



Deutscher **Anwalt** Verein

Press Releases

Rule of Law in Poland – DAV welcomes new infringement procedure but calls for interim measures

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Brussels/Berlin (DAV). The German Bar Association (DAV) welcomes the announcement of the EU Commission to launch an infringement procedure against Poland with regard to the latest legislative changes as part of the judicial reform – the so-called “muzzle law”. *“This is an important signal to protect the rule of law in Poland and in the European Union. Nevertheless, such a procedure is only efficient and reasonable if it is combined with short deadlines and an interim request for suspension of the rules in question”,* urges **Edith Kindermann, President of the DAV.** *“A judgment by the European Court of Justice declaring a treaty violation by Poland in 2021 or 2022 will be simply too late”.*

According to the European Commission the new Polish “muzzle law” allows to qualify the content of judicial decisions as a disciplinary offence and as a foundation for disciplinary proceedings against judges. As a result, disciplinary measures would be used as an instrument of political control. Moreover, Polish Courts are being prevented on the basis of the regulations in question from requesting preliminary rulings from the EU Court of Justice which contravenes both the primacy of EU law as well as the principle of judicial independence. Finally, the new law also introduced provisions requiring judges to disclose specific information about their non-professional activities which violates EU law as well.

The German Bar Association has been concerned for a long period of time about the situation of the rule of law in Poland. The Polish government announced last week that they will not implement the decision of the European Court of Justice from 8 April 2020 with regard to the suspension of jurisdiction of the Disciplinary Chamber (cf. [DAV statement](#)). The Polish Constitutional Court has recently issued two judgments in which it turned against the Polish Supreme Court. On 20 April 2020, the Polish Constitutional Court overturned a decision of the Supreme Court of 23 January 2020, in which the appointments of judges made by the controversial National Council of the Judiciary were revoked on the basis of a preliminary ruling of the ECJ. The Polish Constitutional Court thereby opposes the binding effect of ECJ rulings and thus one of the fundamental principles of Union law. On 20 April 2020, the Supreme Court in turn issued an order suspending the jurisdiction of the Disciplinary Chamber. In this context, disciplinary investigations have now been initiated against the President of the Supreme Court, Małgorzata Gersdorf, who will retire from office at the end of this month.

“Those legal proceedings weaken the maintenance of the rule of law in Poland”, empathises **Kindermann.** This will lead to significant effects on judicial cooperation and the common system of values in the European Union and that is why it is even more urgent that the critical Polish regulations

are being suspended by the European Court of Justice.

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