

Poland's Attacks on the Rule of Law:

How Party Loyalty Tests in the Military and in Intelligence Harm U.S. and NATO Security

Introduction

When meeting with President Trump in the Oval Office in September 2018, Polish President Andrzej Duda urged the United States to create a permanent military base in Poland. He suggested it could be called “Fort Trump.”¹ Trump said he would consider the idea “very seriously.” Duda, an official of the Law and Justice Party that came to power in 2015, had already made a request in mid-2018 for a permanent troop placement of American soldiers in the country.² President Duda is scheduled to meet with Trump again on June 12. At that gathering, he will likely attempt to seal the deal for increased U.S. military support—in the form of an increase in hundreds of troops, including a special forces component.³

Before the United States decides to deepen its military relationship with Poland, it should consider how the actions of the Law and Justice government are harming the country's ability to meet its North Atlantic Treaty Organization obligations and support the values central to the alliance's mission. Poland's military has been described as “in chaos”⁴ and lacking a clear military strategy by respected security experts. Human Rights First recently interviewed a number of former members of the Polish military, who largely confirmed that the Polish government's ideologically-driven agenda is deeply impacting the institution's readiness and apolitical outlook.⁵

In this issue brief, Human Rights First describes other troubling aspects of Poland's anti-democratic descent, based in part on original interviews with former Polish military leaders who declined to be identified due to concerns over potential retribution from the Law and Justice government. This document demonstrates that alongside its routing of numerous, previously apolitical institutions, such as the judiciary, prosecutor's office, civil service, and Institute for National Remembrance, Law and Justice has purged the Polish military's senior leadership. Human Rights First's research indicates that each of these efforts has been based on a view by Law and Justice that apolitical, independent bodies outside the party's control pose a threat to its hold on political power. These actions threaten the foundations of Poland's democracy, including checks and balances on government power, and undermine Polish national security.

Views on the advantages and disadvantages of permanent U.S. basing in Poland differ among security experts, however, the balance seems to fall on the side of caution when offering additional assistance. Some analysts suggest that increasing U.S. military support to Poland in the form of a permanent base could provide additional deterrence of Russia,⁶ and fortify the bilateral relationship, necessitating less reassurance from the United States.⁷ Contrary to this view, numerous national

security experts note that increased support from the United States, in the form of a new base for example, may not be the best answer to Russian aggression.⁸ Doing so would undermine the American interest in Poland taking greater action to develop and bolster its own defense instead of relying on the United States.⁹

Increasing U.S. military presence in Poland could impact American relationships with other NATO allies, according to Lieutenant General Frederick “Ben” Hodges, former commanding general of the United States Army in Europe.¹⁰ It will likely require repositioning U.S. troops from elsewhere within the European territory—such as taking troops from Lithuania, due to limited resources. The United States will be favoring the Poles when a base or troops in another location might be viewed by NATO allies as a more strategically effective location.¹¹ The United States will also have to consider whether a Polish base would present security risks with respect to its technology, since Poland has embraced deals with Chinese telecommunications company Huawei despite Secretary Pompeo’s warnings.¹² Most importantly, if the United States were to expand its military relationship with Poland at this time, it would appear to be a vote of support for an illiberal regime,¹³ and in favor of the anti-democratic actions that are creating an opening for NATO foes to increase influence as individual freedoms and institutions are weakened.¹⁴

The best U.S.-Poland “deal” that could be struck during the Duda visit would therefore be for American foreign assistance to once again begin to support a reinvigoration of democratic institutions, rather than to bail out an ailing military of the government’s own creation. Instead of—or in

addition to—offering President Duda military support, the U.S. government should offer financial support to civil society and technical support to reestablish an independent judiciary. Ideally, military support would be conditioned upon a review of the functioning of major institutions of democracy and rule of law in Poland.

In this issue brief, Human Rights First explains how Poland’s Law and Justice party is leading the country on a path away from rule of law-based governance, and offers recommendations for how the United States can help strengthen democracy and human rights in Poland, while bolstering NATO and protecting U.S. national security.

Party Over Constitution: Routing Non-Political Institutions

In 2015, national elections in Poland gave the Law and Justice Party a majority in parliament and control of the executive branch. Since then, it has systematically undermined the checks and balances that had been a hallmark of Poland’s post-Soviet democracy. Its leaders have:

- Violated Poland’s own constitution to force out judges from the Constitutional Tribunal, in order to illegally appoint new judges, and to rewrite the rules governing the Tribunal—Poland’s highest constitutional court;
- Forced retirement of 149 regional court heads perceived to not agree with their ideology;¹⁵
- Disciplined dozens of judges based on their perceived disagreement with the party;¹⁶
- Forced out nearly all—44 of 45—heads and deputies of regional prosecution offices and over one thousand high level prosecutors based on

their perceived disagreement with party policies;¹⁷

- Forced out of ministries and the civil service those that might disagree with their policies through a law terminating open competition for civil service posts and termination of individual workers;¹⁸

