
POLISH FOREIGN MINISTER ACCUSES EU OF DOUBLE STANDARD

-

20.06.2019

Deutsche Welle (19 June 2019)

Polish Foreign Minister Jacek Czaputowicz came to Berlin to defend the Law and Justice government's restructuring of the judiciary. He accused Germany of having "politicized" state prosecutors.

Foreign Minister Jacek Czaputowicz accused the European Union of maintaining a double standard in its sanctioning procedures following his Law and Justice (PiS) party's restructuring of Poland's judiciary.

Czaputowicz appeared at Berlin's Humboldt University on Tuesday to talk about "Poland's Vision of a Europe that Unifies Itself." Though the speech maintained a diplomatic tone, in the ensuing Q&A session, Czaputowicz aggressively defended new policies that subject judges to government oversight.

"In the European Union, there are two different standards that are applied, and we disagree with that division," Czaputowicz said, before noting out several instances in which larger member states, particularly Germany and France, had broken EU rules.

In April, the European Commission sent a formal letter to Poland regarding its "new disciplinary regime for judges," which, according to the EU, fails to protect justices from political control and fails to guarantee the independence and impartiality of the Supreme Court.

What independent judiciary?

In Berlin, Czaputowicz argued that other member states did not share the commission's views and that all the rulings that the European Court of Justice (ECJ) had made so far had been respected by Poland.

This came after the PiS-led government was forced to backtrack on a law passed last year that lowered the obligatory retirement age of sitting Supreme Court judges – instantly forcing several of them from their posts. The government backed down after protests from the public and many of the judges themselves, who continued working, as well as an ECJ ruling,

Czaputowicz said Poland had abided by all ECJ rulings: "We were convinced that we had the right to change the retirement age of the judges of the Supreme Court. We believed that is part of the

remit of the state. But we lost the judgment at the ECJ, so we reinstated the retirement age."

He said it was up to the European Union to make a final decision on the other changes to the judiciary – something that might prove difficult as any member state could theoretically veto a sanction.

Comparing the systems

Czaputowicz cited a ruling by the ECJ in May that found that Germany's state prosecutors, who are appointed and can be overruled by the justice minister, are not sufficiently independent. As a result, the ECJ said German prosecutors could not issue European arrest warrants.

"Our state prosecutors are much more independent than the ones in Germany, because the executive in Germany directly names judges – that would not be possible in our country," Czaputowicz said. "They are politicized. There are different solutions in the European Union, so it is impossible to say that this solution or another solution is wrong."

The Polish Supreme Court has become a political battleground

Eckart Klein, former professor of European and international law at the University of Potsdam, conceded that the Polish foreign minister had a point. "These accusations aren't completely unjustified," he told DW. "Our state prosecutors are officially civil servants, and don't have the same status as judges."

It is also true, Klein said, that Germany's federal prosecutor is directly accountable to the Justice Ministry and that state-level prosecutors are "essentially bound by instructions" from their ministries.

German politicians are wary of being perceived as interfering in judicial matters, however, Klein said, and appointments, especially at lower levels, are rarely influenced by political considerations. Klein said a narrow perception of the rules could suggest that Germany's problem was equivalent to Poland's – but this view would disregard the day-to-day practice of the prosecutors' work, which is independent.

In fact, the last time the perception of political interference arose was in 2015, when Heiko Maas, then the justice minister, clashed with federal prosecutor Harald Range over a treason investigation into two journalists. Range was put into early retirement after accusing the minister of interfering in the judicial independence of his office, a claim Maas denied. The investigation was soon dropped.

The ambiguous positioning of state prosecutors goes back to Germany's Kaiser era, and Klein said the ECJ's ruling would likely encourage activists who call for reform. But, he added, this ambiguity in Germany could hardly compare to the wide-reaching restructuring that PiS is implementing in Poland.

"The entire judicial apparatus is being pulled into these reforms," he said. "I do think that is problematic."

Czaputowicz went on to mention that France had also violated EU rules in its fiscal policy. "Is that dangerous what France does, exceeding its state budget and creating high deficits?" he asked. "Yes, it is dangerous," he said, to some applause.

Kaynak/Source: