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Poland must safeguard judicial independence – UN Special Rapporteur

GENEVA (26 July 2017) – A United Nations human rights expert has welcomed the Polish President's recent decision to veto two bills that would have threatened the independence of the judiciary, urging the Government to ensure that judicial independence is safeguarded.

"I welcome the President's veto of the two bills, which together would have severely undermined the independence of the judiciary in Poland," said the UN Special Rapporteur on the independence of the judiciary, Diego García-Sayán.

"However, I remain concerned with the state of independence of the judiciary in the country," the Special Rapporteur added.

The first bill, adopted by the Parliament on 12 July 2017, stipulated that all members of the National Council of the Judiciary would be appointed by the Parliament. The second bill, adopted less than two weeks later, would have forced all Supreme Court judges to resign except those selected by the Minister of Justice.

Both bills would have increased the power of the executive and legislative branches over the judiciary, the Special Rapporteur noted.

"It is the State's duty to respect and observe the independence of the judiciary, by allowing judges to decide cases impartially, without any improper influences, pressure, threats or interference, as well as by guaranteeing that any method of judicial selection safeguards against judicial appointments for improper motives," Mr. García-Sayán said.

A third bill, giving the Minister of Justice the power to appoint presidents and vice-presidents of local regional courts (known as common courts), has now been approved by the President.

"My concerns have been heightened by the adoption of this third bill, in the context of ongoing challenges to the independence of the judiciary over the past two years," Mr. García-Sayán added.

Tensions began in 2015, when the newly elected President refused to swear into office judges appointed to the Constitutional Tribunal by the previous Parliament.

A series of bills relating to the judiciary had since been adopted, including the merging of the functions of the formerly independent Prosecutor with those of the Justice Minister, and amendments to the law on the Constitutional Tribunal which undermine its effectiveness and independence.

"The independence of the judiciary, as enshrined in the Polish Constitution, as well as in several international human rights instruments, must be guaranteed by the State," stressed the Special Rapporteur.

rapporteur.

The UN Special Rapporteur has been in contact with the Government of Poland regarding his concerns.

Mr. Diego García-Sayán (Peru) has been [Special Rapporteur on the independence of judges and lawyers](#) since December 2016. As Special Rapporteur, Mr. García-Sayán is part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures' experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organization and serve in their individual capacity.

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