

To Norges Bank

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Recommendation to place Polski Koncern Naftowy Orlen SA under observation

UNOFFICIAL ENGLISH TRANSLATION

Summary

The Council on Ethics recommends that Polski Koncert Naftowy Orlen SA (Orlen) be placed under observation pursuant to the ethical guidelines' human rights criterion. The background for this is Orlen's acquisition of the newspaper publisher Polska Press and its implications for freedom of the press in Poland.

Orlen is an integrated energy company listed on the Warsaw Stock Exchange. The company's largest shareholder is the Polish state. At the close of 2021, the GPFG owned 1.18 per cent of the company's shares, worth NOK 822 million.

The acquisition of Polska Press gives Orlen control over the majority of the country's regional newspapers, in addition to a large number of local media companies and online portals. Numerous key actors have pointed out that the state's ownership of Orlen potentially exposes Polska Press to the exercise of political influence and that the acquisition therefore has an adverse impact on freedom of expression. This criticism has been levelled in the context of diminishing press freedom in the country.

With regard to the company's contribution to norm violations, Orlen has carried out the acquisition and, as owner, contributed to the replacement of editors and removal of criticism from the public discourse. Confronted with the negative consequences of the acquisition, the company has stated that it was a purely commercial decision that fits well with its strategic goals. The company has emphasised that it respects national legislation covering the media market and that it will not interfere in the editorial content of Polska Press's publications.

In the Council's view, there is no contradiction between the acquisition being undertaken for commercial reasons and it having an adverse impact on freedom of the press at the same time.

The risk of political interference is particularly serious in connection with elections, and the Council notes that several actors have expressed serious concern about the independence of Polska Press's publications in connection with the elections in 2023. To what extent this risk will materialise is nevertheless uncertain. Due to this uncertainty about future developments, the Council recommends that the company be placed under observation.

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1 Introduction

The Council on Ethics (the Council) for the Government Pension Fund Global (GPF) has assessed the Fund's investments in PKN Orlen SA (Orlen)¹ against the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines).² The recommendation concerns Orlen's acquisition of the newspaper publisher Polska Press and its implications for press freedom in Poland.

Orlen is an integrated energy company listed on the Warsaw Stock Exchange. The company owns a large number of companies engaged in refining and petrochemical production, electrical power generation, wholesale and retail trade and fuel sales, among others. The company has operations in Central Europe and Canada.

The company's largest shareholder is the Polish state, which owns 32 per cent of its shares. This shareholding is expected to rise to 50 per cent.³ According to Orlen, the state has "de facto" control of the company.⁴ Polska Press is one of the largest newspaper publishers in Poland and the leading enterprise in the country's regional and local media market.

At the close of 2021, the GPF owned 1.18 per cent of Orlen's shares, worth NOK 822 million.

1.1 What the Council has considered

The Council on Ethics has assessed the GPF's investment in Orlen against section 4(a) of the ethical guidelines, which states that companies "*may be put under observation or*

¹ Issuer ID: 823804

² Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global, https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf

³ Nasdaq, Poland to up stake in Orlen to 50% as part of Lotos, PGNiG deal, says minister, 12 May 2021 <https://www.nasdaq.com/articles/poland-to-up-stake-in-ornlen-to-50-as-part-of-lotos-pgnig-deal-says-minister-2021-05-12>

⁴ European Commission, Case M.9014 - PKN Orlen/Grupa Lotos, 14 July 2020, p. 20 https://ec.europa.eu/competition/mergers/cases1/202121/m9014_8817_6.pdf

be excluded if there is an unacceptable risk that the company contributes to or is responsible for (...) serious or systematic human rights violations". According to section 6(5) of the ethical guidelines, observation may be employed *"if it is uncertain whether grounds for exclusion exist or what developments may occur forward in time, or when expedient for other reasons"*.

The Council bases its assessment of what constitutes a human rights violation on internationally recognised conventions and authoritative interpretations thereof. The Council also finds guidance in the UN Guiding Principles on Business and Human Rights (UNGPR), which establishes that companies must not infringe on human rights and that they must *"address adverse human rights impacts with which they are involved"*.⁵ In line with UNGPR, the Council attaches importance to the consequences and scale of the infringements and the extent to which it is possible to remedy them.

