



POLISH LEAGUE AGAINST DEFAMATION

The Good Name Redoubt Foundation – The Polish League Against Defamation
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Information from Polish League Against Defamation about real situation in Poland

We look at the opinions about the alleged threat to democracy in Poland ruled by the Law and Justice party (PiS), the alleged coup in the Constitutional Tribunal (CT), “appropriation of the state”, and even about coup d’état and the advancing dictatorship that have begun to appear more and more frequently even at the European Parliament with attention and apprehension. This gossip has little to do with reality, save for contributing to establishing a negative image of Poland abroad. It is an affront to the reputation of Poland and Polish citizens.

The predictability and stability of Poland is of specific significance in the light of internal and external threats that the European Union is now facing. Thus, to ensure that our partners from the European Union remain calm and to provide assurance that Poland is a country where law is respected, where the standards commonly accepted by the European civilization are respected, we would like to present the following information.

- **Presidential and parliamentary election as a proof of democracy**

Andrzej Duda’s victory in the presidential election, the clear victory of PiS in the parliamentary election, as well as the election success of the Kukiz15 social movement served as an expression of the expectations of Polish citizens, being the introduction of radical, far-reaching changes in how the state system operates. It seems that the Civic Platform (PO) was the only party that does not accept this change and does not wish to agree with the will of the voters! For years, this country has seen a process that one might now call ‘oligarchisation’ of the state. It led to a situation where different interest groups made decisions that were of significance for the functioning of the state under the pretence of democratic institutions and democratic principles. It is the fear of losing their privileged standing in the media, economy, and the state administration, that is the true cause of the anti-government protests in Poland at the moment. These protests have nothing to do with the alleged threat to democracy.

The actions undertaken by the ruling government, elected in the course of a democratic election process, recognised by independent observers, seek a better reflection by the courts and the media of the will of the voters. These actions are also intended to restore the system of values that is consistent

with our traditions and cultural identity. As Hans-Olaf Henkel, MEP, said: “There is no nation in Europe that fought so hard for freedom and democracy over the past 100 years other than the Polish nation.”¹ Freedom and democracy still remain the ultimate values.

- **Discussions and disputes about the Constitutional Tribunal**

The most impassioned and the most fundamental dispute of the recent weeks concerns the Constitutional Tribunal (CT) – the issues related to appointing and taking oaths from the members of CT and to introducing statutory changes. This became a pretext for writing opinions – both in Poland and abroad – about the alleged coup for the democracy, or even coup d’état. Poland has seen a wave of discussions on the standards of Polish democracy and the values inscribed in the Constitution.

However, if we were to use the same logic, the coup for the independence of the Tribunal was performed when in June 2015, just before the end of the Polish Sejm’s term of office, and under the threat of the looming loss in the upcoming parliamentary election, the previous governing coalition drew up and passed an Act on the Constitutional Tribunal (the so-called June Act).

Two judges of CT, along with the head of CT, participated in drawing up the June Act, broke the law – Article 178(3) of the Constitution reads: “A judge shall not belong to a political party, a trade union or perform public activities incompatible with the principles of independence of the courts and judges.”

Under the very act, adopted by the parliamentary ruling at the time due to the votes of MPs representing PO, PSL, and SLD parties, new members of CT were appointed before the terms of office of their predecessors lapsed (!). The appointment of the judges, the task that should be completed by the subsequent parliament, was not compliant with the constitution (which was recently asserted by the CT itself) and constituted a kind of coup for its underlying mechanism that guards the foundations of its independence.

The current situation that resulted from the above actions of the previous governments of the Republic of Poland forced President Andrzej Duda and the new parliament to find new solutions to restore the true protection of the constitutional order.

It is natural that each democratic state works out its own model of constitutional courts. However, reaching a consensus requires time, peace, as well as mature and responsible dialogue with all political circles and powers. This cannot be done while rekindling unhealthy emotions or exerting pressure. Poland has already shown, in its recent history, that it is able to reach agreements to overcome divisions.

¹ Hans-Olaf Henkel in an interview for the wPolityce.pl website of 04.01.2016 <http://wpolityce.pl/polityka/277081-eurodeputowany-hans-olaf-henkel-polacy-nie-potrzebuj-dobrych-rad-niemcow-urzadzajac-nagonke-na-pis-niemieccy-chadecy-wspieraja-po-swojego-politycznego-sojusznika-nasz-wywiad>

- **The Media Act and the alleged threat to the freedom of speech and independence of the public media**

Another topic raised by the so-called defenders of democracy is the alleged threat to the freedom of speech in Poland after the Media Act was passed a couple of days ago. The undertaken actions are deemed as contradictory to the pluralism of the media and to the independence of public media as well as to the democracy in Poland. These allegations, just like in the case of CT, are unfounded.

