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

2021/2935(RSP) - 21/10/2021 - Text adopted by Parliament, single reading

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 Poland's

official gazette, thus giving it legal force in the Polish legal system.

***Parliament's 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.