In this case, the Council has assessed whether the company's conduct has negative consequences for freedom of expression as enshrined in Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention on Human Rights (ECHR). The Council has not previously assessed freedom of expression pursuant to the ethical guidelines' human rights criterion. In the Report to the [Norwegian] Storting on the Government Pension Fund (2021-2022), it is emphasised that the Council may assess contribution to the abuse of any human rights under this criterion.⁶

In this case, the Council has assessed the company's contribution to systematic abuse of human rights. In previous recommendations, the Council has taken the position that human rights abuses are systematic when they are of a significant scope and scale. Abuses may be systematic when they are numerous, when different types of rights are infringed, or when they occur at multiple units within the company. The Council takes the view that systematic abuses are not isolated incidents but constitute a pattern of behaviour. In previous recommendations, the Council has also given weight to whether pushing up to or exceeding the boundaries of accepted norms has been a deliberate practice on the part of the company.

⁵ UN Guiding Principles on Business and Human Rights
https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁶ Report to the Storting Meld. St. 9 (2021-2022), p. 38

While international human rights conventions bind states and not companies, companies can be said to contribute to human rights violations. The Council on Ethics takes no position on the extent to which the state is responsible for the human rights abuses in question. When assessing a company's contribution to human rights violations, the Council considers whether there is a tangible link between the company's operations and the abuse concerned, whether the company has actively contributed to the abuse or been aware of it without doing anything to prevent it. The abuse must be ongoing, or there must be an unacceptable risk that such abuse may occur in future. The Council attaches importance to what the company is doing to prevent future norm violations.

1.2 Human rights standards

According to Article 19(2) of the ICCPR:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

The Human Rights Committee's General Comment on Article 19 from 2011⁷ states that freedom of expression is a prerequisite for the fulfilment of a number of other human rights, including the right to freedom of association (ICCPR, Article 21) and the right to vote (ICCPR, Article 26).

Even though Article 19 does not expressly mention freedom of the press and media diversity, it follows from the Human Rights Committee's General Comment on Article 19, from both 1983⁸ and 2011, that these elements are covered by the wording. In the General Comment from 2011, the Committee states that a free, uncensored and unhindered press is essential in any society to safeguard freedom of expression and

⁷ United Nations Human Rights Committee, General Comment No. 34 Article 19: Freedoms of opinion and expression, 2011

<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

⁸ United Nations Human Rights Committee, General comment No. 10 Article 19: Freedoms of opinion and expression, 1983

<https://www.ohchr.org/sites/default/files/Documents/Issues/Opinion/CCPRGeneralCommentNo10.pdf>

several other rights under the ICCPR. The Committee also points out that a free press is a cornerstone of all democratic societies.⁹ A report from the UN Special Rapporteur on Freedom of Opinion and Expression defines press freedom as freedom, independence and diversity of news media, including production, publication and dissemination of journalism on all platforms. Media independence was defined as editorial independence from political interference.¹⁰

Freedom of expression is also protected under Article 10 of the European Convention on Human Rights (ECHR) and, like the ICCPR, encompasses press freedom and diversity.¹¹ In the European Court of Human Rights' guidelines on Article 10, the particular of importance of freedom of the press in relation to democratic elections is emphasised with reference to the Court's custom and practice:

Free elections and freedom of expression, and particularly the freedom of political debate, form the foundation of any democracy. The two rights are inter-related and operate to reinforce each other. It is particularly important in the period preceding an election that opinions and information of all kinds are permitted to circulate freely (...) In consequence, the watchdog role of the press is no less pertinent at election time. In the Court's view, this role encompasses an independent exercise of freedom of the press on the basis of free editorial choice aimed at imparting information and ideas on subjects of public interest. In particular, discussion of the candidates and their programmes contributes to the public's right to receive information and strengthens voters' ability to make informed choices between candidates for office.¹²

⁹ United Nations Human Rights Committee (2011) p. 3

¹⁰ United Nations Human Rights Council, Reinforcing media freedom and the safety of journalists in the digital age, report from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Irene Khan, April 2022, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/323/44/PDF/G2232344.pdf?OpenElement>

¹¹ The European Convention on Human Rights (ECHR), https://www.echr.coe.int/documents/convention_eng.pdf

¹² Guide to Article 10 of the Convention – Freedom of expression European Court of Human Rights 109/129 Last update: 30 April 2021 receive information and

1.3 Sources

In this case, the Council on Ethics has made use of publicly available information from the media, UN bodies, international courts, civil society and government agencies. The Council has also received information from the company.

