

UNOFFICIAL ENGLISH TRANSLATION

To Norges Bank

2 December 2024

Recommendation to discontinue observation of ORLEN SA

Summary

At the recommendation of the Council on Ethics, the Polish energy company Orlen was placed under observation in February 2023 due to an unacceptable risk that it was contributing to human rights abuses. The Council's recommendation rested on Orlen's acquisition of Polska Press, one of the country's largest newspaper publishers and a substantial media enterprise in Poland.

At the close of June 2024, the Norwegian Government Pension Fund Global (GPF) owned 0.19 per cent of Orlen's shares, worth NOK 390 million. The Polish state owns 49.9 per cent of the company, making it Orlen's largest shareholder.

The Council's recommendation was based on the risk that the Polish state, through its controlling interest in Orlen, would exert political influence over Polska Press. This would have implications for press freedom and therefore freedom of expression in Poland. The exercise of political influence on the media is particularly serious in connection with elections. However, because of uncertainty about the extent to which this risk would materialise in connection with the then forthcoming general elections, the Council recommended that the company be placed under observation.

The Council commissioned the monitoring of Polska Press-owned newspapers' election coverage in 2023, compared with media coverage of the election campaign in 2019. In the Council's opinion, both this study and other available information have confirmed that Orlen's ownership of Polska Press led to the editorial content of Polska Press's newspapers being subjected to political influence, and that this restricted freedom of the press in Poland.

In March 2024, Orlen's board of directors and executive management were replaced, and the company has subsequently decided to divest its ownership of Polska Press. The Council also attaches importance to the fact that guidelines forbidding the group from participating in political activity are currently being introduced. The commercial management of Polska Press has, moreover, been disconnected from editorial decision-making, while new editors of regional newspapers have been recruited via open recruitment processes. This could strengthen editorial freedom going forward.

The Council considers that the changes implemented at Orlen and Polska Press following the 2023 general elections indicate that there is no longer an unacceptable risk that the company is helping to restrict press freedom and freedom of expression in Poland.

The Council therefore recommends that observation of Orlen SA be terminated.

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1 Introduction

In February 2023, Norges Bank announced its decision to place the Polish company Polski Koncern Naftowy Orlen SA¹ (Orlen) under observation for a period of three years pursuant to the human rights criterion in the Government Pension Fund Global's ethical guidelines.² The decision was based on a recommendation from the Council on Ethics. The recommendation related to Orlen's acquisition of the media group Polska Press Grupa and the implications this had for freedom of the press in Poland. The recommendation was submitted to Norges Bank on 24 October 2022.³

Orlen is an integrated energy company that is listed on the Warsaw Stock Exchange. The company engages in refining, petrochemical production, electricity generation, wholesale and retail trading, and the sale of fuel. The company operates primarily in Central Europe.

Orlen is 49.9 per cent state-owned. The subsidiary Polska Press is one of the largest newspaper publishers in Poland and is the leading player in the country's regional and local media markets.

At the close of June 2024, the GPF Global owned 0.19 per cent of Orlen's shares, worth NOK 390 million.

1.1 Matters considered by the Council

Pursuant to section 5(7) of the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines), the Council on Ethics may, on the basis of new information received, recommend to Norges Bank that decisions relating to observation or exclusion be revoked.⁴

¹ Issuer ID: 823804. The company has subsequently changed its name to Orlen SA

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 Recommendation to place Polski Koncern Naftowy Orlen SA under observation:
<https://files.nettsteder.regjeringen.no/wpuploads01/sites/275/2023/02/Tilradning-om-observasjon-av-PKN-ENG.pdf>.

⁴ Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global:

The observation of Orlen was linked primarily to the extent to which Orlen's acquisition of Polska Press would limit freedom of the press and freedom of expression in connection with the general election held in Poland in October 2023.

The Council has also assessed how the changes implemented after the 2023 elections will affect the risk that Orlen may, in future, contribute to infringement of freedom of expression.

1.2 Sources

This recommendation rests largely on the Council's own investigations, including media monitoring and analysis in connection with the Polish general election in 2023 and interviews with Polish and international media experts, press organisations and human rights organisations. The Council has also received information from Orlen about changes in the company and in Polska Press.

2 Background

The Council's recommendation in 2022

In December 2020, Orlen acquired Polska Press from its German owner Verlagsgruppe Passau Capital Group. The transaction gave Orlen control of 20 out of 24 regional newspapers in Poland, 120 weekly magazines and 500 online portals, giving it access to 17.4 million readers. The year before, Orlen had acquired Ruch Group, the largest distributor of newspapers in Poland, with a nationwide network of newspaper kiosks. It also acquired 66 per cent of the shares in the media and advertising company Sigma BIS.

After the then ruling party came to power in Poland in 2015, it was reported that the party's objective was to gain greater control of the national media and that it had taken steps to increase its influence over the country's media companies. Polish and European journalists and civil society organisation took the view that Orlen's acquisitions were part of this strategy and that they would limit freedom of the press and freedom of expression in the country.

