



EU-RUSSIA CIVIL SOCIETY FORUM ГРАЖДАНСКИЙ ФОРУМ ЕС-РОССИЯ

Legislative Changes in Poland Undermine Separation of Powers and Threaten the Rule of Law Principles

Statement by the Steering Committee of the EU-Russia Civil Society Forum

In the run-up to the European Commission's internal debate on the situation in Poland, scheduled for today, the Steering Committee of the EU-Russia Civil Society Forum expresses concern about recent controversial changes in Polish laws and urges the Polish government, the ruling "Law and Justice" Party, and President Andrzej Duda to reverse these changes and hold on to standards of rule of law and the democratic separation of powers.

On 25 October 2015, the "Law and Justice" Party won the general election in Poland. As a result, it possesses a majority in both chambers of the Parliament – the Sejm and the Senate – and has President Andrzej Duda, a former member of the party, as its ally. Unfortunately, the mandate granted by the Polish society to the "Law and Justice" Party in the elections seems to have been used to increase control of the government over the third branch of power, the judiciary, and the fourth, the media.

At an accelerated pace and just before the New Year holidays, both chambers of the Parliament passed an amendment to the Act on the Constitutional Tribunal and later another amendment to the Act on the Public Media. These changes were adopted without consultations with civil society and the expert community and despite protests by human rights groups and significant segments of the public.

The amendment to the Act on the Constitutional Tribunal was signed into law by President Andrzej Duda just after the Christmas holidays. According to the amended Act, the Tribunal must now adopt its rulings by a two-third majority instead of a simple majority and reserve a three- to six-month waiting period between the time a request for a ruling is submitted and the issuance of a verdict, compared with the period of two weeks earlier. Besides, any case must be reviewed now by a panel of at least 13 of 15 judges. The last norm is especially controversial in the current situation, as long as the "Law and Justice" Party insists on the inclusion in the Tribunal of five judges proposed by the Party and elected by the new Sejm under legally controversial circumstances, while three judges legally elected by the previous composition of the Sejm before the elections were turned down. These changes seem to be aimed at making it much more difficult for the Tribunal to issue opinions on constitutionality of legislative amendments and block reforms proposed by the ruling party, if they are recognised unconstitutional, thus tilting the balance of powers. These developments provoked mass public protests in Warsaw.

The new media law, signed by President Duda a few days after the New Year, which gives the Minister of State Treasury very broad powers in appointing and dismissing public broadcast officials without proper explanation of these decisions, seems not to improve the quality of functioning of public media but rather exacerbates existing problems by depriving public media institutions and their staff of independence. It appears that these changes are aimed at strengthening the control of the government over the functioning of the public media and the content of their broadcasts, based on political considerations.

