



Activity report Open Dialogue Foundation in 2020

1. Details of the Foundation:

a) Name: FUNDACJA OTWARTY DIALOG

b) Registered office, address:

01-493 WARSZAWA, UL. PIRENEJSKA 2C

c) Date of entry in the National Court Register: April 12, 2010

d) National Court Register (KRS) number: 0000353754, National Business Registry Number (REGON): 060615226

e) Details concerning the members of the Board of Directors of the Foundation according to the current entry in the

court register:

Full name:

Lyudmyla Kozlovska – President of the Management Board

(f) The purpose of the Foundation is to defend human rights and to promote democracy and the rule of law by:

- activities aimed at the development of civil society initiatives, movements and societies, in particular in countries that are part of the former USSR, based on the experience of systemic transformation of the Republic of Poland as well as on values and standards of functioning of public life in European Union Member States;
- activities aimed at building partnership between the Republic of Poland and other countries, in particular those referred to in point 1, as well as between the citizens of those countries;
- promoting cooperation and integration of initiatives, movements, civil societies and states, in particular those referred to in point 1, with other entities governed by international law;
- activities promoting change to provide citizens, in particular of the states referred to in point 1, with equal opportunities in their intellectual, professional, social and cultural development and full enjoyment of their civil rights, including engaging in political activities;
- activities to promote public safety and order, development of self-governments, education, culture and healthcare, as well as improvement of accessibility to and standards of functioning of other public services.

2. Principles, forms and scope of statutory activities, stating the fulfilment of statutory objectives:

2.1 Scope of activity:

1. researching and analysing violations of human rights, in particular civil rights and the right to protection against persecution, as well as of social phenomena, including on the basis of empirical data, synthesising and collating them in databases and presenting them in the form of analyses, reports, presentations, infographics, multimedia and other types of studies;
 2. dissemination, especially among political decision-makers, state and local administration bodies, international organisations and opinion-forming circles, in mass media and social media, especially in the form of photographs, recordings and transcripts of broadcasts, films,
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- statements, articles and interviews, of the issues mentioned in §7, as well as of the knowledge gathered by the Foundation, especially in the forms specified in point 1, and of the achievements of the Foundation in the areas covered by its statutory objectives;
3. organising and conducting training, workshops, seminars and conferences in particular for individuals, businesses, state and local government institutions, student governments, professional governments, employers' organisations, trade unions, religious associations, social movements and political groups and non-governmental organisations within the scope of the Foundation's statutory objectives;
 4. counselling for individuals, enterprises, state and local government institutions, student self-governments, professional self-governments, employers' organisations, trade unions, religious associations, social movements and political groups and non-governmental organisations within the scope covered by the statutory objectives of the Foundation;
 5. organising public gatherings, including demonstrations and protest actions, as well as charity events, auctions, exhibitions, vernissages, happenings, promotional and advertising actions, music concerts and other events within the scope of the Foundation's statutory objectives;
 6. publishing activity;
 7. providing financial, material, legal and organisational assistance to enterprises, state and local government institutions, professional self-governments, employers' organisations, trade unions, religious associations, social movements and political groups and non-governmental organisations, as well as individuals, such as persons in need of humanitarian and medical assistance, including the organisation of medical and first aid training, within the scope and in compliance with the applicable laws and by qualified persons;
 8. setting up scholarship funds and programmes and funding scholarships for children, young people and students who are particularly gifted, socially active, as well as for people subjected to repression or people in difficult financial situation;
 9. organising observation missions, including election observation missions and study visits within the scope of the Foundation's statutory objectives;
 10. purchase of equipment, devices, materials and services to implement the statutory objectives of the Foundation, as well as transferring them free of charge or making them available to individuals and entities acting within the scope of the statutory objectives of the Foundation.

2.2 Achievement of the goals in 2020:

Support for reforms and protection of human rights in Ukraine

In the year under review, the Foundation continued to stand up for harassed community activists and to oppose abuses of power in the broadest sense.

In this area, we focused mainly on the case of Serhiy Sternenko, an Odessa-based anti-corruption activist and lawyer, against whom a number of politically motivated cases are pending. Conflicted with then Interior Minister Arsen Avakov, the activist survived several attacks on his life, but the perpetrators – known to law enforcement authorities – remained at large. Political pressure was noted in the investigation against him, in which S. Sternenko, acting in self-defence, is accused of causing the death of one of his attackers. The Foundation, together with Ukrainian NGOs, appealed on this matter to the leadership of Ukrainian investigative bodies, the Security Service of Ukraine and parliamentarians (March 2017).

