

**FRANS TIMMERMANS**  
First Vice-President

*Brussels, 23 December 2015*  
*Ares(2015) 6664696*

*Dear Ministers,*

*I am writing to you about the situation concerning the Polish Constitutional Tribunal.*

*The European Commission notes that the Constitutional Tribunal has rendered two judgements, on 3 and 9 December 2015, relating to the appointment of five judges to the Constitutional Tribunal. From these judgements it follows that, for the three places which became vacant during the previous legislature of the Sejm, the President of the Republic is under the obligation to take the oath of the judges nominated by the previous legislature, and that the selection of the three judges for these vacancies by the new legislature cannot be considered as valid. It also follows from these judgements that the selection of the two judges by the previous legislature for the two places which became vacant after the end of the previous legislature was not valid, and that the selection of the judges nominated for these two places by the new legislature is not put into question. Finally, the Constitutional Tribunal also held that the shortening of the mandate of the current President and Vice-President of the Constitutional Tribunal is invalid.*

*The European Commission has been given to understand that the House of Deputies of the Polish Parliament, through an accelerated procedure, approved a law amending the current Law on the Constitutional Court. This amendment, on the basis of the information at our disposal, concerns the functioning of the Court as well as the independence of its judges. I would expect that this law is not finally adopted or at least not put into force until all questions regarding the impact of this law on the independence and the functioning of the Constitutional Tribunal have been fully and properly assessed.*

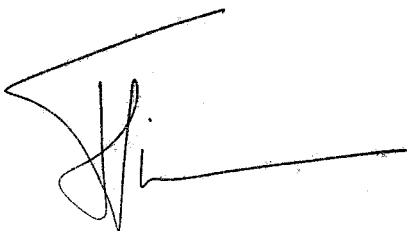
*The rule of law is one of the common values upon which the Union is founded. The European Commission therefore attaches great importance to preventing the emergence of situations whereby the rule of law in a Member State could be called into question, for example, where the integrity, stability and proper functioning of the national constitutional court would be undermined.*

HE Mr Witold Waszczykowski  
Minister of Foreign Affairs of the Republic of Poland

HE Mr Zbigniew Ziobro  
Minister of Justice of the Republic of Poland

*In view of the above I would ask you to inform me about the constitutional situation in Poland, including the steps you envisage taking with respect to the two above-mentioned judgements of the Constitutional Tribunal and the last modification of the Law on the Constitutional Court. The Commission would also recommend that you work closely together with the Venice Commission. I am looking forward to receiving your reply at your earliest convenience.*

*Yours sincerely,*

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

*Frans Timmermans*