

A Report On Threats To Freedom Of Expression In Poland In 2010 And 2011

Introduction

The report was ordered by the Poland Comes First Association [Stowarzyszenie Polska Jest Najważniejsza]; not to be mistaken with a political party PJN]. It was not commissioned by any political party. The report was inspired by alarmed elites who were anxious about the situation of freedom of expression, which is a basic right of man and of the citizen and a guarantee of democracy.

The report presents people and groups that contribute to erosion of freedom of expression and to diminishing of Polish public opinion. As far as media are considered, it focuses only on main nationwide media. In the introduction, there are described different phenomena and flagrant incidents; a more detailed picture and examples of the pathological situation are given further. The election campaign and malpractice connected with gathering signatures are not analysed herein, as they would require a separate study. The affairs described herein do not exhaust the topic which is the illegal exclusion of half of the societyⁱ from real and free public debate.

All the information given in the report is to be found in everyday press and on¹universally available information portals, government's official web portals and portals of nongovernmental organizations; in more specific cases the source of information is stated in a footnote.

Freedom of expression, a basic human and citizen right, is in Poland well settled by the constitution and law codes. For a few years, it has been restricted in different ways by state authorities and courts, also by main media and even some journalists supporting the governing authorities. For instance, in a public opinion poll conducted in July 2011, half a year before parliamentary elections, 43% of Poles claimed that freedom of speech was threatened in Poland.ⁱⁱ At the beginning of the on-going election campaign, the ruling party was granted four as much air time financed from the general public television license fee than the opposition parties.

Polish people are not always fully aware of the relations between the right to information and freedom of choice and control over the governing authorities. The policy of European institutions, according to which protection granted to public figures against criticism is much narrower than that applicable to all other persons, is not much acknowledged in Polish public debate. Also, it is not often realised that restrictions on freedom of expression violate civil rights of not only politicians or journalists, but above all the rights of millions of citizens.

Free public opinion is a new phenomenon in Poland. It was born twenty-two years ago, in June 1989, with the first elections after the fall of communism which the opposition was partly admitted to, and it is still not much mature. Policy of the communist authorities in Poland was different from policy in democratic countries. Preventive censorship was ubiquitous, and the citizens were punished for criticizing the ruling.

A few examples introduced below which come from last weeks, from the beginning of the 2011 autumn election campaign, show the attitude of the people who rule Poland nowadays towards protection of freedom of expression.

The court, through its verdict in the case considering the PO [Platforma Obywatelska or the Civic Platform] political campaign brochure *Poland Under Construction* [*Polska w budowie*], prohibited the opposition from criticizing the policy of the ruling party in the election campaign. Private radio stations refuse to broadcast election spots.ⁱⁱⁱ The police assaulted a group of MPs laying flowers at the memorial on the anniversary of the 2010 Polish Air Force Tu-154 crash. President of Poland scolded a military chaplain for his sermon content, then Minister of Defence transferred him to the staff reserves, and as a result he was not appointed a bishop.^{iv} The wife of a famous economist was threatened to lose her job because her husband was too critical of the government.^v Public television refused to broadcast commercials of new newspapers which are suspected of favouring the opposition.

Those are meaningful incidents. In fact, there is not guaranteed equal access of the subjects to information on social and political activity.

False beliefs are supported by the practices of the organs of public authority. It considers their attitude towards the opposition, their reactions when the views expressed are different from theirs, and their policy towards public media, media subsidies, granting awards and courts.^{vi} The most important reasons for concern are: politicisation of the public media, resulting in several journalists being dismissed from their posts and their programmes being taken off the air, and sale of the media group publishing *Rzeczpospolita* (a conservative right-wing newspaper, diversified in content, one of the most popular Polish dailies) and *Uważam Rze* (a socio-political weekly magazine, very successful on the market) under political

pressure from the government.^{vii} In this way, the state contributes to destruction of media representation (built with much effort) of a large silent majority of Poles who have been so far significantly excluded from public debate. Those people cannot rely on public media and institutions required by law, such as the National Broadcasting Council [Krajowa Rada Radiofonii i Telewizji] or the Ministry of Culture and National Heritage with its system of subsidies, to ensure media pluralism.

Some other threatening act is introducing restrictions for the critics of the state authorities on their right to express freely their opinion or to organise public demonstrations, which is supported by court decisions, including criminal sentences for expressing one's views. Both, public and private media are at the disposal of the parasitic state authorities and they do not aim to support democracy.