We have used our experience in protecting the rights of Ukrainian activists to build a chat-bot mobile phone application FightBack that allows them to quickly respond to acts of physical violence and abuse by law enforcement bodies and to obtain free legal assistance. The app was unveiled in November 2020 in Kiev. Its additional aim was obtaining information on the scale and nature of attacks and other forms of harassment of activists. Its creation was the result of a series of conversations with activists – victims of violence in different regions of Ukraine after 2014. Based on these discussions, we published a report on

November 20, 2020 entitled “Shortcomings in the law enforcement system of Ukraine exemplified by the investigation of attacks on civil activists”, which we prepared together with the Centre for Civil Liberties (CCL). We pointed out the systemic pathologies – politicisation and corruption – that plague Ukraine’s law enforcement agencies, the judiciary, and institutions responsible for ensuring internal security.

In April 2020, the Foundation, together with a number of Ukrainian human rights organisations, appealed to the Parliament of Ukraine to reject the disturbing draft law on entrusting broad police powers to soldiers of the National Guard of Ukraine, pointing to the numerous threats to civil liberties associated with it.

The Foundation continued to monitor the situation of the ever-growing number of political refugees from other post-Soviet countries in Ukraine (including Russia and Kazakhstan) – in particular with regard to the protection provided to them by the Ukrainian authorities, including in the context of ongoing refugee proceedings (including the high-profile case of the activist of the Democratic Choice of Kazakhstan Zhanara Akhmetova, whose extradition to Kazakhstan was finally prevented after numerous interventions).

Ukrainian political prisoners and the Russian-Ukrainian conflict

In the reporting year, due to the COVID-19 pandemic, activities within the framework of the international campaign #LetMyPeopleGo initiated by the Centre for Civil Liberties/Euromaidan SOS and concerning Ukrainian citizens illegally imprisoned on the territory of Russia and its occupied Crimea for political reasons were conducted with less intensity. In March 2020, we were among the authors of the statement “COVID-19 in closed prisons in the occupied Crimea and Donbas which is under Russia effective control” related to the disastrous situation in Russian-controlled penitentiaries.

Together with Ukrainian organisations, the Foundation also sought the release from Italian custody of Vitaliy Markiv, a Ukrainian soldier accused of causing the deaths of two Italian journalists in the Donbas war zone. Markiv’s case received international attention due to Russian propaganda (in which he was presented as a criminal) and the surprising decisions of the Italian courts (the court of first instance sentenced him to 24 years in prison). We supported the creation of a documentary film “The Wrong Place” dedicated to this story (directed by Cristiano Tinazzi, Ruben Lagattolla, Olga Tokariuk and Danilo Eli). The Foundation’s activities in Italy were carried out in cooperation with the Italian Federation of Human Rights (FIDU).

On November 3, 2020, the Milan Court of Appeal acquitted V. Markiv of all charges, and he was released after three years in custody. The court pointed out that all the evidence showed that the shelling in which the journalists were killed was carried out from the side controlled by Russian (so-called separatist) forces.

Vitaliy Markiv’s case was compared to that of Nadia Savchenko, a Ukrainian soldier dismissed in 2016 and defended by the Foundation, who was charged by the Russian authorities with the same charges in 2014.

The Kyiv-based Centre for Civil Liberties remained the Foundation’s main Ukrainian partner.

Defence of human rights in Kazakhstan

We have intensively continued the activities of the campaign entitled #ActivistsNotExtremists, which serves to broadly obtain information on human rights violations (in particular on political grounds) in Kazakhstan – often under the pretext of accusing social activists of extremist activity. We continued to support the emergence of new initiatives/committees of human rights defenders across the country

(including Qaharman, Bostandyq, Veritas, “405”, Femina Virtute, “Article 14”) and we organised online workshops for activists. We also put activists from Kazakhstan in contact with European politicians so that they could provide them with up-to-date information about events in their country.

In the reporting year, we also initiated the programme “Servants of the Regime”, also called “Karabety” in Kazakh, which means people with black faces, disgraced. As part of the programme, we collected information on the perpetrators of broadly defined violations of the rights of activists and other people, disseminating information on particularly compromised police officers, investigative bodies, security services and officials at various levels, highlighting their personal responsibility for the acts committed. Their lists and images were then published on the Internet, becoming a tool of social pressure. They also served to create numerous reports and sanctions lists – proposals submitted to countries sanctions implementing (such as the US, Canada, the UK, Australia and others) to impose visa and property restrictions on individuals identified as responsible for serious cases of political persecution. In accordance with their procedures, the Foundation’s analysts prepared the relevant sanction requests.

We continued to observe the expansion of Chinese influence in Kazakhstan and the use by the Kazakhstani authorities (and other authoritarian countries) of Chinese methods of surveillance of society and repression of activists (control of the Internet and social media, bans on leaving the country, mass detentions, a point system of citizen evaluation to promote desirable and stigmatise negative behaviour, etc).