- Created new judicial bodies that allow political appointees to review electoral disputes and other sensitive cases;¹⁹ and

- Targeted critical media by forcing over two hundred journalists from their posts,²⁰ harassing them with ill-founded court cases,²¹ and mounted intimidating investigations of even U.S.-owned media perceived as critical.²²

Every single one of these actions was met with international criticism, including from the U.S. government.²³

Forcing Out Experienced Military Officers: What Happened

One of the most impactful aspects of the Law and Justice power grab is the systematic purge of the Polish military and intelligence agencies of individuals perceived to be insufficiently loyal to the governing party.²⁴ The purges were undertaken by Minister of National Defense Antoni Macierewicz shortly after taking office; they targeted the most experienced members of Poland's military, primarily "people who completed studies in NATO academia, and had experience in foreign missions."²⁵ Those summarily fired were often dismissed in a humiliating manner. The purges involved:

- Beginning in March 2016, the dismissal of numerous high-profile military officers in a manner that was made to look like they resigned.²⁶ The officers included the chief of the joint staff, the commander of land forces, the commander of naval forces, and the commander of armored and airborne forces.²⁷

- From September 2016, outright dismissals of top brass—including Colonel Piotr Gastał, the commander of Poland's elite counter-terrorism unit that works extensively with NATO counterparts (JW GROM),²⁸ and Major General Piotr Patalong, the commander of Poland's Special Forces.²⁹

- The dismissal or demotion of 36 generals in the Polish armed forces through 2017, including a quarter of Poland's general staff.³⁰

- The systematic dismantling of leadership of the counterintelligence agency (the SKW) and the bureaucracy that handles the acquisition of military equipment from private and public contractors;³¹ this included dismissal of hundreds of analysts who were replaced by individuals with little experience in intelligence.³²

- A December 2016 raid by Ministry officials on a NATO affiliated training center in Warsaw.³³ Macierewicz dismissed the commanding officer, Col. Krzysztof Dusza and personally appointed his successor, Col. Robert Bala.³⁴

- Transfer of the majority of those dismissed to the reserves or placement in positions reporting directly to the Ministry. Polish military experts refer to the reserves as "the freezer,"³⁵ officers that did not resign after being placed

there were generally terminated after six months.³⁶

- The “resignation” in protest of numerous officers who realized they were being “frozen” and would soon be formally dismissed. These included three prominent generals: Lt. General Mirosław Rozanski, general commander of the Polish Army, General Mieczysław Gocul, head of the General staff, and General Adam Duda, head of the Arms Inspectorate.³⁷

- The mass “resignations” among lower ranking officers who were being forced out, upon seeing the departure of the above-mentioned three generals. In 2016 alone, two hundred colonels—one sixth of the colonels in Poland’s military—left their posts.³⁸

- A purge of the leadership of state-owned firms in the defense sector, eliminating unfriendly bureaucrats and replacing them with members of Macierewicz’ inner circle.³⁹

- A consolidation of state-owned firms within the defense industry which placed them under a single newly-created entity⁴⁰ which was then filled with Law and Justice appointees, many of whom had no experience working in the defense industry.⁴¹

Why the Purges: “Macierewicz was not trying to improve the military”

One reason given by Macierewicz for the forced dismissals was that they terminated “generals of Civic Platform” [the prior party in power].⁴² However, no general was shown to have had any party connection. On the contrary, Polish armed forces had attained a high level of political independence before the

purges. “Officers and generals ... avoid[ed] any political ‘flavor’ [because] political turns of government happen every four years, and military careers [last] much longer” across many of these changes.⁴³

Macierewicz later provided two other justifications for the dismissal of so many military and intelligence leaders. First, he claimed that corruption was endemic throughout Poland’s armed forces.⁴⁴ Second, he claimed that communist sympathizers filled both the military and intelligence agencies.⁴⁵ However, none of the officers forcibly dismissed were alleged to have committed any acts of corruption or to have communist sympathies, there was “no[t a] single case” in which these charges were made against any individuals forced out.⁴⁶ Macierewicz used the justifications to make grand allegations, he produced no concrete examples.