In Poland, paradoxically, strong private media derive to a large degree from two opposite backgrounds: the former political opposition, supported in the country and from abroad, and the former communist political *nomenklatura*. Those two groups do not act in favour of pluralisation of public life, but they try to push aside or restrict some thinking trends which are unaccepted by their administrators.

Gazeta Wyborcza, a newspaper founded by people who fought for freedom of expression in communist times and waved its flag after the fall of communism in 1989, and its editor-in-chief, Adam Michnik, a herald of democracy and freedom of speech, an outstanding opposition activist, active in KSS KOR [Committee for Social Self-defence KOR], a recipient of many awards, have become the greatest source of disappointment in today's Poland. Nowadays, one must be careful with one's words, as they take people to court for their views and opinions. As soon as eighteen years ago, there was the first case like that; a journalist sued by *Gazeta Wyborcza* was sentenced to pay a fine for his factual utterance.^{viii} In the last few years, Michnik or Agora SA (a Polish media company, a publisher of *Gazeta Wyborcza*) brought several lawsuits for violation of personal rights, mostly in cases involving stating one's opinions. Those opinions expressed disappointment with transformation of Michnik's views, for example him calling former communist apparatchiks "men of honour" (see: "The Annexe – A list of Adam Michnik's and *Gazeta Wyborcza*'s lawsuits").^{ix} Through those actions, *Gazeta Wyborcza*, among other things, stigmatizes people or groups it wants to rule out and denounces views and opinions it does not share. Before the court, Michnik and Agora, a company affluent enough to afford to go to trial numerous times, claim damages and apologies in the media. It makes people who cannot afford to pay sums which are a multiple of their salary act against their conscience. The courts seem to have assumed that Agora and

Michnik are ‘models of freedom of speech,’ and so they live on their name and their reputation as famous anti-communist opposition.^x

Polish courts participate in those dealings and adjudge on-the-air apologies for the stated opinions; as a result, the defendants are in financial ruin due to high costs of TV commercials. In the same way, new arising elites of the silent majority are destroyed financially. Those are financial results of disobedience to the authorities and criticizing them. This financial oppression leads to impoverishment of the opposition and starts to take place of censorship or prison sentence for the views. People who tell the truth are publicly condemned and get poor, and journalists who defend the truth are dismissed from their posts, they lose their position and are not invited to media as commentators.

There should be a separate paper devoted to the cases of workers of IPN [Instytut Pamięci Narodowej / Institute of National Remembrance] who suffer from the conflict of conscience or are fired because of scientific articles or books based on documents which are inconvenient for some influential groups.^{xi} IPN was particularly strongly criticized by Prime Minister.

Public opinion is most clearly not fully aware that at least public media are obliged to admit all kinds of opinions, including opinions of the opposition of all types, because they are financed by all taxpayers. People do not understand that it is illegal and inappropriate to push aside, e.g. Catholics who are expected to be satisfied with a mass broadcast on Sunday and some historical programmes. Also, it is unacceptable that post-Solidarity groups outside *Gazeta Wyborcza* and its annexes are neglected in the media. It is illegal and it cannot be accepted that combatants and independence, right-wing, conservative or any other innovative activists who are not a part of the approved mainstream are omitted or disproportionately underrepresented in the media. Perhaps, it is not that way that people are unaware of those facts but they simply do not have a place where they could express their views. Partly, they give voice to their opinions by resigning from paying the license fee for public media. As far as the citizens’ right to information is considered, the news is more fully presented in some (for different reasons) niche media than in the mainstream ones.

A separate subject, unable to be fully covered herein, is misleading information presented by the media about pre-election opinion polls during the election campaign. Political science experts and sociologists turn their attention to the extent to which opinion polls and information about them are manipulated. Election polls “are a significant form of manipulation of public opinion. (...) Nowadays, it is just a cacophony of pseudo-information about the political market.”^{xiii} Indeed, polls results presented almost daily differ from each

other even about several percent, which is much discrediting. Also, there is no information about the polling technique used. It is hard to say if the polls are at fault as they are badly conducted, or if the information about them in the media is false.

The whole system of granting state and private awards, together with subsidies system, supports certain kind of views and opinions providing their holders with wealth and prestige. Other views and opinions are brushed aside, both in the media and in society, and their holders are pushed into poverty. Nevertheless, the issue is too broad to be fully discussed herein.

It is not clear which criticism of the authorities is still acceptable and which shall be punishable. There are still a few regulations left in the Polish Penal Code which are inconsistent with the European legislation.

