



Statement of Commissioner Reynders on the referral of Poland to the European Court of Justice to protect independence of Polish judges and asks for interim measures

Brussels, 31 March 2021

Ce matin, la Commission a pris une décision importante pour la protection de l'indépendance des juges et de l'État de droit en Pologne.

La Commission a décidé de saisir la Cour de justice de l'Union européenne d'un recours contre la Pologne.

Il s'agit d'une étape cruciale dans la procédure d'infraction concernant la loi polonaise sur le pouvoir judiciaire, qui est entrée en vigueur en février 2020.

Je tiens à rappeler que la Commission a engagé cette procédure d'infraction en avril 2020.

À ce jour, la Commission a pris un certain nombre de mesures pour exprimer ses inquiétudes auprès des autorités polonaises au sujet de la loi sur le pouvoir judiciaire. La dernière en date est un avis motivé complémentaire, émis en janvier de cette année.

Nous considérons que la loi sur le pouvoir judiciaire est incompatible avec un certain nombre de dispositions fondamentales des Traités.

La Commission considère que la législation contestée porte atteinte à l'indépendance judiciaire en Pologne et est incompatible avec la primauté du droit de l'Union.

The law prevents Polish courts from directly applying EU law to protect judicial independence, including by using disciplinary proceedings.

It also prevents Polish courts from requesting preliminary rulings on such provisions to the Court of Justice.

In addition, Polish judges are at risk of being suspended from office and seeing their immunity lifted to allow criminal proceedings against them or to detain them. Such decision would be taken by the Disciplinary Chamber of the Supreme Court.

It is up to Member States to decide whether they want to have a system of judicial immunity.

But decisions to lift the immunity of judges should be taken by an independent body. In Poland, the independence and impartiality of the Supreme Court's Disciplinary Chamber is not guaranteed.

Permettez-moi de souligner que la Commission demandera également à la Cour des mesures provisoires.

En effet, sans de telles mesures la Pologne pourrait continuer à appliquer les dispositions contestées de la loi sur le système judiciaire.

Cela crée un risque de dommages graves et irréparables quant à l'indépendance du système judiciaire en Pologne et à l'ordre juridique de l'Union. Les juges polonais sont des juges européens.

We will request that the European Court of Justice in its interim measures:

- Suspends the provisions empowering the Disciplinary Chamber of the Supreme Court to decide on the lifting of the immunity of judges;
- Suspends the effects of decisions that the Disciplinary Chamber has already taken on the lifting of immunity of judges; and
- Suspends the provisions that prevent Polish judges from directly applying EU law protecting judicial independence, and from making referrals for preliminary rulings on such questions.

To conclude, since it was not possible to resolve our concerns on the law on the judiciary with the

Polish authorities, the Commission decided to seize the European Court of Justice on this matter.

More broadly speaking, the Commission continues to monitor the situation of the rule of law in all Member States, including in Poland.

We are doing so via the rule of law mechanism, with the Commission's annual rule of law report at its centre.


It is a means for Member States to engage with each other and with the Commission, to create a rule of law culture, to prevent rule of law issues from arising or deepening, and to resolve those that exist.

Of course, I'm ready to answer some questions.

Thank you very much.

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