In December 2020, in view of the parliamentary elections announced for January 2021, the Foundation began intensive monitoring of the pre-election situation in the country under the campaign “Voices of Kazakhstan”. This was associated with a significant increase in the repression of civil society – the authorities wanted to preventively pacify any possible public protests in defence of political pluralism and a fair election process (so far, no election in Kazakhstan has met democratic standards).

In 2020, the Foundation’s activities regarding Kazakhstan began to be supported by an American foundation “Freedom Kazakhstan”, founded by Kazakhstan-born entrepreneur Barlyk Mendygazyev. The network of the Foundation’s volunteers and cooperating initiatives in Kazakhstan itself has also been gradually increasing.

The Foundation’s analytical and advocacy work on Kazakhstan is presented in more detail in the following sections of this report.

Defending the rule of law and democracy in Poland

In the reporting year, we continued the activities carried out in previous years, however our activity was largely determined by pandemic constraints. Therefore, organising traditional meetings and events as part of sessions of several European and international institutions, as well as in the forum of national parliaments, was possible almost exclusively in the first months of 2020.

In February 2020, the Foundation, together with Italian Senator Roberto Rampi (Democratic Party), organised the event “Law and Justice’s Continued Campaign against the Polish Judiciary” at the Council of Europe Parliamentary Assembly. It was attended by MP Barbara Nowacka (Civic Coalition) and Judge Dominik Czeszkiewicz from the “Themis” Judges Association who acted as speakers. During the event, we pointed out the systemic nature of the persecution of inconvenient judges by the Polish authorities and the progressive dysfunctionality of the judiciary resulting from the functioning of the so-called neo-national Judicial Council and the Disciplinary Chamber of the Supreme Court, whose decisions “infected” the Polish judiciary. While at PACE, we sought a number of amendments to the report “The functioning of democratic institutions in Poland” which, after its adoption in the form of a resolution on

February 4, 2020, became the basis for establishing a monitoring procedure regarding the situation in Poland.

The Open Dialogue Foundation is one of eight European organisations whose comments and report on the state of the judiciary in EU Member States in the framework of the EU Justice Scoreboard 2020 initiative have been adopted and published on March 24, 2020 by the European Commission. Our study was prepared together with the ‘Themis’ Association of Judges and concerned the situation of the Polish justice system. The EU Justice Scoreboard is a new annual report, published by the European Commission, containing data on the quality, independence and efficiency of the judiciary in EU Member States. This information, gathered through public consultations, will then be used by the Commission in the monitoring of judicial reforms and will be included in the annual “Rule of Law Report”.

In this report, we pointed out the legal persecution of Polish judges, presenting current statistics in this area. The data includes the number of judges who are persecuted using hard and soft disciplinary, criminal and administrative measures of repression. The sources analysed allowed us to identify a total of 78 cases of judges (including Waldemar Żurek, Igor Tuleya, Piotr Gąciarek, Paweł Juszczyszyn and Dariusz Mazur), who are repressed in one way or another because of their legal – both judicial and non-judicial – activities. We emphasized that behind the repression of judges in Poland are the subordinate structures of the ruling party PiS, which operate, inter alia, on the basis of unconstitutional provisions (introduced in recent years) limiting the independence of the judiciary and judges.

In April 2020, we sent an open letter to the European Commission calling for stronger action in response to the ongoing dismantling of the independence of the judiciary in Poland. In particular, we demanded the initiation of so-called anti-violence proceedings before the Court of Justice of the EU in connection with the so-called ‘muzzle law’ introducing a disciplinary regime against judges who defend their independence. The letter was signed by 18 law professors and constitutionalists from the world’s leading universities, 4 Polish organisations of judges and prosecutors – led by the associations ‘Themis’ and ‘Lex Super Omnia’ – and other NGOs. The signatories included prof. Laurent Pech of Middlesex University in London, prof. Wojciech Sadurski of University of Sydney, prof. R. Daniel Kelemen of Rutgers University, and prof. Paul Craig of Oxford University.

In May 2020, the Open Dialogue Foundation joined the work of the European Commission’s new mechanism for monitoring the state of the rule of law in EU countries – the “Report on the rule of law”. Together with experts – judges Dariusz Mazur and Agnieszka Niklas-Bibik and former TVP employee Piotr Owczarski – we have included our report on the disturbing changes in the justice system and public media in Poland in 2019 and the first half of 2020.

