
IRISH PRECEDENT MAY HALT EU EXTRADITIONS TO POLAND

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The Polish government was guilty of "what appears to be the deliberate, calculated and provocative legislative dismantling by Poland of the independence of the judiciary, a key component of the rule of law," Donnelly said in delivering her ruling.

She said the changes in Poland were "immense" and that "the rule of law in Poland has been systematically damaged" over the past two years.

The "constitutionality of Polish laws can no longer be effectively guaranteed" and if Celmer was extradited "he will be returning to face trial in a jurisdiction where the minister for justice is now the public prosecutor and is entitled to play an active role" in judicial appointments, the Irish judge said.

"Respect for the rule of law is essential for mutual trust in the operation of the European Arrest Warrant (EAW)," she said.

The Irish ruling comes after the European Commission threatened unprecedented sanctions against Poland over the judicial reforms that were put in place by the ruling Law and Justice party (PiS) after it gained power in 2016.

Ireland had arrested Celmer, a Polish national, in May on the basis of a Polish EAW request.

His lawyer, Ciaran Mulholland, said after the ECJ referral, that other member states would likely suspend EAW extraditions to Poland until the EU tribunal in Luxembourg had issue its opinion.

He said Celmer was "the lead test case within the European Union dealing with extraditions to Poland."

"This landmark case may ultimately lead to an abrupt termination of the mutual understanding between Poland and other EU Member States in extradition proceedings," Mulholland said.

Laurent Pech, a law professor at Middlesex University in the UK, told The Guardian, a British newspaper, that the ECJ opinion could have more profound implications.

"If the [ECJ] stops recognising Polish courts as courts within the meaning of EU law, this could then leave the European Commission no choice but to suspend EU funding to Poland. The impact on commercial arbitration involving Polish companies may also in time be too significant to be comfortably ignored by Polish authorities," he said.

But Poland's deputy justice minister, Marcin Warchol, shot back on Tuesday that Ireland should not make politics out of a drugs trafficking case.

Warchol said the Irish judge's ECJ referral should be overturned because she did not understand the nature of the PiS judicial reforms.

"It is incomprehensible that general, abstract deliberations, projections and speculations become the basis of such an important decision as the handover of a criminal sought in the whole of Europe," the Polish minister told French news agency AFP.

Kaynak/Source: