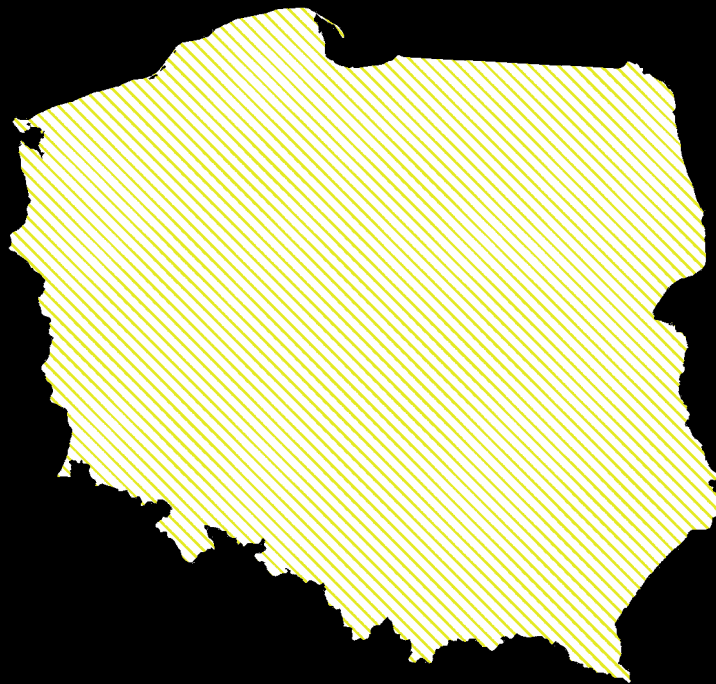
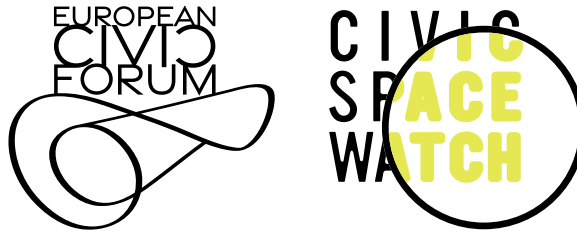


CIVIC SPACE REPORT 2025

Poland

By OFOP, Batory Foundation & FUPP





ABOUT THIS REPORT

This report was published by the European Civic Forum (ECF) in June 2025, with chapters written by its secretariat, member organisations, and partner organisations, including as part of the Net4Defenders project. 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.

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The National Federation of Polish NGOs (Ogólnopolska Federacja Organizacji Pozarządowych, OFOP) was established in 2003 by the initiative group of Polish organizations, as a result of a participatory process aimed at establishing a representation body for the third sector in Poland. We are a politically independent and non-governmental organisation guided by the principles of European Charter of the Fundamental Rights and the Charter for Principles of NGO Operation, adopted by a resolution of the OFOPs General Assembly in 2010. Currently, OFOP has 161 member organizations. As many of the members are also federations of organisations, indirectly OFOP may claim over 400 member organisations.



Stefan Batory Foundation has been working since 1988 to build an open, democratic society — a society of people aware of their rights and responsibilities, who are actively involved in the life of their local community, country and international society. We want to co-create a Poland that is law-abiding and just, open and tolerant, that protects the rights of all citizens, and that respects the richness of its diversity. In this respect our priorities include: improving the quality of Polish democracy, strengthening the role of citizens and civic institutions in public life, developing international cooperation and solidarity. To these ends we financially and substantively support civic initiatives undertaken by civic organisations and informal groups. We also carry out our own activities: we conduct campaigns and social actions, monitor the functioning of public institutions, undertake advocacy activities, organize conferences and debates, workshops and meetings, issue analyses, expert studies, reports and other publications.



The Legal Clinics Foundation (Fundacja Uniwersyteckich Poradni Prawnych) is a Polish organization supporting university legal clinics across the country. Established in 2002, it aims to enhance clinical legal education, standardize legal aid services, and improve access to free legal assistance for disadvantaged groups. FUPP coordinates a network of 28 university legal clinics, provides training for academic supervisors, and promotes pro bono legal work. It also runs initiatives like the Pro Bono Lawyer Award and the Centrum Pro Bono program, fostering collaboration between legal professionals and NGOs.



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Key civic space trends

-  Some positive steps by the new government to open up civil dialogue with CSOs but implementation of reforms demanded by civil society remains slow.
-  Increasing concerns for fundamental rights violations at the Poland/Belarusian border due to strengthening of border guards' powers & over new migration strategy which proposes to suspend the right to asylum.
-  Judicial independence reforms stifled by presidential veto.

Summary

Civic Space is rated as “narrowed” in Poland by the CIVICUS Monitor.¹ In the European Commission’s 2024 Rule of Law report it recommended that the new Polish government “continue the ongoing process to improve the framework in which civil society operates, taking into account European standards on civil society organisations.” While the new government has taken some steps to introduce positive legislative reforms, the demands made by civil society related to reforms for an enabling environment are yet to be fully met.

The new appointment of a civil society minister was welcomed by organisations in the sector. However, thus far the minister has not taken any visible legislative action, even though civil society expert groups have made concrete proposals. Extensive changes have been introduced at the National Freedom Institute-Centre for Development of Civil Society (NIW-CRSO), which is the key state-run agency for the funding, support and development of civil society. Furthermore, some progress was achieved in the framework for regulating public consultations at the parliamentary level. Despite these reforms, the judicial system remains in chaos

partly due to President Duda (a staunch supporter of the former PiS government) who continues to use his veto powers to halt important legislative reforms.

