

# Procedure file

Basic information										
RSP - Resolutions on topical subjects		2021/2935(RSP)		Procedure completed						
Resolution on the rule of law crisis in Poland and the primacy of EU law										
Subject										
8.30.10 Principles common to the Member States, EU values										
8.50 EU law										
Geographical area										
Poland										
Key players										
European Parliament										
Key events										
19/10/2021	Debate in Parliament									
21/10/2021	Results of vote in Parliament									
21/10/2021	Decision by Parliament		T9-0439/2021	Summary						
Technical information										
Procedure reference		2021/2935(RSP)								
Procedure type		RSP - Resolutions on topical subjects								
Procedure subtype		Resolution on statement								
Legal basis		Rules of Procedure EP 136-p2								
Stage reached in procedure		Procedure completed								
Documentation gateway										
Motion for a resolution			B9-0533/2021	19/10/2021	EP					
Motion for a resolution			B9-0532/2021	20/10/2021	EP					
Motion for a resolution			B9-0539/2021	20/10/2021	EP					
Text adopted by Parliament, single reading			T9-0439/2021	21/10/2021	EP					
Commission response to text adopted in plenary			SP(2022)8	16/03/2022	EC					

## Resolution on the rule of law crisis in Poland and the primacy of EU law

The European Parliament adopted by 502 votes to 153, with 16 abstentions, a resolution on the rule of law crisis in Poland and the primacy of EU law.

The text adopted in plenary was tabled by the EPP, S&D, Greens/EFA, Renew and The Left groups.

#### Background

On 29 March 2021, the Prime Minister of Poland lodged an application to the widely contested and illegitimate Constitutional Tribunal to consider whether the provisions of the TEU relating to primacy of EU law and effective judicial protection

are consistent with the Polish Constitution. On 7 October 2021, the Constitutional Tribunal presented its decision in case K 3/21 finding the provisions of the TEU incompatible with the Polish Constitution on multiple grounds. The decision in case K 3/21 was published in the Polands official gazette, thus giving it legal force in the Polish legal system.

#### Parliaments response

Parliament deeply deplored the decision of the illegitimate Constitutional Tribunal as an attack on the European community of values and laws as a whole undermining the primacy of EU law as one of its cornerstone principles. It expressed deep concern that this decision could set a dangerous precedent. It stated that the illegitimate Constitutional Tribunal not only lacks legal validity and independence but is also unqualified to interpret the Constitution in Poland.

Members deplored the fact that ruling K 3/21 has a negative impact on Polish and European citizens and businesses, as their fundamental right to an independent justice system that fully applies the EU acquis and legislation can no longer be guaranteed. It is concerned about the effective protection of the fundamental rights of Polish and European citizens in this context.

Recalling that Poland has ratified the Accession Treaty, Parliament condemned the use of the judicial system for political purposes and called on the Polish authorities to stop arbitrarily making use of its executive and legislative powers to undermine the separation of powers and the rule of law.

#### Proposed actions to restore the rule of law

Parliament reiterated its view that no EU taxpayers money should be given to governments that flagrantly, purposefully and systematically undermine European values, calling on the Commission and the Council to act, including by:

- launching infringement procedures and requesting interim measures by the EU Court of Justice;
- triggering the Rule of Law Conditionality Regulation;
- refraining from approving the Polish recovery and resilience plan;
- declaring that there is a clear risk of a serious breach of the rule of law by Poland, in accordance with the procedure laid down in Article 7(1) TEU, on the part of the Council, and expanding the scope of this procedure to cover fundamental rights and democracy;
- interrupting or suspending payments, given the risk of serious deficiencies in control systems; and
- discussing the rule of law crisis at the upcoming summit on 21-22 October and issuing a joint declaration in the strongest possible terms by the EU heads of state and government.

Members stressed that these requests are not meant to be punitive measures against the people of Poland but means by which to restore the rule of law in the light of its continued deterioration. The Commission is called on to find mechanisms that would allow for funding to reach its final beneficiaries.