



# Civic Space Report 2024

# POLAND



INSTYTUT SPRAW  
PUBLICZNYCH









## About the author

National Federation of Polish NGOs (Ogólnopolska Federacja Organizacji Pozarządowych, OFOP) was established in 2003 as a representation body, whose main objective is to advocate for enforcing the role of the civil society organisations in taking responsibility for the state and building enabling environment for civil society to thrive. It associates over 140 diverse member organisations, working at national, regional or community level. It is politically independent and guided by the principles of the European Charter of Fundamental Rights.

The Institute of Public Affairs is a leading Polish think tank and an independent centre for policy research and analysis, established in 1995. Its mission is to contribute to informed public debate on key Polish, European and global policy issues. Its main areas of study include European policy, social policy, civil society, migration and development policy as well as law and democratic institutions.

## About this report

This analysis was published as part of the European Civic Forum's Civic Space Report 2024. The full report contains chapters written by its secretariat, by member organisations, or by partner organisations and individuals. Much of the content originally appeared as part of ECF's submission to the European Commission's Rule of Law consultation. Each chapter reflects the views and analysis of its respective author. For more information about the European Civic Forum, please visit [www.civic-forum.eu](http://www.civic-forum.eu)

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# Key trends

- 🔍 **CSOs, journalists and activist remain targeted by SLAPPs.**
- 🔍 **Criminalisation of activists assisting refugees and asylum seekers at the Polish/Belarusian border continues.**
- 🔍 **Violations on the right to protest an increasing concern.**

# Summary

Civic space is rated as “Obstructed” in Poland.<sup>1</sup> In its 2023 report, the European Commission recommended that the government take steps to “improve the framework in which civil society operates and continue such efforts regarding the Ombudsperson, taking into account European standards on civil society and Ombuds institutions”. It also made recommendations on the granting of operating licenses to media outlets and independent governance and editorial independence of public service media. No progress has been made in this regard under the Law and Justice (PiS) administration (before the 15 October election).

In 2023 civil society organisations galvanised around the elections, including voter turnout campaigns and election monitoring. The election period saw increasing xenophobia and scapegoating of migrants by the ruling Law and Justice (PiS) party for election purposes, yet no counter-narrative on migration was offered, even by the majority of the opposition. The situation at the Poland/Belarusian border remains grave, with ongoing pushbacks of refugees and asylum seekers being legitimised by

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<sup>1</sup> <https://monitor.civicus.org/country/poland/>



a 2021 regulation<sup>2</sup>. Furthermore, organisations and activists assisting migrants at the border have faced criminalisation and harassment.

CSO, journalists, and environmental and LGBTQI+ defenders remain targeted by Strategic Lawsuits against Public Participation (SLAPPs). Police violence during peaceful assemblies remains a concern. Funding remains a challenge for independent civil society, with a lack of transparency and a funding policy reflecting the official party line (under the Law and Justice government).

# Institutional, political and socio-economic landscape

The parliamentary elections in Poland dominated 2023. This was also the case for the CSO sector, which focused on activities around the elections, including the monitoring of the campaign and election observation, which considerably overshadowed other activities for activists and NGOs alike. While the elections were deemed free, given the significant domination of the ruling right-wing coalition over the media landscape and irregular use of public funding and other resources (incl. from state-controlled enterprises), they were not recognised as fair.<sup>3</sup> According to OSCE head of delegation Pere Joan Pons: “While the elections in Poland were competitive, we noted the erosion of checks and balances to gain further control over state institutions by the governing party, including the courts

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<sup>2</sup> The procedure of returning foreigners to the border line was introduced through an amendment in August 2021 of the March 13, 2020 Regulation of the Minister of Internal Affairs and Administration on temporary suspension or restriction of border traffic at certain border crossing points, Journal of Laws, item 435 as amended.

<sup>3</sup> <https://www.osce.org/files/f/documents/2/4/555048.pdf>

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and the public media. (...) This tilted the playing field, which meant the opposition did not have fully equal opportunities.”<sup>4</sup>

The situation of minorities, including the LGBTQI+ community and in particular transgender people, was also impacted by the elections as the targeting of minorities was a popular and recurring theme of right-wing parties in Poland.<sup>5</sup> The ruling PiS party, also stirred anti-German and xenophobic sentiments to delegitimise the candidates of the opposition (Donald Tusk in particular)<sup>6</sup>. Additionally, asylum-seekers have been targeted by negative political rhetoric, contributing to the already difficult situation of those seeking refuge in Poland.

CSOs were active in the legal developments before elections, such as the abrupt and last-minute amendments to the election code that introduced changes to favor the ruling party. For instance, they increased the number of Polling Election Committees (PECs) in rural areas, despite the main challenges of oversized PECs in cities. However, the rural electorate was a significant base for the then-ruling United Right<sup>7</sup>. Several organisations were engaged in monitoring the abuse of state resources in the election campaign, led by the Accountable Politics Foundation.<sup>8</sup>

Furthermore, a broader group of organisations engaged with parliamentary candidates at the conference "We have an idea for Poland," where they presented their vision for reforms in areas like the rule of law, education, and minority rights, which was endorsed by politicians of the then opposition.<sup>9</sup>

The extensive voter turnout (74,38 %) was at least in part due to a dozen pro-voting campaigns. Examples include campaigns addressed to women, such as Great Coalition for Equality and Choice - addressing reproductive rights,<sup>10</sup> East Initiative Foundation (young women),<sup>11</sup> Batory Foundation addressing women in their thirties and forties or Women's Power Foundation campaign "Women to

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<sup>4</sup> <https://www.osce.org/odihr/elections/poland/555072>

<sup>5</sup> <https://www.theguardian.com/world/2022/aug/24/trans-community-in-poland-braces-for-political-attacks-as-election-nears>

<sup>6</sup> <https://www.dw.com/en/whats-at-stake-in-polands-fall-election/a-66501627>

<sup>7</sup> <https://ofop.eu/nie-dla-pospiesznych-i-nieprzemyslanych-zmian-w-kodeksie-wyborczym-stanowisko-organizacji-spolecznych/>

<sup>8</sup> <https://odpowiedzialnapolityka.pl/publikacje/raporty-z-observacji/naduzywanie-zasobow-publicznych-w-kampanii-wyborczej-raport-wstepny>

<sup>9</sup> <https://ofop.eu/mamy-pomysl-na-polske/>

<sup>10</sup>

<https://www.facebook.com/wielkakoalicja/posts/pfbid02eyULkTYZNq5M39XV9zLBvShoBGf-wprDijHsP7pE9REkKJweqBTsWqTAn2h9uNL6vl>

<sup>11</sup> <https://www.youtube.com/watch?v=3D4p1q-wuhM>

the polls.”<sup>12</sup> Other campaigns were addressed at young people, e.g. a TikTok account run by Association 61/I have a right to know (smart voting)<sup>13</sup> or Foundation for Supporting Rural Communities which addressed young people in rural communities.<sup>14</sup> Amnesty International and Helsinki Foundation, with the support of other organisations, conducted a campaign under the slogan "Don't let the referendum fool you. Don't be manipulated. Refuse to take the ballot paper spreading prejudiced referendum. Say "NO" to the referendum, vote in the elections."