Society has the right to receive full, reliable and objective information. And the superior role of the media, in particular public media, is to do that.

We may indicate several examples of how the society was deprived of the knowledge about the situation in the country over the past few years. It is enough to mention the marginalisation of the information of 14 December 2014, when Bronisław Komorowski, holding the office of the President of Poland at the time, for four hours gave testimony as a witness in the unprecedented trial of a journalist, Wojciech Sumliński, and former officer of the Military Intelligence Service (WSI), Lieutenant Aleksander L., who were accused of paid protection. Were the media truly democratic, they should present it as the topic of the day. However, all the Polish media did, including the public media, was to mention that such a hearing took place. No transmission was broadcast from the hearing, despite the fact that all TV channels had their equipment on site in the room. The topic of unclear and highly controversial relationships of the former president with the military intelligence special service was not raised. The material presented in the public media was reduced to a one-minute message. It is difficult to find a clearer example of the lack of objectivity and diligence in the public media.

It is obvious that the current government of the Republic of Poland must undertake actions intended to restore the proper role of the public media, to restore the professional and ethical standards that are required in order to realise the public mission, and to rationalise and lower the costs of managing the public radio and television companies. This is what the society expects, the very same society that defined their expectations, needs and preferences in democratic election.

The draft act on national media assumes that – as the Polish Press Agency (PAP) reports – “Polish Television, Polish Radio, and the Polish Press Agency will become the national media; they will be transformed to establish *state legal entities* managed by a director, supervised by the National Media Council”.

The PAP report also reads: “the mission of the Polish Press Agency *is to obtain and provide to recipients reliable, objective and comprehensive news from the country and from abroad.* In turn, the mission of the national radio and television *consists in cultivating national traditions as well as patriotic and humanistic values, contributing to meeting the spiritual needs of the listeners and the viewers, stimulating and meeting all their interests, popularising the results of Polish and global scientific and*

*artistic work, popularising various forms of civic activity, facilitating access to objective news and creating the conditions fit for pluralist debate about public matters [...]*²

The act applies only to public media and in no way effects the functioning and the message sent by private media. However, as even Jacek Żakowski, journalist for the Polityka weekly, a guru of the liberal-democratic communities that is against PiS, observes, “the place of true debate and news was taken by much more commercially viable sparring matches between parties or ‘infotainment’”. The journalist notices that “public media became impressively commercially- savvy”, “at the cost of abandoning the mission and wasting the chance to contribute to the establishment of an active and democratic civic society in Poland, which would, for example, understand [...] the role of building and upholding the democratic culture for the democracy. In stable European democracies this is the main purpose and essence of the existence of public media, next to setting out the quality standards for the entire media market”.³ The actions undertaken by the current government are intended to restore such purpose and order’.

- **Safety for citizens in the context of the revised Act on Police**

The opposition alleges that PiS acts in a hurry, under the cover of darkness, that it hastens the legislative process and avoids social consultations. However, contrary to these allegations, social consultations about the freedom of speech, privacy and freedom of the Internet took place at the Ministry of Digitalisation. Before that, the Sejm held the first hearing of the bill submitted by PiS as regards the operational inspections conducted by secret service and the principles of obtaining billing information by them.

The bill does not provide for any additional entitlements to be granted to the special service. The bill drawn up by PiS is to implement the judgement of CT from July 2014 (!) concerning the fact that the principles of obtaining billing information and the principles concerning operational inspections are partially unconstitutional.

The previous government did not undertake any work on that act as of mid-2014, despite the recommendations issued by CT. Haste was therefore necessary. The challenged provisions cease to be binding on 06 February 2016, and on that date law enforcement would no longer be able to obtain billing information and to conduct operational inspections, which would make their job impossible.

Contrary to the common opinions, the bill infringes no standards; it only introduces regulations that do function in almost all EU member states and that arise from the obligation to follow the recommendations issued by CT, which was neglected by the PO-PSL government.

“The bill specifies a closed catalogue of data other than ICT data that the entitled law enforcement services may obtain from the operators to prevent or uncover crimes. It was also

² The full text of the message is enclosed to this document.