In June 2020, for the second time, we published an overview of hate crimes committed on racist, homophobic, anti-Semitic or xenophobic grounds in Poland. This summary, for 2019, covered more than 70 cases. The report entitled “How hate kills. Hate crimes in Poland in 2019” covers the period from January to December 2019 and complements the OSCE Office for Democratic Institutions and Human Rights’ (ODIHR) annual reporting on hate crimes committed in OSCE member states. We pointed out the particular concern about the climate for spreading hatred that accompanies the political situation in Poland. In the Foundation’s view, political power not only turns a blind eye to certain crimes, but, even worse, plays a part in spreading intolerance and even inciting violence.

In the reporting year, representatives of the Foundation participated in sessions of the so-called Human Dimension Implementation Meeting (HDIM) of the OSCE (ODIHR). Due to COVID-19 restrictions, they were held – for the first time in the organisation’s history – in an online format. The May 2020 session addressed the issue of intolerance and discrimination. During the session, we presented the “Statement of Open Dialogue Foundation for Working Session 3: From Early Warning to Early Action: Prevention of

Discrimination from Escalation into Tensions or Conflict. Incidents of state-sponsored hatred in the times of the pandemic”.

At another OSCE HDIM working session, Foundation representative Katarzyna Szczypka presented the discriminatory practices used by public media in Poland during the pandemic. In particular, we have identified examples illustrating how the public broadcaster incites prejudice and discrimination against immigrants and refugees, presenting them as an epidemiological threat and suggesting their links with “Muslim terrorists” responsible for attacks in Europe. We also recalled the recommendations made by the UN Committee on the Elimination of Racial Discrimination to the Polish authorities in August 2019.

In July 2020, a representative of the Foundation raised the alarming problem of limiting the right of access to public information in Poland as part of the so-called follow-up meeting of HDIM.

At the OSCE, we also spoke out in defence of freedom of expression in the context of the abuse of criminal provisions on the protection of religious feelings, which formed the basis of a high-profile case brought against social activists Elżbieta Podleśna, Anna Prus and Joanna Gzyra-Iskander for depicting the Virgin Mary against a rainbow halo symbolising LGBT+ rights.

On June 9, 2020, together with prof. Laurent Pech, in response to the harassment of Judge Igor Tuleya and the blatant violations of previous decisions of the EU Court of Justice, we have sent another open letter to the European Commission. It was signed by leading legal experts, referring to the previous letter of April 22, 2020. The letter pointed to the subsequent actions of party nominees sitting in the so-called Disciplinary Chamber of the Supreme Court and Julia Przyłębska’s Constitutional Court, examples of which we have listed. The signatories of the letter called for the rapid and full use of all political and legal possibilities available to the Commission to put effective pressure on the Polish government.

The Foundation’s information and comments were included in the annual “Report of the Special Rapporteur on the independence of judges and lawyers” by UN Special Rapporteur Diego Garcia-Sayan, which was published in July 2020. The Foundation’s study was one of four prepared by NGOs that were used by the Rapporteur (and the only one from Poland). We submitted it jointly with the Association of Judges “Themis. The report focused on disciplinary proceedings brought against independent judges for their alleged abuse of office/misappropriation of functions. In fact, these proceedings were meant to mask the sanctions aimed at intimidating them and subordinating them to political power.

On October 8, 2020, together with Members of the European Parliament, we organised a hearing entitled “How should the EU support the Polish judiciary?”. The hearing was co-hosted by MEPs Róża Thun (EPP, Poland), Sophie in ’t Veld (Renew Europe, Netherlands), Michal Simecka (Renew Europe, Slovakia) and Terry Reintke (Greens, Germany). Also taking part in the discussion were judges Beata Morawiec (president of the Association of Judges “Themis” suspended from her duties due to her victory in a civil dispute for the protection of personal rights with the Minister of Justice Zbigniew Ziobro) and Dariusz Mazur.

At the end of the year, the Foundation launched a new programme “The List of Shame”, which aims to collect and make available information on individuals responsible for violations of the broadly understood rule of law, as well as for other serious pathologies of public life in Poland. This undertaking was inspired by the “Servants of the regime” that stigmatised officers – perpetrators of human rights violations in Kazakhstan. In order to fund it, we launched a collection on Zrzutka.pl and then proceeded to create a dedicated website and engage several lawyers to cooperate on a pro bono basis who began to prepare draft notifications of suspected crime and indictments. They will be directed in the case of/against the leading representatives of the ruling coalition and the executors of their politically-motivated and illegal dispositions in the power structures after the depoliticisation of the law enforcement agencies. We promoted the activities in this area intensively on social media.

In addition to defending repressed judges, we also took a stand in defence of independent prosecutors who were critical of the actions of the Minister of Justice and Prosecutor General Zbigniew Ziobro (for which they faced a number of acts of professional harassment).