There was also a significant part of the public (above 20,000) mobilised by the Committee for Defence of Democracy for public election observation.<sup>15</sup>

After elections - mostly in November and December - organisations advocated for more participatory process of electing persons heading or forming the most important institutions in the country, such as ombudsperson for children,<sup>16</sup> head of the data protection office<sup>17</sup> or members of the election committee.<sup>18</sup>

Other organisations became involved in the public debate on the first changes introduced by the new government, among which the most visible were changes in the public media<sup>19</sup>, in reproductive rights via the in vitro law<sup>20</sup> and the renewed discussion around the introduction of civil partnerships (after the ruling of the ECHR of 12 December 2023).<sup>21</sup>

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<sup>12</sup> <https://kobietynawybory.org/>

<sup>13</sup> <https://www.tiktok.com/@orientuj.sie>

<sup>14</sup> <https://www.facebook.com/reel/832443948362147>

<sup>15</sup> <https://okw.info.pl/>

<sup>16</sup> <https://publicystyka.ngo.pl/kto-zostanie-rzecznikiem-praw-dziecka>

<sup>17</sup> <https://panoptykon.org/wybory-prezesa-uodo-2023-debata-pytania>

<sup>18</sup> <https://odpowiedzialnapolityka.pl/publikacje/stanowiska/list-otwarty-do-marszalka-sejmu-w-sprawie-wysluchania-publicznego-kandydatow>

<sup>19</sup> <https://hfhr.pl/aktualnosci/stanowisko-hfpc-ws-zmian-w-mediach-publicznych>

<sup>20</sup> <https://nasz-bocian.pl/nasze-dzialania/projekt-ustawy-tak-dla-vitro-w-sejmie>

<sup>21</sup> <https://kph.org.pl/trybunal-w-strasburgu-nakazal-polsce-uznanie-praw-par-osob-tej-samej-plci-brak-ochrony-prawnej-zwiazkow-osob-tej-samej-plci-narusza-konwencje-panie-premierze-spotkajmy-sie-mowia/>



# Civic freedoms: regulatory environment and implementation

## Freedom of association

The legal environment governing CSOs operation in Poland has not been modified in the course of 2023. According to the law, registration courts have seven days to consider an application for the establishment of an association or foundation. In reality, however, the process often takes many weeks. Inconsistent jurisprudence has led to some courts questioning certain provisions in the statutes of new organisations, which further prolongs the process. Companies and other private enterprises, on the other hand, can count on fast-track registration.

The possibility to register a CSO with the court by means of electronic communication was introduced in the middle of 2021. Thus 2022 and 2023 were the first years, where it was possible to assess the effectiveness of the new system. Unfortunately, the new registration procedures did not solve long-standing problems with registration. Rather, the process of registering a new organisation continued to take a long time in some parts of the country. Furthermore, both registration and online reporting are particularly difficult for small CSOs and those whose members are digitally-excluded.<sup>22</sup>

The standard annual reporting requirements for organisations registered with the National Court Register are also burdensome. They must submit annual reports on income and corporate income tax due. The reports must be signed by their board members through the use of electronic signatures, which costs several hundred zloty (approx. 100 EUR) per year. This creates a particular burden on smaller organisations who have limited budgets and capacity. Only CSOs that did not employ a single person (even on minimum wage) in the reporting year are exempt from this requirement.

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<sup>22</sup> Pazderski F. (2023), 2022 Civil Society Organization Sustainability Index, FHI360/USAID, Washington DC, <https://www.isp.org.pl/en/publications/2022-civil-society-organization-sustainability-index-1283>, p. 2.

Given the difficulties associated with registering and reporting, an increasing number of community initiatives are choosing not to seek formal legal status and are operating as non-registered structures instead. This trend has been fostered by the increase in public funding available to such initiatives over the past several years, as well as the development of social media and crowdfunding tools.

In 2023 the Family Foundation Act was finalised. CSOs criticised the name of the proposed new legal form as misleading as family foundations are not civic organisations. Rather, their purpose is to organise succession in large companies and ensure the continuation of business operations. Despite CSOs' appeals, the government did not change the name. The law was finally passed at the beginning of 2023.

Work on the NGO reporting bill, introduced in 2021, continued throughout 2023. However, no further consultations were organised with CSOs to validate its assumptions. The draft bill increases oversight over civil society and grants broad supervisory powers to the Chairman of the Committee for Public Benefit (the government body responsible for coordinating policies concerning CSOs). The position paper of the Polish National Federation of NGOs, the Klon/Jawor Association and the Donors' Forum in Poland concerning this bill observed that "the bill (...) is poorly drafted, does not address the real problems of organisations and is more an element of centralising government policy than an idea to simplify social activities." "The draft builds an atmosphere of suspicion around the operation of social organisations, introduces a new category of domestic and foreign donations and imposes on organisations the obligation to report additional information on large donations from private donors. New areas are thus emerging over which the State wants to have administrative control, on the assumption that these are potentially dangerous areas and require greater oversight than is the case under current legislation."<sup>23</sup>

In addition, work continued on a parliamentary bill on the transparency of NGO funding (introduced in a parliament in 2022). The bill would have required CSOs to keep registers of contributions and contracts and disclose information on support received, sources of project funding and other income, and costs and types of activities carried out. The law also proposed new reporting obligations, especially for the larger organisations and entities receiving funding support from abroad. Work on both bills were not concluded before the end of the Sejm's term and therefore both bills were subject to discontinuation.

The second half of the year also brought an interesting example of how the Referendum Law can be used to benefit CSOs. The provisions of this act allowed NGOs with proper statutory purposes to register with the National Electoral Commission (Państwowa Komisja Wyborcza, PKW) as entities entitled to officially conduct referendum campaigns. Thanks to the engagement by a group of CSOs, these provisions proved to be effective. After fulfilling rather simple administrative procedures, these CSOs obtained a right to apply for free airtime in the public media at national and regional level.

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<sup>23</sup> <https://ofop.eu/ustawa-o-sprawozdawczosci/>

Although it must be acknowledged that the possibility of exercising this entitlement came with administrative burden as it required the submission of additional applications by each of the dozens of CSOs, using different templates and often documents needed to be submitted in person at the CSOs' offices in different parts of the country. Such a procedure represents a significant inconvenience for many CSOs. Publicity material prepared by CSOs and submitted to public media (published on the basis of existing law), which stated that the referendum calls for human rights violations, were available in the public media and widely promoted.<sup>24</sup>

## Freedom of peaceful assembly

The most comprehensive report on the legal framework when it comes to the freedom of peaceful assembly was published in 2018 by the Office of the Commissioner for Human Rights (the Ombudsman). The overall legal situation has not improved since then.<sup>25</sup> If anything, it has further deteriorated during the pandemic. The report of the Ombudsman summarised the legal challenges that the modified regulations (the so-called "cyclical assemblies") introduced by Law and Justice in 2016 brought about. According to the Ombudsman's evaluation for the period 2016-2018, the new regulations restricted freedom of peaceful assembly guaranteed by the Polish constitution (Article 57) and international law in a significant manner, raising doubts about their constitutionality. The Ombudsman's office also supported the civic legal challenge to the restrictions introduced during the pandemic (sygn. akt SK 4/21). However, the Constitutional Tribunal discontinued the proceedings in this case in 2023.<sup>26</sup> The Ombudsman also intervened in the case of police interventions during counter-demonstrations organised by the public to express dissent, which were often blocked by the police.<sup>27</sup> According to the Ombudsman "(t)he police must (...) look for the least restrictive solutions, which in principle allow both demonstrations to take place at the same time."<sup>28</sup>

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<sup>24</sup> [https://youtu.be/Tq-1nOfbDGw?si=Dk5TzTpyg6iZxng\\_](https://youtu.be/Tq-1nOfbDGw?si=Dk5TzTpyg6iZxng_)