For example, to justify the sacking of Col. Dusza, the head of the NATO-affiliated training center, Ministry officials launched disciplinary proceedings against him and claimed he was an agent of Russia’s Federal Security Service (FSB), and also had spied for the United States.⁴⁷ However, the allegations of American spying were dropped after the U.S. embassy intervened,⁴⁸ and the remaining charges were never pursued.⁴⁹

Journalists also uncovered a pressure campaign against a subordinate of Col. Dusza, Waldemar K., who was in charge of conducting security clearances for defense contractors. He was told he needed to provide Ministry superiors with incriminating evidence against his former boss.⁵⁰ He did not provide this evidence; he appears to have committed suicide in 2017.⁵¹

Neither has a military strategy been offered to explain the mass firings. Said Gocul, “Why isn’t there a

strategy? Because if they wrote one down, it would be possible to prove that they are not fulfilling it... if those in power wrote the truth, then maybe it would become apparent that they don't see a place for us within the framework of the European Union and NATO."⁵² Echoed one investigative journalist who had reported on the Polish military developments, "Macierewicz was not trying to improve the military, I think he was trying to ruin it."⁵³

The Consequences: Loss of Professionalism

According to General Mieczyslaw Gocul in 2018, the mass departures degraded the military's ability to operate as an effective fighting force.⁵⁴ They left the armed forces with ineffective and inexperienced leadership incapable of living up to the country's NATO commitments. For example, when former Supreme Allied Commander of Europe, American General Philip Breedlove, requested the country's planned command structure in case of a conflict, Gen. Gocul could not provide it because no such plan existed.⁵⁵ The "[Polish] armed forces currently have no operational capabilities," said the General.⁵⁶

The generals and corporals forced out had been trained by the United States or other NATO countries. They were highly-experienced at working with NATO, and had "taken part in joint deployments in Syria, the Golan Heights, the Balkans, Iraq, and Afghanistan; " they spoke English.⁵⁷ Because Polish law allows military officers to be elevated two full ranks during a single promotion, the majority of the general staff is now made up of officers who were promoted beyond their experience.⁵⁸ They lack the skills and experience to operate in a complex military theater such as a NATO-led operation. Some do not speak English.⁵⁹ The result hampers cooperation. As

summed up by General Gocul, "what meaningful ally will want to integrate its forces with a structure where yesterday's colonel is a two-star general today?"

Current State of the Polish Military

Macierewicz was ultimately fired in January 2018—although not because of the military purge. His departure resulted more from power politics within the party, with Justice Minister Zbigniew Ziobro gaining the upper hand.⁶⁰ His links to a large faction of far-right voters made him a threat within the administration because he could create his own party. He was also alleged to have ties to Russia.⁶¹

In May 2018, Mariusz Blaszczak became Poland's new Minister of Defense. Blaszczak has done little, if anything, to roll back the purges. Indeed, the Defense Ministry continues to employ many Macierewicz associates, and many remain in positions of power within Law and Justice.⁶²

Former military officials, think tank representatives, and journalists agree that the loss of skilled professional officers in the military and intelligence weakens Poland's military capabilities. "It harms interoperability," noted one former Polish general interviewed by Human Rights First.⁶³ "It makes Poland weaker in the face of Russian attacks," added another.⁶⁴ As General Gocul put it, "there is no plan" for the improvement of the armed forces, and funds spent by the Ministry are therefore wasted. "We spend huge sums, 40 billion zloty annually, in insufficient conditions of democracy and rule of law."⁶⁵

Recommendations

Party-loyalty tests for the military, judiciary, and other non-political entities are a tool used by

authoritarian regimes. This practice, a blatant violation of democratic norms, should not be rewarded by the U.S. government. Law and Justice attacks on Poland's institutions are weakening Poland's resilience to authoritarian influence, including from Russia; its governance by rule of law; and its ability to collaborate with the United States and NATO. It is sowing chaos within the political class that would need to unite in the face of an outside attack. To strengthen democracy and human rights in Poland, and bolster regional security in Europe to the benefit of U.S. national security, Human Rights First recommends that:

- Congress mandate that any deepening of the U.S.-Poland military relationship be conditioned on the Department of Defense conducting an evaluation of whether, and to what extent, the anti-democratic actions by the Law and Justice party may negatively impact current or anticipated military priorities, including NATO priorities. This review should be completed, briefed to Congress, and made public, prior to any decision on providing further military aid to Poland, or building a U.S. military base in Poland.

- Congress require that if the U.S. government expands its military relationship with Poland, that it also provide financial assistance to institutions that can help bolster democracy and reinstate support for rule of law. To do this, Congress should reintroduce democracy funding in the region by naming Central Europe as a mandated recipient of democracy support in the current appropriations legislation. It should also name Poland as a recipient for funds appropriated to combat authoritarian influence. These funds should support independent media and journalists, anti-corruption watchdog organizations, and organizations that serve religious, ethnic, and other minorities.

- Congress cooperate with the United States Agency for Global Media (formerly the Broadcasting Board of Governors (BBG)) to reintroduce Radio Free Europe/ Radio Liberty in the region, and specifically in Poland, to help support the flow of independent reporting on issues of civic concern, including national security issues.

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