Other concerns remained in 2024. Climate rights groups faced restrictions on their right to peaceful assembly and were publicly attacked by the new government. Additionally, the Polish government’s decision to add TVN and Polsat TV stations to the list of strategic companies due to concerns about potential external threats raised concerns.

The new government’s track record on migration policy is of serious concern, including the management of the crisis at the Polish-Belarusian border. The new government failed to meaningfully engage with migration rights organisations before drafting its new migration strategy, which proposes to suspend the right to asylum. Instead, it consulted with these organisations in a tokenistic manner, after the strategy was already finalised.² Several organisation and activists who have provided humanitarian aid to migrants at the border are facing criminal charges

Institutional, political, and socio-economic landscape

Legal and Constitutional Repair

Despite the change of government, the situation regarding the rule of law crisis has not shifted significantly, due to the complexity of changes made by the previous government under the Law and Justice

(PiS) party. These were of a systemic and personnel nature and enabled the ruling party to maintain its influence over the operation of the most important institutions of the justice system, even after handing

¹ In December 2024, the CIVICUS Monitor upgraded Poland’s civic space rating from “Obstructed” to “narrowed”, noting that new government has proposed some promising reforms. However, it also noted concerns regarding the new government’s response to migration and the situation on the Poland/Belarusian border. See more: https://monitor.civicus.org/press_release/2024/poland/

² <https://www.gov.pl/web/premier/projekt-ustawy-o-zmianie-ustawy-o-udzielaniu-cudzoziemcom-ochrony-na-terytorium-rzeczypospolitej-polskiej>

over power at the end of 2023.³ The PiS party has ensured, for example, that the Supreme Court is to a large extent populated by judges who were appointed in a procedure that did not meet standards of independence according to European courts (The European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU)).⁴ This was even more the case in the Constitutional Tribunal where three judges were appointed to already occupied positions — described as the so-called “judicial doubles” — and eventually, its entire composition was elected by the PiS party (among others, people were selected who did not meet the criterion of not being connected with the world of politics). Furthermore, the body's composition does not comply with the requirement of a “court established by law”, as established by the European Court of Human Rights in the case of *Xero Flor v. Poland*.⁵ This makes it difficult for the current government to implement changes or laws, as they can always be rejected by these courts. This is further reinforced by the President Andrzej Duda, who has veto power and refuses to approve certain proposals from the new government. To override his veto, a qualified majority is needed in the parliament, which the current government does not have.

As a result, in 2024 the legal landscape remained mired in chaos, despite some gradual advancements in reforms to restore the rule of law. The slow pace of progress is partially due to the Polish president, who staunchly pronounced that he is committed to defend his record and the legal changes that were introduced in the period 2017-2023 (and can use his veto power to do so).⁶ Consequently, he opted against signing the new bill on the Constitutional Tribunal. Instead, the president submitted a motion on the proposed bill to the Constitutional Tribunal. Therefore, the legality of the reform on the Constitutional Tribunal will be overseen by the Constitutional Tribunal itself. It is anticipated that the body will concur with the president's motion and deem the new bill unconstitutional. In part, the rule of law situation is stalled due to conflicting perceptions

of what should be done to restore legal order.⁷ More importantly, the Ministry of Justice is dealing with an unprecedented level of destabilisation of the legal system, which requires unique (yet lawful) measures. This is especially the case when it comes to the status of the National Council of the Judiciary and its improperly appointed judges (so-called neo-judges), as well as the crisis of the Constitutional Tribunal and the Supreme Court (as mentioned above).

The former of these issues poses the greatest challenge to the rule of law in Poland. Throughout 2024, there was a tense dispute between the expert community, including human rights organisations and lawyers' associations, over how to resolve the dilemma of judges who were unlawfully appointed and who remain working in general courts at various levels across the country. They have raised questions about the potential dismissal of these judges and on whether their previous judgments should be annulled. This could have a huge impact on the predictability of the law and the stability of the legal order.

Given the conflicting views about these so-called “neo-judges”, the justice minister, Adam Bodnar, turned to the Venice Commission, which has issued an opinion on reforms of the judiciary in Poland. While the body acknowledged the need to deal with the status of improperly appointed judges, its opinion pointed out that some of the government's proposed solutions are problematic for the rule of law and separation of powers. For example, it pointed out that declaring all appointments invalid without an individualised process, which could entail dealing with cases in cohorts, raises concerns on proportionality.⁸

In addition, to restore legal order, four codification commissions were tasked with drafting new legislative proposals: the Civil Law Codification Commission, the Criminal Law Codification Commission, the Family Law Codification Commission and the Codification of the Judicial and Prosecutorial System.⁹ One of the subjects

3. For a recap of the developments regarding the independence of the judiciary, please see: <https://www.amnesty.org.pl/wolne-sady-wolni-ludzie/>

4. [https://etpcz.ms.gov.pl/etpccontent/\\$N/990000000000001_ETPC_043447_2019_Wy_2021-07-22_001](https://etpcz.ms.gov.pl/etpccontent/$N/990000000000001_ETPC_043447_2019_Wy_2021-07-22_001); [https://hudoc.exec.coe.int/eng#\(f%22execidentifier%22:\[%22004-59085%22\]\)](https://hudoc.exec.coe.int/eng#(f%22execidentifier%22:[%22004-59085%22]))

5. Case: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-210065%22%5D%7D>

6. <https://wyborcza.pl/7,162657,31591880,wina-za-dewastacje-porzadku-prawnego-w-sadzie-najwyzszym-obarczamy.html>; <https://tvn24.pl/polska/andrzej-duda-nie-widze-potrzeby-zmiany-ustawy-o-krs-st7948212>; <https://wyborcza.pl/7,75398,30815462,zadnego-podwazania-neosedziow-duda-skarzy-w-tk-rozporzadzenie.html> <https://polskieradio24.pl/artykul/3437160,duda-zabral-glos-po-oredziu>, <https://wiadomosci.wp.pl/duda-w-sejmie-o-sedziach-tzw-neokrs-mocne-slowa-pod-adresem-rzadu-7082265102568032a>

