Open Letter in Support of Professor Wojciech Sadurski

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Two months ago Armin von Bogdandy and Luke Dimitrios Spieker highlighted the plight of our colleague Wojciech Sadurski, a distinguished professor of law at the Universities of Sydney and Warsaw, and formerly at the European University Institute in Florence. Professor Sadurski finds himself facing an array of charges and lawsuits in Poland for his outspoken criticism of the governing party, PiS. As von Bogdandy and Spieker pointed out, such attempts to silence critics are not solely a matter of Polish law but also of European Union law and European human rights law, particularly in the context of the ongoing Article 7 TEU procedure against Poland. But matters have continued to worsen since that time for Sadurski, who has been targeted by no less than three sets of legal proceedings aimed at silencing him and punishing him for speaking out. We write to draw attention to the legal harassment of Professor Sadurski by the Polish government and its allies, to the right of academics across the European Union to freely speak out and to criticize political leaders, and to publicly express our support for Wojciech Sadurksi.

The background is this: On 10 November 2018 Wojciech Sadurski called upon Polish citizens to boycott a so-called "Independence March" to be held in Warsaw. He tweeted: "If anyone still had any doubts, after the maneuver of the past two days this much should be clear: no honest person should go in a parade of defenders of the White race, who have hidden for a moment their "falangas" [a neo-Nazi symbol] and swastikas, in collusion with an organized criminal group PiS". On 13 January 2019, shortly after the murder of Gdańsk Mayor Mr Paweł Adamowicz, Sadurski tweeted that a politician was killed after he had been hounded by government media, and stated that no democrat and opposition politician should enter the premises of TVP, a public television station, which he described as a Goebbelsian media company.

These two tweets led to three currently pending cases. The first, a civil suit lodged on 21 January 2019 by PiS and signed by its President, Jarosław Kaczyński, alleged that the personal rights of PiS were affected by characterizing the party as an 'organised criminal group'. This characterization was also said by PiS to insult thousands of its members. PiS has demanded a public apology through a pinned tweet expressing regret for breaching its good name, payment of a high fine to be donated to a charity, as well as a commitment that he would never again refer to PiS in a similar way. The second tweet led to a criminal case dated 21 January 2019, and to a civil case dated 20 March 2019, both brought by a state-run television TVP. The argument made in these two cases is that the tweet amounts to intentional and deliberate defamation as well as adversely affecting the personal rights of the TV station through its suggestion of a link between the manner of the station's reporting and the murder of the Mayor. TVP also argues that the tweet would have a negative impact on the TV station's reputation and on its commercial partners, particularly its advertisers. TVP argues that Sadurski should pay a fine, to be donated to a charity, and should publicly apologise by purchasing an expensive advertisement in a top Polish web portal.

All three cases are currently pending. And while we respect and support the independence of the Polish courts and hope that they will be able to perform their functions freely and without interference, ongoing measures in Poland to undermine the independence of the judiciary and to assert disciplinary political control over the courts create grave cause for concern.

It is clear to any observer with the most elementary knowledge of EU law and the law of the European Convention on Human Rights that the three cases against Professor Sadurski will not survive the scrutiny of the Strasbourg (ECHR) or Luxembourg (EU) courts.

What is happening to Wojciech Sadurski is a coordinated harassment campaign by the Polish ruling party against a well-known and respected academic who has clearly struck a nerve with his powerful critique of the situation in his native country.

Does the Polish ruling party really want to continue this futile and expensive campaign of legal harassment through the lengthy procedural routes to the Luxembourg and Strasbourg courts, given the inevitability of further high-profile and authoritative rulings against it? We hope not and we suggest that the rational self-interest of the Polish government should prevail. We call upon PiS to reconsider its position and immediately drop its case against Wojciech Sadurski, and to require TVP, which is financed through public resources, to do the same with its two cases.

We write this letter not only in support of our academic colleague Wojciech Sadurski, but also to make the broader point that any attempt to silence any one of us who writes for and reads publications such as this one is an attempt to repress and silence all of us. Freedom of expression safeguards robust criticism of governmental and political action, and all the more so in a context in which there has been widespread criticism by independent observers of the actions of the national authorities to undermine the rule of law. We write today to speak out and to stand up for that freedom.

To co-sign this open letter, please leave a comment with your name and affiliation!

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