Rule of Law: Commission launches infringement procedure against POLAND for violating EU law with the new law establishing a special committee

Brussels, 8 June 2023

Today, the European Commission opened an **infringement procedure** by sending a letter of formal notice to **Poland** for violations of EU law. This decision follows a thorough assessment by the Commission of the new law in Poland on the State Committee for the Examination of Russian influence on the internal security of Poland between 2007 and 2022, which is in force since 31 May 2023.

The Commission considers that the new law violates:

- the **principle of democracy** (Articles 2 and 10 TEU);
- the **principles of legality and non-retroactivity of sanctions** (Article 49 Charter) and general principles of legal certainty and res judicata;
- the **rights to effective judicial protection** (Article 47 Charter), ne bis in idem and the protection of professional secrecy (Article 7 Charter);
- the requirements of EU law relating to **data protection** (GDPR and Article 8 Charter).

More concretely, the Commission considers that the new law **unduly interferes with the democratic process**. The activities of the committee, e.g., investigations and public hearings, risking to create grave reputational damage for candidates in elections and, by finding that a person acted under Russian influence, could limit the effectiveness of the political rights of persons elected in democratic elections.

The new law provides a very broad and unspecified definition of “Russian influence” and “activities”. The Committee may impose sanctions prohibiting a public official to hold functions relating to the use of public funds for a period of up to 10 years. This is similar in nature to measures provided for in the Criminal Code. These sanctions are applicable also to behaviour which was legal at the time of conduct. Thereby the **law violates the principles of legality and of non-retroactivity**.

The Committee’s decisions are subject to review only by administrative courts which is limited to the requirement of respect of the law and cannot review the correctness of the assessment of facts and the weighing of evidence as conducted by the Committee.

Finally, as regards the processing of personal data, the new law does not provide for a proper legal basis for the processing nor the necessary safeguards for sensitive data. It is incompatible with EU data protection rules.

**Next steps**

Poland has 21 calendar days to reply to the letter of formal notice. If it does not address the Commission’s grievances, the Commission may decide to send a reasoned opinion as the next step in the infringement procedure.

**Background**

Democracy, the rule of law and fundamental rights are among the founding values of the European Union (Article 2 TEU). They are essential for the functioning of the EU as a whole.

On 26 May 2023, the Sejm, the lower house of the national legislature of Poland, adopted a law empowering an administrative committee, whose members would be appointed by the Sejm, to assess and decide whether individuals should be deprived of the right to hold public office. The new law, signed by the President of the Republic on 29 May 2023, sets up a special state committee, as part of the public administration, tasked with conducting inquiries determining whether senior public officials acted in the period of 2007-2022 under Russian influence to the detriment of the public interest. The committee is empowered to, amongst others, obtain classified information, change or
repeal administrative decisions, even if such decisions were confirmed by an administrative court, and deprive individuals, by means of an administrative decision, of the right to hold public office related to the handling of public funds for up to 10 years.

On 30 May, the Commission issued a statement expressing concerns on the possible violations constituted by this law and committing to its careful analysis. The next day, Commissioner Reynders sent a letter to the Minister for European Affairs of Poland, asking for more information about the new law without delay. On 1 June the Commission received a reply by Poland to the Commissioner's letter, which further contributed to the analysis of the law. On 2 June 2023, the President of the Republic tabled some amendments to the law, however the legal situation remains unchanged.

For More Information

Infringement decisions database
EU infringement procedure
Rule of law framework

Press contacts:

Christian WIGAND (+32 2 296 22 33)
Marjke SLOMKA (+32 2 298 26 13)
Cristina TORRES CASTILLO (+32 2 29 90679)

General public inquiries: Europe Direct by phone 00 800 67 89 10 11 or by email