Resolution on the electoral law, the investigative committee and the rule of law in Poland

2023/2747(RSP) - 11/07/2023 - Text adopted by Parliament, single reading

The European Parliament adopted by 472 votes to 136, with 16 abstentions, a resolution on the electoral law, the investigative committee and the rule of law in Poland.

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

As a reminder, on 26 January 2023, the Sejm, the lower chamber of the Polish Parliament, adopted amendments to the country's Electoral Code, which entered into force on 31 March 2023, less than six months before parliamentary elections are expected to be called. This is in violation of the Code of Good Practice in Electoral Matters adopted by the Venice Commission and the case-law of the Polish Constitutional Tribunal.

On 14 April 2023, the Sejm adopted the Act on the State Committee for the Investigation of Russian Influence on the Internal Security of the Republic of Poland between 2007 and 2022 (Investigative Committee Act). On 8 June 2023, the Commission opened an infringement procedure, considering that the new law violates the principle of democracy, the principles of the legality and non-retroactivity of sanctions, the general principles of legal certainty and res judicata, the rights to effective judicial protection and not to be prosecuted twice for the same cause of action, and the protection of professional secrecy, as well as the requirements of EU law relating to data protection.

Moreover, on 15 February 2023, the Commission decided to refer Poland to the Court of Justice of the EU (CJEU) for violations of EU law by the 'Constitutional Tribunal' and its case-law.

Parliament condemned the deliberate and systematic efforts of the Polish Government to undermine the founding values of the EU enshrined in Article 2 TEU, especially the rule of law. It expressed deep concerns about the amendments to the Polish Electoral Code adopted shortly before the country's forthcoming 2023 parliamentary elections and with the elections to the European Parliament in 2024 on the horizon. It indicated that the amendments may have a discriminatory effect with regard to the limits for the counting of votes cast by voters abroad, which risk invalidating such votes.

The resolution welcomed the Commission's fast-track infringement procedure on the Investigative Committee Act and urged the Polish authorities to repeal the act or at least to suspend its effect until the Venice Commission has delivered its urgent opinion requested by the Monitoring Committee of the Parliamentary Assembly of the Council of Europe and the act has been amended in accordance with that opinion. The Commission is called on to pursue the infringement procedure as soon as possible if the act remains in force, in particular by using an expedited infringement procedure and applying to the CJEU for interim measures.

Parliament called on the Commission to:

- urgently launch an **infringement procedure** regarding the illegitimate National Council of the Judiciary (NCJ) and all judges appointed by it, in particular those appointed to the Extraordinary Control and Public Affairs Chamber of the Supreme Court, which examines electoral disputes;

- refrain from any actions or statements that might indicate that there have been any non-transparent negotiations or agreements prejudging the official position of the institutions. It regretted the lack of

information made available to Parliament regarding the Commission's assessment of the Polish authorities' compliance with the milestones and conditions, hampering Parliament's ability to exercise its role as the budgetary and discharge authority;

- present a proposal to establish an **EU tech lab** to monitor the possible use of spyware in the run-up to or during parliamentary elections.

Lastly, Poland is called on to fulfil the milestones and targets linked to the Recovery and Resilience Facility and implement all relevant judgments of the CJEU and the European Court of Human Rights, so that EU funds reach people in Poland.