



To:

Marshall of the Sejm of the Parliament of Poland
Her Excellency Ms. Elżbieta Witek

Marshall of the Senate of the Parliament of Poland
His Excellency Mr. Tomasz Grodzki

Bergen and Oslo, 15 October 2020

Appeal for protection of the last independent state institution for protection of civil rights in Poland

The Ombudsmen and the National Institutions for Human Rights play a crucial role in the European system, as institutions funded by the state and obliged by law to provide independent representation of citizens vis-à-vis other offices of the state itself, and monitor the state of human rights protection in each country.

In Poland the Ombudsman for human rights (Rzecznik Praw Obywatelskich) was established as early as 1987, its powers and responsibilities included in the Polish Constitution of 1997. The office now also serves as the Polish National Institution for Human Rights, as mandated by the UN Paris principles of 1991.

The Ombudsman's Office in Poland is recognized as a leading example among its sister organizations around the world. It employs 300 people. In the just completed term 2015-2020, it received 270 000 applications, and its lawyers conducted 150 000 telephone conversations with people calling for assistance to protect their rights. The Office and its current Ombudsman Adam Bodnar have received wide recognition for their work, including the 2018 Rafto Prize, the 2019 Rule of Law Award of the World Justice Project, and in 2020 the French Government's Legion of Honor.

The Polish Ombudsman is selected with the separate approval of the Sejm (the lower house of parliament held by the incumbent party coalition), and the Senate (the upper house held by the opposition), both able to effectively block an appointment. The term of the current Ombudsman Adam Bodnar expired in September 2020. Lawyer Zuzanna Rudzińska-Bluszcz of the Ombudsman's Office is the only candidate put forward to replace Adam Bodnar, with the support of 1000 civil society organizations. Her candidacy was not approved by the Sejm.

Members of the incumbent party controlling the Sejm subsequently issued a motion to the Constitutional Court to declare an extension of Bodnar's tenure, until his replacement has been found, for unconstitutional. The Constitutional Court has scheduled its hearing of this motion on Tuesday October 20. The motion was made despite the clear formulation in Article 3.6 of the Law of the Ombudsman declaring that "The current Ombudsman performs his duties until the

new Ombudsman takes up his position”, the precedent of the extension of Ombudsman Andrzej Zoll’s tenure for seven months to the end of January 2006, and that similar interim arrangements are allowed in several other state institutions in Poland, and in the National Institutions for Human Rights in many other European countries.

We share the concern expressed by the Venice Commission of the Council of Europe that these proceedings might interrupt the continuity of the operations of the Ombudsman for human rights in Poland, and remind all parties in a position to affect the process of the Principles on the protection and promotion of the Ombudsman, endorsed in 2019 by the Committee of Ministers of the Council of Europe, signed by the Parliamentary Assembly and the Congress of Local and Regional Authorities: “States shall refrain from taking any action aiming at or resulting in the suppression of the Ombudsman institution or in any hurdles to its effective functioning, and shall effectively protect it from any such threats”.

We, the undersigned, urge the Sejm and the Senate of the Parliament of Poland to secure that the current Ombudsman for Human Rights is allowed to carry on his duties uninterrupted until a successor can be found, and that a successor which allows the Polish Office of the Ombudsman for Human Rights to continue its exemplary work will be found as soon as possible.

Yours sincerely,

Signed

Jostein Hole Kobbeltvedt,
Director Rafto Foundation for Human Rights

Professor Terje Einarsen,
Head of ICJ-Norway and the ICJ Ad hoc group for Poland, including representatives of the Norwegian Bar Association and the Norwegian Judges Association

Gunnar Ekeløve-Slydal,
Acting Secretary General Norwegian Helsinki Committee