We also continued the activities of the Programme for the Defence of the Persecuted, which we initiated in 2019. However, due to the pandemic, the number of court hearings and the opportunity to observe them was limited. Representatives of the Foundation monitored, among others, numerous trials of Judge Waldemar Żurek.

The main partner of the Foundation in activities carried out in this area was the Association of Judges “Themis”.

Analytical and information activities

The main subjects of the Foundation’s reports and other studies in 2020 included:

1. Using the COVID-19 pandemic to limit civil rights around the world (particularly in authoritarian countries and by hybrid regimes);
2. Violations of human rights in Kazakhstan (with emphasis on the situation of political prisoners and the persecution of participants in peaceful anti-government protests and perpetrators of violations);
3. The situation of the Uyghurs and the Kazakhstani minority in the context of massive human rights violations in China;
4. Contemporary methods of controlling societies in authoritarian countries and combating dissidents (the so-called digital authoritarianism); China’s role in spreading authoritarian practices around the world, especially in the post-Soviet area;
5. The use of Interpol mechanisms, the Schengen Information System and mutual legal assistance agreements by authoritarian states and hybrid regimes to prosecute individuals they identify as political opponents or persons associated with them;
6. Attacks on Ukrainian civic activists and journalists by the political and oligarchic structures in the state, law enforcement agencies and security services due to their anti-corruption activities;
7. Protection of lawyers involved in political cases (including defenders of torture victims and political prisoners) in non-democratic states and occupied territories as well as lawyers of political refugees (Ana Ursachi, Mark Feygin, Bota Jardemalie, mass persecuted Turkish lawyers);
8. Personal sanctions based on the so-called Magnitsky Act against officials from Russia, Kazakhstan and other countries as a method of countering impunity for human rights violations in the world;
9. State of the rule of law and attacks on civil society, hate speech as well as propaganda of Polish authorities.

The Foundation’s studies were presented and discussed as part of lobbying activity presented below.

All reports and studies are available on the Foundation’s website at <http://odfoundation.eu/> (available in Polish, English, Russian and Ukrainian).

The Foundation also conducted intensive communication in the Polish and foreign traditional and social

media, using its official Facebook profiles: <https://www.facebook.com/OpenDialogFoundation/>, <https://www.facebook.com/ODFUKR/> (profile currently suspended – not updated), Instagram: <https://www.instagram.com/pendialoguefoundation/> and Twitter: <https://twitter.com/ODFoundation>.

Lobbying (advocacy) activities

Due to the physical closure of the Foundation’s office in Warsaw in the first half of the reporting year, the burden of coordinating advocacy activities was completely taken over by the team in Brussels. Activities in the form of physical meetings and events organised at national, European, and international institutions have been de facto – as of March 2020 – suspended due to pandemic restrictions imposed by a number of countries. Therefore, it was possible to organise them almost exclusively at the beginning of the reporting year.

In general, the subject of advocacy activities was in line with the topics discussed as part of the Foundation’s analytical work. Among the most significant of these were the violations of the rule of law in Poland (activity detailed in section “Defending the rule of law and democracy in Poland” and “Defence of human rights in Kazakhstan”), as well as a cross-section topics dedicated to “modern” (digital) methods of society control and persecution of political opponents by non-democratic countries.

As part of the 19th Winter Session of the OSCE Parliamentary Assembly in February 2020 in Vienna, together with Dutch parliamentarians Farah Karimi (GroenLinks – Green Left) and Boris Dittrich (Democrats 66), we organised the event “New and Old Ways of Suppressing Dissent in the OSCE Area: Protecting Political Refugees from Legal and Technological Abuse”. This discussion featured Isa Dolkun, president of the World Uyghur Congress; Bota Jardemalie, Kazakhstani lawyer and human rights defender; a Turkish lawyer and refugee (wishing to remain anonymous for security reasons); Daria El Zhed, an Open Russia movement activist prosecuted through Interpol; Antonio Stango, president of the Italian Federation for Human Rights.

A completely new and important aspect included in our work has been the impact of the coronavirus pandemic on the civil rights situation in the world – reports in this area have mostly been produced in cooperation with the Italian Federation of Human Rights. We watched this matter and paid attention to the new reality from a wide perspective – from the difficult situation in penitentiary centres to systemic and arbitrary attempts to limit civil rights. In addition to the traditional post-Soviet area, the review also covered countries such as China, Iran and Turkey.

In August 2020, on the initiative of Italian Senator Roberto Rampi, together with the Italian Federation for Human Rights, we organised an event at the Senate of the Italian Republic in Rome “The Authoritarian Epidemic: Safeguarding Human Rights in Times of COVID-19”, at which the Foundation’s report with the same title was presented.