<sup>25</sup> <https://hfhr.pl/aktualnosci/opinia-hfpc-w-sprawie-odwolania-od-decyzji-prezydenta-warszawy-zakazujacej-organizacji,l:948771893>; Full report: [https://bip.brpo.gov.pl/pl/content/wolnosc-zgromadzen-w-polsce-jest-naruszana-zrenica-wolnosc-raport-rpohttps://bip.brpo.gov.pl/sites/default/files/Wolno%C5%9B%C4%87%20zgromadze%C5%84%20w%20Polsce%20w%20latach%202016-2018.%20Raport%20RPO\\_0.pdf](https://bip.brpo.gov.pl/pl/content/wolnosc-zgromadzen-w-polsce-jest-naruszana-zrenica-wolnosc-raport-rpohttps://bip.brpo.gov.pl/sites/default/files/Wolno%C5%9B%C4%87%20zgromadze%C5%84%20w%20Polsce%20w%20latach%202016-2018.%20Raport%20RPO_0.pdf)

<sup>26</sup> <https://bip.brpo.gov.pl/pl/content/rpo-wolnosc-zgromadzen-pandemia-tk-postanowienie>

<sup>27</sup> <https://bip.brpo.gov.pl/pl/content/rpo-zgromadzenia-kontrmanifestacje-miesiecznice-policja-ponowne-odpowiedz>, see also: [https://bip.brpo.gov.pl/pl/content/rpo-zgromadzenia-kontrmanifestacje-miesiecznice-policja-ponowne-odpowiedz - S.embed\\_link-K.C-B.1-L.5.zw](https://bip.brpo.gov.pl/pl/content/rpo-zgromadzenia-kontrmanifestacje-miesiecznice-policja-ponowne-odpowiedz - S.embed_link-K.C-B.1-L.5.zw)

<sup>28</sup> <https://warszawa.wyborcza.pl/warszawa/7,54420,29543056,megafony-lotnej-brygady-opozycji-to-narzedzia-sluzace-do-popelnienia.html>

Given the numerous irregularities during protests in recent years (e.g. during Women's Strike protests for reproductive rights), including incidents of unchecked police violence towards protesters, the Ombudsman's office applied to the Ministry of Interior and Administration to equip police officers from units dedicated to crowd management with clearly visible individual identification marks, e.g. service numbers.<sup>29</sup> Unfortunately, the Ombudsman's call was rejected by the administration in 2023. Hence, it is almost impossible to hold individual members of law enforcement to account for unlawful, excessive or unjustified use of force during protests and manifestations.<sup>30</sup> A report published by Amnesty International in 2020 (covering 2018-2019) also documented the improper use of chemical substances (pepper spray and others), and excessive force during protests; as well as instances of police surveillance of demonstrators.<sup>31</sup> Such was the case, for example, in 2022 during a counter-demonstration against the 150th Smolensk crash commemoration, which was widely commented on by media and society.<sup>32</sup> Although the counter-demonstrations, which happen regularly and legally, had been previously disrupted by the police, this particular case was investigated by the prosecutor's office, given that it was widely covered. The case was dropped in 2023, even though one of the demonstrators was knocked over and choked. On April 4, 2023, a complaint against the discontinuation of the investigation was filed.

It is important to emphasise in this context that police violence in Poland has been a growing problem. As of July 2023, The Ombudsman registered 111 cases of death resulting from various types of police interventions in Poland in recent years (2018-2021)<sup>33</sup>. Another case that attracted particular attention in 2023 was the degrading treatment by the police of a person seeking medical and psychological support in relation to the termination of pregnancy.<sup>34</sup> In this case the police were called by the doctor (who decided an intervention was needed given the psychological state of the patient). The woman was transported to a hospital, where two female police officers told her to undress, do

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<sup>29</sup> The situation escalated in particular during the pandemic. See also:

<https://oko.press/warszawa-stolica-policyjnej-przemocy-wobec-demonstrujacych-duch-nowogrodzkiej>

<sup>30</sup> <https://bip.brpo.gov.pl/pl/content/rpo-policja-numer-sluzbowy-mswia-premier-resort-odpowiedz-kolejna>

<sup>31</sup> <https://www.amnesty.org.pl/wp-content/uploads/2020/11/Zgromadzenia-PL.pdf>

<sup>32</sup> <https://oko.press/policja-przewracala-aktywistow-dusila-ich-wyrywala-sila-megafony-prokuratura-umorzyła-sprawę>

<sup>33</sup> <https://oko.press/policyjna-przemoc-co-zrobic-by-policja-nie-zabijala>  
<https://warszawa.wyborcza.pl/warszawa/7,54420,30506000,piet-lat-i-ponad-sto-zgonow-po-interwencji-policji-to-ona.html>

<sup>34</sup> <https://wiadomosci.onet.pl/krakow/nowe-fakty-w-sprawie-pani-joanny-lekarka-opowiada-o-wezwaniu-sluzb/enjgfwp>



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squats and cough. This police intervention was unnecessary and, according to the Ombudsman for Patient Rights, violated the right to privacy and respect for intimacy and dignity.<sup>35</sup>

It is important to note that restrictions to freedom of peaceful assembly were not only implemented by the ruling party. The mayor of Warsaw, Rafał Trzaskowski from the Civic Platform, tried to prevent the demonstration calling for a ceasefire for Gaza from happening (November 2023), in light of the escalating violence in Israel/Palestine. However, after a complaint by the Helsinki Foundation, the decision was revoked by the court.<sup>36</sup>

Several other protests in solidarity with Palestine and Israel have taken place in several cities across Poland without incidents. However, an earlier protest in October 2023<sup>37</sup> was condemned by the Israeli ambassador to Poland for being “blatantly antisemitic” due to a poster held by Norwegian student, Marie Anderson, that said “Keep the world clean” alongside an image of the Israeli flag being thrown in a bin. The ambassador called on the authorities to investigate the student. Under Polish law, inciting hatred on the basis of religious, ethnic or national differences is a crime punishable by up to two years in prison. The ambassador also condemned the chanting of “genocide” and the slogan “from the river to the sea, Palestine will be free”. Polish President Andrzej Duda said he “strongly condemns the antisemitic slogans that appeared during [the] march in Warsaw”. Following this, the Medical University of Warsaw (WUM) suspended the student. Responding to the criticism against her poster, Anderson stated that her poster did not intend any hatred towards Jewish people. “My poster is about the Israeli government...and the ethnic genocide they are doing right now to the Palestinian people”. The university’s disciplinary officer has also been asked to conduct an investigation into four other students who were reported to have “posted legally questionable content on social media”.<sup>38</sup>

## Freedom of expression

On 28 March 2023, the Human Rights House Foundation delivered a statement at the UN Human Rights Council depicting the current deterioration of media freedom and pluralism in Poland, but also

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<sup>35</sup> <https://wiadomosci.gazeta.pl/wiadomosci/7,114883,30614069,sprawa-pani-joanny-z-krakowa-rpp-wskazal-3-przypadki-naruszenia.html>

<sup>36</sup> <https://www.amnesty.org.pl/kolejny-prewencyjny-zakaz-zgromadzenia-uchylony-przez-sad/>, <https://hfhr.pl/aktualnosci/opinia-hfpc-w-sprawie-odwolania-od-decyzji-prezydenta-warszawy-zakazujacej-organizacji,l:948771893>

<sup>37</sup> <https://notesfrompoland.com/2023/10/21/israeli-ambassador-condemns-blatant-antisemitism-at-pro-palestine-march-in-warsaw/>