7. https://oko.press/raport-bodnara-jak-daleko-zaszliśmy-po-roku-przywracania-praworzadności-debata?fbclid=IwY2xjawHv0JlleHRuA2FI-bQlxMAABHc5kTOXwTo5pcyfzZIM6FAKjllZhERYeQLTn45tUD5Gfzdnby-E72zFPg_aem_c4TXflxh2VaMxlXsoHjISQ; https://www.facebook.com/events/517429247938084/?acontext=%7B%22ref%22%3A%2252%22%2C%22action_history%22%3A%22%5B%7B%5C%22sur-face%5C%22%3A%5C%22share_link%5C%22%2C%5C%22mechanism%5C%22%3A%5C%22share_link%5C%22%2C%5C%22extra_data%5C%22%3A%7B%5C%22invite_link_id%5C%22%3A1235026260881371%7D%7D%5D%22%7D

8. The joint opinion of the European Commission for Democracy Through Law (Venice Commission) and the Directorate General Human Rights and Rule of Law on European Standards Regulating the Status of Judges, see: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=C-DL-AD\(2024\)029-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=C-DL-AD(2024)029-e)

9. More on the set-up and role of the Commission's: <https://www.gov.pl/web/sprawiedliwosc/rzad-przyjal-projekty-ministra-sprawiedliwosci>

of the fourth commission is the prosecution office, which was controlled by the previous justice minister. In the eight years before the 2023 election, independent prosecutors who tried to take up cases involving violations by those in power were suspended, demoted, and relocated to other prosecution delegations around the country. In contrast, prosecutors loyal to the justice minister were given fast-track promotions. One of the planned solutions to deal with this issue is to separate again the prosecutor's office from the Ministry of Justice, as recommended by the European Commission Rule of Law report. This will only be possible when such legal changes are enacted.

Fundamental rights

No substantial progress has been made regarding the rights of minorities (especially when it comes to hate crime prevention).¹³ However, first steps have been taken to revive a more comprehensive approach to hate speech and hate crime (including proposed amendments to the penal code), which are much-needed (even if the amendments are not as comprehensive as expected).¹⁴ On 12 June 2024, the attorney general, Adam Bodnar, set up a special group tasked with the preparation of a comprehensive and detailed strategy to prevent and punish such behaviour.¹⁵ According to the information published by the Commissioner for Human Rights, the data provided by the police for the period 2022-2024 confirms that there have been "several hundred such crimes and as many investigations were initiated accordingly."¹⁶ A group of members of the Polish parliament from the Poland 2050 party initiated the work on a bill dealing with hate speech online.¹⁷

It is worth noting that, while the above changes were still discussed, the European Commission officially withdrew its Article 7 TEU procedure against Poland in May 2024, following its approval of an action plan for constitutional repair by the new government.¹⁰ According to some European experts, the decision, based solely on the new government's stated plans, can be assessed as premature¹¹ or even politically motivated.¹²

There were no noteworthy improvements for the situation of women in relation to reproductive rights, despite the role this issue played in the 2023 election. Some minor changes occurred, including access to financing for In Vitro Fertilisation (IVF) and guidelines for hospitals regarding abortion.¹⁸ The proposed decriminalisation of abortion law (Article 152 of the Criminal Code) has been undermined by one of the coalition parties (the Polish People's Party) and the debate in parliament continues (next steps will be taken in January 2025).¹⁹ Similarly the track record of the new government when it comes to LGBTQI+ rights has been disappointing. Currently, there is an ongoing discussion about a law introducing civil partnerships drafted by the equality minister, Katarzyna Kotula, which was again challenged by coalition partners. It has also been criticised by the Commissioner for Human Rights, Marcin Wiącek, a move which raised concerns amongst civil society.²⁰

10. https://www.gov.pl/web/justice/conclusion-of-the-procedure-under-article-7-of-the-treaty-on-the-eu-against-poland#:~:text=The%20European%20Commission%20decided%20today%20the%2028May%2029%2C%202024%29,was%20submitted%20to%20the%20EU%20Council%20in%202017;EuropeanCommission-Pressrelease:https://ec.europa.eu/commission/presscorner/api/files/document/print/lv/ip_24_2461/IP_24_2461_EN.pdf

11. <https://www.bankier.pl/wiadomosc/Komisja-Europejska-zdecydowala-o-zakonczeniu-procedury-z-art-7-wobec-Polski-8755497.html>

12. <https://www.gazetaprawna.pl/wiadomosci/swiat/artykuly/9504663,ekspert-o-zakonczeniu-procedury-z-art-7-wobec-polski-decyzja-von-der.html>

13. The problem of inadequate legal framework to persecute hate crime and lack of enforcement remains. See: <https://kph.org.pl/wp-content/uploads/2024/12/Stanowisko-Koalicji-Rownych-Szans-i-organizacji-wspierajacych-w-przedmiocie-nowelizacji-ustawy-Kodeks-karny.pdf>

14. <https://publicystyka.ngo.pl/nowelizacja-kodeksu-karnego-w-zakresie-przestepstw-z-nienawisci-i-mowy-nienawisci>

15. <https://www.gov.pl/web/prokuratura-krajowa/powolaniu-zespołu-do-spraw-przeciwdziałania-mowie-nienawisci-i-przestępstwom-motywowanym-uprzedzeniami>