In 2011, the Constitutional Tribunal of the Republic of Poland confirmed the president's right to special protection against criticism; the regulation which had been in force for a long time. What arouses bitterness is that last fact – even though the regulation had been in force for a long time before, such protection was not granted by courts to former President Lech Kaczyński who was with impunity publicly called “a boor,” “an idiot,”^{xiii} or “a retarded dwarf,” etc.

At the beginning of the democratic transformation, Polish people were persuaded that one of the expenses connected with democracy and liberty was tolerance for legally banned public blasphemies or simply sassy comments, just as there were included in the same expenses violent scenes on TV (e.g. a film in which it was presented almost as a tutorial how to break a prisoner's neck) and TV shows full of sex broadcast by public stations at the time when the youngest children usually watch TV.^{xiv} That situation has changed only partially, mostly for worse. Nowadays, many phenomena like those are typically ignored.

Since the autumn 2007, after a coalition government of PO and PSL [Polskie Stronnictwo Ludowe / The Polish People's Party] was formed, the opposition's freedom of expression has been considerably restricted. Limitation to MPs' freedom of speech in the houses of parliament is quite noticeable. The marshals who preside over parliamentary sessions allow MPs to make speeches lasting up to one or three minutes regardless of the subject, knowing that the members of the government will still have a chance to present the ruling party's stand on the topic. While opposition MPs are speaking, their microphones are turned off on some pretext or other. During extraordinary sessions of parliamentary commissions, the chairmen offended opposition MPs who co-conducted interrogations, interrupted them, commented on their appearance, e.g. their obesity, and they did not put their motions to the vote.

From the circles of the ruling party, there are heard announcements of upcoming dissolution of the main opposition party which is considered ‘anti-systemic.’ Into public discourse, there is introduced an idea that a plan of the opposition to change the government is an attack on democracy.

The government has made an out of statutory attempt to restrict citizens’ rights to freedom of association and freedom of expression. Threatening with fines and prison, they fight against anti-government utterances during mass events. The police refuse to protect the citizens who manifest to express their grief over the plane crash near Smolensk, Russia, which killed Polish President Lech Kaczyński, his wife and 94 other important public figures. Police spokespeople decline to comment on attacks on the demonstrators. After a controversial Russian report on the crash had been announced, the government limited opportunities to discuss it. About 200 documents which had not been passed on to the Polish authorities during the investigation were not included in the report. The ruling party disavowed the views and opinions different from theirs and they ignored questions and doubts reported by different groups, e.g. victims’ families, which became in fact an illicit way to censor the discussion about the crash. In 2009, it came to light that the journalists who had criticized the government and had revealed connections in former Military Information Services were under intelligence agency surveillance. Short videos about issues which are inconvenient for the government, especially those about the crash plane near Smoleńsk, disappear from the Internet, e.g. from the video sharing website YouTube.^{xv}

During the last session of the term, the parliament, in which the ruling party is in the majority, amended the Access to Public Information Act. It will be possible to limit the right to information for the sake of important economic interests of the country. It makes it legally possible to hide from the citizens some significant economic information. It may mean that MPs will also not have access to the knowledge of actions of the public authorities, e.g. information on privatised assets. The amended act will make impossible any thematic discussion about some projects important for the country before voting on them.^{xvi} Only after the election will it be possible to appeal to the Constitutional Tribunal against the act and it will take a long time.

Although such projects are usually abandoned in the final stage because of some legal objections or public protests, they still are present in the public realm and make society get used to probable future restrictions on liberties which they are entitled to.

The ruling party, using their representatives in the parliament and the government, introduced abusive and derisive language into Polish politics and media. Its members speak

disrespectfully about values which are important in the European culture, such as respect for the dead and for grieving widows and orphans, sympathy for the weak and a right to express freely in public your religious beliefs and feelings. Some people perceive such behaviour as a form of verbal abuse.

One of the ministers called people voting for the opposition party “cattle”, which was much demeaning. Some other announced that they would fight the opposition till they “finish the pack off,” which might have been considered a bad joke before, but not after the plane crash near Smoleńsk. A former vice-chief of a parliamentary club of the ruling party hurled insults at President Kaczyński on TV, wished him death, and after the plane crash had taken place, complained that his brother should have died too.^{xvii} In a popular radio broadcast, Minister of State in the Chancellery of the President called statements made by the opposition leader “political paedophilia” and even though he apologized to the listeners for his words, it left a bad impression.^{xviii} A chief of the youth organization of the ruling party called a group of female candidates of the opposition “bitches.”

