

# Polish provisions 2015-2017 possibly breaching European regulations and values

Tables below are only general and preliminary. The observations included in them require supplementing and indicating the relevant provisions of the listed laws and acts. In the first table, we present acts or laws which have been already adopted. In the second acts or laws which are planned to be introduced. However, it is not clear whether all of them will become a binding law. Therefore, there is a strong need to monitor their legislative processes.

## Adopted

Name of the act	Comment on changes since November 2015	Breached European value/regulation
Act on the Organisation of the Constitutional Tribunal and the Mode of Proceedings Before the Constitutional Tribunal and process of electing judges	Politicization of judiciary, illegal judges election in 2016	Separation of powers, rule of law (art. 2 TEU), fair trial (art. 47 of Charter of Fundamental Rights of the European Union)
Law on Common Courts Organisation	Politicization of judiciary, dependence of judges and courts - the Minister of Justice is deciding, without out any consultations, who can be a president of a court; not justified unequal retirement age for women and men - 60 for women, 65 for men	Separation of powers, independence of judges and courts (art. 2 TEU), equality between men and women (art. 23 of Charter of Fundamental Rights of the European Union)
Act on prosecutors	Politicization (the Minister of Justice and the Prosecutor General is the same person), the MoJ can interfere in every proceedings and give orders to all prosecutors in specific cases, the MoJ can change every decision made by regular prosecutors, the MoJ can share information from any proceeding with third parties and the media, lack of effective disciplinary proceedings for prosecutors breaching the law	Respect for private and family life (art. 7 of Charter of Fundamental Rights of the European Union)
Police Act	Surveillance, lack of effective judicial supervision	The right of defence ( art. 48 par. 2 of Charter of Fundamental Rights of the European Union),

		respect for private and family life (art. 7 of Charter of Fundamental Rights of the European Union), protection of personal data (art. 8 of Charter of Fundamental Rights of the European Union)
Act on Anti-terrorist Activities	Surveillance, rights of foreigners, blocking of websites, lack of effective judicial supervision	The principle of equality and ( article 6 paragraph 1 TEU), equality (art. 2 TEU) non-discrimination and the right to privacy ( art. 21 and 7 of Charter of Fundamental Rights of the European Union)
Water law	risk of a breach of the Water Framework Directive regarding granting derogations from the requirement to achieve good status of water bodies	art. 4.7 of the Water Framework Directive
Pharmaceutical Law	Restrictive catalogue of entities eligible for applying to conduct new pharmacies	Infringement of freedom establishment ( article 49 TFEU and art. 16 of Charter of Fundamental Rights of the European Union)
Act on gambling	Register of forbidden gambling websites - only websites registered by the Minister of Finance can be accessed in Poland	The freedom to provide services (art. 56 TFEU)
Environmental Protection Act	Going beyond the provisions of the directive exemptions of BAT conclusions	Art.15 par. 4 of the Industrial Emissions Directive
Act on the National School of Judiciary and Public Prosecution	Introduction of position of 'judicial assessor' who has same competences as judge but in fact is not a judge. An assessor is chosen by Minister of Justice and is fully dependent to him.	Independence of judges and courts (art. 2 TEU), fair trial ( art. 47 of Charter of Fundamental Rights of the European Union )
Law on Assemblies	Priority of cyclic assembly, which limits a right of other citizens to organize assembly at the same time and place	Freedom of assembly (art. 12 of Charter of Fundamental Rights of the European Union)
Criminal procedure	Especially legality of evidences gained by committing a crime	Fair trial (art. 47 of Charter of Fundamental Rights of the European Union), art. 4 of Charter of Fundamental Rights of the European Union

Land Transactions Act	Limitations on acquiring agricultural lands	Free movement of capital (Art. 63 and 65 TFEU)
Logging The Białowieża Forest (activity, not an act)	Deforestation in Natura 2000 area, destruction of more than 100 years old forest stands, logging in the breeding season of many species	Environmental protection ( art. 37 of Charter of Fundamental Rights of the European Union), the Habitats Directive, the Birds Directive

## Planned

Name of the act	Comment on changes since November 2015	Breached European value/regulation
Act on the Supreme Court	Regardless of the President's veto, there is a risk that the authorities will try to introduce regulations aimed at politicization of judiciary.	Separation of powers, rule of law (art. 2 TEU), fair trial (art. 47 of Charter of Fundamental Rights of the European Union)
Act on the National Council of the Judiciary	Regardless of the President's veto, there is a risk that the authorities will try to introduce regulations aimed at politicization of judiciary.	Separation of powers, rule of law (art. 2 TEU), fair trial (art. 47 of Charter of Fundamental Rights of the European Union)
Act on the National Institute of Freedom - Center for the Development of Civic Society	Governmental supervision over NGOs and their funding	The freedom of association (art. 12 of Charter of Fundamental Rights of the European Union)
Private media	Deconcentration - aimed at big private media companies	The freedom and pluralism of the media ( art. 11 par. 2 of Charter of Fundamental Rights of the European Union)
Financial Supervision	Register of forbidden websites	The freedom to provide services (art. 56 TFEU)