

# AG: Polish Supreme Court Reform is Against EU Law



**euclid**

European Law Forum: Prevention • Investigation • Prosecution

**Thomas Wahl**

**News**

Polish legislation lowering the retirement age of Supreme Court judges violates EU law, according to the [opinion of Advocate General Evgeni Tranchev](#). The opinion was released on 11 April 2019 and concerns one of three infringement procedures that have, in the meantime, been launched by the Commission against recent judicial reforms in Poland. The case is referred to as [C-619/18](#). By order of 15 November 2018, the President of the Court granted the Commission's request to decide this action under an expedited procedure. On 17 December 2018, the CJEU already granted interim measures that, *inter alia*, obliged Poland to suspend application of its legislation on lowering the retirement age for Supreme Court judges (see [euclid 4/2018, p. 191](#)).

In preparing the Court's final decision on the infringement action, AG *Tranchev* argued that the contested measures violate the principle of irremovability of judges, the observance of which is necessary to meet the requirements of effective judicial protection under the second subparagraph of Article 19(1) TEU. Irremovability, i.e., the protection of judges against removal from office, is one of the guarantees that is essential for judicial independence. The principle was violated in the given case because lowering the retirement age of Polish Supreme Court judges from 70 to 65 has a considerable impact on the composition of the Supreme Court (27 of 72 judges are affected), the measure is not temporary, and it applies retroactively. Societal and economic changes may justify adjustments to the retirement ages of judges, but they cannot compromise the independence and irremovability of judges.

In addition, the requirement of judicial independence was violated, because an extension of the mandate can only be granted by the Polish President, whose power to decide on extensions/renewals is inordinately broad. The extension decision is not subject to judicial review and is carried out without binding criteria, however, meaning that Supreme Court judges are exposed to external intervention and pressure from the President. This impairs the objective independence of the highest court and influences the judges' independent judgment and decisions.

## AUTHOR

**Thomas Wahl**

Senior Researcher  
Max Planck Institute for the  
Study of Crime, Security and  
Law

---

ISSN: 1862-6947

<https://euclid.eu>

---



---

## About euclid

euclid is the leading journal which regularly informs about current developments in European criminal and "criminative" law.

All news items are freely accessible at: <https://euclid.eu/news/>

Stay informed by emailing to [euclid-subscribe@csl.mpg.de](mailto:euclid-subscribe@csl.mpg.de) to receive alerts for new releases of issues.

The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



**Co-funded by  
the European Union**