

Strasbourg, 8 October 2018

PACE side event: Shrinking space for civil society and persecution of human rights activists

Dear friends,

Populists and nationalism are on the rise in many European countries. Sadly, my second homeland, Poland is not an exception but a growing concern for its citizens, residents and the international community.

My organisation, The Open Dialog Foundation, works internationally to support social activists, reformers and human rights defenders, as well as oppressed opposition politicians, sponsors of the opposition, independent journalists and people associated with them. Until 2017, we have never formally spoken out on the internal situation in Poland - the same Poland that had been often a role model and inspiration for its Eastern neighbours and other post-Soviet states struggling for a democratic transformation. Polish people have shown them great solidarity, with my second homeland being a safe haven for political refugees. According to our original objectives, we can remained focused on the post-Soviet area.

But it is not the case anymore - instead of being an inspiration and model to follow, since Law and Justice took power, Poland has been adopting post-Soviet standards of state governance and public life.

The ruling party, Law & Justice, started dismantling the constitutional order by seizing control of the judiciary. **Having control over the law enforcement and the state-owned media, with country's president, Andrzej Duda, serving as its puppet, it evolves into further centralisation and authoritarianism.**

The escalating assault on the rule of law in Poland is not an abstract issue. It has a very direct, human dimension. According to various reports, including those prepared by Obywatele RP - the Citizens of the Republic of Poland civic movement - there are more than 2,000 ongoing proceedings against peaceful protesters defending the constitution, fighting for women's rights, or standing up to various radical right-wing and fascist groups in Poland.

Although not comparable in terms of severity, the current harassment and repressions of activists have absolutely no precedent since the fall of communism in 1989. Activists of the Committee for the Defence of Democracy, the Citizens of the Republic of Poland, women's rights and anti-fascist movements, as well as ordinary citizens voicing their concern, have found themselves under pressure. Over the last months there have been cases of surveillance, seizure of documents or mobile phones and computers taken from NGOs offices. A fellow activist, Justyna Butrymowicz, recently had her hand broken by police officers. Unjustified, excessive use of force advances.

We were among the thousands of people in Poland protesting in defence of the rule of law in July 2017. My husband's article on possible civil disobedience actions, published at the time on his personal Facebook account triggered a wave of repression against our organisation and our family. Key ministers of the Polish government publicly discussed measures that should be employed against us and other civil society organisations critical of the state authorities.

We have been accused of intending to provoke a bloody revolution (so-called Maidan) and planning to overthrow the government in order to achieve the interests of foreign states and actors: George Soros, the Russians, the Germans, the so-called "Brussels elites", Ukrainian nationalists, various foreign intelligence services. State-owned and other pro-government media outlets have been producing new fake news and conspiracy theories about us on a daily basis, very often simply reproducing disinformation purposefully created by post-Soviet regimes in Kazakhstan, Russia and Moldova that we oppose. This resulted in a massive wave of hate and direct threats against us. **I know that many of you would not believe but the state propaganda in Poland very much resembles its Russian counterpart. Even in the terms of the anti-European sentiment, which is fully in line with the rhetoric of Poland's highest officials. 'EU**

funds are important, because they help with renovating pavements, but much more good is brought by the PiS government,' said Prime Minister Mateusz Morawiecki. A few weeks earlier, Polish President Duda, had described the EU as “an imaginary community”.

The Minister of Foreign Affairs attempted to take over the control of the Foundation requesting the court to appoint his commissioner, who would replace our management board. The Ministry lost the case twice: the court dismissed the motions filed by minister Witold Waszczykowski and his successor Jacek Czaputowicz, citing the constitutionally-guaranteed freedom of speech and referring to the fact that the ministers have not even been able to specify which provisions of the law were allegedly violated by us.

A special fiscal and customs control was initiated on the request of the Minister-Coordinator for Secret Services and the Minister of Foreign Affairs. Despite being prolonged several times already, it has not brought any findings so far. No charges have been brought against me, my husband, nor the foundation itself. It seems they persecute me strictly because, as a foreigner, I am an easier target than my husband. It could also be perceived as a means of intimidation - a warning for other foreign nationals living in Poland, especially Ukrainians, for their families, and for any citizen wishing to oppose the current government.

The abuse of the Schengen Information System is yet another attempt to persecute us. We had not had any problems nor disputes with the Polish authorities earlier, before my husband's article in 2017, so we are convinced it is of political nature. This was even openly admitted by Mr Waszczykowski recently, as he justified the ban claiming we had been conducting anti-state activities by influencing foreign politicians abroad, particularly in Brussels.

Because of the entry ban imposed by the Polish authorities, I was detained at Brussels airport on the 13th of August and expelled to Kyiv the day after. I have not been notified of any factual basis behind the SIS ban - everything has been highly classified, with a part of my case file containing secret information, the disclosure of which - and I quote - *would result in serious harm to the state*. Officially, I remain a threat to national security in Poland and should be treated as such by all Schengen member states. We are exploring all possible legal measures to lift the ban, but Polish law effectively deprives me of the right to defend myself and appeal the SIS entry ban.

According to prominent experts, relevant Polish law is not compliant with the European SIS II regulation. This abuse of SIS can even violate European treaties, primarily the principle of sincere cooperation. The Polish Helsinki Foundation for Human Rights requested Commissioner Dimitris Avramopoulis to ensure the compliance of Polish migration and asylum laws with EU law, including the initiation of infringement proceedings.

The EU has to establish an effective legal and practical mechanism to prevent future abuse of the SIS by illiberal, oppressive governments of its member states by introducing means of effective supervision.

When it comes to Ukraine, attacks on civic, mainly anti-corruption activists remain a very serious issue as the law enforcement bodies seem to be either unable or even reluctant in providing necessary protection and response to those incidents. Moreover, human rights organisations have registered an increase in politically motivated actions of the state bodies against civic organisations which expose corruption or conduct protest rallies against high-rank officials. They are deeply concerned with the plans to implement the law called the Foreign Agents Act which could become a useful means of suppressing critical part of country's civil society by the authorities.

Although the state propaganda in today's Poland and Russia very much resembles each other, little can be compared to the gross human rights violations conducted by the Russian state. As, alongside other Ukrainian civic initiatives and MPs, we support the campaign to maintain sanctions imposed on the Russian Federation by the Parliamentary Assembly of the Council of Europe, I would like to recall a few striking facts:

- Russia divides Europe, interferes in internal affairs of other countries by disinformation, cyberattacks and use chemical weapons on their territories;**
- Russia ignores the implementation of six resolutions about war it started against Ukraine;**
- Russia occupies and militarises Crimea;**

- **Russia continues violation of human rights, being accountable for war crimes in Donbas;**
- **Russia continues persecution of Crimean Tatars;**
- **Russia holds at least 70 Ukrainian political prisoners and at least 100 prisoners in occupied Donbas**
while PACE is only a footstep away from lifting its sanctions. We must not allow it.

Thank you.