For the last four years of PO’s rules, discussion in the media about important state affairs has been reduced to bad jokes, evasions, scolding, personal attacks and mere rudeness. It limits the citizens’ right to information and free debate. It is upheld to interpret the word “political” as discrediting, just as it was introduced by a post-communist party SLD [Sojusz Lewicy Demokratycznej / Democratic Left Alliance]. It is suggested that there are some base motives when people speak or act for political reasons.

In his actions to limit freedom of expression and public debate, the government is helped by its supporters – monopolized public media, government-friendly private media originated in communist times, or even some reporters and commentators.

Characteristic features of the situation in the Polish private media:

- politicization of the public media in favour of the ruling party, even though they are financed with general taxes and are obliged by law to present all political options and advertise civic attitudes
- wilfulness of the private media which do not comply with legal acts guaranteeing media’s pluralism and impartiality; they are guided by political interests of the owners and not by freedom of speech and right to free criticism of the governing authorities
- the mentality of journalists who were often brought up in the People’s Republic of Poland or taught communist patterns of public utterances which were subjected to

ubiquitous censorship; subordination to expectations of the authorities because it is profitable for both sides

Not infrequently, journalists of the mainstream media manipulate the material they use in a way favourable for the governing authorities. One of the example is a ridiculed and false image of the late presidential couple in the media before the plane crash, which was revealed after their tragic death – to their astonishment, Polish people saw photos of President and his wife looking nice and gentle, the kind of photos they had never had chance to see before, and they felt deceived.

Important issues are often passed over in the mainstream media; instead, the attention is focused on trivial things. Rather than search for truth, there are presented together two opposite points of view. The audience are left with a chaotic vision of one continuous fight. Those things make free public debate about significant civic issues impossible.

Last year, almost all representatives of the opposition were eliminated from the National Broadcasting Council, an independent agency with powers specified directly in the Polish Constitution which is at least supposed to safeguard freedom of speech, the right to information, and the public interest on the radio and television. Soon after the Public Media Act had been amended, several journalists who were inconvenient for the authorities, including in fact all the journalists with views close to those of the voters of non-post-communist opposition, were dismissed from their posts, and their programmes were taken off the air. Almost exclusively, the only people who are invited to speak on the radio or TV are the ones who sympathize with the ruling party or openly support it.

Also, the courts come to the aid of the governmental restrictions on freedom of expression, as they impose ridiculous sentences for stated opinions, often imposing publication bans. Likewise, low efficiency of nongovernmental organisations protecting freedom of speech is convenient for the government.

The bogey of the court sentences punishing people for expressing publicly their opinions or spreading true information mentioned above is one more threat to free speech in Poland. Typically Polish peculiarities are criminal and civil lawsuits against critics and polemist brought by reporters and journalists who are offended by their opinions on them. Many polemist have been sentenced to pay a heavy fine and to deliver a public apology in press and on nationwide television whose costs are disproportionate to their income, coming up to twenty times as much as their salary. It makes people act against their conscience and ruins them economically. Some defendants went against their beliefs and apologised, others, critical

of publications and actions of public figures which support the government, became silence for fear of financial ruin.

As far as freedom of expression is considered, nobody monitors Polish media. The National Broadcasting Council checks the public media programmes at random, and just sometimes the private media broadcasts, usually at the election time and after some severe complaints. Nongovernmental organizations protecting freedom of speech are no better in that regard, as they work badly or their actions are much limited. Also, their financial means are very modest. The Helsinki Foundation for Human Rights, the best working organisation, and the Press Freedom Monitoring Center focus their actions on defending journalists in defamation criminal lawsuits. Furthermore, they give opinions on planned legal amendments and organize useful news conferences. Other organizations, such as Free Word Society and the Polish Journalists Association, make announcements in some famous cases, denounce malpractices and raise public awareness of freedom of speech organizing conferences and annual Free Word Days [Dni Wolnego Słowa].

The Media Ethics Council [Rada Etyki Mediów] constantly astonishes public opinion by its ridiculous announcements. It is particularly eager to criticise Catholic media, looking for traces of anti-Semitism in their publications and broadcasts. However, it does not bother media celebrities, even though they take liberties to take sides and be partial or to break the rules stated in the Media Ethics Charter [Karta Etyczna Mediów]. In the last few years, the council overlooked the problem of vulgar attacks in the media, including the public ones, on former President Lech Kaczyński and the cases of desecration of national and Catholic symbols. It has never referred to the problem of exclusion of whole communities' opinions from public debate. Usually, hardly any journalists writing for the Catholic press are members of the council, since many of them resigned their membership in the last few terms as a form of protest against their opinions being ignored.