In light of the volume of publications affected by the acquisition, combined with the fact that freedom of the press is important for a raft of other rights, the Council assessed whether Orlen was contributing to systematic human rights abuses. In its assessment, the Council accorded weight to statements from, among others, Poland's human rights commissioner, who considered that

https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf.

Orlen's state ownership would open the way for Polska Press to be subjected to political interference and that there was, therefore, a risk that media coverage would be distorted to support the government's political agenda.

The Council also attached importance to the fact that a number of editors employed by Polska Press were replaced, that several journalists resigned because they found they no longer had editorial discretion, and to the many accusations of political interference in the publications after the company's acquisition. For example, Orlen is alleged to have ensured the removal of criticism from the public debate and threatened critics with legal proceedings. Of particular importance to the Council were concerns that Polska Press publications could be influenced politically during the 2023 general election.

The extent to which this risk would materialise was nevertheless uncertain. Due to the uncertainty going forward in time, the Council recommended that Orlen be placed under observation.

The 2023 Polish general election in brief

From 2015 until the general election on 15 October 2023, the United Right Coalition (*Zjednoczona Prawica* – ZP) under the leadership of the Law and Justice Party (*Prawo i Sprawiedliwość* - PiS) had a majority in the *Sejm*, the lower house of the Polish National Assembly, and therefore formed the government.

At the 2023 general election, seven parties which had combined into three electoral alliances led by the Civic Coalition (*Koalicja Obywatelska* – KO), gained a majority of the seats in the *Sejm*. In November 2023, these three alliances formed a new coalition government in Poland.

3 The Council's findings

Media monitoring and analysis in connection with the general election on 15 October 2023

In connection with the observation of Orlen, the Council engaged a Polish media monitoring firm to examine Polska Press-owned newspapers' coverage of the 2023 election campaign and compare it with coverage of the 2019 campaign. Six regional Polish newspapers owned by Polska Press and several independent newspapers in the same regions were selected for study. Both quantitative and qualitative analyses were performed on this selection.

The objective of this exercise was to gain a basis for assessing whether state-ownership of Orlen and the acquisition of Polska Press resulted in Polska Press being subjected to political interference from the government and the country's largest governing party.

The study concluded that Polska Press’s editorial policy favoured the United Right Coalition, led by the Law and Justice Party, to a greater extent than in the run-up to the previous election. Polska Press’s newspapers covered the United Right Coalition’s flagship policies (e.g. topics linked to immigration and welfare benefits) in more favourable terms, while increasing the proportion of negative articles about the opposition. To some extent, the prioritisation of topics covered by Polska Press’s outlets reflected the Law and Justice Party’s pre-election flagship policies. Coverage in the independent media did not show a similar trend.

In 2023, Polska Press’s newspapers published significantly more negative stories about the largest opposition party, the Civic Coalition, than in 2019. At the same time, the number of negative reports about the United Right Coalition fell sharply. Other media reported the two blocks more or less the same in both years, with a small increase in both negative and positive articles about the Civic Coalition.

There were also differences in how the press covered the candidates. Polska Press’s newspapers published many more negative stories about the leader of the opposition than of the sitting Polish prime minister. Furthermore, several media companies in Poland reported that Polska Press refused to accept adverts from the opposition parties during the 2023 election campaign. The election observer representing the Organization for Security and Co-operation in Europe (OSCE) confirmed that: “During the campaign, two opposition political parties were not allowed to place paid election campaign advertisements in publications acquired by Polska Press.”⁵

The study also included Orlen’s purchasing of advertisements in Polska Press’s newspapers, which increased substantially after its acquisition. Advertising is a vital source of revenue for media companies. Orlen’s purchases increased from PLN 13 million in 2020 to PLN 43 million in 2021, and to PLN 32 million in 2023 (from January up to and including September). Orlen thus spent 49 per cent more on advertising in Polska Press’s newspapers in 2023 than in the same period in 2022. The largest rise in advertising spending came in a Polska Press newspaper published in a region where the opposition parties had received the most votes in the 2019 general election.⁶

⁵ OSCE Office for Democratic Institutions and Human Rights, Limited Election Observation Mission Final Report, 27 March 2024: [565423_1.pdf \(osce.org\)](#). Pursuant to Polish law, a newspaper is entitled to refuse to accept advertisements that do not accord with its editorial policies.

⁶ Estimates based on reported financial results, advertising prices and advertisements that Orlen and its subsidiaries had placed in Polska Press’s publications.

Other reports

After the Council had submitted its recommendation to Norges Bank in October 2022, additional reports have been received showing that Orlen's acquisition of Polska Press led to significant editorial changes in the newspapers concerned, and that editors and journalists no longer had the same opportunity to write freely. The report from the Helsinki Foundation for Human Rights in Poland, which includes interviews with journalists following Orlen's acquisition, concludes that post-acquisition personnel changes led to changes in editorial policies that favoured the ruling parties ahead of the forthcoming general election in October 2023.⁷

A report published by the International Press Institute and the Centre for Media Pluralism and Media Freedom⁸ also points in the same direction. All these reports were published during the summer of 2023.

Changes in Orlen's board and management

On 5 February 2024, the company's entire board of directors was replaced⁹ and Orlen's CEO dismissed. A new CEO was appointed on 10 April 2024.¹⁰ Several other members of company management have also been replaced in the past year.