Throughout the reporting year, we promoted the use of personal sanctions as an important tool of democratic countries and the international community in enforcing respect for human rights around the world. In February 2020, we held a series of meetings in the Italian Parliament: in an effort to pass the Italian “Magnitsky Act”, we were supported by the Italian Federation of Human Rights and human rights lawyers Ana Ursachi (Moldova), Bota Jardemalie (Kazakhstan) and Jared Genser (USA). on February 7, in partnership with the Human Rights Committee of the National Forensic Council, with the participation of a representative of the Norwegian Helsinki Committee, we organised a seminar for Italian lawyers on the practical aspects of using sanctioning tools in countries such as the USA and Switzerland.

On December 7, 2020, the European Council established the “global human rights sanctions regime”. This decision made it possible to impose sanctions on states, organisations, and individuals responsible for crimes of genocide, crimes against humanity and serious human rights violations. We see this as a

kind of crowning achievement of many years of efforts of the Foundation and a number of other organisations and individuals to strengthen human rights protection mechanisms by reducing impunity for human rights violators around the world.

An important support of our activities in the reporting year were the studies prepared in cooperation with external institutions, such as the analysis and evaluation of the EU strategy towards Central Asia entitled “EU Human Rights Promotion in Central Asia – Between the Dragon and the Bear” commissioned by the Wilfried Martens Centre – a think tank of the European People’s Party in April 2020, which we subsequently used in contacts with European politicians and diplomats.

At the Human Dimension Implementation Meeting (ODIHR/OSCE), the Foundation consistently raised the issue of individual repression of activists in Kazakhstan and the increasingly intrusive methods used by the country’s authorities to suppress opposition voices. More and more often, not only activists of banned social movements (such as the Democratic Movement of Kazakhstan and the “Koshe” party) were targeted, but also members of their families and completely random people (for example, those detained in the vicinity of places where protests against the government’s policy were planned). We have achieved numerous interventions on these matters from parliamentarians in European countries.

Cases of political assassination have been particularly drastic in this regard – including the high-profile case of the murder of well-known activist and father of a large family, Dulat Agadil, and then of one of his sons (a key witness in the case). The activist lost his life while in custody, following a severe beating and subsequent failure to provide him with medical assistance in February 2020. In the case of Dulat Agadil, as well as other victims of politically motivated assassinations in the reporting year (Amanbike Meirkhanova and Serik Orazov), in October 2020, at the request of the Foundation, two strong appeals to the President of Kazakhstan Kasym Yomart-Tokayev were made by 24 MEPs from 14 countries – led by Isabel Santos (Portugal, S&D), Petras Auštrevičius (Lithuania, RE), Nacho Sánchez Amor (Spain, S&D), Helmut Scholz (Germany, GUE/NGL), Brando Benifei (Italy, S&D) and Niklas Nienass (Germany, Greens/EFA).

We were very critical of the work of the EU Delegation to Kazakhstan in the field of human rights due to the actual lack of cooperation with NGOs and MEPs, as well as the fact that the voice of Kazakhstani civil society was ignored, together with a complete lack of assertiveness towards the representatives of the local regime. We submitted a report and a complaint on this matter to the European External Action Service in October 2020.

On September 29, 2020, the French National Asylum Court issued a decision granting refugee status to Kazakhstan’s democratic opposition leader Mukhtar Ablyazov. This is another fundamental decision in the case of the founder of the Democratic Choice of Kazakhstan movement after the rejection of his extradition on political grounds in December 2016, marking the culmination of years of efforts of the Foundation. The court unequivocally assessed the long history of political persecution of M. Ablyazov, in its ruling taking a position consistent with the Foundation’s assessment: “(...) *there are serious reasons to believe that the civil and criminal proceedings brought against Mr. Ablyazov under cover of the action of the BTA in Kazakhstan or in other foreign jurisdictions are in fact motivated by political aim*”.

In connection with the fact that the defence of M. Ablyazov has brought a number of accusations against the Foundation, placing us at the centre of a propaganda and disinformation campaign of the government of Kazakhstan, it is worth pointing to the key passages of the decision of the French court: “*Finally, there are very worrying indications of the risk of persecution, the unsuccessful attempts to extradite the person concerned to Ukraine and the Russian Federation presented to the French authorities, as well as the dissemination of an international arrest warrant and red notices to Interpol. These procedures, which were based on prosecutions brought on charges of financial embezzlement in the management of the BTA bank, have in fact turned out to be indirect maneuvers by the Kazakh authorities whose real political goal*

has finally been established in two parallel, reliable and independent procedures: On the one hand, by the Council of State in its decision of December 9, 2016 and, on the other hand, by Interpol in its decision of July 13, 2017. In this latter decision, Interpol found that it was established that, despite the common law character of the prosecutions founding the red notices relating to the applicant in the BTA affair, the motive of the Kazakh authorities presented a predominant political dimension”.