In 2011, the threats have intensified. There are presented just a few examples of them.

In the winter of 2011, after the Broadcasting Act had been amended, the new administration of the Polish Television and the Polish Radio decided on further (after the ones in August 2010) massive dismissals of independent or opposition journalists and their co-workers due to their "PiS beliefs" (PiS [Prawo i Sprawiedliwość / Law and Justice] is the largest opposition party in Poland). "PiS beliefs" are the beliefs which are different from those supported by the government or the mainstream media. Last TV programmes which presented beliefs and ideals close to the ones of non-communist opposition voters, independence supporters and conservative audiences were taken off the air. At the same time, there was a

decrease in viewing ratings of news programmes which had been hosted by the presenters dismissed. That situation was met with numerous protests and alarmed some part of society which had been deprived of a significant element of public debate.

Through its decisions, the National Broadcasting Council impedes the development of religious civic media. In the spring of 2011, a Catholic TV, TV Trwam, was denied its space on the future digital multiplex, which means that in 2015, after all televisions broadcasting in Poland have been multiplexed, the taxpayers will be shorn of the access to the only nationwide religious TV. TV Trwam represents views and beliefs of a significant part of Polish society, the part which identifies with Catholicism, and Poland is a country where 95% of population defines themselves as Catholics. Now, TV Trwam, which has been persecuted since the very beginning of its existence, may completely disappear. Against the legal regulations, the governing authorities denied TV Trwam rightful EU subsidies on thermal water extraction which was supposed to become its main source of financing.

There has been limited the right to public mourning after the tragic plane crash. The new president agreed to remove the cross, a temporary symbol in memory of the plane crash victims, from in front of the Presidential Palace. It began the process of pushing to the margins those people who, under the constitution, would like to continue their mourning. Also, it was first act of constraining the right to public expression of emotions. At the same time, the police and the municipal police safeguarded provocateurs desecrating religious symbols protected constitutionally. Sometimes, the police refused to intervene when aggressive bands were attacking elder women taking part in services. Warsaw authorities did not consent to erect a monument in place of the cross. For more than a year, police forces have been indifferent to attacks on the participants of Memorial Marches, monthly demonstrations in remembrance of the plane crash victims, while they have protected their noisy, brawling opponents and their musical events taking place on the same days.

In the spring of 2011, a wide-ranging action was taken to restrict freedom of expression of sports fans and sports fan clubs, in and out of stadiums. Police officers arrested and fined fans for slogans criticizing the government. The government made an attempt to limit their right to travel to matches in organised groups in fear that they would demonstrate against state authorities. In Świdnik, a peaceful group of people getting off the train on their way to a match was attacked by the police. Some of the fans were beaten, some other injured with rubber bullets.

In May 2011, secret agents armed with sharp weapon entered the flat of a blogger, a student who had been running a satirical website about Polish President, and confiscated his computer.

In the spring of 2011, enforcement agencies put into prison a student who had written on a fence some vulgar anti-government slogan. The municipal police officers took to a mental hospital a few participants of patriotic street demonstrations connected with the plane crash near Smoleńsk.

In April 2011, a filmmaker from Gdańsk, Klaudiusz Wesolek, was imprisoned for a few weeks. Some years before he had filmed a protest of a group of teenagers and had been arrested together with demonstrators and sentenced to do some street cleaning as his community service. When he refused to serve his sentence in 2011, he was brutally arrested by the police.

In the summer of 2011, Polish Minister of Foreign Affairs publicized in the media words of criticism of the government by the Reverend Tadeusz Rydzyk, a head of a Catholic Radio Maryja and TV Trwam, which had been uttered during a small conference in Brussels. Then, he sent to the Holy See a notice of complaint against the priest. The minister explained in the media that since he had wanted to limit public utterances of the disobedient clergyman, he had to turn to his superiors to punish him.

Despite mass protests of taxpayers and many social organisations shocked at such disrespect for regulations protecting Christian values in the media, public television hired an infamous satanist and scandaliser to be a judge in one of its shows.

All those actions are the reason why there is a growing conviction in society that freedom of speech and civil and political rights are under threat, a conviction which is supported by facts and publicly expressed. There are no doubts that citizens are repressed in many ways for criticizing the governing authorities. Moreover, the state takes numerous measures to limit freedom of expression of private individuals and representatives of all political and ideological options.

