

Communiqué of the Helsinki Foundation for Human Rights

HFHR comments on amended Supreme Court Act as it becomes effective

“The entry into force of an amendment to the Supreme Court Act constitutes yet another chapter of the rule of law crisis that has been affecting Poland since the end of 2015. ... “The law disturbs the operation and reduces the effectiveness of the highest court in Poland who has now hundreds of cases on its docket”, reads today’s position statement issued by the Helsinki Foundation.

Supreme Court Act amended

In July 2017, the President of Poland vetoed two out of the three controversial laws that aimed to reform the justice system. The President also announced he would present to the Sejm his own proposals of the laws governing the Supreme Court and the National Council of the Judiciary.

The amendment to the Supreme Court Act adopted in December 2017 does not materially differ from the law vetoed in July. The new law lowers the retirement age for Supreme Court judges, introduces a new special appellate measure, the extraordinary complaint, and establishes two new Chambers of the Supreme Court: the Disciplinary Chamber and the Chamber of Extraordinary Review and Public Matters.

“Regrettably, the new law does not guarantee that the independence and institutional continuity of the Supreme Court is given adequate protection”, the position statement reads.

New retirement age for judges

Pursuant to the newly amended Supreme Court Act, all judges older than 65 must retire unless the President approves a three-year extension of a given judge’s tenure. According to the HFHR, such a regulation “...effectively reduces the independence of judges. The introduction of the new retirement age for judges linked to the procedure for presidential approval for the further discharge of a judge’s adjudicatory duties is a solution that will lead to a rapid replacement of many Supreme Court judges.”

The HFHR reminds that the new retirement age for judges was an issue raised by the European Commission in the recommendation regarding the rule of law in Poland issued in December 2017. However, this recommendation has not been followed by the Polish Government, which also failed to implement the earlier recommendations, issued in 2016 and 2017.

Extraordinary complaint

The Helsinki Foundation for Human Rights expressed its concerns also over the new provisions on the extraordinary complaint, which, in the HFHR's opinion, present a threat to the certainty of legal transactions.

“The extraordinary complaint may be abused and become a political weapon rather than a measure designed to challenge grossly unjust judicial decisions. Further concerns are raised by the fact that extraordinary complaint cases will be heard by panels comprising both professional and lay judges”, the statement further reads.

Future of Supreme Court

“The implementation of the new law on the Supreme Court is another phase of the changes in the justice system that are intended to incrementally bring it under the control of the ruling majority. The safeguarding of the rule of law will now largely depend on the moral stance of judges and their determination in defending fundamental principles of a democratic state ruled by law”, reads the statement.

The Helsinki Foundation for Human Rights declares the will to monitor the implementation of the new provisions and their consequences for the protection of the rule of law and right to a just and fair trial.

Source:

<http://www.hfhr.pl/en/hfhr-comments-on-amended-supreme-court-act-as-it-becomes-effective/>