**Position of the Helsinki Committee in Poland - February 2018**

In the opinion of the Helsinki Committee in Poland, the two years since November 2015 have brought the greatest number of challenges and threats to human rights and freedoms of the entire post-1989 period.

The Committee, as a civic initiative monitoring the violation of rights and fundamental freedoms since 1983, examines the compliance of Polish legislation with international obligations. The Committee works by informing the public and taking initiatives on the national and international forum.

The Committee propagates freedom and human rights in appropriate forms and works on behalf of their fullest possible implementation in particular countries.

Since 1990, the Helsinki Foundation for Human Rights has accompanied the Committee in that mission.

The two-year period beginning November 2015 has required the Committee to intensify its efforts to carry out its mission, due to the escalating constitutional crisis, legislative changes constricting effective constitutional review, questioning the principles of an open society, limiting the role of the judiciary as the guarantor of rights and freedoms within the balance of power, and the resulting threat to the protection of individual freedoms. We have already expressed the utmost concern about the treatment of the law as an instrument to achieve political ends and tampering with the Constitutional Tribunal. We have further observed a growing constitutional crisis, where constitutional standards have been treated as instruments in political party machinations.

We noted the rising incidence of hate speech along with the attendant restriction of dialogue and persuasion. This was our greatest and, as it turned out, well-founded worry.

We spoke out against placing authority above the law. We decried the breakdown of the tenet that the Polish Constitution applies not only to its citizens, but to anyone under the jurisdiction of the Polish state. We endeavored to remind all that the Constitution is a document that demands genuine cooperation among the three branches of government.

We have noted the choking-off of public discourse, the limiting of the freedom of assembly, restraining the operating domain of civil society organizations. We pointed out that undermining the position and independence of the judiciary poses a direct threat to the level of protection of human rights and freedoms. We opposed the assassination of constitutional democracy and the dismantling of the rule of law.

We expressed dismay at legislative efforts toward unconstitutional changes in the law on the system of courts, the law on the Supreme Court, and the National Council of the Judiciary.

In total, during the referenced period, the Helsinki Committee, the Council and the HFHR Board have spoken out 30 times, addressing society and the public, preparing positions for UN agencies and the European Commission. We have submitted 40 extensive and thoroughly researched opinions regarding particular legislative proposals to the Sejm, the Senate and other national authorities.

We noted not only the defects of particular laws, their formulation and the selected legal instruments. What we are witness to is the systematic construction of an "assembly line," designed to legislatively limit the sphere of individual freedoms and simultaneous preparation of the ground for increased arbitrary and non-transparent executive authority unchecked by effective judicial control.

This is the result of:

- Legislative changes eliminating effective constitutional review as hitherto practiced by the Constitutional Tribunal; practical questioning of the principle of an open society for all, which resulted

in a change of policy towards minority groups; changing the position of the judiciary in the division of power and thus limiting its role as guarantor of freedom.

- The elimination of public media, elimination of the civil service corps, elimination of prosecutorial independence,
- Subordination of the legislative and central government to a centralized political body,
- Elimination of structural and financial foundations of local government, and
- Incitement of nationalistic conflict with neighbors, contrary to state strategic interests.

All this has given rise to actual threats and attacks on human rights and freedoms - including freedom of speech and freedom of peaceful assembly.

This "assembly line" has most recently manufactured disturbing changes in electoral law. We now witness limitations of the space and opportunities for democratic and actual electoral contests.

Over the course of two years, without amending the constitution, the political system has been transformed, and the importance of constitutional and judicial guarantees to human rights has been reduced. The politically-motivated replacement of personnel in the media, the prosecutor's office, the civil service, the judiciary, the electoral apparatus, has been accompanied by the wholesale lowering of practical standards of protection of individual rights and freedoms.

Censorship has emerged in the media and among publishers, as have institutional restrictions on the freedom of speech and artistic expression and suppression of opportunity for expression in public discourse. The prosecutor and police now have begun to operate with varied intensity and form of action depending on their target, which is dangerous for its selective nature.


Our misgivings concern not only changes in law and standards of its application, but also application of tools to sway society such as a chilling effect that facilitates control of individual behavior along with the use of propaganda techniques, exploiting the media to induce behavior driven by fear and aversion to foreigners.

We will continue to monitor, evaluate and publicize the coalescing changes and destructive processes, while being aware that we are operating in an environment of receding democratic and liberal standards of human rights and departure from the constitutional principles of the rule of law.

Warsaw, February 15, 2018.

Signed by members of the Helsinki Committee in Poland: Teresa Bogucka, Halina Bortnowska Dąbrowska, Janusz Grzelak, Jacek Kurczewski, Ewa Łętowska, Wojciech Maziarowski, Michał Nawrocki, Danuta Przywara, Andrzej Rzepliński, and Mirosław Wyrzykowski.

On behalf of the signatories,


Danuta Przywara

