds for the Commission to initiate*** infringement proceedings in relation to the aforementioned new provisions; calls on the Commission to request the Court of Justice to use the expedited procedure and to grant interim measures, when it comes to a referral of the case to the Court of Justice;

Or. en

Amendment 83

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

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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 35***Motion for a resolution*

35. ***Denounces*** the merger of the office of the Minister of Justice and that of the Prosecutor General, the increased powers of the Prosecutor General vis-à-vis the prosecution system, the increased powers of the Minister of Justice in respect of the judiciary (Act of 27 July 2001 on the organisation of common courts⁷⁷, ***as amended***) ***and the weak position of checks on those powers (National Council of Public Prosecutors), which result in the accumulation of too many powers for one person and have direct negative consequences for the independence of the prosecutorial system from the political sphere, as stated by the Venice Commission***⁷⁸ ;

⁷⁷ Ustawa z dnia 27 lipca 2001 r. Prawo o ustroju sądów powszechnych (Dz.U. 2001 nr 98 poz. 1070).

⁷⁸ Venice Commission Opinion of 8-9 December 2017 on the Act on the Public Prosecutor's office, as amended, CDL-AD(2017)028, para. 115.

Amendment

35. ***Recognises that*** the merger of the office of the Minister of Justice and that of the ***Public*** Prosecutor General, the increased powers of the ***Public*** Prosecutor General vis-à-vis the prosecution system, ***and*** the increased powers of the Minister of Justice in respect of the judiciary (Act of 27 July 2001 on the organisation of common courts) ***fall under the sole competence of the Member States as regards the organisation and structure of the judiciary***;

Or. en

Amendment 84

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

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A9-0138/2020

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Motion for a resolution

Paragraph 36

Motion for a resolution

Amendment

36. *Recalls that, in its judgement of 5 November 2019, the Court of Justice found that lowering the retirement age of public prosecutors was contrary to Union law because it established a different retirement age for male and female public prosecutors in Poland;* *deleted*

Or. en

Amendment 85

Jadwiga Wiśniewska, Joachim Stanisław Brudziński, Elżbieta Kruk
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Motion for a resolution**Paragraph 37***Motion for a resolution*

37. ***Concurs with the Commission, the Parliamentary Assembly of the Council of Europe and the Group of States against Corruption and the United Nations Special Rapporteur on the Independence of Judges and Lawyers that the aforementioned separate changes to the legislative framework governing the judicial system, considering their interaction and overall impact, amount to a serious, sustained and systemic breach of the rule of law, enabling the legislative and executive powers to interfere throughout the entire structure and output of the justice system in a manner which is incompatible with the principles of separation of powers and the rule of law, thereby significantly weakening the independence of the judiciary in Poland⁷⁹; condemns the destabilising impact on the Polish legal order of the measures taken and appointments made by the Polish authorities since 2016;***

Amendment

37. ***In the light of the explanations provided by the Polish authorities and the findings made in the course of this procedure, the above-mentioned reforms to the judicial system, given their rationale and purpose, do not constitute a serious, persistent and systemic breach of the rule of law and make it possible to strengthen the principle of checks and balances between the legislative, executive and judicial authorities by jointly shaping the judicial system in Poland;***

⁷⁹ Commission Recommendation (EU) 2018/103; United Nations, Special Rapporteur on the independence of judges and lawyers, Statement of 25 June 2018; European Commission, 2019 European semester: Country report Poland, 27 February 2019, SWD(2019) 1020 final, p. 42; the Presidents of the European Network of Councils for the Judiciary, the

Network of Presidents of the Supreme Courts of the EU and the European Judges Association, letter of 20 September 2019; GRECO, Follow-up to the Addendum to the Fourth Round Evaluation Report (rule 34) – Poland, 6 December 2019, para. 65; PACE, Resolution 2316 (2020) of 28 January 2020 on the functioning of democratic institutions in Poland, para. 4.

Or. en

11.9.2020

A9-0138/86

Amendment 86

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

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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

Subheading 15

Motion for a resolution

Amendment

***Protection of fundamental rights in
Poland***

deleted

Or. en

11.9.2020

A9-0138/87

Amendment 87

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

Subheading 16

Motion for a resolution

Amendment

***The Polish Commissioner for Human
Rights***

deleted

Or. en

Amendment 88

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

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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 38***Motion for a resolution**Amendment*

38. Is concerned about political attacks on the independence of the Office of the Commissioner for Human Rights⁸⁰; highlights the fact that the Commissioner for Human Rights has been publicly critical, within his area of responsibility, of various measures taken by the current government; recalls the fact that the statute of the Commissioner for Human Rights is enshrined in the Polish Constitution and that the term of office of the current Commissioner for Human Rights is due to end in September 2020; *deleted*

⁸⁰ See, as well, Council of Europe Commissioner for Human Rights, Letter addressed to the Prime Minister of Poland, 19 January 2018; Joint Statement in Support of the Polish Commissioner for Human Rights, signed by ENNHRI, Equinet, GANHRI, IOI, OHCHR Europe, June 2019.

Or. en

11.9.2020

A9-0138/89

Amendment 89

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Motion for a resolution

Subheading 17

Motion for a resolution

Amendment

The right to a fair trial

deleted

Or. en

Amendment 90

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Motion for a resolution**Paragraph 39***Motion for a resolution**Amendment*

**39. Is concerned about reports *deleted*
alleging undue delays in court
proceedings, difficulties in accessing legal
assistance during arrest, and instances of
insufficient respect for the confidentiality
of communication between counsel and
client⁸¹ ; calls on the Commission to
closely monitor the situation regarding
lawyers in Poland; recalls the right of all
citizens to be advised, defended and
represented by an independent lawyer in
accordance with Articles 47 and 48 of the
Charter;**

⁸¹ UN Human Rights Committee (HRC),
Concluding observations on the seventh
periodic report of Poland, 23 November
2016, para. 33.

Or. en

Amendment 91

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Motion for a resolution**Paragraph 40***Motion for a resolution**Amendment*

40. Is concerned that, since the entry into force on 14 February 2020 of the Act of 20 December 2019, only the Extraordinary Chamber, whose independence and impartiality itself is in question, can decide whether a judge, tribunal or court is independent and impartial, hence depriving citizens of an important element of judicial review at all other instances⁸² ; recalls the fact that following the case law of the Court of Justice, the right to a fair trial obliges every court to check, on its own initiative, whether it fulfils the criteria of independence and impartiality⁸³ ; *deleted*

⁸² *Venice Commission and DGI of the Council of Europe, Urgent Joint Opinion of 16 January 2020, para 59.*

⁸³ *Judgment of the Court of Justice of 26 March 2020, Simpson v Council and HG v Commission, Joined Cases C-542/18 RX-II and C-543/18 RX-II, ECLI:EU:C:2020:232, para 57.*

Or. en