

Statement of Bob Carlson, president, American Bar Association regarding judicial reforms in Poland

WASHINGTON, Oct. 16, 2018 — The American Bar Association is concerned about rushed efforts to implement the Polish law governing its Supreme Court enacted earlier this year. The ABA expressed concern before its adoption that the law would lead to the politicization of the court, and we believe that irregularities in the proceedings to select new judges for the Supreme Court will further undermine judicial independence in Poland.

On October 10, the Polish government appointed 27 new Supreme Court judges, violating an order of the Supreme Court of Poland to prohibit appointment of the judges until the European Court of Justice (ECJ) ruled on the legality of the law. The appointments also come in the wake of the European Commission's referral of the situation to the ECJ and its request for interim measures to restore Poland's Supreme Court to its situation before last April 3, when the law was enacted.

The law lowers the retirement age for judges on the Supreme Court, including sitting judges. This is in direct contravention of the Polish Constitution, which guarantees the six-year term of the sitting First President of the Supreme Court of Poland until 2020. While Poland may by statute lower the retirement age for other judges, the imposition of a lower retirement age on sitting Supreme Court judges gives the ruling party the authority to replace more than a third of the current court.

In light of these concerns, the ABA urges the government of Poland to respect the constitutionally protected term of the First President of the Supreme Court and to delay seating the newly appointed judges until after an ECJ ruling on the legality of the new law. These measures are necessary to ensure public confidence in the Polish judiciary and to enable the court to do its job of upholding the rule of law in Poland.

With more than 400,000 members, the American Bar Association is one of the largest voluntary professional membership organizations in the world. As the national voice of the legal profession, the ABA works to improve the administration of justice, promotes programs that assist lawyers and judges in their work, accredits law schools, provides continuing legal education, and works to build public understanding around the world of the importance of the rule of law.