<sup>38</sup> <https://notesfrompoland.com/2023/10/31/warsaw-university-suspends-norwegian-student-over-keep-world-clean-banner-at-palestine-march/>

highlighting the general decline in freedom of opinion and expression more broadly. This downward trend also pertains to academic freedom and artistic expression.<sup>39</sup>

In 2023, the Helsinki Foundation for Human Rights published a report describing the situation in regional media outlets (Polska Press) after their takeover by PKN Orlen, a state-owned company. The findings are based on interviews with the journalists of Polska Press, which comprises of 20 local newspapers in 15 regions. It identified a plethora of problems triggered by the takeover, which significantly impacted freedom of press. For example: it found that there was *favouring of the ruling majority and its politicians in the message of the editorial board, with a person participating in the survey stating, "the new editor-in-chief said directly 'we are not attacking the government'"*<sup>40</sup>. Other concerns included the absence of coverage of the opposition and the restriction to coverage of topics, which were considered to be too contentious by the ruling party, such as LGBTQI+ rights.<sup>41</sup>

The situation in public media has been increasingly worse for many years and, as summarised in a report by Freedom House, is very far from "the editorially independent public service model."<sup>42</sup> The overhaul of the media landscape by PiS (implemented since 2015), including the introduction of the National Media Council, has created legal chaos, marginalising the National Broadcasting Council (KRRiT), which is the constitutional agency dedicated to media oversight. This allows TVP info (Polish public TV) to participate in not only propagandist coverage of the government but also in promulgating hate speech (famous example – the programme Inwazja) or conducting attacks on various groups in Polish society.<sup>43</sup> The same goes for public radio. The most tragic instance of political misuse of public media in 2023, resulted in the suicide of the son of an opposition MP Magdalena Filiks, after sensitive information was revealed by TVP info and a public regional radio station in Szczecin that her son was a victim of pedophilia.<sup>44</sup>

In 2023, the Minister of Science and Education, Przemysław Czarnek targeted Barbara Engelking, the head of the Center for Holocaust Research, and one of the world's most renowned Holocaust researchers. Her remarks on Polish attitudes toward Polish Jews during World War II were summarised by Czarnek as "a slander of Poland's good name". After this incident, Professor

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<sup>39</sup> <https://humanrightshouse.org/statements/hrc52-freedom-of-opinion-and-expression-in-poland/>

<sup>40</sup> <https://hfhr.pl/publikacje/raport-od-prasy-regionalnej-do-ornen-press-sytuacja-w-mediach-nalezacych-do-polska-press->

<sup>41</sup> <https://hfhr.pl/upload/2023/07/report-from-the-regional-press-to-ornen-press.pdf>

<sup>42</sup> [https://freedomhouse.org/sites/default/files/FH\\_Poland\\_Report\\_Final\\_2017.pdf](https://freedomhouse.org/sites/default/files/FH_Poland_Report_Final_2017.pdf)

<sup>43</sup> <https://www.wirtualnemedial.pl/artykul/tvp-inwazja-przeprosiny-atak-na-lgbt>

<sup>44</sup> <https://fakty.tvn24.pl/zobacz-fakty/samobojstwo-syna-poslanki-niektorzy-uznali-ze-mozna-zrobic-z-tego-sprawie-polityczna-ra1138917-ls6817050>

Engelking, who was supported by hundreds of academics, took legal action against the Minister.<sup>45</sup> The attack can be seen as a part of the confrontation with the Centre, which had its funding temporarily cut by the Minister with a similar justification in the spring of 2023. Czarnek stated that “insulting Poles and the Polish nation, the greatest victim of World War II, was not the role of Polish scientists supported by state money”. Hence, he refused to finance the work of the Centre, which is part of the Polish Academy of Sciences, as earlier planned. After worldwide opposition, from institutions such as Yad Vashem, the money has been disbursed in full. This confrontation with the academic community might have had serious consequences for academic freedom in Poland as it could also potentially undermine the autonomy of universities when it comes to research and funding, creating a chilling effect.<sup>46</sup> However, the outcome of the elections resulted in a change at the helm of the Ministry in October 2023.

# Safe space

## Strategic Lawsuits Against Public Participation

In 2022, Poland was named the country with the highest number of SLAPP cases by the Coalition Against SLAPPs in Europe (CASE).<sup>47</sup> In 2023, the situation in Poland remained unchanged and the SLAPP cases continued.<sup>48</sup> Journalists, activists, and CSOs are targeted predominantly by politicians and public administration. SLAPPs are usually based on civil law proceedings (based on Article 23 of the Civil Code). However, it is also quite common in Poland that criminal law is used to muzzle civil society and the media (based on Article 212 of the Criminal Code – see below).<sup>49</sup> One of the problems

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<sup>45</sup> <https://fakty.tvn24.pl/fakty-po-poludniu/profesor-engelking-wytacza-proces-przemyslawowi-czarnkowi-oczekuje-przeprosin-st7302776>

<sup>46</sup> <https://oko.press/czarnek-pieniedzy-na-badania-nad-zaglada>

<sup>47</sup> <https://www.the-case.eu/>, <https://www.the-case.eu/latest/the-european-slapp-contest-2024/>

<sup>48</sup> <https://www.the-case.eu/latest/the-european-slapp-contest-2024/>

<sup>49</sup> Art 212 of the Criminal Code: “(1) Whoever slanders another person, group of persons, an institution, a legal person or organizational unit without legal personality in a manner that may

that the Polish anti-SLAPP group established as a part of the CASE coalition in 2022, is the underreporting of cases. In 2022 there were 236 SLAPP cases in Poland (based on the Ministry of Justice data concerning Article 212 (2) of the Criminal Code). This means that there might be many more civil cases as there is a tendency to not reveal litigations (especially among prosecuted journalists).<sup>50</sup> Therefore, the actual number of SLAPPs in Poland is unknown and it is safe to assume that it might be significantly higher. Official reports, such as the report published by CASE, name 128 such court cases.<sup>51</sup> One of the reasons for underreporting is a lack of awareness that a case might qualify as SLAPP or fear of further retribution.

Intimidation as a result of SLAPPs is a daily reality for environmental activists and journalists globally (which is confirmed in numerous reports by international organisations such as the International Centre for Non-profit Law (ICNL) or Amnesty International). However, in the Polish case, activists from a variety of CSOs (including those defending the LGBTQI+ persons) have been the target of lawsuits. Examples of court cases in 2023 include:

The Court of Appeal in Białystok dismissed the appeal of the Przasnysz district in a case against the LGBTQI+ activists who published a rainbow map of local governments (known as the Atlas of Hate), which introduced the infamous so-called 'anti-LGBT zones' or similar documents and guidelines, such as the Local Government Charter of the Rights of Families ("Atlas nienawiści"). The court found that the defendants acted in the public interest and within the limits of public debate.<sup>52</sup>

Gaz System, the state-owned company that operates Poland's gas transmission network, sued an activist from the Bombelki collective and the environmental magazine Green News over the publication of an article questioning the development of gas infrastructure. The defendants are represented by Helsinki Foundation for Human Rights.<sup>53</sup>

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humiliate him in the eye of public opinion or expose him to the loss of confidence necessary for a given position, profession, or type of activity, shall be subject to a fine or restriction of liberty. (2) If the perpetrator commits the act referred to in paragraph 1 by means of mass communication, they shall be subject to a fine, restriction of liberty or imprisonment of up to one year."