2 Background

In December 2020, Orlen announced its intentions to acquire Polska Press from Germany's Verlagsgruppe Passau Capital Group. The transaction gave Orlen control of 20 of the country's 24 regional newspapers, 120 weekly magazines and 500 online portals. Orlen has stated that the acquisition gives the company access to a readership of 17.4 million people.¹³ In 2019, before acquiring Polska Press, Orlen purchased 66 per cent of the shares in Sigma BIS, another media and advertising company. In 2020, Orlen also acquired Ruch group, a nationwide news outlet that also has distribution in the wholesale and retail sectors. Ruch's network comprises around 2,400 newsagents (kiosks), making it the largest newspaper distributor in Poland.

Since the current ruling party came to power in Poland in 2015, it has reportedly taken several steps to increase its influence over national media in Poland.¹⁴ The party has had the expressly stated goal of limiting foreign ownership of the media, a policy dubbed "*repolonisation*".¹⁵ Critics have claimed that the purpose of this policy is to secure state

strengthens voters' ability to make informed choices between candidates for office
https://www.echr.coe.int/documents/guide_art_10_eng.pdf

¹³ Notes From Poland, Polish state energy giant buys hundreds of local media outlets from German owner, 7 December 2020
<https://notesfrompoland.com/2020/12/07/polish-state-energy-giant-buys-hundreds-of-local-media-outlets-from-german-owner/>

¹⁴ Foreign Policy, How Poland's Public Television Became a Mouthpiece of the Law and Justice Party, 25 November 2019 <https://foreignpolicy.com/2019/11/25/poland-public-television-law-and-justice-pis-mouthpiece/>

¹⁵ Reuters, *Polish government to 'repolonize' media in next term, deputy PM says*, 20 June 2019 <https://www.reuters.com/article/us-poland-media-idUSKCN1TL1EX>

control of the media.¹⁶ Since 2015, the country has fallen 46 places on Reporters Without Borders' World Press Freedom Index. It is now ranked 64 of 180 countries.¹⁷ One reason for the fall is the political control of state-owned media. Shortly after the ruling party came into office, it took control of the appointment of senior executives at the public broadcasting service. After the presidential elections in 2020, the OSCE Office for Democratic Institutions and Human Rights stated:

*The governance and funding of the public broadcaster TVP does not ensure editorial independence and enables the government to exert pressure on TVP content. During this campaign (...) the TVP failed in its legal duty to provide balanced and impartial coverage. Instead, it acted as a campaign vehicle for the incumbent and frequently portrayed his main challenger as a threat to Polish values and national interests. Some of the reporting was charged with xenophobic and anti-Semitic undertones. (...) Editorial bias across the media landscape, combined with the lack of an effective oversight, reduced voters' ability to access comprehensive information that helps to inform their choices.*¹⁸

3 Impact on press freedom

Several critics have argued that the acquisition of Polska Press is a step towards the government's goal of obtaining greater control of the media.¹⁹ A report from the Centre for Media Pluralism and Media Freedom at The European University Institute finds a

¹⁶ Reporters Without Borders (RSF), Poland about to censor privately-owned media, like its Hungarian ally, 31 July 2020 <https://rsf.org/en/poland-about-censor-privately-owned-media-its-hungarian-ally>

¹⁷ Reporters Without Borders (RSF), RSF declares "press freedom state of emergency" in Poland, 13 September 2013 <https://rsf.org/en/news/rsf-declares-press-freedom-state-emergency-poland>

¹⁸ OECD, ODIHR Special Election Assessment Mission Republic of Poland – Presidential Election, 28 June 2020, <https://www.osce.org/files/f/documents/4/9/455728.pdf>

¹⁹ For example, see: <https://www.article19.org/resources/pkn-ornen-media-purchase-violates-eu-merger-rules/>

high risk relating to the lack of political independence and media diversity in Poland.²⁰ The report uses Orlen's acquisition as an example of growing political influence over and the concentration of ownership of Poland's media. The report states that the acquisition "resulted in increased political control" and that it has led to "dominance of regional news market by a state-owned company with a significantly strong position and high share in audience market". Polish and European journalists and civil society organisations have also expressed grave concerns that political influence over Polska Press has increased as a result of the acquisition.²¹