“Thus, according to Interpol, the criminal proceedings initiated in Kazakhstan in 2009 in the context of the BTA affair are based on a political motive. Consequently, all of the facts and accusations imputed to Mr. Ablyazov concerning alleged massive fraud committed to the prejudice of the BTA bank come from or are based on criminal proceedings opened in Kazakhstan or in the Russian Federation, the political motive of which was established in France by the Council of State and by Interpol and therefore emanate from the agent of persecution”.

Due to the political breakthrough in 2019, our engagement with Moldova, where pro-democracy forces came to power at the time (although the presidency of the pro-Russian Igor Dodon and the growing influence of his Socialist Party was a concern), was reduced in the reporting year. In our contacts with the European Commission, we pointed to the lack of fundamental reforms and the still alarmingly high level of corruption in the country. In a study prepared for the purpose of the so-called “EU-Moldova Human Rights Dialogue” we alerted, among other things, about political pressure on Supreme Court judges and investigations still ongoing from the time of government of the infamous superoligarch Vlad Plahotniuc.

Closed by the new Prosecutor General – as politically motivated – was the investigation against Lyudmyla Kozlovska and the Open Dialogue Foundation (a case initiated at the request of Vlad Plahotniuc in 2018). This investigation was discontinued in May 2020.

The Italian Federation of Human Rights remained the main partner in the Foundation’s activities in the European arena.

Humanitarian aid

The reporting year saw the reactivation of the Foundation’s financial assistance activities (as in 2013-2016 in connection with the situation in Ukraine). This was primarily related to the unprecedented situation of the Polish health service in the face of the COVID-19 coronavirus pandemic.

As we indicated earlier in the 2020 financial statements, the Foundation conducted a public fundraising campaign for this purpose through Zrzutka.pl under the slogan “Meal for a Doctor”. The total funds transferred to the Foundation’s account in the reporting year amounted to 681,012.00 zlotys, and the total value of in-kind donations amounted to 125,434.68 zlotys. The campaign was used to fund support for medical facilities across Poland through catered meal deliveries. In addition to meals, it also financed the purchase of medical equipment for the City Hospital No. 4 in Gliwice. The campaign was closed in May 2020, with final completions of the accounts in July and September – details and statements were published in its financial summary on the Foundation’s website: <https://odfoundation.eu/sprawozdania/>. The Foundation’s partners co-leading the campaign were the FOR (Civil Development Forum) Foundation and the Niskie Składki (Low Contributions) and Spontaniczny Sztab Obywatelski (Spontaneous Civic Staff) associations.

The second action of this kind in the reporting year was the “Save Krystian” collection: <https://zrzutka.pl/g6zaes>. This campaign, initiated by Kajetan Wróblewski of the Asymmetrists foundation, served to support the family of Krystian Surmach, a Ukrainian boy with a very advanced stage of autism. Krystian is looked after by his disabled father, Volodymyr. Apart from the humanitarian aspect (difficult financial situation), Krystian and Volodymyr faced formal problems involving serious

obstacles to their further stay in Poland. In 2020, we raised 19,970 zlotys for them. The action continued in the first weeks of 2021.

Summary

In the reporting year, the activities of the Foundation were significantly affected by the pandemic. The activities of the Warsaw office were further reduced (in favour of Brussels), however the activities related to Poland were carried out with great intensity in the European forum. Many cases have slowed down (including ongoing legal and administrative proceedings) and many events have been cancelled or moved online.

The conflict with the Polish government and its agencies continued, manifested among others in propaganda attacks on the Foundation and its representatives. In proceedings for protection of personal rights, brought in our own defence, the Foundation continued to obtain positive court decisions, in particular in relation to safeguards granted to us (among others in disputes with TVP and Polskie Radio).

The existing activities were essentially maintained, but – in addition to the main area of activity – a periodically important project and organisational effort became the health care assistance campaign “Meal for a Doctor”. The coronavirus pandemic also made it necessary to monitor the human rights situation in the world from a new perspective – the erosion of civil rights and the spread of authoritarian practices under the pretext of protecting public health. This is reflected in many of our studies.

The administrative and financial support of the Foundation’s activities – apart from running the crowdfunding (fundraising) campaigns managed by the “Polish” Open Dialogue Foundation – was provided by the Belgian-based Open Dialogue Foundation Privee. The administrative support for the Ukrainian team of the Foundation was provided by Hromadska Spilka “Vidkrytyy Dialoh”.

The Foundation published detailed information about its activities on its website available at www.odfoundation.eu

2.3 Legal events with financial implications – none.

3. Information on the business activity conducted according to the entry in the Register of Entrepreneurs of the National Court Register:

The Foundation did not carry out business activities in the year under review.

