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Poland: Government must make good on commitments to ensure independence of judiciary

Amnesty International comments on Poland's response to the recommendations within the Universal Periodic Review. The response was presented today in Geneva.

Amnesty International welcomes Poland's commitment to implement the recommendations of the Venice Commission and the European Commission (EC) with regard to the rule of law. Poland also agreed to take measures to protect the independence of the judiciary and the separation of powers. It made a commitment to ensure that any reform of the justice system is in line with international human rights standards.

These commitments come at a time when the government and the President will be submitting new proposals on the reform of the judiciary to the Parliament. In July, reform proposals which threatened to put the judiciary under government control sparked large-scale protests and a serious criticism from international institutions, including the EC.

In response to a UPR recommendation to respect the integrity of the Constitutional Tribunal, Poland said that the Tribunal is an independent institution. This stands in direct contradiction to the observations in July of the European Commission that "the independence and legitimacy of the Constitutional Tribunal are seriously undermined and, consequently, the constitutionality of Polish laws can no longer be effectively guaranteed."

Poland further noted that the judicial reforms "are in line with relevant European standards. Opinions from international institutions concerning these reforms are taken into account when drawing new legislation." Amnesty International notes that the judicial reforms are in direct breach of international human rights standards as observed by a large number of intergovernmental organizations and independent bodies, including the European Commission, Network of Presidents of the Supreme Judicial Courts of the European Union, the European Network of Councils for the Judiciary, the Venice Commission, the Commissioner for Human Rights of the Council of Europe, the UN Human Rights Committee. The reforms risk seriously undermining judicial independence and pose a direct threat to the rights to effective remedy and fair trial.

Amnesty International is concerned that Poland rejected a recommendation to repeal the restrictive amendments on the Law on Assemblies and restore full freedom of peaceful assembly. This law prioritizes monthly pro-government assemblies in central Warsaw and since April, it has been used to ban alternative or counter-assemblies and to effectively monopolize the public space near the Presidential Palace for a particular group.

Finally, Amnesty International welcomes Poland's support for eight recommendations to ensure access for women to safe and legal abortion, in line with international human rights law and the

European Court decisions against Poland in cases involving access to sexual and reproductive rights. We note, however, current initiatives by civil society groups and MPs to introduce further restrictions to access to abortion and other sexual and reproductive rights services. For example, in June 2017, the Parliament adopted a law that made emergency contraception accessible only by prescription in Poland. Amnesty International reiterates that Poland must refrain from enacting proposals to further restrict access to abortion for women and girls.

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Poland on 22 September 2017 during its 36th session. Prior to the adoption of the report of the review Amnesty International delivered an oral statement on the independence of the judiciary, the right to freedom of assembly and sexual and reproductive rights. Amnesty International also contributed to the information basis of the review through its submission on Poland:

<https://www.amnesty.org/en/documents/eur37/5069/2016/en/>

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International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK

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