

Poland: Lech Wałęsa warns against 'undemocratic' curbs on Cort

Alex Duval Smith in Warsaw and Julian Borger

23 December 2015

Former president and Nobel prize winner calls for reversal of law that reduces constitutional court's checks on power, as ruling party draws concerns from EU

Lech Wałęsa, the leader of Poland's Solidarity movement in the 1980s, has warned democracy is at risk after the country's rightwing governing party sought to curb the power of the constitutional court.

Wałęsa, who served as president for five years after the fall of communism, called for a referendum to reverse a law passed on Tuesday night by the Law and Justice party (PiS). That law would require the constitutional tribunal reach a two-thirds majority to issue rulings and block legislation, raising the bar from a simple majority. Thirteen of its 15 judges would have to be present for contentious cases, rather than nine as at present.

Critics say the law virtually eliminates the court as a check on the power of the government, which controls both houses of parliament after October elections.

The PiS-led government was sworn in on 16 November, with Beata Szydło as prime minister. But critics say the shots are being called by what they say is the party's divisive and vindictive chief, Jarosław Kaczyński.

"This government acts against Poland, against our achievements, freedom, democracy, not to mention the fact that it ridicules us in the world," Wałęsa told Radio Zet. "I'm ashamed to travel abroad."

Wałęsa, now 72, wields little political power but is symbolically important as the embodiment of the Solidarity revolution. His successor as president, Andrzej Duda, a PiS member, came under attack from the opposition for putting party loyalty before the requirements of office. He swore in five PiS appointees to the tribunal in the middle of the night earlier this month.

"We are in an unusual situation where the president is not the president. He is doing the bidding of his party chief rather than putting the interests of the country and of democracy first," said Jakub Stefaniak, spokesman for the Polish People's party, which has 16 MPs. "He is neglecting his primary, non-partisan role as the guardian of the constitution."

The law also enforces delays of three to six months between the time a request for a ruling is made and a verdict, compared with two weeks at present. In a written opinion on the law, Poland's supreme court said it interfered with the tribunal's independence and aimed to hobble its proper functioning.

This "presages huge potential delays and, in fact, the paralysis [of the tribunal]", the court said.

The political crisis has brought thousands of protesters out on the streets against the government's actions, and critical scrutiny from the EU. Martin Schulz, the European parliament's president, described

PiS's actions as having the "characteristics of a coup", drawing outrage from the Polish government and demands for an apology, which Schulz refused to give. The European parliament is due to debate the political situation in Poland on 19 January.

The PiS government also caused alarm at Nato and in neighbouring Slovakia last week, when it sent military police to raid a Nato-affiliated counter-intelligence centre in Warsaw run in partnership with Slovakia, with the aim of removing its director, who had been appointed by the previous government.

In the run-up to Tuesday's vote, tens of thousands of people joined demonstrations in Polish cities under the banner of a non-partisan civic movement, Komitet Obrony Demokracji (KOD - Committee for the Defence of Democracy). KOD has cross-party opposition support but demonstrators have included Duda and PiS voters. An opinion poll by Ibris on 15 December put support for the government at 27%, sharply down from its election high.

On Wednesday, the KOD leader, Mateusz Kijowski, presented the outline of a compromise "exit strategy" at a press conference in Warsaw. Kijowski said KOD would draft its own "conciliatory" bill on the constitutional tribunal, raise a petition and present it to parliament. Kijowski said: "At the same time we appeal to the president, who took the oath to uphold the constitution, not to sign yesterday's bill before considering its serious implications."

Jacek Kucharczyk, president of the Institute of Public Affairs, a Warsaw thinktank, said: "Last time Law and Justice was in power, in 2005-07, this court stood in the way of many of its ambitions. The government's ability to ignore the tribunal's own rulings, as it did twice in November, and operate out-of-hours, is worrying. The government plans legislation with implications for human rights. It includes a so-called 'anti-terror' law that could curtail free speech and the right of assembly ... the constitutional tribunal, rendered partisan and slow, will simply be ineffectual."

A further worrying sign for human rights defenders in Poland came after a street protest against immigration on 18 November in Wrocław. Even though the Polish constitution bans hate crimes, no official condemnation was made after extremists from the Obóz Narodowo-Radykalny (National Radical Camp) burned an effigy of a Hassidic Jew holding an EU flag.

Rafał Pańkowski of the Never Again association said: "The lack of condemnation of an incident like this, and the fact that police simply stood and watched, makes groups like ONR feel empowered. This year in Poland we have registered more hate crimes against minorities than at any time in our 20-year history as an association."

<http://www.theguardian.com/world/2015/dec/23/poland-constitutional-crisis-lech-walesa-law-justice-pis>