



OPEN DIALOG

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Anna Fotyga
Member of European Parliament

Dear Minister,

It is with regret and sorrow that we received your letter of 25 July 2017, referring to the July text of the Chairman of the Management Board of the Foundation, Bartosz Kramek, presenting the instruments of civil disobedience in connection with the threat to the rule of law in Poland.

I trust that you have also read the statement of the Foundation itself¹, in which our motivation is presented, as well as the subsequent statement, published by Bartosz Kramek on 26 July 2017².

At the same time, I understand that loyalty to one's party can significantly determine your perception in relation to the situation in Poland and be superior to you in relation to numerous and extremely serious reservations (formulated, among others, by the European Commission and the Venice Commission, and on the national arena – even by the most renowned university law departments) expressed with regard to the Law and Justice draft laws that are supposed to be part of the so-called judicial reform. In our opinion, they constituted a clear attack on the rule of law and, in essence, brought Poland closer to the standards, typical of the countries of the post-Soviet space. It is a well-known fact that one of the basic problems in the draft laws is the politicisation of the justice system through its subordination to the executive power bodies.

Our experience from Eastern countries teaches that society cannot remain passive towards this kind of actions; strong reaction and effective exertion of peaceful – I would like to emphasise this word – pressure on public authorities in order to stop their destructive policies which break the Constitution and European standards.

The current policy of Polish authorities is heading in the direction which is blatantly contradictory to the choice made by Ukrainians on Maidan in the period between 2013-2014. Ukraine puts great effort into its attempts to reform the country while heading towards the West, towards the EU; meanwhile, Poland – for the first time since 1989 – is heading in the opposite direction. In this context, it is worth mentioning the fact that the fundamental reform of the judiciary in Ukraine makes judges independent of the Supreme Council (parliament) and the president by strengthening the Supreme Council of Justice, which is to decide on the assignment of judges. For comparison – the changes in Poland, pushed forward by your political environment, are going in exactly the opposite direction.

¹ <http://en.odfoundation.eu/a/8247,statement-of-the-open-dialog-foundation-of-21-july-2017-on-the-dismantling-of-the-rule-of-law-in-poland>

² <http://en.odfoundation.eu/a/8266,the-statement-of-the-decision-of-the-president-of-the-republic-of-poland-of-24-july-2017-regarding-the-judiciary-reform>

Yes, it is true that the Open Dialog Foundation was not appointed to deal with the internal situation in Poland (which has always been a model country for me and my compatriots; a model example of transformation success), but we never thought that such practices and legal nihilism would become part of the Polish reality.

I assume, of course, that our assessment of this matter may differ, but, at the same time, I ask you that you show elementary respect for our views and cease to seek deeper meaning (e.g. claiming that the text was an attempt to obtain new financing) in our decision. It has to be mentioned that it brought us almost exclusively negative consequences: both the Foundation and we personally have become the object of unprecedented attacks.

It is worth emphasising that we do not consider our position as a form of political activity. We do not seek directly to change the power in Poland, but we wish to force it to respect the Constitution; to govern the country within the limits of the law. On a similar basis, we carry out our actions against the policy of regimes in Russia and Kazakhstan; we condemn them for authoritarianism by pointing out the mechanisms of oppression, abused by the authorities, and naming people who are guilty of violations of human rights.

We are sorry that the differences in opinions about Poland make impossible, in your opinion, our future cooperation for the sake of Ukraine and human rights in the post-Soviet space. After all, we owe you our great gratitude for all joint initiatives and commitment to support refugees and political prisoners in the former USSR countries. We wish to thank you for your understanding and material support given to our initiatives by your office, for helping the Ukrainian prisoners of the Kremlin, for supporting the Kazakhstani opposition, Russian civil society and Moldovan human rights defenders.

I perfectly remember your words that in all circumstances you have to remain faithful to your convictions and values. A living example of internal cohesion and civil courage is also your colleague from the European Parliament – Kazimierz Ujazdowski, who, in the face of violation of the Constitution, decided to leave the party Law and Justice. According to one of his comments at that time, he *chose loyalty to his own views*. As stated in his statement, mentioning, among others, the lack of respect for the judgments of the Constitutional Tribunal: *Today, the ruling camp commits the mistakes of the previous power, exposing the state institutions to the worst crisis since 1989*. Although this is unpleasant, and we continue to watch the development of the situation in Poland with disbelief, we share his assessment of the situation.

Our firm protest against limiting the independence of the judiciary stemmed from our deep convictions. We maintain a sense of rightness in this matter.

Yours sincerely,

Lyudmyla Kozlovska