There is an alarming political dimension of all the limitations on freedom of speech. In some way it repeals citizens' right to information which is the basis of free political elections. The voice of public opinion is a fake built of topics promoted by the mainstream media and their elite that praise or reprimand politicians and social groups, stigmatizing some of them.

Apart from religious and communal ones, only nationwide niche media are sanctuaries of freedom of expression. When they were founded, niche media did not use post-communist money or money received for some historical services for the country. They were built from

scratch and financed by private individuals who were not intimidated by threats, such as being deprived of their credit capacity. Owner and journalists of mainstream media often contributed to marginalization of the niche ones. It took years for *Gazeta Polska*, *Nowe Państwo*, *Arcana* and *Nasz Dziennik* to get into press reviews on the public radio and TV. Fewer people knew about them, so fewer copies were sold. Their journalists were hardly ever invited to public media, so they had less influence on public opinion. Those media were less affluent, so they had less money on promotion, advertising or awards. Their journalists earned less and had less financial means to get better materials. They got advertisers with much trouble, as private entrepreneurs were afraid of difficulties if they had showed support for views which were unpopular in the ruling spheres. Today, newly established niche media are refused to broadcast advertisements, even the paid ones. One may think the reason for it is both business competition and fear of getting unpopular with the governing authorities.

For many years, Catholic media have been pushed out of the mainstream and have become a separate world. They are supposed to stay in that ghetto. Catholic press is often overlooked in circulation statistics. Journalists working for Catholic media hardly ever receive any awards in national competitions, and that is not because they lack professionalism. Their achievements are mocked and their mistakes are blown up out of proportion by the governing authorities and by the media and nongovernmental institutions supporting the ruling party. Competition and some MPs keep making biting remarks about Radio Maryja and TV Trwam and insist on restricting their broadcasting conditions.

The only thing which sometimes and to some extent saves the day is the Internet. The web portals presenting predominantly patriotic and conservative ideas or views of the opposition are often referred to in the media as the PiS ones. The authors who hold views different from those present in the mainstream media and who are not allowed to express them elsewhere are relatively free to discuss them online.

In the name of protection of decency, the owners of web portals restrict freedom of expression of the users, for example by putting limits on the topics of posts. Sometimes, they cancel their agreements with bloggers, even when the latter have followed all the conditions. Nevertheless, the terms and conditions do not often take into account applicable regulations and laws on freedom of speech. Furthermore, the owners feel that they are obliged to block some posts if, for example, some parliamentary candidates threaten to sue them for slander. In that way, society cannot get some important information, e.g. during the election campaign.^{xix} The government continuously declares that it will impose new restrictions on the Internet. Recently, there was an attempt to introduce new regulations which would enable to close

websites, but it was abandoned after severe protests from nongovernmental organisations which accused the government of returning to old ways of preventive censorship.

There is an interesting phenomenon observed by search engine users. When you type in the search box for example the name of a politician of an opposition party, the first few search results are insults. Nonetheless, it does not apply to politicians of the ruling party.^{xx}

Foreign press correspondents working in Poland are also a source of disappointment, as it is hard to get their support. Even though they are thought to be experts on democracy and models of reliable professional news media reporters, they rarely alert the Western public to the restrictions on freedom of debate which are being introduced in Poland. In one of radio broadcasts, they said that they met few times a week, discussed together which information was important and made plans about the topics they wanted to cover.^{xxi}

The Polish diaspora helps to maintain the civil right to freedom of expression. A good example is, among others, Stefan Hambura from Germany, a legal advisor who represents the accused and slandered when they appeal to European courts.

So called “White Tent” of the 2010 Society of the Solid [Stowarzyszenie Solidarni 2010] became an interesting social phenomenon. It is run by Ewa Stankiewicz who directed a few publicly condemned films about people’s reactions to the tragic plane crash. As public criticism of the governing authorities is being restricted, the tent has become a free word zone. It serves as a notice board and is a place of leaflets distribution. There are held lectures given by people who are rarely to be seen in the mainstream media, or, if at all, for a very short time. Nevertheless, the tent has been constantly pestered by the municipal police.

*

The report was prepared by a team directed by Teresa Bochwic.

Collaboration: Anna Mieszczanek and Barbara Świtalska.

Consultation: Anna Pawelczyńska, Bogumila Tyszkiewicz, Andrzej Zybortowicz, Jan Żaryn.