At Polska Press, those board members and executives who had been appointed by Orlen's previous management were replaced in March 2024.

⁷ Helsinki Foundation for Human Rights, From the Regional Press to Orlen Press, The Foundation's Report, 11 July 2023: <https://hfhr.pl/en/news/from-the-regional-press-to-orlen-press>.

⁸ IPI.media, *Media Freedom at a Crossroads*, 5 October 2023: <https://ipi.media/report-media-freedom-at-a-crossroads-journalism-in-poland-faces-uncertain-future-ahead-of-election/>

⁹ Orlen's website, Changes in Orlen Supervisory Board composition, 6 February 2024: <https://www.orlen.pl/en/investor-relations/reports-and-publications/regulatory-announcements/2024/01/Regulatory-announcement-no-12-2024>

¹⁰ Orlen's website, Changes in Orlen Management Board, 10 April 2024: <https://www.orlen.pl/en/about-the-company/media/press-releases/2024/apriil-2024/changes-on-orlen-management-board>.

4 Information provided by the company

The Council on Ethics has communicated with Orlen on several occasions, most recently in an online meeting in September 2024.

Prior to the 2023 general election, the Council asked Orlen for information concerning changes in Polska Press's editorial functions. This included the replacement of editors and journalists, changes in editorial policy and advertising. Orlen repeated at that time that the acquisition of Polska Press was undertaken for commercial reasons and in accordance with Polish and international law. The company asserted that it was keen to safeguard editorial independence and that Polska Press's journalists were at liberty to choose what and about whom they wished to write. Orlen emphasised that all recruitment of journalists and editors was based on qualifications and professional performance. For commercial reasons, the company did not wish to divulge any information about its spending on advertising.¹¹

In September 2024, Orlen sent a letter to the Council concerning important changes that had been made within the Group following the election and after a new management team was appointed in the spring of 2024.¹² The company pointed out that, in June 2024, it had announced plans to sell Polska Press. According to Orlen, this decision was based on the fact that owning a newspaper company was not a natural fit for an energy company, as well as a desire to appear to be politically neutral. Orlen's new CEO said in an interview that "Polska Press [is] absolutely unnecessary for us [Orlen]...We will seek an investor who will be able to buy it from us at a fair price."¹³

According to Orlen, the risk of political interference in Polska Press was minimised by the fact that the newspaper company's editor-in-chief was no longer a member of its management team and did not participate in its day-to-day operation. Along with the editors of the regional newspapers, the editor-in-chief is responsible for the newspapers' editorial policies. An open recruitment process to hire a new editor-in-chief was launched in the spring of 2024. Orlen also pointed out that two of the editors who had left Polska Press after its acquisition in 2020 had now rejoined the company.

¹¹ Letter from Orlen to the Council on Ethics, dated 5 October 2023

¹² Letter from Orlen to the Council on Ethics, dated 11 September 2024.

¹³ Financial Times, *Polish State Energy Group seeks to show political independence through media sale*, 23 June 2024: <https://www.ft.com/content/b07024dd-8baf-4714-b5ea-a842830a8ade>

Orlen disclosed that it was in the process of updating its guidelines to prevent the company from engaging in political activity:

“The provision specifies that ORLEN strictly excludes any involvement in initiatives and projects of a political nature. According to the draft of updated Policy, no funds may be used to finance political activities, including support for political parties, election campaigns, candidates for public office, organizations primarily focused on creating or influencing public policy, or any other initiatives of a political nature.”

Once these guidelines have been formally adopted, they will also apply to subsidiaries and joint ventures.

Orlen considers that the decision to sell Polska Press, the new government’s approach to corporate governance and all the changes that have been carried out at the company and Polska Press during the past year have reduced the likelihood of human rights abuses and restrictions being imposed on press freedom.

5 The Council’s assessment

The Council has assessed whether there are grounds to discontinue its observation of Orlen.

The Council considers that both its own investigations and other available information confirm that Orlen’s ownership of Polska Press did lead to political interference in the editorial content of Polska Press-owned newspapers. Orlen did nothing to counteract this in the runup to the general election. The company probably also contributed to Polska Press having a financial advantage over other media companies through a sharp increase in its purchase of advertising space. The Council therefore takes the view that Orlen’s acquisition of Polska Press helped to restrict freedom of the press and thereby freedom of expression in Poland in connection with the general election.

The Council notes that Orlen’s board and management were replaced in March 2024. It also accords weight to the fact that the company has decided to sell Polska Press and introduce guidelines that prohibit the company as well as its subsidiaries and joint ventures from participating in political activity. In addition, the steps Orlen has taken to separate editorial control and commercial management at Polska Press, as well as the replacement of editors in the regional newspapers through open recruitment process, will help to reinforce editorial freedom.

Based on an overall assessment, the Council considers that the changes implemented at Orlen and Polska Press since the 2023 election indicate that

there is no longer an unacceptable risk that the company is contributing to restrict freedom of the press and freedom of expression in the country.

6 Recommendation

The Council recommends that observation of Orlen be terminated.

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