The acquisition of Polska Press was approved by the Polish competition authorities in February 2021.²² According to the published decision, the authorities did not assess whether the acquisition would pose a potential threat to the media's independence and diversity. The decision was appealed by Poland's Commissioner for Human Rights, who argued that press freedom and media diversity should have been included in the

²⁰ EUI/ The Centre for Media Pluralism and Media Freedom, Monitoring Media Pluralism in The Digital Era, Application Of The Media Pluralism Monitor, Country Report: Poland, 2022
<https://cadmus.eui.eu/bitstream/handle/1814/74700/MPM2022-Poland-EN.pdf?sequence=1&isAllowed=y>

²¹ For example, see:

Reporters Without Borders (RSF), <https://rsf.org/en/news/firing-four-editors-repolonisation-under-way-poland>

International Press Institute (IPI), <https://ipi.media/purchase-of-polska-press-by-state-energy-giant-spells-disaster-for-media-freedom-in-poland/>

Article 19, <https://www.article19.org/resources/pkn-orlen-media-purchase-violates-eu-merger-rules/>

Press Club Polska (in Polish),
https://bip.brpo.gov.pl/sites/default/files/Stanowisko_Press_Club_20.05.2021.pdf

²² UOKiK, Decyzja nr DKK-34/2021 (in Polish),
https://decyzje.uokik.gov.pl/bp/dec_prez.nsf/1/533AAC068F3C6568C1258681003DC432?editDocument&act=Decyzja

authorities' assessment.²³ According to the appeal, the state and politicians in positions of power will easily be able to "influence the taking of decisions on all activities of individual editorial offices, thereby transforming free press (...) into information and propaganda bulletins dependent on the authorities" when Orlen is in a position to appoint loyal editors. To substantiate this assertion, the Commissioner points to the considerable political influence exerted over the state-owned broadcasting company. In June 2022, the appeal court found that the competition authorities cannot take account of press freedom and diversity in their assessments.²⁴

A number of editors have been replaced since Orlen took over the company. Several of the new editors are said to have come from the national broadcaster or other government-friendly media.²⁵ In July 2021, the news magazine Notes from Poland published an article which claimed that 14 editors-in-chief had been replaced.²⁶ Another editor resigned from a newspaper in southern Poland in July 2022. In connection with this, he said:

From the beginning, I saw the takeover of Polska Press by Orlen as the end of the independent regional press (...) I've been a publisher for over 20 years and I've been making the newspaper the way I thought it should look. With time, I came to the

²³ Polish government (in Polish),

https://bip.brpo.gov.pl/sites/default/files/Odwolanie_UOKiK_Orlen_PolskaPresse_5.03.2021.pdf

²⁴ Reuters, Polish court rejects appeal against PKN Orlen's Polska Press takeover, 7 June 2022 <https://www.reuters.com/business/media-telecom/polish-court-rejects-appeal-against-pkn-orkens-takeover-polska-press-pap-2022-06-07/>

²⁵ IPI, 10 June 2021 <https://ipi.media/poland-orken-continues-editorial-purge-at-polska-press-2/>

²⁶ Notes from Poland, Fourteenth newspaper editor leaves since Polish state oil giant media takeover, 14 July 2021 <https://notesfrompoland.com/2021/07/14/fourteenth-newspaper-editor-dismissed-since-polish-state-oil-giant-media-takeover/>

*conclusion that it is becoming more and more difficult to do it in accordance with my conscience.*²⁷

In addition to the editors who have been replaced or stepped down, numerous journalists are said to have resigned their positions, in part due to a lack of independence.²⁸ The editor-in-chief of Polska Press was asked about these journalists in an interview. She indicated that those claiming not to have political independence were attention-seeking and trying to improve their position in the labour market by alleging they were victims of “political persecution”.²⁹

Since the acquisition, numerous allegations have been made concerning the exercise of political influence over the editorial content of Polska Press's newspapers. For example, the Society of Journalists alleged that a Polska Press newspaper reported on a candidate from the ruling party far more favourably than her competitors in a local election in 2021.³⁰ Other actors have also predicted that Polska Press will be utilised by the ruling party in the election campaign ahead of the general election in 2023, both to spread information supportive of the governing party and exploit user data the company has gained access to through the acquisition.³¹ It has also been reported that newly

