

Polish Constitutional Court ruling deepens EU crisis

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15 October 2021

On October 7, the Polish Constitutional Court ruled that the European Court of Justice (ECJ) has no right to make decisions about the Polish judiciary, effectively asserting Polish national law precedence over European law.

The ruling, which was handed down by a vote of 10 to 2, has further exacerbated the political crisis in the European Union and also within Poland. Many observers interpret the ruling, which came at the request of the right-wing nationalist PiS [Law and Justice Party] government, as a step toward “Polexit,” even though the government itself denies seeking Poland’s exit from the EU. Since the ruling, there have been calls for the EU to cut its extensive subsidies to Poland.

The specific issue in the court case was whether provisions of the EU treaties that give the EU Commission a say in questions concerning the rule of law are compatible with the Polish constitution.

The EU has long criticized the PiS for systematically subordinating the Polish judiciary, and, in particular, the Constitutional Court, to its political interests, and for undermining the principle of the separation of powers since coming to power in 2015. The Constitutional Court is now almost completely dominated by PiS. Presiding Judge Julia Przyłębska is considered to be PiS-affiliated and a close confidant of PiS leader Jarosław Kaczyński.

On March 2 of this year, the ECJ concluded that the PiS government’s controversial judicial reform could partially violate EU law. It found that EU law overrides individual provisions in national law and national constitutional law, and that it could therefore force Poland to repeal parts of the controversial judicial reform.

The PiS government objected to this. Prime Minister Mateusz Morawiecki personally appealed to the Polish Constitutional Court to review the ECJ’s decision. The court has now ruled in his favour and openly questioned the authority of the ECJ.

Justice Minister Zbigniew Ziobro celebrated the ruling in blatantly nationalistic terms. He said it was a “very important decision” in a situation where Brussels and Berlin

were “treating Poland like a quasi-colony.”

The Polish opposition, led by the liberal Civic Platform (Platforma Obywatelska, PO), which backs greater cooperation between Warsaw and the EU, and Berlin in particular, organized protests Sunday against the Constitutional Court’s ruling. Donald Tusk, the PO’s main leader, served five years as president of the European Council until 2019 and acquired a reputation for being close to German Chancellor Angela Merkel politically.

Tens of thousands took part in protests in the capital, Warsaw, according to media reports. Protests also took place in other cities. However, the overall number of participants fell well short of the mass protests against the abortion law last year.

The demonstrations were mainly supported by the middle-class layers that benefit economically from Poland’s EU integration and make up the PO’s social base. Former Solidarność leader Lech Wałęsa, who played a central role in the reintroduction of capitalism to Poland, supported the protests.

The *Financial Times*, the mouthpiece of British and European finance capital, was particularly strident in its opposition to the court decision. The newspaper called the ruling “a greater challenge to EU unity than Brexit.” It was “a direct attack on the EU’s legal order, the cement that holds the EU together,” the newspaper wrote. It went on to say it was “regrettable” that the EU had no mechanism to “exclude” members like Poland. The only way to respond, therefore, was to massively cut EU funds to Poland.

As the largest net recipient, Poland receives about 12 billion euros a year from the EU budget. The EU Commission is currently examining whether Poland’s 36 billion euros from the EU’s Coronavirus reconstruction fund can be cut. So far, it has been withholding these funds. Former Polish Foreign Minister Witold Waszczykowski has publicly threatened that Poland would cancel an equally large portion of its EU contributions if this were to happen.

EU Commission President and former German Defence Minister Ursula von der Leyen said she was “deeply

concerned” by the Polish Constitutional Court’s ruling. “EU law takes precedence over national law, including constitutional provisions,” she declared. “We will use all the powers we have under the treaties to ensure this.”

Nevertheless, many media outlets and members of the European Parliament (MEPs) have criticized von der Leyen, who was elected Commission president thanks to the votes of Poland and Hungary, saying she remains largely passive. Some MEPs have even launched a failure to act case against the Commission to force faster action against Poland.

The conflict between the EU and Poland must be understood against the backdrop of the deep crisis of European capitalism, growing tensions with the United States and preparations for war against Russia and China.

Berlin has so far kept a relatively low profile not only because the PiS supported von der Leyen’s election, but also because German companies are among the main beneficiaries of massive EU subsidies to Poland. According to a report in business weekly *WirtschaftsWoche*, more and more German companies are closing their sites in Germany and relocating production to Poland, where they benefit both from EU subsidies and the extremely low wages of well-trained Polish workers.

Among the 5,800 companies with subsidiaries in Poland are Lufthansa and Siemens. Economic ties between Poland and Germany have been growing steadily for years. Germany is by far the most important export and import trading partner for Poland, accounting for around 28 percent in each direction. Since 1990, German capital has invested around 40 billion euros in the neighbouring country.

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The chairman of the Committee on Eastern European Economic Relations, Oliver Hermes, has warned against restricting EU payments to Poland or even Hungary. He wrote that “Delays in the allocation of EU funds also affect German companies in Poland and Hungary, because EU co-financed investments have been a key growth driver since 2004.”

Poland is also of crucial geopolitical importance. It plays a key role in the expansion of the Trans-European Transport Network (TEN-T), as all direct land links to the three Baltic EU states, Ukraine and Russia run through Poland.

The Polish government, which emerged from the restoration of capitalism, plays a key role in NATO’s war preparations against Russia. Most recently it has been at the centre of NATO manoeuvres such as “Defender-Europe 20.”

Since 1989, the Polish bourgeoisie has been oriented primarily toward a military alliance with the United States. In contrast to the previous PO administration, the PiS

government has refrained from closer military cooperation with Germany. Instead, it is seeking to build an alliance of Eastern European states along the lines of the “Intermarium,” directed against both Russia and Germany.

Under Donald Trump, Washington openly supported this policy. The Biden administration’s growing focus on war preparations against China and its efforts to somewhat dampen the conflict with Russia, at least temporarily, may now undermine Warsaw’s adoption of this orientation.

At the same time, there are discussions in Germany about whether the “Intermarium” strategy could be used in its own interests. A strategy paper by the pro-government Stiftung Wissenschaft und Politik (Science and Politics Foundation) argued that Berlin should “pursue a policy of interested and benevolent involvement” despite Polish resistance to admitting Germany in order to “position itself in the region as a geo-economic actor alongside the United States as well as China and Russia.”

The conflicts within the Polish bourgeoisie, the dispute between the EU and Poland, and the growing threat of war are ultimately the result of the intensification of international conflicts and class tensions caused by the coronavirus pandemic.

As in other Eastern European countries, the pandemic has claimed a particularly large number of lives in Poland, mainly as a result of the disastrous consequences of capitalist restoration 30 years ago, and it has exacerbated the political crisis of the PiS government, which is now rejected by more than two-thirds of the population. With its aggressive nationalist course, the PiS is trying, not least, to distract attention from the growing protests and strikes at home.

On the basis of the struggle for a United Socialist States of Europe, the working class must formulate its own response to the crisis of European and world capitalism, independent of all factions of the ruling class.



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