<sup>50</sup> <https://publicystyka.ngo.pl/skala-zjawiska-slapp-w-polsce>

<sup>51</sup> <https://www.the-case.eu/latest/how-slapps-increasingly-threaten-democracy-in-europe-new-case-report/>

<sup>52</sup> <https://blog.atlasnienawisci.pl/index.php/2023/04/21/apelacja-powiatu-przasnyskiego-oddalona/>

<sup>53</sup> <https://hfhr.pl/aktualnosci/pozew-przeciwko-aktywistom-ekologicznym-i-gazecie-hfpc-interweniuje>



## **The humanitarian crisis at the border and the criminalisation of solidarity**

Since the crisis at the Polish-Belarusian border has started, 55 people attempting to cross the border have died<sup>54</sup>. The problem which still remains unresolved has been summarised by the Commissioner for Human Rights, Marcin Wiącek, in a letter to the new government on the International Day of Migrants (18.12.23): *"(t)he most important problem that needs to be solved is the use of the so-called pushbacks by the Border Guards, i.e. returning foreigners to the state border line immediately after being detained, without prior individualized assessment of their factual and legal situation"*<sup>55</sup> Based on the data of the Grupa Granica the number of people asking for help and humanitarian assistance still continues to be about 100-150 weekly.<sup>56</sup> Grupa Granica has assisted approximately over 14 000 people since the beginning of the crisis (as of January 2023).<sup>57</sup>

Hence, almost daily people are trapped at the border in life threatening situations, especially if pushed back on the Belarusian side.<sup>58</sup> When caught by the Polish Border Guards, asylum seekers often have their phones removed, which makes it much more difficult for humanitarian organisations to track individual cases (many people have been pushed back numerous times, many are missing). The Polish section of Doctors Without Borders lists the most typical interventions, which include assistance in cases of sprains, fractures, and dog bites. People are exhausted and dehydrated or have serious physical injuries (some as a result of the fall from the over five-meter-high border wall). In the wintertime, the most typical challenge is hypothermia. People afraid of border violence hide in the border forest, often in highly dangerous swamps.<sup>59</sup>

The most recent case, where a young person from Syria was shot in the back by a soldier, has been described by a lawyer assisting asylum-seekers as a new level of escalation of violence.<sup>60</sup> The gendarmerie's reports indicate that there was an unfortunate accident and a soldier stumbled while firing for warning. Grupa Granica emphasises that the Syrian *"heard one, single and incomprehensible*

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<sup>54</sup> <https://oko.press/mial-23-lata-ofiara-smiertelna-na-granicy>

<sup>55</sup> [https://bip.brpo.gov.pl/pl/content/rpo-pushbacki-dopuszczalnosc-uchylenie-mswia-odpowiedz-kolejne?fbclid=IwAR00MFr7w3sxI8\\_CUP3yOw6uM2U1UT0ZJ64xEsqdxDi9r9Bf8D\\_VLYqn17w](https://bip.brpo.gov.pl/pl/content/rpo-pushbacki-dopuszczalnosc-uchylenie-mswia-odpowiedz-kolejne?fbclid=IwAR00MFr7w3sxI8_CUP3yOw6uM2U1UT0ZJ64xEsqdxDi9r9Bf8D_VLYqn17w)

<sup>56</sup> <https://www.sklepbezgranic.pl/>

<sup>57</sup> <https://oko.press/kryzys-humanitarny-na-granicy-polsko-bialoruskiej-grupa-granica-pomogliśmy-14-tys-osob>

<sup>58</sup> <https://fakty.tvn24.pl/zobacz-fakty/trwa-kryzys-na-granicy-spotykamy-coraz-wiecej-ludzi-bardzo-gleboko-poranionych-st7607789>

<sup>59</sup> <https://lekarze-bez-granic.pl/polska-lekarze-bez-granic-prowadza-dzialania-na-granicy-polsko-bialoruskiej/>

<sup>60</sup> <https://oko.press/mial-23-lata-ofiara-smiertelna-na-granicy>

*scream, coming at him from behind, followed by a shot that knocked him to the ground, which was followed by three other shots.”<sup>61</sup>*

Not only are the practices at the border inhumane, but importantly unlawful and in contravention of both Polish and international law. As pointed out by Marcin Wiącek, *“The [amended] regulation of the Ministry of Interior and Administration of 13 March 2020, which allows for the so-called pushback, does not guarantee foreigners protection against inhumane treatment and in practice makes it impossible to apply for international protection”*. In the letter to the Minister of Interior, Wiącek repeated the decision of the Polish Administrative Court which pointed out that the Regulation violated the *Act on Granting Protection to Foreigners on the Territory of the Republic of Poland* and the *Act on Foreigners*.<sup>62</sup>

Concerningly, activists at the border continue to face intimidation by the Border Guards and the military forces for their life-saving work. Activist Mariusz Kurnyta, describes the situation at the border in the following words: *“Everything would be different and saving human lives would be more efficient, if it were not for the fact that we have to hide from the government apparatus. Not only are we conducting a search and rescue operation, but we have to be hiding it.”* In September 2023, one of the activists assisting at the border was arrested on charges of human trafficking and is currently awaiting trial. NGOs operating in the region refused to draw conclusions in the case before it went to trial as the activist acted in an individual capacity and is not connected with them. However, some activists engaged in humanitarian assistance expressed concern that the case might be politically motivated, given the government visa scandal during an election campaign. In a press comment, the Helsinki Foundation for Human Rights highlighted many cases where based on accusations that proved to be unsubstantiated.<sup>63</sup> The civic initiative ‘Hope and Humanity’ expressed support for the activist, stating that the arrest was *“aimed at an ordinary person, whose image and life the current authorities prefer to sacrifice”*, but was *“also a demonstration that each of us should be afraid, that anyone could be next”*.<sup>64</sup>

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<sup>61</sup> <https://tvn24.pl/bialystok/topilo-zolnierz-postrzelil-migranta-biegly-zbada-bron-z-ktorej-padl-strzal-trwa-wyjasniane-co-wydarzylo-sie-przy-granicy-st7440023>

<sup>62</sup> [https://bip.brpo.gov.pl/pl/content/rpo-pushbacki-dopuszczalnosc-uchylenie-mswia-odpowiedz-kolejne?fbclid=IwAR00MFr7w3sxI8\\_CUP3yOw6uM2U1UT0ZJ64xEsqdxDi9r9Bf8D\\_VLYqn17w](https://bip.brpo.gov.pl/pl/content/rpo-pushbacki-dopuszczalnosc-uchylenie-mswia-odpowiedz-kolejne?fbclid=IwAR00MFr7w3sxI8_CUP3yOw6uM2U1UT0ZJ64xEsqdxDi9r9Bf8D_VLYqn17w)

<sup>63</sup> <https://bialystok.wyborcza.pl/bialystok/7,35241,30202485,murem-za-ewa-aktywisci-i-aktywistki-w-obronie-aresztowanej.html>

<sup>64</sup> <https://bialystok.wyborcza.pl/bialystok/7,35241,30202485,murem-za-ewa-aktywisci-i-aktywistki-w-obronie-aresztowanej.html>

### Recent court rulings concerning the border crisis

Three activists (from Grupa Granica and Fundacja Ocalenie) who were detained on January, 11th 2022 by the Polish military (10. Brygada Kawalerii Panczernej) have received compensation for their detention. Although the District Court in Bielsk Podlaski, branch in Siemiatycze) decided that it was not illegal to detain them (as they were in an area close to the border), it found that the military violated all procedures. The activists filed for compensation. According to a report by OKO Press: *“On October 16, 2023, a verdict was passed: volunteers of the Ocalenie Foundation (Agata Ferenc and Tomasz Thun-Janowski) and a volunteer of the Granica Group, specifically the Homo Faber Association (Dobrosław Rola) will each receive PLN 10,000 in compensation for their “undoubtedly unjust” detention. The judgment is not final.”*<sup>65</sup>