Let us express our special gratitude to Stefan Hambura, a legal advisor.

We would also like to say thank you to a blogger named elig, and John May.

Contact: Stowarzyszenie Polska Jest Najważniejsza

**http://atopolskawlasnie.com/SPJN/Raport_SPJN_all.pdf
tbochw@wp.pl**

<http://212.7.212.20/2011/10/raport-o-zagrozeniach-wolnosci-slowa-spjn.pdf>

<http://212.7.212.20/2011/10/raport-o-zagrozeniach-wolnosci-slowa-spjn.pdf>

ⁱ The division is based on the results of the presidential elections in 2010 in which both candidates from two opposite parties had about half of the votes.

ⁱⁱ <http://wpolityce.pl/wydarzenia/11893-zaskakujacy-sondaz-tygodnika-newsweek-az-43-proc-polakow-zgadza-sie-z-opinia-ze-wolnosc-slowa-jest-w-polsce-zagrozona>

ⁱⁱⁱ

http://wiadomosci.gazeta.pl/Wiadomosci/1,80271,9946112,Audycja_Wojewodzkiego_i_Figurskiego_przerywan_a_spotami.html

^{iv}

<http://www.eostroleka.pl/prezydent-komorowski-ukaral-ksiedza-zarskiego-za-kazanie.art21792.html>, [retrieved 02.02.2011]

^v An interview with Krzysztof Rybiński, a former vice-president of the National Bank of Poland, conducted by Jacek and Michał Karnowski, published in *Uważam Rze* on 22.08.2011.

^{vi} It has turned out lately that the Constitutional Tribunal of the Republic of Poland has a different understanding of the free speech principle in a democratic country than the European Court of Human Rights. The Polish tribunal determined that the rule according to which journalists are obliged to obtain authorization for their interview from any active politician they talked to is consistent with the Constitution of Poland. The practices of Polish courts in that field was questioned by ECtHR, for instance in the reasons for its decision of 5th July 2011: “As a result, the domestic courts, when examining the criminal case against the applicant, were not required to give any thought to the relevance of the fact that the interviewed person was an M.P. with political responsibilities towards his constituents. Indeed, the courts did not have any regard either to the substance of the statements published by the applicant’s newspaper or to whether they had corresponded to what had been said during the interview. This approach alone does not appear compatible with the established case-law of the Court, which consistently emphasises that protection granted to politicians against criticism is much narrower than that applicable to all other persons.” <http://www.astrid-online.it/Giustizia-1/Giurisprud/Wizerkaniuk-v.-Poland.pdf>

^{vii} On 8th January 2008, during the meeting with journalists of *Rzeczpospolita*, David Montgomery, the head of Mecom Group, a media newspaper publishing company, said that the company management board would not yield to political pressures considering its employment policy.

<http://wiadomosci.gazeta.pl/Wiadomosci/1,80353,4820475.html> [retrieved 28.08.2011]

The case was described in *The Economist* in an article *A pressing matter* of 17.11.2010. It was also mentioned in *Financial Times*. <http://www.wirtualnemedial.pl/arttykul/david-montgomery-odchodzi-z-mecom> [retrieved 28.08.2011]

^{viii} On 29th July 1991, Jacek Maziarski said in his interview for *Życie Warszawy*: “In 1989, Agora was established for the money earmarked for the whole opposition of that time.” *Gazeta Wyborcza* sued him for slander. On 23rd March 1993, the Regional Court in Warsaw ruled that Jacek Maziarski should apologize to the publisher of *Gazeta Wyborcza* for his utterance and ordered him to pay Agora 5 million zlotys for court proceedings and 3.5 million zlotys in aid of PCK [Polish Red Cross].

^{ix} “*Is General Kiszczak a man of honour for you?* – AM: Yes. He is a man of honour. General Kiszczak kept all the commitments he had made during the Round Table Talks. Those were the most significant days in his life. The chief of *bezpieka* [Polish communist secret police and intelligence service] negotiated with his prisoners. He accepted his commitments and kept his word, even though it must have been painful. Since 1989, he has never betrayed that trust. – *And General Jaruzelski?* – AM: Yes, he is too.” Quotations from the article: *Pożegnanie z bronią. Z gen. Czesławem Kiszczakiem i Adamem Michnikiem rozmawiają Agnieszka Kublik i Monika Olejnik* [A Farewell to Arms. Agnieszka Kublik and Monika Olejnik Talk to General Czesław Kiszczak and Adam Michnik], published in *Gazeta Wyborcza*, 3rd-4th February 2001, <http://wyborcza.pl/1,76842,126489.html> [retrieved 19.09.2011].