²⁷ Press.pl (in Polish), *Bogusław Mrukot odchodzi z "Nowej Trybuny Opolskiej". Pracował w niej ponad 20 lat*, 14 July 2022 <https://www.press.pl/tresc/71758,boguslaw-mrukot-odchodzi-z-nowej-trybuny-opolskiej---pracowal-w-niej-ponad-20-lat>

²⁸ IPI, Poland, Orlen continues editorial purge at Polska Press, 10 June 2021 <https://ipi.media/poland-orlen-continues-editorial-purge-at-polska-press-2/>

²⁹ Wirtualnemedial, *Kania: odchodzący dziennikarze narzekają na Polska Press, by podbić swoją pozycję na rynku pracy*, <https://www.wirtualnemedial.pl/arttykul/dorota-kania-odchodzacy-dziennikarze-narzekaja-na-polska-press-by-podbic-swoja-pozycje-na-ryнку-pracy>

³⁰ Society of Journalists (in Polish), <http://towarzystwodziennikarskie.pl/2021/06/13/raport-z-monitoringu-mediow-przed-wyborami-prezydenckimi-w-rzeszowie-28-maja-11-czerwca-2021-r/>

³¹ Wyborcza.pl, *Strategic media takeover. How Orlen's purchase of Polska Press could shape the 2023 local elections*, 8 January 2021, <https://wyborcza.pl/7,173236,26670485,strategic-media-takeover-how-orlen-s-purchase-of-polska-press.html>

appointed editors have prevented or limited reporting on matters that could reflect badly on the ruling party,³² and that an article critical of the state-owned national broadcaster was removed.³³ One journalist is also said to have been dismissed for writing an ironic text criticising Orlen and its acquisition of Polska Press.³⁴

In January 2021, attorney and professor of company law Michał Romanowski wrote an article criticising Orlen's CEO for the acquisition and asserting that it violated Polish company law.³⁵ The article was published on the website of a magazine covering economics and law. Shortly afterwards, Romanowski was contacted by a representative of the magazine who said that the article had been removed on the basis of feedback from Orlen. In the media, Orlen stated that it disagreed with the article's presentation and that it planned to take legal action against Romanowski. The company did not do so. Orlen's CEO has also been accused of wanting to silence media that have published critical articles unrelated to the acquisition of Polska Press.³⁶

³² Wyborcza.pl (in Polish), *Orlen w Polska Press. "Nie używać określenia wolne media." Są instrukcje, jak pisać o "lex TVN" i LGBT+*, 11 August 2021
<https://poznan.wyborcza.pl/poznan/7,36001,27439531,orlen-w-polska-press-nie-uzywac-okreslenia-wolne-media-sa.html>

³³ Wyborcza.pl, (in Polish), *Naczelnny gazety z Polska Press, z nadania Orleń, wyrzuca felieton z druku. Bo był krytyką TVP*, 21 June 2021
<https://bydgoszcz.wyborcza.pl/bydgoszcz/7,48722,27228963,naczelnny-gazety-z-polska-press-z-nadania-orlenu-wyrzuca-felieton.html>

³⁴ Wirtualnemedi.pl, (in Polish) *Nowy naczelnny „Nowin” zerwał współpracę z felietonistą, który zakpił z kupna Polska Press przez Orlen*, 11 May 2021
<https://www.wirtualnemedi.pl/artykul/felietonista-nowin-zwolniony-za-zart-z-prezesa-orlenu-daniel-obajtek>

³⁵ Wirtualnemedi.pl, (in Polish), <https://www.wirtualnemedi.pl/artykul/profesor-prawa-michal-romanowski-rzeczpospolita-usunela-moj-tekst-po-interwencji-orlenu>

³⁶ IPI, *Increased attempts to silence Poland's free media through lawsuits (Gazeta Wyborcza)*, <https://ipi.media/increased-attempts-to-silence-polands-free-media-through-lawsuits-gazeta-wyborcza/>

4 Information from the company

The Council been in contact with the company from February to October 2022. In its communications, the company has maintained that it complies with national and international law and does not interfere with the journalistic content of titles published by Polska Press.

According to the company, the criticism levelled at it is not grounded in facts but in biased accounts published by media and organisations that support the country's political opposition. The company also points to a survey showing that Polish consumers want Polish-owned media and that an organisation of journalists has taken a positive view of the acquisition because it strengthens Polish ownership.