16. <https://bip.brpo.gov.pl/content/rpo-przestepstwa-nienawisc-zwalczanie-statystyki-kgp>

17. <https://www.pap.pl/aktualnosci/polska-2050-chce-skonczy-z-anonimowym-hejtem-szykuje-projekt-ustawy>

18. <https://fakty.tvn24.pl/zobacz-fakty/rok-temu-to-polki-w-duzym-stopniu-zdecydowaly-o-zmianie-wladzy-co-nowej-koalicji-rzadowej-do-tej-pory-uda-lo-sie-zrobic-st8137093;https://www.rynekzdrowia.pl/Polityka-zdrowotna/TOP-10-zmian-dla-pacjentow-ktore-weszly-w-tym-roku-Realnie-odczuja-je-tez-w-2025,266518,14.html>, <https://www.gov.pl/web/premier/wytyczne-dla-szpitali-i-prokuratury-w-sprawie-aborcji>; <https://www.amnesty.org.pl/dlaczego-rok-po-dojsciu-koalicji-donald-tuska-do-wladzy-dostep-do-bezpiecznej-legalnej-aborcji-nadal-jest-w-polsce-odleglym-marzeniem/>

19. <https://wiadomosci.radiozet.pl/polska/jest-decyzja-ws-dekryminalizacji-aborcji-sejm-zaglosowal;https://oko.press/sejm-zdecydowal-zczesciowa-dekryminalizacja-pomocy-w-aborcji-idzie-do-komisji-jak-glosowal-psl;https://federa.org.pl/wytyczne-spoeczne-dla-prokuratury;https://wiadomosci.onet.pl/kraj/dekryminalizacja-aborcji-poslanka-ko-zdradza-co-zmieni-sie-w-projekcie/wkxenyx>

20. https://oko.press/kotula-o-zwiazkach-partnerskich-argumenty-ministerstwa-rolnictwa-budza-usmiech-politowania?fbclid=IwY2xjawHuf9NleHRuA2Fl-bQlxMAABHdu1VtIUEx4nj74LzK1h30S1zsjloHkqtpTtTq4cj_11IDVyaFwO4Tw_aem_xnnu0o9JFKW2HkITd1T9Qg;https://oko.press/zwiazki-partnerskie-zaszkodza-panstwu-konserwatysci-krytykuja-projekt-ktory-sami-zepsuli;https://drive.google.com/file/d/1fkZyZqOArvZwVvR3gQsu1RVbHhTPJH4/view;https://kph.org.pl/rozczarowujaca-opinia-rzecznika-praw-obywatelskich-o-zwiazkach-partnerskich/, <https://www.amnesty.org.pl/czy-zwiazki-partnerskie-zapewnia-ochrone-praw-osob-lgbti-opinia-prawna-amnesty-international-do-rzadowych-projektow-ustawy/>

Developing rule of law issues

The most problematic aspect of the new government's track record is its migration policy, including the management of the crisis at the Polish-Belarusian border.²¹ According to Human Rights Watch, the We Are Monitoring civil society group documented 14 deaths in 2024 due to the humanitarian crisis at the border.²² One of the most dangerous measures was the passing of a law modifying the rule for use of weapons at the border,²³ which exempts patrolmen (soldiers, border guards or police officers) from liability for the improper use of firearms. The new government pushed for measures which, as the Commissioner for Human Rights has pointed out, are in violation of Article 38, in conjunction with Article 31(1), of the Constitution, and Article 2 of the European Convention on Human Rights. According to the ombudsman: "(t)he elimination of the responsibility of border guards, police officers and soldiers for violations of the rules on the use of direct coercive measures and firearms does not meet the requirement of proportionality with regard to the protection of life."²⁴ There was no notable opposition to the law in the parliament. Only 17 MPs voted against this modification of the rules on the use of weapons.²⁵ Moreover, the government did not take into account the criticism of these measures by civil society organisations (CSOs). Instead, one Civic Platform MEP wrongly accused CSOs of manipulation.²⁶

In July 2024, the Ocalenie Foundation addressed an open letter to Prime Minister Donald Tusk (signed by 10 other CSOs), pointing out that the already difficult human rights situation will only be made worse.²⁷ In the letter, the foundation stated that, according to the data collected and published in its 2024 report, between August 2021 and March 2024, 85 people died along the border on both sides.²⁸ The foundation, which provides humanitarian assistance, stated that "we are convinced

that the exemption of the Polish services from criminal liability for unlawful actions with the use of weapons will lead to even more deaths, and it will become simply impossible to ensure elementary safety for those in the border zone".²⁹ Between January and October 2024, soldiers at the border fire warning shots 1,609 times.³⁰

To date, the amendments to regulations introduced by the previous parliament and government (such as Article 12a of the Act on the State Border Protection, and the subsequent regulations, added to bypass the laws on state of emergencies) have not been changed or challenged.³¹ On the contrary, the new coalition government introduced another temporary ban on access to and staying in a specific area of the border zone adjacent to the state border with Belarus in June 2024. On 14 June, the Polish Ombudsman presented his position on the regulation and stated that the limitation of access to the border zone creates serious risks to the constitutional rights of citizens (in particular, Article 52 paragraph 1).³² It's important to note that limitations on rights can only take place by way of adopting acts in parliament, and not through administrative decisions, which was the government's practice in this case. The access ban was extended in December, which was severely criticised by CSOs, which are struggling to provide life-saving and adequate support at the border, where and when it is needed.³³

Prime Minister Donald Tusk has rejected dialogue with civil society on migration policy and ordered the Ministry of Administration and Internal Affairs to prepare a draft version of the new migration policy.³⁴ The new civil society minister, Adriana Porowska, co-organised a public hearing regarding the proposed migration policy strategy for the period 2025-2030 (the document is entitled: "Take back control. Ensure security"), only