4. Resolutions of the Foundation Board – in 2020: the Foundation Board adopted 1 resolution – Annex 1.

5. Information on the amount of income received:

Total revenues – 1,183,275.03 zlotys, including:

a) Funds from:

- subsidies: 0.00 zlotys;

- donations: 1,046,983.56 zlotys (including through crowdfunding campaigns – individual contributions via Zrzutka.pl: 713,882.00 zlotys);

b) Financial income: 0.00 zlotys;

c) Other income (including donations in kind): 125,434.68 zlotys;

d) Other income: 10,856.79 zlotys;

e) Paid statutory activities: 0.00 zlotys;

f) Economic activity: 0.00 zlotys.

6. Information on costs incurred:

Total costs – 1,313,617.91 zlotys, including:

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- a) Costs of carrying out statutory activities (cash benefits): 1,163,523.49 zlotys;
 - b) Administrative costs: 1,145,474.37 zlotys;
 - Consumption of materials and energy: 653.91 zlotys;
 - External services: 15,477.41 zlotys;
 - Taxes and charges: 1,584.00 zlotys;
 - Wages and social security: 0.00 zlotys;
 - c) Other costs (increase in costs by the previous year's result): 0.00 zlotys;
 - d) Finance costs: 239.86 zlotys;
 - e) Other costs: 129.94 zlotys.

7. Details on the Foundation's activities:

- a) number of employees – in the reporting year, the Foundation had no employees;
- b) total amount of basic salaries paid by the Foundation – 0.00 zlotys;
- c) the amount of annual remuneration paid jointly to the members of the Management Board and other bodies of the Foundation – 0.00 zlotys;
- d) expenses for remuneration under civil law contracts – 8,601.48 zlotys;
- e) cash loans granted by the Foundation – none;
- f) amounts in bank accounts – the Foundation had no bank deposits; the balance of current accounts at the last day of the year was:
- g) - mBank S.A. 26,923.79 zlotys, 559.87 \$, 0.70 €;
- h) value of bonds acquired and amount of shares or stocks purchased – the Foundation has not acquired any bonds and has no shares or stocks in commercial companies;
- i) real estate acquired – the Foundation has not acquired any real estate;
- j) other fixed assets acquired – the Foundation has not acquired any fixed assets;
- k) total assets at year-end equalled the Foundation's total liabilities and were: 33,332.19 zlotys;
- l) information about the Foundation's settlements of outstanding tax liabilities – as at 31.12.2020, the Foundation had open tax liabilities to the tax office in respect of: personal income tax (PIT-4) in the amount of 446.00 zlotys, corporate income tax (CIT-8) in the amount of 201.00 zlotys, tax on goods and services (VAT-9M) in the amount of 0.00 zlotys and contributions to the Social Insurance Institution (ZUS) in the amount of 3,417.06 zlotys.
- m) The Foundation made the following declarations: CIT-8; PIT-4R; PIT-8AR; NIP-8.

8. During the reporting period, the Foundation did not carry out assignments for state or local government entities.

9. In the reporting period, in the Foundation, the repeatedly prolonged customs and fiscal audit (transformed into so-called tax proceedings) concerning “reliability of declared tax bases and correctness of calculation and payment of corporate income tax for 2014, 2015 and 2016”, conducted by the Łódź Customs and Fiscal Office (UCS) in Łódź, continued.

The audit was initiated as a result of the demand made by Minister Coordinator of Special Services Mariusz Kamiński to then Minister of Foreign Affairs Witold Waszczykowski, following which the head of the Ministry of Foreign Affairs asked the Tax Administration Chamber in Warsaw to initiate “comprehensive fiscal inspection” of the Open Dialogue Foundation. A senior official of the Customs and Fiscal Office in Łódź is Tomasz Waszczykowski, brother of Witold Waszczykowski, who previously held the position of its head, and currently remains the head of the 1st Tax Control Division.

In view of the apparent conflict of interest, the Foundation submitted a request to the tax authorities to exclude the head of the Customs and Fiscal Office in Łódź in order to transfer the control proceedings to another customs and tax office. However, this request was rejected. In the reporting year, the investigation concerning the abuse of power to the detriment of the Foundation in connection with the violation of its fiscal secrecy (conducted by the District Prosecutor's Office Łódź-Bałuty in Łódź) was still ongoing.

In the Foundation's view, the ongoing inspection activities were another element in a series of different types of politically motivated repression directed against the organisation by the Polish authorities after July 2017.

President of the Management Board:

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Brussels, December 31, 2020

Annexes:

- Resolution of the Board of Directors of the Open Dialogue Foundation of 2020

