

Commission President
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Vice-President for Values and Transparency
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Honorable Commission President von der Leyen,
Honorable Commission Vice-President for Values and Transparency Jourová,

I, like you, believe that the rule of law is among the fundamental values upon which our European Union is built. Rule of law allows us to uphold key functions of our internal market and secures our belief in judicial protection across all Member States. Rule of law is the prerequisite for democracy in the Member States, and I trust that you share this view: That it is the foundation of the Union, which we cannot allow to erode.

I have followed with great attention the work of you, as well as the rest of the Commission, in protecting the rule of law in the EU. In this regard, I appreciate the actions of the Commission to support the protection and restoration of rule of law in e.g. Poland. Equally, I recognize the work done by the Commission in regard to other tools of the 'Rule of Law toolbox', such as the EU Justice Scoreboard and the yearly rule of law report: Tools that may help encourage dialogue and keep Member States accountable while a possible breach of rule of law is only slowly inching towards a clear breach.

Furthermore, as talk of welcoming new Member States to the Union is in the air, we consider the 'Copenhagen criteria'. These crucially include respect for the rule of law, under which "public powers always act within the constraints set out by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts", as notably defined by the Commission¹.

In the past years, Europe has faced grave crises of i.a. health, economy and security. Crises that have required swift and impactful actions by those in power all over the Union, to meet the great demands of its citizens. However, I believe that such governing of power must not come at the expense of rule of law. Rather, it must be the principle that guides decision-makers through crises of every kind. One rash decision which goes against the rule of law harms firstly the citizens directly victimized. But secondly, I believe it also puts that Member State on a dangerous path, which does not leave it resilient or prepared for responsible decision-making during the next crises. And as we have seen, during crises Members of the Union may be affected by the actions taken in other Member States even more so than usually.

Therefore, recent disclosures regarding decision-making by Danish authorities during the COVID-19 crisis have given me severe concern. I was appalled to learn about the actions of Mette Frederiksen,

¹ Communications from the Commission, «Further strengthening the Rule of Law within the Union», Brussels, 3.4.2019, COM(2019) 163 final, p.1

Prime Minister of Denmark, but even more so to learn of the response - or rather lack thereof - by the political majority. Below, a brief outline of the central points.

- On November 4 2020, Prime Minister Frederiksen gave an order regarding a compulsory plan for all Danish minks to be culled. This was based on the fear that COVID-19 mutations may move from minks to humans, endangering the effectiveness of existing vaccines². Under supervision of police and military, farmers and authorities started the process of culling all minks. Farmers were promised an extra compensation of 20 DKK per mink they themselves culled within the first 10 days.
- One week later Prime Minister Frederiksen admitted that the order of her government was illegal³. By then, at least 2.5 million animals had consequently been culled. Despite lack of legal justification, the government encouraged farmers to continue the culling. On November 16, the government entered into an agreement with a majority of parliament to create a legal justification for a ban on mink farming.
- In April 2021, the Danish parliament appointed a commission to carry out an official inquiry into the compulsory shut down of the mink farming sector. The Commission was to assess i.a. the decision-making process which led to the illegal order and the actions of involved authorities and ministers.
- In June 2022, it was concluded⁴ based on the inquiry that the Danish government lacked legal justification for their order to cull all minks, and additionally made statements that were “grossly misleading ... given the very far-reaching and intensive nature of the economic and social implications” in this regard⁵. According to the inquiry report, the order by Prime Minister Frederiksen to cull all minks in Denmark was “clearly illegal”⁶.

A number of members of the Danish parliament have requested that an assessment by independent lawyers of the inquiry report should be carried out. The objective would be to assess whether the order of Prime Minister Frederiksen was made with gross negligence to the fact that it was illegal. If it is found that Prime Minister Frederiksen acted with gross negligence, she could face trial for her actions. However, the governing party of Prime Minister Frederiksen as well as supporting parties in parliament have formed a majority against this independent assessment.

I believe that the decision of the government not to allow an independent assessment of the actions of Prime Minister Frederiksen, is an act of disrespect towards the principles of rule of law and democracy. Under rule of law, public powers must always act within the constraints set out by law: When Prime Minister Frederiksen failed to meet this requirement, she harmed the Danish mink farmers, but notably also the faith of all citizens in the respect for rule of law in Denmark. As the same government which did not act in accordance with the law is now furthermore opposing an independent assessment of the legal responsibility in this regard, I believe they are tainting this faith in the rule of law even further.

² <https://www.theguardian.com/environment/2020/nov/04/denmark-announces-cull-of-15-million-mink-over-covid-mutation-fears>

³ <https://www.theguardian.com/environment/2020/nov/10/denmark-mass-mink-cull-pm-admits-as-opposition-mounts>

⁴ The full report of the commission can be found here: <https://www.ft.dk/samling/2021/almde/GRA/bilag/46/index.htm>

⁵ <https://www.theguardian.com/environment/2022/jun/30/denmarks-covid-mass-mink-cull-no-legal-justification-report>

⁶ <https://www.ft.dk/samling/2021/almde/GRA/bilag/46/2602662.pdf>

I will not accept that acts which may go against the rule of law are approved of, even if carried out in times of crisis or with the support of a political majority. In this regard, I would welcome your reflections and guidance on the abovementioned case. I would also ask for your responses to the following questions:

1. In what ways is the Commission monitoring rule of law breaches in the Member States in relation to decision-making during the COVID-19 pandemic?
2. The 2022 Rule of Law Report makes reference to the commission of scrutiny procedure outlined above: However, the report does nothing more than take note of the case. Can the Commission explain
 - a. why it found the issue relevant to the Rule of Law report?
 - b. why no recommendation or assessment of the impact on rule of law was made on the basis of the case?
3. Does the Commission currently have any indication that the report of the commission of scrutiny and the lack of independent legal assessment of this will affect the country chapter on Denmark in upcoming 2023 edition of the Commission's Rule of Law Report?
4. Does the Commission hold knowledge or recommendations about 'best practice' for Member States' management of situations such as the case outlined above, where decision-makers are found to have given orders not in line with the law?
5. Does the case outlined above give rise to any concerns of the Commission about the respect for rule of law in Denmark, despite the otherwise usually good assessment of Denmark in this regard?
6. Does the Commission find that the case outlined above is in line with the rule of law principle as included in the Copenhagen criteria, for which the EU would expect new Member States to adhere, as well Article 2 of the Treaty on European Union?
7. Article 16 and 17 of the EU Charter of Fundamental Rights state the Freedom to conduct a business and the Right to property. Over the years, the Danish mink industry has employed thousands of workers and cooperated with thousands of businesses from other Member States:
 - a. Is the Commission of the opinion that EU citizens and businesses that took part in the Danish mink industry have sufficient legal remedies available in Denmark, when there are no legal consequences for the Prime Minister's unlawful action?
 - b. How would the Commission assess the possibility of an infringement of these articles, in the case outlined above?

Sincerely Yours,


Pernille Weiss
Member of the European Parliament