21. After the election, 101 organisation and 550 private individuals signed a letter calling for the end of push-back practices at the Polish-Belarusian border to no avail. See: <https://ocalenie.org.pl/wp-content/uploads/2024/01/apel-do-premiera-9-stycznia-2024.pdf>

22. <https://www.hrw.org/news/2024/12/10/poland-brutal-pushbacks-belarus-border>

23. The Government Act on amending certain laws to Improve the Activities of the Armed Forces of the Republic of Poland, the Police and the Border Guard in the Event of a Threat to State. See: <https://api.sejm.gov.pl/eli/acts/DU/2024/1248/text.pdf>

24. See: <https://oko.press/ustawa-o-uzyciu-broni-co-wprowadzono>; <https://oko.press/projekt-mon-odpowiedzialnosci-za-uzycie-broni-rozmowa>; <https://bip.brpo.gov.pl/pl/content/rpo-uwagi-projekt-granica-uzycie-broni-senat>.

25. <https://oko.press/ustawa-o-uzyciu-broni-co-wprowadzono>; <https://oko.press/projekt-mon-odpowiedzialnosci-za-uzycie-broni-rozmowa>; <https://bip.brpo.gov.pl/pl/content/rpo-uwagi-projekt-granica-uzycie-broni-senat>

26. "Human rights circles are people disconnected from reality, their level of manipulation and falsity is unbelievable" said Bartłomiej Sienkiewicz in an interview. See: <https://wiadomosci.onet.pl/kraj/bartlomiej-sienkiewicz-uderza-w-obroncow-praw-czlowieka-mowi-o-manipulacji/bg131yt>

27. Full letter: <https://ocalenie.org.pl/aktualnosci/12916>

28. Full report: https://ocalenie.org.pl/wp-content/uploads/2024/07/pl_no-safe-passage.-migrants-deaths-at-the-european-union-belarusian-border.pdf

29. Full letter: https://ocalenie.org.pl/wp-content/uploads/2024/07/pl_no-safe-passage.-migrants-deaths-at-the-european-union-belarusian-border.pdf

30. <https://www.rp.pl/wojsko/art41346161-strzaly-na-granicy-z-bialorusia-jak-czesto-wojsko-musi-odpierac-ataki-migrantow>

31. Full legal opinion about the laws introduced was presented by the Helsinki Foundation for Human Rights in 2021 r. See: <https://archiwum.hfhr.pl/wp-content/uploads/2021/11/nowelizacja-ustawy-o-ochronie-granicy.pdf>. The opinion of the Commissioner for Human Rights on the lawfulness of the amendment: https://bip.brpo.gov.pl/sites/default/files/2021-11/Do_Senatu_granica_panstwowa_22.11.2021.pdf

32. The Commissioner of Human Rights: <https://bip.brpo.gov.pl/pl/content/stanowisko-rpo-strefa-buforowa-granica>; <https://hfhr.pl/aktualnosci/negatywna-opinia-zarzadu-hfpc-o-przedluzeniu-zakazu-przebywania-w-czesci-strefy-przygranicznej>

33. <https://ocalenie.org.pl/glos-w-debacie-publicznej/przedluzenie-zakazu-przebywania-w-strefie-nadgranicznej-z-bialorusia>

34. Appeal of 38 NGOs to organise a round table with the government: <https://wiadomosci.onet.pl/kraj/prawie-40-organizacji-napisalo-list-do-premiera-tuska-chca-okraglego-stolu/l8wpb74>

after the document was already adopted.³⁵ CSOs who contributed to this process fiercely criticised the government's approach.³⁶ They believe that the government's proposed course of action is politicised and will only contribute to deepening the legal and social turmoil without offering any feasible solutions to the pressing migration issues or addressing human rights violations at the border.³⁷ It must be emphasised that the strategy was already adopted before being opened for a consultation. Furthermore, at the end of the public hearing, the deputy minister for internal affairs announced that the implementing acts for the strategy were already in place.

Furthermore, as its best solution to humanitarian emergencies at the border, the strategy proposed a temporary suspension of the right to asylum (understood in the Polish legal system as refugee status or subsidiary protection). This proposal amounts to a clear breach of international obligations (under the Geneva Convention of 1951, Article 18 of the EU Charter of Fundamental Rights, Article 78 of TFEU, and other EU regulations),³⁸ and goes against the Polish Constitution (Article 56 paragraph 2).³⁹ Most importantly, it would lead to the violation of the non-refoulement rule, which is at the heart of asylum policy. The current push-back practices, as reported by NGOs working at the border, already make the effective protection of people at the border almost impossible.⁴⁰ The Ombudsman has repeatedly pointed out that "foreigners crossing the Polish-Belarusian border are being obstructed or prevented from realizing their fundamental rights," and has intervened in this matter.⁴¹ As pointed out by the Human Rights Commission of the National Council of Legal Advisors, the current measures do nothing to deter the authorities of Belarus and the Russian

Federation. Instead, it scapegoats asylum seekers, who have been exposed to severe human rights violations on the territory of Belarus (including physical violence).⁴²

The legislative proposal to limit the right to asylum was announced on 11 December 2024.⁴³ In response, the Migration Consortium (a group of CSOs), stated:

"The Ministry of Interior and Administration did not hold any consultations on the draft law with representatives of civil society, experts, NGOs working on behalf of migrants, or local governments that bear the burden of implementing migration policy. All the voices that had a chance to resound at the civic hearing organized by the Minister of Civil Society and the Shipyard Foundation on November 25 were ignored. The hard work of those who interact with migrants on a daily basis was treated with disregard."⁴⁴