Foreigners who have been pushed back several times at the Polish-Belarusian border filed complaints against Poland with the European Court of Human Rights. According to the Office of the Commissioner for Human Rights, the application of the unlawful border regulation, which allows to push back those who are crossing the Polish border without any prior assessment of their situation violates the Convention for the Protection of Human Rights and Fundamental Freedoms. The Commissioner for Human Rights published detailed information about the case.<sup>66</sup> The claimants maintain that they were detained during the pushbacks which took place on 21 and 22 August 2021 and that they were not informed of the reasons for their detention. Additionally, according to the claim, the District Court in Sokółka refused to consider the merits of their appeals. The claimants also pointed out that the conditions of their detention in the Węgrzyn detention centre were appalling. According to the Ombudsman office, *“the housing conditions in this centre did not meet the standards of appropriate treatment of persons deprived of liberty (...) the conditions prevailing there could be classified as inhuman treatment.”*<sup>67</sup>

### Ongoing targeting of women human rights and LGBTQI+ defenders

Those working on sexual and reproductive health and rights have continued to face threats and attacks from non-State and State actors in 2023. Forms of harassment include SLAPPs and judicial harassment orchestrated by the government, which was enabled by the tightening of the abortion ban and the lack of independence of the prosecution service. Examples of SLAPPS include leaders of

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<sup>65</sup> <https://oko.press/zadoscuczynienie-za-zatrzymanie-dla-aktywistow-na-granicy-sad-nalezy-im-sie-szacunek-nie-represje>

<sup>66</sup> <https://bip.brpo.gov.pl/pl/content/rpo-migranci-pushbacki-opinia-etpc>

<sup>67</sup> <https://bip.brpo.gov.pl/pl/content/rpo-migranci-pushbacki-opinia-etpc>

the Polish Women's Strike, Marta Lempart, Klementyna Suchanow and Agnieszka Czerederecka-Fabin, against whom prosecutors filed an indictment in 2022 related to their role in organising major abortion rights protests. They are accused of "causing an epidemiological threat," criminal charges which carry up to an eight-year prison sentence. Marta Lempart in particular has been facing a total of up to 118 cases against her, by both the State and non-state actors. She was recently acquitted in a case filed against her by Ordo Iuris, an ultra-conservative Christian organisation opposing abortion rights.<sup>68</sup>

There have also been several criminal complaints and investigations on the basis of the provisions criminalising anyone who assists women in obtaining an abortion outside the narrow scope of the law (Article 152 para 2 of the Criminal Code). In March 2023, Justyna Wydrzyńska, an activist with the Abortion Dream Team, a grassroots civil society group, was sentenced to unpaid community service for providing another woman with abortion medication. The case is currently on appeal.<sup>69</sup>

In 2023, civil society remained the main provider of direct assistance to women and girls from Ukraine who need sexual and reproductive health care and gender-based violence support. However, they continued facing serious threats, intimidation and harassment from both public and private actors. Such developments have a broader chilling effect, seeking to diminish reproductive rights defenders' efforts to hold the government accountable and ensure legal entitlements are accessible in practice for all women in Poland.<sup>70</sup>

## LEX TUSK

One of the most controversial legislative acts passed by Law and Justice in 2023 was a bill which allows banning anyone from holding public office for 10 years if the dedicated commission decided that the person in question was subject to "Russian influence". The Law on the State Commission for Investigating Russian Influences on the Internal Security of the Republic of Poland between 2007-2022 (April 2023) has been unofficially called "Lex Tusk". It is believed that the politician, Donald Tusk, was the primary target as it would prevent his re-election.<sup>71</sup> However, 'Lex Tusk' was also seen as extremely dangerous for civil rights in Poland more broadly. One journalist described the bill as a

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<sup>68</sup> <https://civicspacewatch.eu/poland-activist-marta-lempart-wins-slapp-case/>;  
<https://wroclaw.wyborcza.pl/wroclaw/7,35771,30548082,marta-lempart-wygrala-z-or-do-iuris-sad-okreslenie-sadysci.html>

<sup>69</sup> <https://www.rp.pl/prawo-karne/art38427071-to-nie-koniec-sprawy-aktywistki-skazanej-za-pomoc-w-aborcji>

<sup>70</sup> Joint ROL submission by IPPF, ILGA Europe and Centre for Reproductive Rights.

<sup>71</sup> <https://wyborcza.pl/7,75398,29805808,lex-tusk-z-zapisow-koncowych-jasno-wynika-po-co-powstala.html>



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“legal Frankenstein” given that it gives unrestricted powers to, a special non-judicial Commission, composed of nine members elected by the lower house of parliament – the Sejm -- with a simple majority- to demand any documents from any public institution (including those containing sensitive data)<sup>72</sup>. Only the verdict and not the hearings of the Commission would be public.<sup>73</sup> As pointed out by Amnesty International, *“The establishment of this type of institution is reminiscent of practices that resulted in appalling human rights violations in the region of Central and Eastern Europe for decades after World War II, particularly against anyone deemed to be a dissident or critical of the authorities”*.<sup>74</sup> Members of the Commission would be immune from prosecution for their work. Amnesty International stressed that the law could be weaponised to attack *anybody* critical of the government.<sup>75</sup>

Hence, its set-up was in clear breach of the Polish Constitution, European and international law. After the bill caused controversy, not only in Poland but internationally, on 2 June President Andrzej Duda, proposed amendments to the bill (which he himself signed earlier in May). Despite the introduction of changes, such as the appeal procedure in courts, the fundamental premise of the bill has not changed significantly.

## Fear-mongering and the election campaign

While the Law and Justice party was using migration clearly to stoke fear, the opposition did not do much to produce a viable, fact-based counter-narrative, leaving the playing field to the ruling party, as shown in a report on the election campaign by the Helsinki Foundation for Human Rights.<sup>76</sup> Xenophobic language has been used by politicians on both sides as the scandal around the visa scheme gave the opposition an opportunity to attack the government. It was revealed that the Polish consular service was fast-tracking visas against payments to people coming from Asia and Africa. On

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<sup>72</sup> <https://wiadomosci.onet.pl/kraj/lex-tusk-o-co-chodzi-9-rzeczy-ktore-musisz-wiedziec/jnwtm2e>

<sup>73</sup> <https://wiadomosci.onet.pl/kraj/lex-tusk-o-co-chodzi-9-rzeczy-ktore-musisz-wiedziec/jnwtm2e>

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<https://www.amnesty.org/en/documents/eur37/6931/2023/en/#:~:text=The%20Polish%20parliament%20on%2014%20April%202023%20adopted,Tusk%E2%80%9D%2C%20entered%20into%20force%20on%2031%20May%202023.>

<sup>75</sup> Ibid

<sup>76</sup> [https://hfhr.pl/upload/2023/10/ksenofobia\\_w\\_natarciu\\_1.pdf](https://hfhr.pl/upload/2023/10/ksenofobia_w_natarciu_1.pdf)

the other hand, the government used the crisis at the Polish-Belarusian border to increase social anxiety around migration issues.<sup>77</sup>

