

Poland: 15 recommendations to end the vicious circle of media polarisation

Ahead of the Polish general election on 15 October 2023, Reporters Without Borders (RSF) publishes 15 recommendations aimed at improving press freedom in the country. Drafted in cooperation with Polish experts and media, they are addressed to the future members of Parliament and Government. They provide an opportunity to end the vicious circle of polarisation perpetuated by the current government. After taking total control of the public media, it stigmatised the private outlets whose resistance was then used as a pretext for further political pressures on the whole media landscape. Substituting the right to information with political communication has undermined the fairness of the pre-electoral campaign, as well as the country's international standing. By applying RSF's media freedom proposals, Poland can win back the place its people deserves: the democratic core of Europe.

Independence of public and private media

After transforming the public service media into instruments of political communication, the government attempts to take control of private media or create obstacles for their independent reporting. The strategy of "repolonisation" whose objective is to change the editorial line has been applied on the network of regional media *Polska Press* through the purchase by a state-controlled company. Independent media suffer undue delays in the licensing procedures conducted by the National Broadcasting Council (KRRiT) whose chairman has also imposed arbitrary fines on the radios *Zet* and *TOK FM* based on, inter alia, the vague notion of protection of "raison d'Etat". Under the same pretext, while referring to its new editorial line, *Polska Press* has refused to publish campaign advertisements of certain parties. Independent media such as *TVN* have also been discriminated against in access to public advertisement and information.

RSF recommends to conduct an in-depth and widely-consulted reform of the public media, especially by

1. adopting a comprehensive bill on public service media to ensure their **independence from political parties**, impartiality and internal pluralism;
2. increasing transparency and decreasing political influence in the **oversight, funding and procedure of leadership appointment** of public service media, including by enhancing the role of civil society and experts;
3. implementing the **Constitutional Court's judgement** of 13 December 2016 stating that it is unconstitutional to completely exclude KRRiT from the procedure of staffing of public broadcasting companies;
4. adapting existing legislation to this judgement, including the removal of the **National Media Council** elected by the parliament.

Furthermore, RSF recommends to ensure the same level-playing field on the market and in access to information for both private and public media, especially by

5. strengthening transparency, introducing collegiate decision-making and avoiding arbitrary delays in **media licensing and investigations** into the breaches of the law by the National Broadcasting Council;
6. refraining from arbitrary investigations and sanctions of the private media, and removing the vague notion of “**raison d’Etat**” (article 18 of the Polish Broadcasting Act) as grounds for such actions;
7. scrapping immediately the policy of “**repolonisation**” of the Polish media and divest investments by state and state-controlled companies from media ownership;
8. stipulating in the law on municipal management that outlets controlled by **municipalities** must be clearly labelled as political communication;
9. setting up a transparent and fair system of distribution of **public advertisement** and funds to media, including by using a European standard of professional journalistic procedure such as the [Journalism Trust Initiative](#) launched by RSF to identify trustworthy media;
10. providing **access to government and party officials** to all private and public media, including by responding favourably and timely to their invitations to broadcast programmes and to their requests for information.

Protection of journalists against legal and physical threats

Although press freedom and right to information are guaranteed by the constitution, journalists are threatened by abusive lawsuits. Poland has been [identified](#) in 2023 as a European country with the highest number of SLAPPs. Often filed by public officials and state-controlled companies, they have particularly targeted major daily *Gazeta Wyborcza* and leading investigative journalist **Tomasz Piątek**. Insulting public officials and “religious feelings”, as well as defamation are punishable by prison sentences in Poland. Moreover, the recently adopted amendments to the Criminal Code with the objective to fight disinformation spread by foreign intelligence services risks providing grounds for arbitrary prosecution of journalists who are regularly and baselessly accused of spreading disinformation by the government. In the past, the physical safety of journalists was compromised at protests. There is no systematic cooperation between police and journalists with the aim to strengthen their security and rights, while the authorities generally fail to resolve cases of police violence.

RSF recommends to take measures against abusive lawsuits, especially by

11. implementing fully the **Recommendation against SLAPPs** adopted by the European Commission in 2022, including by introducing the possibility of early dismissal of an abusive lawsuit, assistance to the journalists targeted by SLAPPs and by relevant trainings for prosecutors and judges;
12. reforming the Criminal Code, including by removing **prison sentences** and excessive fines for defamation (article 212), for public insult of the President of the Republic of Poland (article 135 §2), for insulting of a public official (article 226), and by abolishing the incriminations for “insulting religious feelings” or at least removing prison for such incrimination (article 196);
13. setting up safeguards for journalists in the **recently adopted amendments of the Criminal Code**, which expand the scope of crimes to include those committed by “means of information and telecommunication systems”, in particular by specifying the need to demonstrate the *intent* to prejudice the interest of the state, in addition to the mere effect of such prejudice (article 112a), and by guaranteeing that journalists may not be prosecuted for exercising their professional duties on the mere grounds that they are “taking part in the activities” of a foreign intelligence service (article 130); the vague wording of the amendments should be specified to ensure they cannot serve for an abusive restriction to journalistic activities.

Finally, RSF recommends to establish guarantees of journalists’ safety and rights, especially by

14. applying fully the **Recommendation on safety of journalists** adopted by the European Commission in 2021, including by developing a safety protocol for protests and by refraining from applying disproportionate restrictions to reporters’ access to zones in tension;
 15. initiating a structural dialogue between the police and journalists with the objective to develop **procedures for protection of journalists** targeted by online attacks and for their coverage of corruption, organised crime or terrorism.
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