



American ideals. Universal values.

January 24, 2018

The Honorable Rex Tillerson
Secretary of State, U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Secretary Tillerson:

In advance of your visit to Warsaw this week, I write to urge you to prioritize in your conversations with your Polish counterparts the harm being done to transatlantic security and stability by the current government's efforts to undermine Poland's democracy and rule of law.

As members of NATO, Poland and the United States have each affirmed their place in an alliance "founded on the principles of democracy, individual liberty and the rule of law." Today, the Polish government is engaged in actions that go well beyond the normal give and take of politics and threaten the very institutions upon which Polish democracy rests. This trend is occurring against the backdrop of Russian efforts to undermine public faith in democracy as a means toward weakening transatlantic solidarity. While the government of Poland remains firmly opposed to the Kremlin's flouting of other nations' sovereignty and territorial integrity, by deconstructing important elements of its own democracy and supporting similar efforts by NATO allies such as Hungary, the Polish government is playing directly into Russian strategy. This is a dynamic that should be of utmost concern to the United States and one we should seek to discuss directly with one of our closest friends.

As you likely know, in December the Polish parliament passed a legislative package that poses a grave threat to the independence of the Polish judiciary. Among other things, the new laws give the Polish Minister of Justice (who also serves as the country's General Prosecutor) power to summarily force the resignations of the presidents of Poland's regional courts, and to similarly force, without a stated cause for termination, the resignation of judges of the Supreme Court over the age of 65.

The laws also allow for the reopening of court cases decided over the previous five years; allow individuals with no legal training to take judicial positions; and, in some instances, give the Minister of Justice/General Prosecutor sole discretion to decide which prosecutor argues a case and which judge hears it. Taken together, these actions and others contained in the new legislative package would fully subjugate Poland's judiciary to its executive, eliminating the former as a viable check on the latter.

Regrettably, the Polish government's most recent efforts to undermine the country's judiciary build on a series of actions it has taken since it came to power in late 2015 to weaken democratic institutions. The government has undercut the independence of the country's Constitutional Tribunal, transformed the public broadcaster into a political mouthpiece, curtailed the free

functioning of NGOs, and attacked independent media. The European Union, the Organization for Security and Cooperation in Europe, the Council of Europe, and many human rights organizations have each raised serious concerns about some or all of these activities. In late December, the European Commission concluded that “there is a clear risk of a serious breach of the rule of law in Poland,” and, for the first time in its history, initiated procedures under Article 7 of the Treaty on European Union, which “aim at ensuring that all EU Member States respect the common values of the EU, including the Rule of Law.”

Mr. Secretary, your trip to Poland affords the opportunity, at a key moment in time, for you to reiterate that the United States places great weight on NATO members upholding our shared commitment to democracy, human rights, and the rule of law as the bedrock of our common security and prosperity.

Specifically, we urge you to communicate three points to your Polish counterparts related to the new laws on the judiciary:

- Polish authorities should allow appointment of representatives chosen by judges, without interference or use of a veto by the government’s political branches.
- The Polish government should refrain from implementing provisions in the laws that would force the resignation of judges and allow for the appointment of individuals on what could be viewed as political grounds. Judges should be fully qualified to hear cases, and should be forced to resign their positions only if they have been shown to have engaged in misconduct following a transparent and fair process.
- Polish authorities should refrain from any actions that would further politicize the independent mechanisms provided by Poland’s regional courts; and refrain from dismissing regional judicial leadership unless they have engaged in proven misconduct following a fair and transparent process.

As the administration’s recently released *National Security Strategy* recognizes, America’s adversaries are actively engaged in efforts to undermine transatlantic unity and weaken democratic governments and institutions. In this environment, we must maintain the courage of our convictions. I hope you will use the opportunity of your trip to Poland to remind Polish officials of our commonly held values and commitments, and why upholding these values is integral to our common security.

Sincerely,



Elisa Massimino
President and CEO

Cc: The Honorable A. Wess Mitchell, Assistant Secretary of State, Bureau of European and Eurasian Affairs