

URGENT ACTION

AMENDMENTS THREATENING RIGHTS MUST BE STOPPED

Two legislative amendments that would undermine the right to an effective remedy and the right to a fair trial have been adopted by the Polish Parliament on 15 July. It is now in the hands of the President to refuse to sign these amendments. The President's signature could happen any moment.

The Polish Parliament has adopted amendments to the Law on the National Council of Judiciary and the Law on Common Courts that increase the government's control of the judiciary, threatening its independence and putting the right to an effective remedy and to a fair trial at risk. Following the adoption by the Senate on 15 July these amendments are now awaiting the signature of the President of Poland to enter into force. This could happen anytime.

Another amendment, of the Law on the Supreme Court, is on the agenda of the lower chamber of the parliament, *Sejm*, today and raises further concerns over the government's attempt to put the judiciary under political control. This amendment is currently in the first parliamentary hearing.

All these amendments undermine the right to an effective remedy and to a fair trial, enshrined in Article 45 of the Constitution of the Republic of Poland, in Articles 6 and 13 of the European Convention on Human Rights and Articles 2(3) and 14 of the International Covenant on Civil and Political Rights (ICCPR), all of which bind Poland legally as a state party. These amendments are also incompatible with Article 47 of the Charter of the Fundamental Rights of the European Union.

Please write immediately in Polish, English or your own language:

■ Urging the President to refuse to sign the amendments to the Law on the National Council of Judiciary and the Law on Common Courts as they threaten the independence of the judiciary and would undermine the right to an effective remedy and to a fair trial, and any upcoming amendments of the Law on the Supreme Court that threaten rights.

PLEASE SEND APPEALS BEFORE 29 AUGUST 2017 TO:

President of the Republic of Poland

Andrzej Duda

Kancelaria Prezydenta Rzeczypospolitej

Polskiej

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00-902 Warsaw, Poland

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Email: listy@prezydent.pl

Twitter: [@prezydentpl](https://twitter.com/prezydentpl)

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Salutation: Dear President

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



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ADDITIONAL INFORMATION

Since November 2015, the Polish government has been undertaking measures that in effect undermine the principles of Rule of Law and the protection of human rights. These measures prompted NGOs and international bodies to ring alarm bells over the impact these amendments may have on freedom of expression, freedom of assembly, the right to privacy, women's sexual and reproductive rights and protection from hate crimes. A year ago, in July 2016, the European Commission (EC) issued a recommendation under the Rule of Law Framework in which it found that there was a "systemic threat to the rule of law in Poland". So far there has been no specific outcome of this process and the situation in the country is getting worse every month. Dozens of activists are being prosecuted for participation in peaceful protests. Over 200 journalists were dismissed or resigned from state media. 500 prosecutors were downgraded or forced to retire. There have been large scale dismissals of civil service employees. The next target is the judiciary.

The amendment of the Law on the National Council of the Judiciary (NJC), the constitutional body safeguarding the independence of courts and judges, increases the number of judges appointed by the lower chamber of the parliament to 15 out of a total of 25 members. This increase in the number of members appointed by parliament breaches the Polish Constitution which limits that number to six members. Additionally, the reform also reduces the powers of the NJC members in the process of appointment of judges, while increasing the powers of the Minister of Justice.

On the night of 15 July the parliament also adopted an amendment to the Law on Common Courts. This reform puts the power to appoint presidents and vice-presidents of courts into the hands of the Minister of Justice. The amendment also changes the procedures for the promotion of judges which fails to specify criteria for promotions and therefore introduces an element of arbitrariness. This is yet another attempt to concentrate the powers over the entire judiciary in the hands of the Minister of Justice. This clearly violates the independence of the judiciary, and is contrary to Poland's obligations under Article 6 of the European Convention on Human Rights, Article 14(1) of the ICCPR, Article 45 of the Constitution of the Republic of Poland and Article 47 of the Charter of the Fundamental Rights of the European Union.

These attacks on the judiciary are not new or isolated. Already in 2016, the government implemented a number of problematic amendments on the functioning and the composition of the Constitutional Tribunal that severely affected its independence to the extent that the European Commission issued a recommendation under the Rule of Law Framework in which it found that there was a "systemic threat to the rule of law in Poland". Moreover, following the merger of the position of the Prosecutor General and the Minister of Justice by changing the Prosecution Act, as many as 500 out of the total 6,000 prosecutors in Poland were either demoted to a lower position, transferred to another location or forced to retire. The amendments of the Prosecution Act also increased powers of the Prosecutor General, who is now the same person as the Minister of Justice, including the power to intervene at each stage of legal proceedings led by any prosecutor by issuing instructions.

A third amendment, of the Law on the Supreme Court, is entering the first hearing in the lower chamber *Sejm* on 18 July. If this amendment enters into force, the day after all current Supreme Court judges will have to retire. The Minister of Justice, will also have the power to decide to grant exceptions to this rule and extend the tenure of some of the judges. The Minister will gain new competence within the disciplinary proceedings of the Supreme Court judges.

Gender m/f: all

UA: 173/17 Index: EUR 37/6751/2017 Issue Date: 18 July 2017