Orlen has further explained that no editors have been dismissed, but that amicable settlements have been reached with those who have been replaced. With regard to other employees, the company says that a larger number could have had to be let go if Orlen had not acquired Polska Press, and that it now has roughly the same staff turnover as elsewhere in the industry. The company also points out that it has come to an agreement with the trade unions at Polska Press, which provides employees with better employment conditions than previously.

Orlen has further explained that the acquisition was a purely commercial transaction that fits well with the company's strategic plans to strengthen retail sales and is in line with global trends. The company also sees the acquisition in connection with its purchase of Sigma Bis and Ruch. Furthermore, the company describes plans to develop big data tools to as it can now collect information on 60 per cent of internet users in Poland. This will enable it to create new business models and provide better geographical coverage and personalised offerings to selected customers.

5 The Council on Ethics' assessment

The Council on Ethics has assessed the GPF's investment in Orlen against the ethical guidelines' human rights criterion.

Orlen is accused of adversely impacting press freedom and diversity through its acquisition of Polska Press. Freedom of the press, as an aspect of freedom of expression, is internationally recognised as a prerequisite for democracy and other human rights, including the right to vote in free and fair elections. Contribution to the infringement of these rights may constitute grounds for exclusion from the GPF.

The acquisition gives Orlen control over most regional newspapers as well as a large number of local media outlets and online portals in Poland. In light of the volume of publications that have been affected by the acquisition, combined with the crucial importance of press freedom for a number of other rights, the Council has, in this case, assessed whether the company can be said to contribute to *systematic* norm violations. As in previous recommendations, the Council has attached importance to the fact that these are not merely isolated incidents but that the norm violations may constitute a pattern of behaviour. The Council has also accorded weight to the fact that the company seems to deliberately be operating at the limits of accepted norms.

In its assessment of the allegations against the company, the Council has placed emphasis on the views of the Commissioner for Human Rights in Poland, as well as journalists, academics, and civil society representatives, who argue that the state's ownership of Orlen means that Polska Press could be subjected to political interference. The Council notes that several editors-in-chief have been replaced and numerous journalists have resigned because they feel they no longer have editorial freedom. The consequences of these personnel changes may be difficult to reverse. The Council also notes that there have been allegations of political interference in the publications since the acquisition. Furthermore, the company is alleged to have procured the removal of criticism from the public discourse and threatened critics with legal action. Finally, the Council attaches importance to the serious concerns that Polska Press's publications could be used to influence the 2023 elections.

Confronted with the potential adverse impact of the acquisition on press freedom, the company has stated that it was a business decision, that accorded well with international trends and the company's strategic goals. The company has also emphasised that it complies with the legislation covering the media market and does not interfere with the journalistic content of titles published by Polska Press.

In the Council's view, there is no contradiction between the acquisition having been made on purely commercial grounds and it having an adverse impact on press freedom at the same time. Although the company asserts that it will not interfere in editorial matters, it has not answered the Council's questions about whether measures have been initiated to prevent the exertion of political influence, for example in the appointment of editors. In light of the allegations made against the company and the potentially adverse impact on press freedom in Poland, the Council would – at the very least – expect the company to initiate specific measures to protect the editorial freedom of the publications it owns. Such measures could, for example, include a thorough assessment of the risk of political interference, clear guidelines to safeguard editorial

independence, control mechanisms to ensure compliance with such guidelines, and a complaints/enforcement system that gives editors and journalists an opportunity to safely report censurable conditions.

Although the GPFG is invested in many companies operating in a context where freedom of expression is severely constrained, the Council considers that companies engaged in a media market in which press freedom is under pressure must take particular care not to adversely affect the situation. In this case, it is an acquisition carried out by a GPFG company that could lead to previously independent publications being subject to political interference. Based on the previously stated information, the Council takes the position that the acquisition could have had such an adverse impact.

In line with international standards, the risk of political interference is particularly serious in connection with elections. The Council notes that several actors have expressed grave concerns about the political independence of Polska Press's publications in the runup to the 2023 elections. Critics fear the publications will be used as mouthpieces for those currently in power. The extent to which this risk may materialise is nevertheless uncertain. Due to the uncertainty attaching to developments forward in time, the Council recommends that the company be placed under observation.

6 Recommendation

The Council on Ethics recommends to place Polski Koncern Naftowy Orlen SA under observation.

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