



Written by [Steve Byas](#) on December 19, 2019

## Poland's National Sovereignty Challenged by EU

Poland may soon face a decision whether to obey the dictates of the European Union and cease to function as a truly independent nation, or follow the example of the United Kingdom and exit the European super-state. Politicians in Poland began discussing some changes in their laws concerning the Polish judiciary that are in conflict with those stipulated by the EU.



The proposed changes, put forward by the Law and Justice Party (PiS) in Poland, are designed to dismiss judges who engage in “political activity.” Specifically, the PiS argues that the Polish judiciary is a corrupt holdover from the time when the country was under communist dictatorship. Under the present system, which the PiS desires to change, judges are nominated by the National Judicial Council (NCJ), supposedly for the purpose of maintaining the independence of the judiciary. In other words, instead of the system used in the United States in which one branch of government (executive) nominates judges and another branch (legislative) confirms, Poland's system can be described as incestuous — judges pick judges.

In 2018, the government changed the law so that the majority of the judges sitting on the NJC would be appointed by the lower house of Parliament.

Although this would appear to be similar to the system used by the United States, with a legislative body confirming judges, the European Union opposes the move.

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The Polish Supreme Court is fighting the changes, charging that the PiS is undercutting the principle that EU law is superior to national law. “Contradictions between Polish and EU law ... will in all likelihood lead to an intervention by EU institutions regarding an infringement of EU treaties, and in the longer run [will lead to] the need to leave the European Union.”

Political scientists cite four characteristics of a nation-state: 1) a clearly defined territory; 2) a population; 3) a government; and 4) sovereignty defined as the right of a nation to rule itself.

Because some political entities on Earth have the first three, such as Greenland (which is part of Denmark) and Puerto Rico (which is part of the United States), but lack sovereignty, they are not



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considered nation-states. They are not sovereign.

At some point, the historic nations of Europe will cease to exist as true nation-states, giving way to the increasingly authoritarian European Union.

Regardless of whether one agrees with the way Poland runs its own judicial system, one would think that if Poland is truly a sovereign country, it is Poland's decision to make.

In 2017, the EU Court of Justice ruled that Poland's decision to lower judges' retirement ages contradicted EU law, and the Polish government reversed itself. Before the law was repealed, about 100 judges were forced to retire.

Students of American history might recall that, after his landslide reelection in 1936, President Franklin Roosevelt tried to get Congress to pass a law allowing him to appoint six new members to the U.S. Supreme Court. Despite holding an overwhelming majority of members of his Democratic Party in both houses of Congress, Roosevelt's "court-packing plan" was defeated.

Even many liberals opposed Roosevelt, understanding that the president was attempting to neutralize the ability of the federal judiciary to block some of his New Deal programs. Conservatives praised the action of Congress, rightly contending that Roosevelt's scheme would reduce the separation of powers and checks and balances written into the U.S. Constitution.

But no one at the time, on the Right or the Left, or Roosevelt himself, would have argued that a foreign power or any collection of foreign powers should interfere in America's domestic political affairs.

In the situation with Poland and the EU, an unelected body known as the European Commission turned the case over to the European Court of Justice, charging that the Polish government was undermining the independence of the Polish judiciary.

But what of the independence of the nation of Poland?

It should be remembered that the European Union evolved out of a simple "trade agreement" in the 1950s among six European nations. This should provide a powerful lesson for those Americans who look upon multilateral trade agreements such as the USMCA as simply deals to facilitate "free trade." In reality, USMCA and similar trade deals will inevitably lead to the loss of American sovereignty. While trade deals such as NAFTA and USMCA are sold to the American public as simply about facilitating "free trade," what is happening with Poland demonstrates that government-managed trade agreements invariably lead to the surrender of at least some national sovereignty of the member nations.

And, as the long and difficult Brexit process has demonstrated, it is much easier to get into a trade deal than it is to get out of one.

*Image: rzelich via iStock / Getty Images Plus*

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