Chairwoman Marianne Thyssen

Madam Chairwoman,

On 28 February 2018, a public hearing on the Act decreasing the pensions paid to officers who entered the service before 1989 was held at the European Parliament. The hearing was organized by the Federation of Associations of Uniformed Services of the Republic of Poland in cooperation with SLD MEPs. It was attended by Members of European Parliament from EU Member States.

I was one of the speakers at the public hearing that took place at the European Parliament. In my speech, I attempted to present the legal and historical status of the uniformed services and, in particular, the pension system applied to them. I took the floor as one of the people who created those services at the beginning of the Polish transformation. In 1990, I was the first civilian Deputy Voivodship Commander of the Police in Gdańsk, that cradle of the Solidarity movement. In 1991, I was appointed Minister of the Interior in the government of Prime Minister Jan Krzysztof Bielecki. I had been member of the Solidarity trade union in the period of the "Carnival", i.e. its legal operation in 1980-1981. Later, I had then been an activist of the underground Solidarity movement and, for that activity, I had been persecuted and imprisoned by those in whose name I am now speaking. All of us who built the new uniformed services had been persecuted, arrested, and detained by the previous uniformed services; let me just quote another Minister of the Interior Andrzej Milczanowski as a case in point here. We brought the communist services into account through a vetting process and we guaranteed officers who were vetted positively the same rights as the new officers entering the force.

The pension system, guaranteed by the State, is a particularly important element for the uniformed services. In 2009, the Polish Parliament again brought the former officers of the communist uniformed services to account by adopting a new Act on their pensions. The new Uniformed Services Pensions Act was adopted by Civic Platform (PO) but had been drafted by Law and Justice (PiS) and was submitted for review to the then independent Constitutional Tribunal which ruled it was constitutional. Yes, we were at the Constitutional Tribunal that day and let me note that, in its verdict issued in the case K 6/09, the Tribunal categorically ruled that: "Every officer of the security services of the People's Republic of Poland hired by the newly created security police services is guaranteed full rights equal to the rights of officers appointed to such services for the first time in mid-1990, including but not limited to equal rights to enjoy the preferential terms of pensions" (item 10.4.2, p. 83 of the verdict of the Constitutional Tribunal). "Serving in the uniformed services of independent Poland post-1990 will also be treated equal, irrespective of whether or
not the given officer had previously served in the security bodies of the People's Republic of Poland" (item 11.4, p. 88 of the verdict of the Constitutional Tribunal).

At this point, it should be noted that, according to the verdict of the Constitutional Tribunal, a pension paid to an officer who served in the security services of the People's Republic of Poland and then continued as an officer of the Third Republic must consist of two parts: one of them, generated in the Third Republic, should take into account the base of the pension and any additions thereto with an annual pension growth index at 2.6% of that base, while the other is the part of the pension generated before the collapse of the previous regime.

On 27 June 1996, the Parliamentary Assembly of the Council of Europe adopted Resolution no. 1096 on measures to dismantle the heritage of former communist totalitarian systems. Its part, applicable to this situation, reads as follows:

"A democratic state based on the rule of law has sufficient means at its disposal to ensure that the cause of justice is served and the guilty are punished - it cannot, and should not, however, cater to the desire for revenge instead of justice."

In my opinion, given such legal status, the Act of 16 December 2016 should never have been adopted because, in line with the resolution of the Parliamentary Assembly of the Council of Europe (1996) and the verdict of the Polish Constitutional Tribunal (2009), punishing twice for the same thing and applying group responsibility are not permissible.

Madam Chairwoman, it is with a great joy that I learnt that, on 5 April 2018, Mr Jean-Claude Juncker announced the European Commission would review the issue of the pensions for the Polish uniformed services and that the process would be supervised by you, the European Commissioner for Employment, Social Affairs, Skills and Labour Mobility. Having reviewed the situation, you will give an official reply in our case on behalf of the European Commission.

This means there is light at the end of the tunnel and hope that law will be observed in Poland.

Madam Chairwoman, I hope I am not overstepping by attaching my speech from 28 February 2018 hereto. Please do not hold it against me.

Yours sincerely,

Henryk Majewski