^x Several trials against slanderers of Jerzy Targalski, ‘the monster of the 4th Republic,’ a worker of the Polish Radio, ended mostly in his defeat, as he was usually bound to lose. The judges did not give credence to his explanations and testimonies of his witnesses.

^{xi} Since there were some political pressures after an article in *Gazeta Wyborcza* informing about his meetings with readers, Sławomir Cenckiewicz had to resign from his position in IPN. Paweł Zyzak lost his job as a technical assistant in IPN when his extensive biography of Lech Wałęsa was published. After publication of his article *Pospolita twarz SB: przypadek TW BERETY* [A Common Face of SB: The Case of Comrade Bereta], Daniel Wicenty, an IPN worker, was sued for violation of personal rights by a former secret informer, which put him in a situation of moral conflict: if he should still continue his research on embroilment in the constraining system of the People’s Republic of Poland, or perhaps restrict his research field.

^{xii} Wawrzyniec Konarski, *PO nie wie dziś, jak pokonać PiS* [Today, PO doesn't know how to defeat PiS], in *Rzeczpospolita*, on 17th-18th September 2011.

^{xiii} It was used by former President Lech Wałęsa.

^{xiv} The author of that TV series was Bogusław Wołoszański. In 1998, in a Sunday morning programme for children broadcast on public TV, there was shown a paedophile website. Peddling *Zły* was another example of pathology in the media, as the magazine published photographs from police murder investigations illegally obtained from the police.

^{xv} http://www.youtube.com/watch?v=qPmlRSx6Fxs&feature=player_embedded

A blogger nicknamed Lord Jim lost his photos and videos archive connected with the plane crash near Smoleńsk when his profile on YouTube was closed.

^{xvi} The act on changes in the Access to Public Information Act and some other acts of 15th September 2011. From the very beginning, numerous nongovernmental organisations and groups of citizens highlighted that the project was flawed. The Helsinki Foundation for Human Rights immediately protested against the act. On 19th September 2011, Stowarzyszenie Wolnego Słowa [Free Word Society] wrote a protest note which says: "Making some information and analyses classified, either because if they were revealed, it would be damaging to 'important economic interests' or to 'the bargaining position of the country,' or because they were gathered to be used in court proceedings, is an attempt to gag public opinion."

^{xvii} <http://tbochwic.salon24.pl/169413.kondukt-zalobny>, <http://bernardo.salon24.pl/174704.zyczenia-smierci-albo-kto-pierwszy-zaprosi-palikota> [retrieved 05.09.2011].

^{xviii} It was said by Tomasz Nałęcz on Radio ZET on Sunday, 12th June 2011.

<http://wiadomosci.radiozet.pl/Polska/Wiadomosci/PiS-skarzy-Nalecza-za-slowa-o-pedofilii/>

^{xix} Jadwiga Chmielowska's post on *salon24.pl* about people connected with the Silesian Autonomy Movement [Ruch Autonomii Śląska] was temporarily removed due to violation of personal rights.

<http://j.chmielowska.salon24.pl/337115.rasowcy-na-listach-pis>

^{xx} For instance, a search for "Jarosław Kaczyński" on Google.pl gives 11 million results. The sixth position is an offensive article: *Kaczyński has changed again. Is it caused pharmaceutically?*

<http://wiadomosci.onet.pl/kraj/kaczynski-znowu-sie-zmienil-czy-to-zmiana-farmakol.1.4854872.wiadomosc.html>.

The ninth position is: Jarosław Kaczyński – Nonsensopedia, a Polish counterpart of Uncyclopedia,

http://nonsensopedia.wikia.com/wiki/Jaros%C5%82aw_Kaczy%C5%84ski.

Searches related to Jarosław Kaczyński are: "jarosław kaczyński is gay," "jarosław kaczyński blog," "jarosław kaczyński statement of means," "jarosław kaczyński height."

A search for "Donald Tusk" gives 9.5 million results. The second one is an article on Nonsensopedia; the next thirty positions are the Internet sources of information about Donald Tusk. There are no suggestions about his sexual orientation or psychiatric symptoms, even though they could be easily found elsewhere on the Internet. The only related search which is the same for both politicians is "height."

^{xxi} It was mentioned in one of programmes on TOK FM, broadcast a few years ago on Saturday mornings, which foreign press correspondents were often invited to.