Additionally, the premiere of the movie “Green Border” by Agnieszka Holland further ignited resentment against those raising the issue of human rights violations at the border, the director included. Holland was attacked by right-wing politicians and representatives of the government.<sup>78</sup> The Minister of Justice, Zbigniew Ziobro, compared her movie to Nazi propaganda. The president doubled down saying that only “pigs were sitting in the cinema”, which is a World War II slogan against Nazi propaganda<sup>79</sup>. The movie also ignited hostile online comments. As reported by journalists, at least two websites promoting the movie had to have their comment sections blocked even prior to the film being screened. The filmmaker admitted that she knew she may be in physical danger.<sup>80</sup>

Additionally, the government pushed for a referendum to accompany the elections (see next section), where migration has also been one of the central topics. It also produced a warning video to be screened before the movie “Green Border”, which presented a counter-narrative to that of the government. Such practices are a novelty in the history of post-communist Poland.<sup>81</sup>

The ruling alliance also has a long track record of attacking the LGBTQI+ community. Although migration was the leading theme of the campaign, there have also been homophobic statements and narratives coming from the right-wing coalition. As pointed out in the Helsinki Foundation report, the main comments targeted the LGBTQI+ community for the supposed “sexualisation of children”- a persistent theme used in homophobic attacks.<sup>82</sup>

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<sup>77</sup> <https://www.reuters.com/world/europe/seven-charged-polish-visa-irregularity-probe-prosecutor-2023-09-14/>

<sup>78</sup> <https://www.theguardian.com/film/2023/sep/14/refugee-film-green-border-by-agnieszka-holland-attacked-by-polish-government>, see also: <https://bialystok.wyborcza.pl/bialystok/7,35241,30220841,pokazy-zielonej-granicy-w-bialymstoku-agnieszka-holland.html>

<sup>79</sup> <https://www.hollywoodreporter.com/movies/movie-news/poland-government-the-green-border-warning-spot-1235595800/> ; <https://www.polsatnews.pl/wiadomosc/2023-09-21/przed-filmem-agnieszki-holland-widzowie-zobacza-specjalny-spot-przygotowany-przez-mswia/>

<sup>80</sup> <https://variety.com/2023/film/global/agnieszka-holland-green-border-backlash-1235771071/>

<sup>81</sup> <https://www.hollywoodreporter.com/movies/movie-news/poland-government-the-green-border-warning-spot-1235595800/>

<sup>82</sup> [https://hfhr.pl/upload/2023/10/ksenofobia\\_w\\_natarciu\\_1.pdf](https://hfhr.pl/upload/2023/10/ksenofobia_w_natarciu_1.pdf)

# Funding for civil society

Since the Law and Justice Party came to power in 2015, NGOs that are independent and do not support the right-wing government's political agenda have experienced substantial funding problems, which (alongside the lingering effects of the pandemic) significantly weakened the civil society sector. There has been a longstanding debate around the National Freedom Institute (NIW) created by the right-wing government to distribute funds and organise calls for the third sector (2017). It has been severely criticised for the allocation of funding in previous years. Immediately after the elections, Michal Braun (Civic Platform), published an open letter to NIW's Director calling on the institute to suspend the announcement of calls and pointing out the negative experience that CSOs have had in the past few years.

When it comes to the overall track record of the ruling right-wing coalition in the allocation of public funding to independent CSOs, including cultural institutions and organisations, it was marked by a notorious lack of transparency and a funding policy reflecting the official party line. There have been many cases of allocating large amounts of funding to organisations connected to politicians of the ruling coalition, which did not have sufficient institutional capacity to manage such allocations successfully.

The leading recipients of the grants in the area of culture were predominantly the right-wing and Catholic organisations "promoting Polish artists inspired by Christianity."<sup>83</sup> A similar problem also pertains to independent cultural and scientific journals, which the Ministry of Culture, Sport and National Heritage have defunded, for example leading cultural journals such as, for example, "Znak", "Dwutygodnik", "Pismo. Magazyn Opinii", "Res Publica Nova", "Przekrój". It is concerning that the Minister's decision was not bound by ranking based on points received from experts, so the decision on the final shortlist was not transparent.<sup>84</sup>

This trend continued in 2023. For example, the Minister of Science and Education, Przemysław Czarnek, publicly admitted that he was not willing to fund left-wing organisations<sup>85</sup>. However, a new development was that the sheer scale of the irregularities of funds distribution had been made

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<sup>83</sup> <https://kultura.onet.pl/wiadomosci/jak-pis-inwestowal-w-kulture-miliony-nie-tylko-dla-tadeusza-rydzyka/2pcxy46>

<sup>84</sup> <https://wyborcza.pl/7,75410,29799497,ministrze-glinski-lub-czasopisma-nie-pomogly-odwolania-prasa.html>

<sup>85</sup> [https://www.rmf24.pl/polityka/news-czarnek-jednostki-szkodliwe-i-lewackie-zadnych-pieniedzy-nie.nld,6554004#crp\\_state=1](https://www.rmf24.pl/polityka/news-czarnek-jednostki-szkodliwe-i-lewackie-zadnych-pieniedzy-nie.nld,6554004#crp_state=1)

public. The most prominent case was the call of the Ministry of Science and Education, which distributed 40 million PLN (Euro amount?) to both inexperienced or newly created organisations linked to the government in various ways.<sup>86</sup>

# Civil dialogue and the right to participation

In 2023 there were no positive steps towards participation and dialogue between the civil society sector and governing bodies. Organisations had some successes in opposing harmful acts.

CSOs objected to the planned amendments to the tax on donations. The respective regulation "group donation fundraising tax" was inserted in the new version of the law (Art. 5.2) of January 26, 2023 on amending laws to eliminate unnecessary administrative and legal barriers.<sup>87</sup> This action undertaken by CSOs was successful and the amendments were finally abandoned by the previous government.

Civil society also succeeded in preventing adoption of amendments proposed in January 2023 to the Law on Civil Protection and the State of Disaster which would have been harmful for human and civil rights. The draft bill enabled, under the state of emergency, the possibility for government authorities to issue binding orders directed at, i.a., local government authorities and companies (Article 35 of the draft). This would violate the basic principles set forth in the Polish Constitution, given that orders could be issued outside the states of emergency specified in the Constitution and that the scope of their issuance was not limited, as in the case of a state of natural disaster, where actions are only carried out to prevent the effects of the emergency. The draft also allowed uniformed service officers carrying out the orders described above to "issue orders to persons to behave in a certain way." This would restrict the rights and freedoms of citizens without imposing the states of emergency specified

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<sup>86</sup> <https://wiadomosci.onet.pl/kraj/willa-plus-wyjasniamy-co-chodzi-w-glosnej-aferze-wokol-ministra-czarnka/cxz1fll>

<sup>87</sup> See: [https://orka.sejm.gov.pl/opinie9.nsf/nazwa/2628\\_u/\\$file/2628\\_u.pdf](https://orka.sejm.gov.pl/opinie9.nsf/nazwa/2628_u/$file/2628_u.pdf)



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in the Constitution. And since it is overly broad it would give officers the power to decide what civil rights and freedoms are to be restricted and how.<sup>88</sup>

The Access to Public Information act did not undergo any changes in 2023, although concerns were raised by journalists who criticised the non-implementation of the law. Legal loopholes are continuously used to delay information requests via appealing to the courts, lengthy court proceedings and the lack of oversight and data on the situation. In 2023, the Watchdog Poland Civic Network issued a Report on the State of Openness, which summarises the situation over the years.<sup>89</sup>

One pro-active solution to this challenge could be publically sharing information. However, there are obstacles to this, e.g. the date for the entry into force of a central contract registry, which could show how the finances of public sector entities, has been delayed. The effective date for launching such a registry is 2026.<sup>90</sup>

A group of experts at the Ministry of Finance has been working to prepare an initial concept of the register of contracts of public finance sector entities, established by an Order of the Minister of Finance.<sup>91</sup> While the provisions of the preliminary new concept are not yet ready, according to the new proposals, the range of contracts available in the register will be significantly reduced compared to the previous registers. The solutions sought by Polish organisations are already known in many EU countries, such as the Czech Republic, Slovakia, Bulgaria, Hungary and Spain.<sup>92</sup>

Another topic that the Watchdog Poland Civic Network investigated was the issue of the openness of meetings of popularly elected bodies. The Constitution of the Republic of Poland, the Law on Access to Public Information and the Regulations of the Sejm and the Senate guarantee everyone the possibility of access to meetings of the bodies of the Sejm, the Senate or sessions of municipal and county councils, as well as provincial assemblies. During the pandemic, the realisation of this right was very limited due to the remote mode of deliberation of many bodies - this problem was especially true for meetings of municipal councils.