More importantly, the organisations point out that:

"(...)the provisions regarding the temporary restriction of the right to apply for international protection (Articles 33a-33c) contradict human rights. Of concern is the lack of real protection for all persons from vulnerable groups and the far-reaching discretionary assessment of who belongs to such a group to be made by the Border Guard in this regard, which, in turn, may lead to arbitrary application of the new provisions (Article 33a(1)), without the possibility of real appeal of these decisions."⁴⁵

The proposed changes may not only undermine human rights but also have the potential to significantly reduce civic space. In particular, they limit the possibility of applying for international protection, which is guaranteed by both Polish law and international obligations. Such measures may lead to a

35. Full document: <https://www.gov.pl/web/premier/odzyskac-kontrolę-zapewnić-bezpieczeństwo---strategia-migracyjna-na-lata-2025---2030>

36. See also: <https://hfhr.pl/aktualnosci/komentarz-hfpc-polityka-migracyjna>

37. Main points of criticism summarised here: <https://oko.press/10-krytyk-rzadowej-strategii-migracyjnej>, on the lack of consultation of the document: <https://konsorcjum.org.pl/rzadowa-strategia-migracyjna-harmonogram-vs-rzeczywistosc/>

38. np. Dyrektywa 2013/33/UE laying down standards for the reception of applicants for international protection <https://eur-lex.europa.eu/legal-content/PL/TXT/HTML/?uri=CELEX:32013L0033>

39. <https://www.amnesty.org.pl/amnesty-international-wraz-z-innymi-organizacjami-apeluje-do-premiera-ws-zawieszenia-prawa-do-azylu/>

40. In particular, Stowarzyszenie Interwencji Prawnej points out that: "We have documented cases of people being thrown over the border with Belarus who explicitly and in our presence asked for international protection, and we know of people in serious health being thrown out of military ambulances and taken directly from hospitals. Men, women with children and unaccompanied minors are being taken behind wires and the border fence. The deportations are constantly accompanied by violence on the part of Polish forces: the use of tear gas, beatings, stripping naked, kicking, throwing to the ground, handcuffing, destroying phones and documents, taking backpacks with provisions and clean water. People tell us that with threats or physical violence they are forced to sign statements that they do not want to apply for international protection in Poland and are then taken behind a fence." The statistics from 2024: This year alone, till mid-May, more than 1,800 people have asked the Border Group alone for help, including 193 women, 178 children, as many as 131 unaccompanied minors." Source: <https://interwencjaprawna.pl/oswiadczenie-organizacji-niosacych-pomoc-humanitarna-na-granicy-polsko-bialoruskiej/>

41. See: <https://bip.brpo.gov.pl/pl/content/stanowisko-rpo-strefa-buforowa-granica>

42. See: <https://kirp.pl/stanowisko-komisji-praw-czlowieka-krpp-dotyczace-zapowiedzi-zawieszenia-prawa-do-azylu/>, as well as <https://hfhr.pl/en/publications/the-lawless-zone--12-months-of-the-polish-belarusian-border-crisis>

43. Full proposal: <https://legislacja.rcl.gov.pl/projekt/12392451/katalog/13099787#13099787>, comments by CSOs: <https://konsorcjum.org.pl/w-prezencie-na-swieta-rzad-zawiesza-prawa-czlowieka/>

44. Full statement: <https://konsorcjum.org.pl/w-prezencie-na-swieta-rzad-zawiesza-prawa-czlowieka/>

45. Ibid. See also: <https://wiadomosci.gazeta.pl/wiadomosci/7,114883,31393951,grupa-granica-alarmuje-o-fatalnych-skutkach-rzadowej-strategii.html>

weakening of human rights standards and undermine confidence in the rule of law in Poland. There is also a

risk that CSOs and humanitarian organisations working with migrants will be marginalised, weakening their ability to monitor and address potential violations.⁴⁶

Media Freedom

On 21 June 2024, the Ministry of Culture and National Heritage submitted a draft outline of a law to implement the European Media Freedom Act (EMFA) for public consultation.⁴⁷ The consultation period lasted three months and is considered a commendable practice. However, this approach remains an isolated case.

During the consultations, CSOs pointed out that certain forms of media subsidies in Poland, which are not covered by the EMFA, fall outside the definition of political advertising but still impact media competitiveness. These subsidies include various grants that support the media's own activities. Recital 72 of the EMFA refers to implicit subsidies, offering a framework to interpret the transfer of such funds. However, in practice, shifting resources from state advertising to subsidies could indirectly influence editorial independence. It is especially important as such subsidies usually went to NGOs that are affiliated with the media. This should be known and recognised by the ministry as it was a mechanism used for making huge transfers, via the Justice-Fund, to media affiliated with the previous government.

On 6 November 2024, the ministry published a report on the consultations. It included the ministry's declaration that "expenditure transparency regulations will cover all expenditure by public entities on behalf of the media."⁴⁸

Another concern is the increasingly open retaliation of local authorities against activists and CSOs that are funded from grants. It does not take the form of SLAPPs but is aimed at depriving them of funding. For example, in November 2024, councillors of the ruling majority in Lublin sent complaints against the local CSO publisher to all its institutional donors in an attempt to deprive the newspaper of funding. The complaints slandered the editorial team for links with political opponents. The accusations concerned an investigative text which exposed how the councillors of this club were breaking the law.⁴⁹

The landscape for Strategic Lawsuits against Public Participation (SLAPPs) has shifted following the 2024 parliamentary election. The current ruling coalition has significantly reduced the use of SLAPPs by the central government and its affiliates. State-owned companies have withdrawn some legal actions, although certain proceedings continue, and new cases have also emerged.

