

[POLAND: WYBORCZA] The Civil Platform and .Nowoczesna want to appeal to the European Commission to submit a complaint to the EU Court of Justice suspending the purges in the Supreme Court. The content of the document is being agreed upon. Lech Wałęsa published his appeal on Wednesday. [30 May 2018]

<http://wyborcza.pl/7,75398,23476396,lech-walesa-apeluje-do-komisji-europejskiej-w-sprawie-polskich.html>

The EU Court of Justice could investigate the changes that will affect the Supreme Court in July and stop the personal purge, ie the passage of about 40 percent of judges of the Supreme Court to an earlier state of retirement (for a judge retirement pension). However, the European Commission would have to bring a complaint to this effect without delay.

The EU Court of Justice judgment of February this year on the reduction of salaries for judges from Portugal allows us to use this path. It is true that the Tribunal ruled that the independence of the judges had not been violated, because the savings also affected other professional groups, but made it clear that it could assess national provisions affecting the independence of the judges. National courts have such an important function in the EU system that problems with their independence can mean problems for the entire EU system based on mutual trust and compliance with the same values. Therefore, if the national court can potentially apply EU law, this is a sufficient reason for the EU Court of Justice to assess its independence. As part of such proceedings, the Commission could also apply for safeguard measures (as in the case of the Białowieża Forest) and apply for suspension of the implementation of the provisions pending the judgment of the Tribunal.

The opposition has been conducting informal talks upon this matter in Brussels for three weeks. With no effect yet. The opposition points to the irreversibility of personnel changes, which may soon affect the Supreme Court after the Constitutional Tribunal and the National Council of the Judiciary. It also points out that if the Commission does not decide to file a complaint, nearly 40 percent of SC judges will leave, and the new nominees will be able to block at the highest level of the judiciary the scattered control of the constitutionality of bills, carried out by common courts. After the practical exclusion of constitutional review of the Constitutional Tribunal previously held, the Polish courts began to spontaneously fill the system gap and themselves began to assess the constitutionality of the law (eg by not recognizing illegal evidences in criminal proceedings, crossing the borders of provocation by special services, although the laws adopted by the PiS they allowed so-called dirty evidence).

The opposition consults, Walesa appeals

- The European Commission could turn to the EU Court of Justice, pointing to the incompatibility of solutions adopted by Poland with EU law. That is, use the same path as in the Bialowieza Forest's case. Only this way can block the implementation of the changes that the Supreme Court is to face in July. We are preparing a letter in this matter - says Katarzyna Lubnauer, chairwoman of .Nowoczesna. In the Civic Platform we hear that the content of the letter is being agreed. Talks are under way in which formula it will be made public.

At the moment, Lech Walesa issued a statement in this matter. He reminds that the violation of the independence of Polish courts threatens with very negative consequences for Poland, but also for the entire European Union. The Union, which is the anchor of the Polish *raison d'etat*, can not function without free courts in each of its member countries. "I am calling on the Polish government, the European Commission and all political forces in Poland to do their best to prevent the irreversible consequences of changes in the judiciary and the political crisis that have caused them," appeals the former president. He points out that the assessments of the most contested changes in the judiciary should be made by the Court of Justice of the European Union, whose judgments are binding on the Member States of the European Union. "I am calling on the European Commission to refer to the Court of Justice of the EU under Article 258 of the EU Treaty Law on the Supreme Court. Due to the reduction in the retirement age provided for in it, about 40 percent of Supreme Court judges will have to finish their mission prematurely," Walesa writes. And he appeals to all political forces in Poland to support this legal path. "Just as in 1980, there could not be freedom without solidarity, today there can not be freedom without the rule of law!" - the former president ends the appeal.