³ Jacek Żakowski for Wirtualna Polska, updated 07.01.2016,14:24

mentioned that ICT, postal and Internet data may be provided only to conduct certain tasks specified in the act of law that regulates the functioning of the given service. [...]

The relevant regional court would be entitled to verify the obtaining of ICT, postal and Internet data after the fact. The entitled services would send in reports to the court once every six months, quoting the number of data obtained and the types of crimes that warranted obtaining such data. The court could familiarise itself with the materials justifying the disclosure.

The bill also regulates in detail how the materials containing trade secrets, e.g. medical, journalist, legal secrets, should be processed.”⁴

- **The past 8 years in Poland**

The 8-year-long of rule by the coalition composed of the Civic Platform (PO) and the Polish People’s Party (PSL) may be summarised by saying that the rulers treated the state (its institutions and resources) and the money of the taxpayers as their personal property. The government created a strong propaganda, making the major media dependant on it. The National Broadcasting Council (KRRiT) was dominated by people from – or connected to – the government, in particular PO. The same applied to the management boards and directors of public media. Many journalists and publicists that spoke critically about the government were removed from their posts. There was an informal ban on inviting many publicists and engaging artists, whose views deviated from the government’s line, excluding them from the public media.

A media front of sorts prepared the ground for the regulations introduced by the government that e.g. limited parental rights or the freedom of assembly. This front also masked the multiple scandals around the representatives of the government. Polish Internet users have created a list of scandals around the PO-PSL coalition politicians that took place over the past 8 years. The list has over 2.5 thousand items and does not include the ones that took place at the very end of their term of office.

The attitude of the media towards the Smoleńsk crash, in which e.g. the President of Poland Lech Kaczyński, the Commissioner for Human Rights, highest-ranking commanding officers of the Polish Army, ministries in the President’s office, and many MPs died, was shameful. Ever since the first hours after the crash the media and the governmental committee established to analyse the causes of the crash have continuously forced the theory of the pilots’ error, even though neither the wreckage nor the black boxes were analysed (they still remain in Russia). No reliable autopsies of the bodies were conducted. Tourists and independent journalists have found fragments of the presidential plane and the remains of the victims for many months following the crash. The procedures applied while analysing the Lockerbie crash or the shooting of the Malaysian plane over Ukraine, were completely different.

⁴ PAP, 30.12.2015 18:40 <http://www.pap.pl/aktualnosci/news,451595,sejm-nie-zgodzil-sie-na-odrzuconie-projektu-pis-ws-kontroli-operacyjnej-i-billingow.html>

The system of invigilating the citizens was also broadened. The number of inspections of phone calls and text messages by state services over the past year reached the level of 2 million 177 thousand!⁵

It became a standard practice to formulate public procurements to fit a specific contractor or to award contracts without a tender procedure to companies with family, friendship or business ties with the politicians belonging to the ruling coalition.

The past eight years of the rule of the previous government resulted in very serious social and economic consequences. Despite the growing GDP and the growing average income, the internal demand and the VAT income to the state budget decreased, all the while the indebtedness level of households grew, accompanied by the increasing poverty levels.

This picture completed by the fact that the coalition of PO-PSL rejected, irrespective of the number of signatures collected, all and any social requests for a referendum and civic bills. It ignored the conclusions from social consultations that concerned governmental bills.

It is astonishing that the very same people who are now expressing their concerns about the alleged threat to democracy or call for imposing sanctions on Poland, kept quiet when the democracy was truly at risk. “Hypocrisy is the homage vice pays to virtue”⁶

Maciej Świrski

President of Polish League Against Defamation



The Good Name Redoubt Foundation – The Polish League Against Defamation (RDI), in accord with its statute, acts to promote knowledge about the history and culture of Poland and its current condition, it undertakes initiatives **and action to develop and strengthen the attitudes that facilitate active cooperation in the process of developing the civic society.** The Foundation's objective is also **to prevent racism and xenophobia against Polish people** and against the nationals of the Republic

of Poland irrespective of their origin.

The Foundation also initiates and supports measures intended to correct false information about the history of Poland, in particular about the course of World War II, the participation of Poles in it, Poland's relations with the Jews, and about German Nazi concentration camps.

⁵<http://prawo.gazetaprawna.pl/artykuly/860217,obywatelu-pamietaj-twoja-rozmowa-jest-kontrolowana.html>

⁶François de La Rochefoucauld