On 15 January 2025, the Ministry of Justice published a proposed law to implement the EU anti-SLAPP directive.⁵⁰

The regulatory environment for civic freedoms

Freedom of association

During the period 2015-2023, when the previous government was in power, civil society was subjected to several restrictions.⁵¹ Therefore, the opposition's victory in the 2023 elections generated significant expectations for activists and civil society organisations alike. Shortly before the elections, a coalition of organisations

prepared a several proposals for reforms, including a list of desired legal changes for CSOs, which would create a more conducive framework for the functioning of NGOs.⁵² The areas for reform include: an improvement of the quality of civil dialogue (especially when it comes to the mechanisms of representation of the civic sector),

⁴⁶. <https://www.polsatnews.pl/wiadomosc/2024-10-14/naruszenie-zobowiazan-ue-reaguje-na-plan-donalda-tuska-w-sprawie-migracji/>

⁴⁷. <https://www.gov.pl/web/kultura/rozpoczynamy-konsultacje-zalozen-ustawy-medialnej>; <https://www.gov.pl/web/kultura/zalozenia-do-ustawy-medialnej>

⁴⁸. <https://www.gov.pl/web/kultura/prezentujemy-raport-z-konsultacji-spolecznych-zalozen-do-ustawy-medialnej>

⁴⁹. https://bip.sieciobywatelska.pl/userfiles/file/kontrola/Skarga%20Klubu%20Radnych%20wplynela%2027_11_2024.pdf; <https://bip.sieciobywatelska.pl/userfiles/file/Uchwal%20zarzadu/Odpowied%20na%20skarg%C4%99.pdf>

⁵⁰. <https://www.gov.pl/web/sprawiedliwosc/projekty-aktow-prawnych3>

⁵¹. See previous Civic Space Watch updates: https://civicspacewatch.eu/alerts/?_sft_country_-_list=poland

⁵². Proposals of the National Federation of Polish NGOs on simplification for the third sector for the 2023 parliamentary elections. The full proposal can be found here: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Ffop.eu%2Fwp-content%2Fuploads%2F2023%2F04%2FWybo-ry-2023-firmowka.docx&wdOrigin=BROWSELINK>

a more efficient system of financing, for example the introduction of a clear separation between funding for service provision and funds for civic activism at the local level; or creating an “attractive, transparent and stable system of tax benefits for individuals and entities supporting the activities of NGOs.”⁵³ While discussion around these issues has begun, the implementation of reforms is slow. Thus far, the civil society minister has set up three expert working groups: on legal simplification for NGOs, activism and volunteering, and participation and civil dialogue. In June 2024, the groups met for the first time and began intensive work. Unfortunately, by the end of the year their results were not visible. The civil society minister did not take any visible legislative action based on the work of the expert groups. For example, in mid-September, the expert group on Legal Simplification for NGOs had already adopted two decisions, and forwarded a recommendation to the minister to work on its implementation. The recommendation concerns a change in the scope of the exemption of NGOs from corporate income tax (CIT) and the speedy registration of associations in the National Court Register.⁵⁴ By the end of the year, the group had also prepared a set of comprehensive statutory amendments to the system of commissioning

public tasks to organisations. Their proposal was submitted to the minister for further processing in early January 2025 but has not been taken up as yet.

The establishment of a new ministerial post of civil society minister marked a significant shift in institutional framework regulating the operation of the civic sector. This move was seen as a form of acknowledgment of the role civil society played in defending rule of law and democracy in the period 2015-2023. Unfortunately, the first person elected for the post, Agnieszka Buczyńska, had to resign due to poor health conditions.⁵⁵ This, together with her long-term absence, also impacted the pace of work. The changes introduced have been somewhat limited in scope as they have been directed towards the transformations of institutions rather than the legal framework itself. This includes the activities of the National Freedom Institute (NIW), a government agency set up to support civil society. While it was possible to elect a new management of the NIW in 2024 in a transparent and participatory procedure,⁵⁶ this has not translated into a clear change in the scope of its activities (an increase in its budget and scope of support is only planned for 2025).⁵⁷

Kamil's Law

On 15 February 2024, “Kamil's Law,” an amendment to the Protection of Minors Act, came into force. It was named an eight-year-old, Kamil, who died as a result of domestic violence. This tragedy highlighted the gaps in the child protection system and provided the impulse for legislative changes aimed at increasing the safety of minors.

It is now compulsory for those in contact with children, including parents taking part in school trips or activities, to have a criminal record certificate. The act aims to ensure that people with a criminal record, particularly for offences against children, should not come into direct contact with minors.

However, these provisions have proved problematic in practice. Schools and educational institutions have reported difficulties in organising classes with parents due to the need to obtain criminal record certificates, a somewhat time-consuming process which has

interfered with day-to-day operations. In response to these problems, the Ministry of Justice proposed an amendment to the law that would exempt parents from the requirement to provide such certificates in certain situations, such as school trips or swimming pool activities. However, the changes have caused controversy among child protection organisations. Some of them fear that the relaxation of the law may weaken protection mechanisms and expose children to potential dangers. On the other hand, opponents of the original version of the law point to excessive administrative burdens and impediments to the operation of educational institutions. Kamil's Law also imposes several new procedures for NGOs working with minors (including those working in education institutions). The obligations under the act have had an impact on other procedures previously used by organisations. Of particular importance here are the rules on the protection of personal data due to the General Data Protection Regulation (GDPR).⁵⁸ In order to reduce

⁵³. The full proposal can be found here: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fofop.eu%2Fwp-content%2Fuploads%2F2023%2F04%2FWybory-2023-firmowka.docx&wdOrigin=BROWSELINK>

