

Gruppe 1190

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490/17

AMNESTY  
INTERNATIONAL



Chancellery of the Senate

Kancelaria Senatu

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00-902 Warsaw

POLAND

SECRETARIAT  
Szefa Kancelarii Senatu  
Wpłynęło dn. 5.12.17  
nr. 6150 podpis. [Signature]

SECRETARIAT  
Szefa Kancelarii Senatu  
Wpłynęło dn. 06.12.17  
nr. SK/666 podpis. [Signature]

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Dear Sir,

I would like to bring to your kind attention again my deep concerns about the government's control of the judiciary. On 22 November, proposals to increase the government's control of the judiciary were put before the Polish Parliament. If the amendments are passed, the right to an effective remedy and the right to a fair trial will be severely undermined. The parliament is debating amendments to the Law on the National Council of the Judiciary NCJ and the Law on the Supreme Court. The proposed changes would allow parliament to elect judges to the NCJ, until now a self-regulating body of judges, and would decrease the retirement age of Supreme Court judges from 70 to 65 years, thereby requiring 40% of current Supreme Court judges to retire. Any Supreme Court judge seeking to continue their work would have to be vetted.

Both amendments are currently being discussed. If approved in the Sejm, they will be submitted to and voted on in the Senate. The President has the power to veto any proposals adopted by the parliament. On 24 July, the President vetoed two out of three legislative amendments which threatened the independence of the judiciary, following large nationwide demonstrations opposing the proposed changes. The two vetoed amendments were redrafted by the President and submitted to the parliament on 26 September. The President's redrafted amendments undermine the right to an effective remedy and to a fair trial, enshrined in Article 45 of the Polish Constitution, 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, to which Poland is a state party. These amendments are incompatible with Article 47 of the Charter of the Fundamental Rights of the European Union.

The redrafted amendment of the Law on the National Council of the Judiciary (NCJ), submitted to parliament by the President, gives the parliament the power to choose the majority of the judges sitting on the NCJ which is the constitutional body safeguarding the independence of courts and judges. This proposal breaches the Constitution of Poland, which requires the separation of powers responsible for choosing the members of the NCJ. The members should be elected by representatives of the judicial rather than legislative power. Under the current regulation, 15 judges are elected by the self-governing bodies of the judiciary; four judges are members of the lower chamber of the parliament (Sejm), and two are members of the Senate.

I call on you to vote against the proposed changes to the Law on the National Council of Judiciary and the Law on the Supreme Court. I ask you to refuse to sign into law any amendments to the Law on the National Council of Judiciary and the Law on the Supreme Court which threaten independence of the judiciary and which would undermine the right to an effective remedy and to a fair trial.

I wait for receiving your kind response.

Yours truly,

cc:

(Dr. Wolfgang Rechten)

28.11.2017

"Statesman"

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INDIA

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