

Warsaw, 29 July 2024

Věra Jourová
Vice-President of the
European Commission

Dear Madam President,

I want to express my indignation and objection to the biased statements contained in the *European Commission's Rule of Law Report of 24 July 2024 SWD(2024) 821 final - chapter on Poland* and the omission from this report of the opinion of the National Broadcasting Council, the constitutional regulator of the media market in Poland. In particular, I refer to Part III of the report entitled *Media Pluralism and Media Freedom*.

Firstly, I would like to protest against the insinuation of a lack of transparency and a clearly defined process for the National Broadcasting Council (KRRiT) to investigate complaints and conduct proceedings, as well as a lack of transparency and regulatory impartiality of the body. These theses are based on one-sided comments from unspecified five NGOs and the "Media Pluralism Monitor" report, which accuses the KRRiT of 'imposing severe financial penalties on independent broadcasters, which can be read as an attempt to bring about self-censorship in editorial offices' (examples: TOK FM and Radio ZET).

It is clear to me that the European Commission has the right to make its assessment in the respect above; however, it should be emphasised that this assessment was neither preceded by addressing questions to the KRRiT about the penalties for TOK FM and Radio ZET within the framework of the annual so-called country visit nor – I believe – was it familiarised with the KRRiT's communications on the matter, which are available on the KRRiT's website. I conclude from the observation that the only reference to the KRRiT's website in the list of

over 100 source items (Annex I to the Commission's report) is granting a licence to TVN Style.

Secondly, I protest against the distortion of reality. This biased reality does not consider the perspective of the KRRiT and the National Media Council in the Commission's report on the current situation in Poland's public media. I regret to see this as deliberate action by the Commission. This is supported by the fact that during this year's country visit (an online meeting of the EC representatives with the KRRiT and the National Media Council on 5 March 2024), I discussed the situation of public media in Poland at length and in detail and a representative of the National Media Council supplemented my speech. Moreover, the critical stance of the majority of the KRRiT Members regarding the current situation of the public media in Poland is well known. It has been repeatedly communicated both on the KRRiT website and in my speeches, including at the following international forums – EPRA and ERGA.

The opinion presented in the *Report* is not based on the fact that recent events in Poland contradict the EC's diagnosis of the rule of law in Polish public media and the state. These recent events include the illegal takeover of the public media by the Government of the Republic of Poland in violation of the Constitution, the Broadcasting Act, the punishment of sports journalist Przemysław Babiarczyk for his opinion (based on facts) on the message of the song 'Imagine' broadcast during the opening ceremony of the Olympics in Paris, by limiting his freedom of expression guaranteed by the Polish Constitution, the Press Law and the Broadcasting Act. Other cases include the torture in custody of officials working for the previous government in the Ministry of Justice and the torture in custody of a Catholic monk imprisoned because the Minister of Justice of the prior government had awarded grants, allegedly in violation of the law, to a work he was running. Not to mention the unlawful arrest in a humiliating and degrading manner of a former Deputy Minister of Justice despite the immunity of the Council of Europe. All these events contradict the opinion that the level of rule of law in Poland has increased after the new government's appointment on 13 December 2023. The opposite is true – Poland is on the verge of authoritarianism, and in some areas, this limit has been crossed, as in the case of the public media

The failure to include in the Commission's report the KRRiT's separate opinion on the current changes in the public media is to ignore the constitutional body's charge in overseeing public media companies by the provisions of the Broadcasting Act. My assessment in this regard is

strengthened by the fact that the EC *Report* finds room to cite the critical evaluation of the changes in the public media in Poland by both the Helsinki Foundation for Human Rights, the Ombudsman and the Constitutional Tribunal.

Yours sincerely,