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<sup>88</sup> <https://ofop.eu/stanowisko-ogolnopolskiej-federacji-organizacji-pozarzadowych-w-sprawie-rzadowego-projektu-ustawy-o-ochronie-ludnosci-oraz-o-stanie-kleski-zywiolowej-z-dnia-17-stycznia-2023-roku/>

<sup>89</sup> [https://siecobywatelska.pl/wp-content/uploads/2023/12/raport\\_2023.pdf](https://siecobywatelska.pl/wp-content/uploads/2023/12/raport_2023.pdf)

<sup>90</sup> <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20230001723>

<sup>91</sup> <https://www.gov.pl/web/finanse/zarządzenie-ministra-finansow-z-dnia-5-pazdziernika-2023-r-w-sprawie-powolania-zespołu-do-opracowania-wstępnej-koncepcji-rejestru-umów-jednostek-sektora-finansow-publicznych>

<sup>92</sup> Read more about this topic

[https://www.youtube.com/live/mci\\_02NsEFk?si=UTAiDF1ddNYU1slj](https://www.youtube.com/live/mci_02NsEFk?si=UTAiDF1ddNYU1slj)

Municipalities have dealt with these challenges differently, especially in the spring and summer of 2020. The transition to a remote platform proved to be an uneven process, generating conflicts and conflicting interpretations of the law. And what's more, as late as 2023, when the pandemic state was formally in force, but public life had returned to normal, 13 per cent of a drawn representative sample of municipalities were holding such sessions.<sup>93</sup> This has resulted in persistent difficulties for civil society to access the proceedings of these municipal councils.

# Civil society resilience

## Election outcome and civic engagement

A key achievement of civil society in 2023 has been engagement in election monitoring, and the organisation of campaigns to promote voting. Both proved to be effective in targeting the public encouraging them to vote (including via TikTok and social media) and attracted large numbers to monitor the elections on November 15th. According to data from the Committee for the Defence of Democracy (KOD), 27,000 citizens participated in election monitoring organised by the organisation. KOD also collected data from most polling stations, resulting in a more adequate projection of the final result than the official exit poll companies.<sup>94</sup>

CSOs organised at least 20 campaigns, which encouraged Poles to make use of their voting rights.<sup>95</sup> The campaigns organised by citizens have mostly targeted women, who were frustrated by the staggering track record when it comes to the limiting of sexual and reproductive rights for women in Poland, which led to unsafe conditions for pregnant women in the Polish health care system and six

<sup>93</sup> Read more in the report

[https://backend.sprawdzamyjakjest.pl/media/annotations/mission/report\\_file/raport\\_zdanie\\_czy\\_realnie.pdf](https://backend.sprawdzamyjakjest.pl/media/annotations/mission/report_file/raport_zdanie_czy_realnie.pdf)

<sup>94</sup> <https://ruchkod.pl/podsumowanie-wyborow-falenty-28-29-10-2023/>

<sup>95</sup> <https://witrynawiejska.org.pl/2023/11/13/pierwsze-wyniki-badania-skuteczności-kampanii-profekwencyjnych-w-wyborach-parlamentarnych-2023-roku/#:-:text=W%C5%9Br%C3%B3d%20os%C3%B3b%20kt%C3%B3re%20widzia%C5%82y%20kampanie%20profekwencyjne%20%2078%25%20respondent%C3%B3w,dzia%C5%82ania%20profekwencyjne%20%20deklaruje%20%20%C5%BCe%20wzi%C4%99%C5%82o%20udzia%C5%82%20w%20wyborach.>



# Recommendations

## Targeted recommendation:

- 🔍 Urgently create an open and structured framework for civil society dialogue to ensure engagement and participation in decision making processes, as regards to lawmaking, financing of NGOs and choosing persons for the key position in Poland.
- 🔍 Urgently implement transparent and decentralised processes for financially supporting civil society organisations, by including for funding allocated by the National Freedom Institute by reforming the appointment process of the Council to ensure that representatives are not politically affiliated.
- 🔍 Facilitate the law regarding registration and reporting by the civil society organisations and abandon any attempts to impose additional reporting obligations on CSOs.
- 🔍 Urgently reform access to information act to ensure effective and transparent access to information.
- 🔍 Enact anti-SLAPP legislation to protect the media and civil society and drop all SLAPPs against LGBTQI+ defenders and respect their right to freedom of expression.
- 🔍 Evaluate the act regulating freedom of peaceful assembly to ensure that is in line with international human rights standards and eliminate regulations which privilege certain assemblies.
- 🔍 Immediately halt all push backs and violence, refrain from criminalising those who are providing humanitarian assistance at the Polish-Belarussian border and drop all charges against them.
- 🔍 Immediately drop all charges against women human rights defenders who are currently being prosecuted on various charges, including for their role in pro-abortion protests.

## **Civic Space Report 2024**

- 🔍 **Refrain from harassing and intimidating protesters and activists through criminal charges and other means and respect the right to freedom of peaceful assembly as per international law.**
- 🔍 **Drop all SLAPPs against LGBTQI+ defenders and respect their right to freedom of expression.**
- 🔍 **Ensure that there is funding transparency and equal access to funding for all CSOs, allocated by the National Freedom Institute by reforming the appointment process of the Council to ensure that representatives are not politically affiliated.**





### **About European Civic Forum**

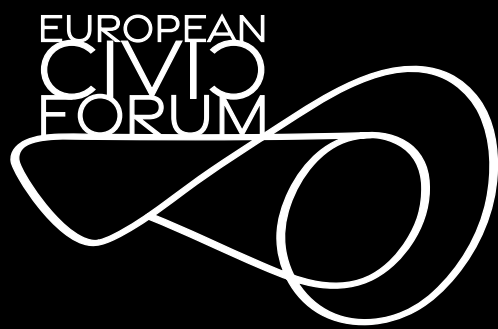
European Civic Forum (ECF) is a pan-European network of more than 100 associations and NGOs across 30 European countries,

Founded in 2005 by our member organisations, we have spent nearly two decades working to protect civic space, enable civic participation and build civil dialogue for more equality, solidarity and democracy in Europe.



### **About Civic Space Watch**

Civic Space Watch collects findings and analyses from actors in Europe on the conditions for civil society to operate, capturing national and trans-European trends in civic space. Through ongoing monitoring of social media and regular contact and interviews with a strong network of members and partners on the ground, we strive to provide easy access to resources and improve information sharing within civil society across Europe.



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