



European Commission statement on the judgment of the European Court of Justice on Poland's Ordinary Courts law

Brussels, 5 November 2019

Today the European Court of Justice has ruled that the provisions of the Polish law amending the law on the ordinary courts organisation, which lower the retirement age of ordinary court judges, whilst allowing the Minister of Justice to decide on the prolongation of their active service, and which set a different retirement age depending on their gender, are contrary to EU law.

In response to the judgment of the Court, the European Commission has issued the following statement:

"The European Commission takes note of the judgment of the Court of Justice of the European Union, which confirms the Commission's position.

This is an important ruling in support of the independence of the judiciary in Poland and beyond, as well as to prevent discrimination on the basis of gender. It states that the provisions of the Polish law which amended the law on the ordinary courts organisation are contrary to EU law. It clarifies that Poland has failed to fulfil its obligations under EU law, first, by establishing a different retirement age for men and women who were judges or public prosecutors in Poland and, second, by lowering the retirement age of judges of the ordinary courts while conferring on the Minister for Justice the power to extend the period of active service of those judges.

We stand ready to support the Polish Government and to continue discussions on the resolution of all other outstanding issues related to the rule of law in Poland under the ongoing Article 7 Procedure.

The rule of law is a founding pillar of our Union and as the Guardian of the Treaties, the European Commission will continue to do whatever is necessary to uphold it."

Background

On [29 July 2017](#), the Commission launched an infringement procedure on the Polish Law on Ordinary Courts, on the grounds of its retirement provisions and their impact on the independence of the judiciary. On [12 September 2017](#), the Commission moved to the next stage of the infringement procedure by sending a Reasoned Opinion to Poland. The Commission referred the case to the European Court of Justice on [20 December 2017](#).

The first legal concern of the Commission relates to the discrimination on the basis of gender due to the introduction of a different retirement age for female judges (60 years) and male judges (65 years). According to the Commission, this is contrary to Article 157 of the Treaty on the Functioning of the European Union (TFEU) and Directive 2006/54 on gender equality in employment.

The second legal concern of the Commission is that the independence of Polish courts has been undermined by the fact that the Minister of Justice has been given a discretionary power to prolong the mandate of ordinary court judges who have reached the retirement age. According to the Commission, this is contrary to Article 19(1) TEU read in connection with Article 47 of the Charter of Fundamental Rights of the EU.

On [24 June 2019](#), the European Court of Justice ruled that the Polish 'Law on the Supreme Court', lowering the retirement age of judges of the Supreme Court, is contrary to EU law and breaches the principle of the irremovability of judges and thus that of judicial independence.

For more information

[Press release: European Commission acts to defend judicial independence in Poland](#)

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