

For Immediate Release

EU: Polish Government Undermines Rule of Law
EU Commission Should Pursue 'Article 7 Procedure'

(Brussels, February 16, 2017) – The European Commission should pursue enforcement action against the government of Poland under the Article 7 of the EU treaty, as the government continues to undermine the rule of law, Amnesty International, FIDH, Human Rights Watch, the Open Society European Policy Institute, Reporters Without Borders said in a letter to the Commission today. The European Union and its member states need to show resolve to halt Poland's backsliding from the common values of the EU, the organizations said.

One year ago, under its EU Rule of Law Framework, the European Commission began a dialogue with the Polish government designed to determine whether there was a systemic threat to the rule of law in Poland and prevent its escalation. In the course of the process, it then issued two rounds of recommendations to the government -- in July and December 2016. The Polish government has largely ignored those recommendations, and worryingly has also increasingly attempted to restrict the rule of law and human rights, including media freedom, freedom of assembly and women's sexual and reproductive rights.

"By attempting to silence critical voices and dismantle vital protections, Poland is creating an ever more suffocating climate for the judiciary, media and civil society. The Commission is duty-bound to act firmly and swiftly to stem this disturbing regressive tide" said Iverna McGowan, Head of Amnesty International's European Institutions Office.

Since October 2015, the President of Poland has refused to swear in lawfully appointed Constitutional Tribunal judges. The Polish Parliament adopted successive reforms affecting the Constitutional Tribunal's functioning, undermining its legitimacy and seriously reducing its ability to carry out its work. The government has routinely refused to publish and implement rulings of the Constitutional Tribunal.

"In a society based on the rule of law, the head of state cannot pick and choose whether to respect that law," said Philippe Dam, Europe and Central Asia advocacy director at Human Rights Watch. "The Commission has a duty to continue to respond to the deliberate attempts to interfere with courts, undermine basic checks and balances, and dilute the functioning of democratic institutions in Poland."

"The Polish government repeatedly attacked media freedom during the past year," said Julie Majerczak, head of Brussels office of Reporters Without Borders. "The European Union shouldn't allow one of its members to trample on EU's core values."

The European Commission triggered its Rule of Law Framework in January 2016, when the Polish government first sought to curb the independence of the Constitutional Tribunal. This mechanism, established by the Commission in 2014, was designed to address threats to the rule of law in a member state before they escalate to a level that would warrant resort to Article 7 to of the Treaty on European Union. Article 7 provides for preventive action and possible sanctions, including suspension of a member state's voting rights within the Council of the EU, if that member state violates the EU's founding values, such as the rule of law.

In July, the European Commission gave Poland three months to implement a set of recommendations to correct what it considered as a "systemic threat to the rule of law" in the country. The Polish government refused to implement the Commission's recommendations. In its December assessment, the Commission stressed that there continues to be a systemic threat to the rule of law in Poland but

refrained from moving ahead to Article 7 TEU. Instead, it decided to issue a set of additional recommendations and to set Poland a new deadline to implement them. The Polish government has apparently failed to date to take any relevant steps to address those concerns, despite the approaching February 21 deadline.

“One year after it first took action to halt the deterioration of the rule of law in Poland, it is time for the European Commission to acknowledge that the dialogue with Poland under the Rule of Law Framework has failed” said Elena Crespi, FIDH Europe Desk Director. “The Commission must now move on to the next steps and recommend resort to Article 7 TEU. This would mark the start of a new phase, where all EU actors, particularly member states, will have to stand up to defend EU values.”

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