



**INTERNATIONAL  
LAWYERS ASSISTING  
WORKERS NETWORK**

20 August 2024

Mr Donald Tusk  
Prime Minister of Poland  
Ujazdowskie Avenue 1/3  
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Poland

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**Re: Continued violations of workers and trade union rights in Poland**

Dear Prime Minister,

On behalf of the International Lawyers Assisting Workers (ILAW) Network, which includes over 1,300 workers' rights lawyers across more than 95 countries, including in Poland, I write to express our serious concerns regarding the ongoing violation of trade union rights in Poland, in violation of ILO Conventions 87 and 98, both of which the government has ratified. We respectfully urge you to take immediate action to intervene in the matter discussed below.

In 2022, the trade union, *Rady Szkolnictwa Wyższego i Nauki ZNP*, was formed at the Akademia Nauk Stosowanych w Nowym Targu (formerly Podhalańska Państwowa Wyższa Szkoła Zawodowa w Nowym Targu). From the outset, university management refused to recognize the new trade union, which had properly notified the employer of its formation<sup>1</sup>. As you are aware, trade unions are not required to do anything more under Polish labour law. By letter dated February 28, 2022, management demanded that the union formally register and also requested a list of the names of all union members. Management also threatened to suspend the union's activities until the membership information was provided. However, the union is not required to register and is also not obligated to provide its membership list.<sup>2</sup> Further, such information is protected under the GDPR.<sup>3</sup>

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<sup>1</sup> Letter of February 3, 2022. Refusal to recognize the trade union violates Article 1 of the Act on Trade Unions.

<sup>2</sup> The Supreme Court of Poland has ruled several times that an employer cannot demand from a trade union a list of its members. See, e.g., Sentence of Voivodeship Administrative Court in Warsaw October 28, 2009, reference: II SA/Wa 16/09; Sentence of Voivodeship Administrative Court in Warsaw September 5, 2013, reference II SA/Wa 764/13; Supreme Court of January 24, 2012, III PZP 7/11.

<sup>3</sup> See Article 9(1) of Regulation (EU) 2016/679 of the European Parliament and Council of April 27, 2016, concerning the protection of personal data (General Data Protection Regulation).

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It is troubling that senior government officials have apparently supported university management's position. In July 2022, officials of the Ministry of Science and Higher Education incorrectly claimed during a meeting at the university that the union was required to submit its membership list to the employer.<sup>4</sup> The university has also been subjected to multiple inspections<sup>5</sup> by the State Labor Inspectorate, which affirmed the position of the workers.<sup>6</sup> Inspectors even filed a petition with the criminal court, which led to a penalty being assessed against the university.<sup>7</sup> The public prosecutor has also opened an investigation into allegations of obstruction of union activities.<sup>8</sup>

Under the previous government, the Ministry of Science and Higher Education failed to remedy this situation. We have higher expectations under your government. In May 2024, the Minister of Family, Labor and Social Policy received a comprehensive letter from the union, complete with information about these various violations of labour law. Unfortunately, over two months have passed without even a response.

The right to form a trade union and to carry out activities in defence of its members' interests is protected by international labour law, including ILO Conventions 87 and 98, which Poland has ratified. We respectfully request your intervention in this matter to ensure that the union is allowed to function without the inference of university management, consistent with national and international law. Specifically, we request that you order an investigation into the violation of trade unions rights at Rady Szkolnictwa Wyższego i Nauki ZNP, hold accountable the state institutions that have failed to address this matter in accordance with the law, and prevent further violations of trade unions' rights at Rady Szkolnictwa Wyższego i Nauki ZNP.

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<sup>4</sup> See Nowytarg24, *Deputy Minister in Podhalanka, Promise and Appeal for Peace, Quiet, Restraint*, July 8, 2022, online at: <https://nowytarg24.tv/wiceminister-w-podhalance-promesa-i-apel-o-spokoj-cisze-wstrzemiezwosc/>

<sup>5</sup> States Labor Inspection letters of: June 6, 2022, reference: KR-22-28656; March 27, 2022, reference: KR-22-11586; June 24, 2022, reference: KR-22-32822; June 27, 2023, reference: KR-22-34066.

<sup>6</sup> The State Labor Inspectorate has confirmed the violation of employee and trade union rights. In letter of June 27, 2022, the inspector wrote: "The described actions/omissions on the part of the employer may exhibit characteristics of a crime under Art. 35 sec. 1 of the Trade Unions Act. Therefore, a notification has been filed with the District Prosecutor's Office in Nowy Targ regarding the aforementioned case. At the same time, I inform that the employer has been addressed with a request to eliminate the irregularities identified during the inspection, including negotiating changes to the remuneration regulations with the in-house trade union organization."

<sup>7</sup> See Sentence January 23, 2024, District Court in Nowy Sącz, II Criminal Division (case file number IIKa 525/23). The District Court in Nowy Sącz found the employer guilty under Art. 281 §1 point 3 in connection with Art. 38 §1 and Art. 282 § 1 point 3 of the Labour Code. The verdict is final.

<sup>8</sup> At present, the prosecutor in Nowy Targ is handling a criminal case under Article 231 § 1 Penal Code in connection with Article 35 Section 1 point 2 Act on Trade Union of May 23, 1991. (reference: 4150-4.Ds.195.2022.Spc).



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Should you require any documentation to support the facts outlined above, we would be happy to provide it.

Sincerely,

Jeffrey Vogt  
Chair, ILAW Network