



RESOLUTION ON THE STATE OF FREEDOM OF EXPRESSION IN POLAND

Since the Law and Justice (Prawo i Sprawiedliwość or PiS) party won the parliamentary elections in October 2015, the government and parliament have introduced numerous new laws that have weakened the rule of law through undermining the system of checks and balances as well as the protection of human rights, including the right to freedom of expression and opinion.¹ In the process, the nature of making and implementing law has changed, evolving from a pluralist democracy towards a state in which a singular party appears to be attempting to establish itself as the undisputed locus of power.

Ignoring recommendations from the European Parliament,² the Council of Europe's Venice Commission,³ the European Commission⁴ and the UN Human Rights Committee⁵ on legal reform and other steps necessary to protect the rule of law and human rights, the government and parliament have instead adopted and proposed several legal changes that undermine the independence of the judiciary and the right to fair trial.

The government and parliament have moreover sought to limit media freedom, through establishing control over the boards of public media and the introduction of restrictions on foreign funding for media companies. This transformation of the media landscape has contributed to a reduced scope for the expression of opinion that dissents from the nationalistic, intolerant and xenophobic narrative propagated by those in power.

Despite the absence of a legal censorship body, censorship practices are conducted among others in the fields of culture and education, in an apparent attempt to disseminate and defend a particular vision the cohesion of which is threatened by anything representing 'the

¹ See among others Amnesty International, *Poland: Submission To The United Nations Human Rights Committee*. 27 October 2016, Index: EUR 37/4849/2016; Amnesty International, *Poland: Independence of the judiciary and the right to fair trial at risk*. 10 August 2017, <https://www.amnesty.org/en/latest/news/2017/08/poland-independence-of-the-judiciary-and-the-right-to-fair-trial-at-risk/>; Amnesty International, *Poland: New Surveillance Law A Major Blow To Human Rights*, 29 January 2016, Index: EUR 37/3357/2016, <https://www.amnesty.org/en/documents/eur37/3357/2016/en/>.

² European Parliament Resolution of 13 April 2016 on the situation in Poland, 2015/3031(RSP)

³ European Commission for Democracy through Law (Venice Commission), Opinion no. 833/2015 on amendments to the Act of 25 June 2015 on the Constitutional Tribunal of Poland, 11 March 2016. [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)001-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)001-e)

⁴ European Commission, Opinion on the Rule of Law in Poland, 1 June 2016; Rule of Law Recommendation on the situation in Poland, 27 July 2016, http://ec.europa.eu/justice/effective-justice/files/recommendation-rule-of-law-poland-20160727_en.pdf

⁵ UN Human Rights Committee: Concluding observations on the seventh periodic report of Poland, 23 November 2016, UN Doc: CCPR/C/POL/CO/7, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fPOL%2fCO%2f7&Lang=en

other'. Museums, theatres and writers have fallen victim to these attempts at ideological cleansing. Among other things, the director and members of the scientific council of the World War II museum in Gdansk were recalled for having presented a view of war and genocide that did not conform to the official narrative; the Polski Theatre in Wrocław was accused of propagating pornography in a play based on the work of Nobel Prize Laureate Elfriede Jelinek; and steps have been taken to remove literary works, e.g. the poetry of Nobel Prize Laureate Czesław Miłosz, from school curricula, while writers often face a negative backlash as a consequence of expressing alternative views in their work. =

Overall, PEN International is concerned that Poland's government is using legislative, political, and economic means to stifle the media and limit dissent and debate within the country.⁶ Such a lack of media independence is not in the interest of the public in Poland nor of promoting open debate in the country.

In the light of this situation, the Assembly of Delegates of PEN International calls on the government of Poland to:

- Take all necessary steps to ensure a free, independent and vibrant media, including by removing government control of the National Media Council and repealing all policies that discriminate between media sources, regardless of political affiliation or domicile;
- Take all necessary steps to promote tolerance and open debate in Poland and cease attempts to impose an intolerant state ideology in artistic and education practice;
- Cease attempts to censor historical discourse;
- Cease the propaganda of fear and negative stigmatisation on the basis of political opinion, world view, descent, national or ethnic origin, disability, religion or belief, gender identity, sexual orientation and other personal characteristics or status;
- Overturn the recent legal amendments and halt any further proposals that compromise the rule of law and independence of the judiciary and ensure the right to a fair trial, in line with its international obligations.
- Cease the propaganda of fear and negative stigmatization on the basis of political opinion, world view, descent, national or ethnic origin, disability, religion or belief, gender identity, sexual orientation and other personal characteristics or status.

⁶ 'Pluralism under attack'. *Ifex* (July, 2017). <https://www.ifex.org/poland/2017/07/03/pluralism-under-attack/>