



TEXTS ADOPTED

Provisional edition

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Situation in Poland

European Parliament resolution of 13 April 2016 on the situation in Poland (2015/3031(RSP))

The European Parliament,

- having regard to the European Union Treaties, in particular to Articles 2, 3, 4 and 6 of the Treaty on European Union (TEU),
 - having regard to the Commission Communication of 19 March 2014 on a new EU framework to strengthen the rule of law (COM(2014)0158),
 - having regard to the Charter of Fundamental Rights of the European Union,
 - having regard to the European Convention on Human Rights (ECHR),
 - having regard to Parliament's debate of 19 January 2016 on the situation in Poland,
 - having regard to the Venice Commission opinion of 12 March 2016 on the amendments of 22 December 2015 to the Act of 25 June 2015 on the Constitutional Tribunal of Poland,
 - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas respect for the rule of law, democracy, human rights, fundamental freedoms, and the values and principles enshrined in EU treaties and international human rights instruments are obligations incumbent on the Union and its Member States and must be complied with;
- B. whereas, under Article 2 of the TEU, the EU is founded on respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, values which are shared by all Member States and which must be upheld by the EU, and by each individual Member State, in all their policies;
- C. whereas, under Article 4(2) of the TEU, the EU must respect the equality of Member States before the Treaties, as well as their national identities;

- D. whereas, under article 4(3) of the TEU, pursuant to the principle of sincere cooperation, the Union and the Member States must, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties;
- E. whereas, under Article 17 of the TEU, the Commission must ensure the application of the Treaties;
- F. whereas the rule of law is the backbone of democracy and is one of the founding principles of the EU, operating on the basis of the presumption of mutual trust that Member States conform with democracy, the rule of law and fundamental rights, as enshrined in the Charter of Fundamental Rights and the ECHR;
- G. whereas an efficient, independent and impartial judicial system is essential for the rule of law and to ensure the protection of the fundamental rights and civil liberties of citizens in Europe;
- H. whereas the Constitutional Tribunal was established as one of the central elements ensuring checks and balances in constitutional democracy and the rule of law in Poland;
- I. whereas recent events in Poland, in particular the political and legal dispute concerning the composition of the Constitutional Tribunal and new rules on its operation (relating, among other things, to the examination of cases and the order thereof, the raising of the attendance quorum and the majorities needed to pass decisions of the Tribunal) have given rise to concerns regarding the ability of the Constitutional Tribunal to uphold the constitution and guarantee respect for the rule of law;
- J. whereas the Venice Commission clearly stated that the Constitutional Tribunal cannot fulfil its role as guarantor of the supremacy of the Constitution of Poland owing to the fact that the Tribunal's verdict of 9 March 2016 is unpublished and therefore cannot enter into force, and that this is undermining the rule of law; whereas the Venice Commission warned that crippling the Tribunal would undermine democracy, human rights and the rule of law;
- K. whereas the actions taken by the Polish Government and the President of the Republic of Poland with regard to the Constitutional Tribunal represent a risk to constitutional democracy;
- L. whereas, following the orientation debate of 13 January 2016, the Commission decided to initiate the structured dialogue under the Rule of Law Framework by sending a letter to the Polish Government with a view to clarifying the situation in Poland;
- M. whereas the Commission, as guardian of the Treaties, will now collect and examine all the relevant information and assess whether there are clear indications of a systemic threat to the rule of law;
- N. whereas the Rule of Law Framework is intended to address threats to the rule of law which are of a systemic nature, particularly in situations which cannot be effectively solved by infringement procedures and where the 'rule of law safeguards' which exist at national level no longer seem capable of effectively addressing these threats;
- O. whereas the current Polish Constitution, adopted in 1997, guarantees the separation of powers, political pluralism, freedom of the press and of speech and the right to information;

- P. whereas, in addition to the constitutional crisis, there are other issues that are of serious concern to the European Parliament insofar as they may constitute breaches of European law and fundamental rights, including women's rights; whereas such moves by the Polish Government must be closely monitored by the European institutions;
1. Considers it essential to guarantee that the common European values listed in Article 2 of the TEU are upheld in full;
 2. Believes that all Member States must fully comply with EU law in their legislative and administrative practice, and that all legislation, including the primary law of all Member States and candidate countries, must reflect and adhere to basic European values, namely democratic principles, the rule of law and respect for fundamental rights;
 3. Is seriously concerned that the effective paralysis of the Constitutional Tribunal in Poland poses a danger to democracy, human rights and the rule of law;
 4. Urges the Polish Government to respect, publish and fully implement without further delay the Constitutional Tribunal's judgment of 9 March 2016 and to implement the judgments of 3 and 9 December 2015;
 5. Calls on the Polish Government to fully implement the recommendations of the Venice Commission; shares the Venice Commission's opinion that the Polish Constitution and European and international standards require that the judgments of a Constitutional Court be respected;
 6. Welcomes Commission Vice-President Timmermans's recent visit to Poland and his statement at the Commission meeting of 6 April 2016 on the start of a dialogue to find a way out of the current situation, based on full respect for the constitutional framework, which means publication and implementation of the rulings of the Constitutional Tribunal; shares his concerns about the possibility of having two parallel legal systems, which would lead to legal uncertainty;
 7. Supports the Commission's decision to launch a structured dialogue under the Rule of Law Framework, which should clarify whether there is a systemic threat to democratic values and the rule of law in Poland; welcomes the Commission's reassurance that the dialogue with Polish authorities will be conducted in an impartial, evidence-based and cooperative manner, and calls on the Commission, should the Polish Government fail to comply with the Venice Commission recommendations in the course of the structured dialogue, to activate the second stage of the rule of law procedure by issuing its 'rule of law recommendation' and to offer its support to Poland in developing solutions to strengthen the rule of law;
 8. Emphasises, nevertheless, that all the steps to be taken must respect the competences of the EU and of its Member States, as set by the Treaties and the principle of subsidiarity;
 9. Calls on the Commission to keep Parliament regularly and closely informed of its assessments, the progress made and the actions taken;
 10. Expresses the hope that the structured dialogue between the Polish Government and the Commission will also result in other decisions of the Polish Government that have given rise to concerns as to their legality and potential impact on fundamental rights being reviewed;

11. Expects the Commission to monitor all Member States in the same way as regards respect for democracy, the rule of law and fundamental rights, thus avoiding double standards, and to report back to Parliament;
12. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the President of the Republic of Poland.