⁵⁴. See https://publicystyka.ngo.pl/rzad-otrzymal-propozycje-ulatwiajace-dzialalnosc-organizacji-pozarzadowych-co-z-nimi-zrobi?fbclid=IwY2xjawF5mBpleHRuA2FlbQlXMQABHXMPpJs_PMIImPH3kOfxS-T3YVPeEe5-4kkb2K-6RsWMQjOxP1Kc7IfzQZA_aem_fAJ_exuNBQ55CpD0muMuCg; https://publicystyka.ngo.pl/rzad-otrzymal-propozycje-ulatwiajace-dzialalnosc-organizacji-pozarzadowych-co-z-nimi-zrobi?fbclid=IwY2xjawF5mBpleHRuA2FlbQlXMQABHXMPpJs_PMIImPH3kOfxS-T3YVPeEe5-4kkb2K-6RsWMQjOxP1Kc7IfzQZA_aem_fAJ_exuNBQ55CpD0muMuCg

⁵⁵. <https://publicystyka.ngo.pl/po-co-nam-minister-ds-spoleczenstwa-obywatelskiego-debata-tau>

⁵⁶. <https://niw.gov.pl/nowy-dyrektor-niw-crso-wybrany-zostal-nim-michal-braun/>

⁵⁷. <https://publicystyka.ngo.pl/prostengo-zmiana-minister-czy-zmiana-podejscia-komentarz;>

⁵⁸. <https://gdpr.pl/problemy-z-danymi-osobowymi-przy-lex-kamilek>

the level of uncertainty on the part of those obliged to apply the new requirements, the Ministry of Justice has collected and published a number of sample standards for different types of situations and institutions, and the National Freedom Institute has prepared a guide titled "Children and adolescents in an NGO. Standards for the protection of minors."⁵⁹

Freedom of peaceful assembly

Under the previous government, serious violations of the right to peaceful assembly were reported by Polish CSOs and activists alike, including those related to the Women's Strike Protests.⁶¹ One of the concerns was the inability of protesters to effectively report breaches and violations of their rights taking place during protests due to the lack of transparent identification of police officers. In 2024, the Ministry of Internal Affairs and Administration proposed a new regulation amending the regulation on police officers' uniforms. The proposal introduces an individual identification badge with a six-digit sequence identification number for police officers. However, the Polish ombudsman raised concerns that this may be difficult to read. He signalled the need for individualised identification in the form of a badge or symbol and stressed that the identification should be visible and legible. The deputy ombudsman submitted an opinion to Czesław

In the context of civic space, Kamil's Law highlights the challenge of balancing child safety with the freedom of community organisations and educational institutions to operate. Over-regulation can lead to bureaucratisation and reduced community involvement, while an overly liberal approach may not provide sufficient protection for the most vulnerable in society.⁶⁰

Mroczek, secretary of state at the Ministry of Internal Affairs and Administration, which details the manner and form in which identification signs should be placed on the uniforms of police officers, including those from riot units. This would ensure that the identification remains visible and legible in situations that involve the movement of many people, such as protests.⁶²

Unfortunately, no statutory amendments were introduced in 2024 to remove the restrictive changes to the law on peaceful assemblies introduced by the previous government.⁶³ There have also been no successful outcomes in the attempts to hold law enforcement officers accountable for using excessive force and violence against people taking part in protests for women's rights and other issues in previous years.⁶⁴ However, proceedings in two cases have been resumed.⁶⁵

Legal framework

In November 2024, seven CSOs (Amnesty International Polska, ARTICLE 19, Fundacja dla Polski, Fundacja Równość.org.pl, Helsińska Fundacja Praw Człowieka, Komitet Obrony Demokracji, Sieć Obywatelska Watchdog Polska) wrote a letter to Prime Minister Donald Tusk calling for a change to the laws regulating public assembly, in particular the Law on Assemblies.⁶⁶ The organisations pointed out that there are two issues which need review: the problematic prioritisation of

cyclical assemblies over other types of assemblies⁶⁷ and the requirement that a counter-manifestation may not take place within 100 meters of the gathering. Both these amendments, introduced in 2016, are problematic as they have been used to limit the right to peaceful assembly.⁶⁸ The appeal was forwarded to the interior minister, who, in his reply on 17 December 2024, indicated that work on the changes would be scheduled for the third or fourth quarter of 2025.⁶⁹

Freedom of expression and the right to privacy

In March 2024, the Supreme Audit Office submitted a classified report on the supervision and control of the operation of intelligence services conducting

operational and exploratory activities in Poland to the parliamentary special services commission. The report shows that from 1 January 2017 to 31 March

⁵⁹. See <https://publicystyka.ngo.pl/ustawa-kamilka-zbieramy-informacje>

⁶⁰. <https://fakty.tvn24.pl/fakty-po-poludniu/ustawa-kamilka-ma-zostac-znowelizowana-czesc-organizacji-jest-jednak-przeciw-zlagodzeniu-przepisow-st8142197> <https://brpd.gov.pl/2024/02/15/ustawa-kamilka-weszla-w-zycie-to-zobowiazanie-dla-doroslych-do-lepszej-ochrony-dzieci/>; <https://www.prawo.pl/oswiata/obowiazek-wykazania-niekaralnosci-w-ustawie-kamilka-niejasny,529364.html>

⁶¹. For more see: <https://www.amnesty.org.pl/w-obronie-prawa-do-protestu/#protestwpolisce>

⁶². <https://bip.brpo.gov.pl/pl/content/rpo-policja-znaki-identyfikacyjne-projekt-opinia-mswia>

⁶³. See <https://www.article19.org/resources/poland-robust-reform-needed-to-protect-the-right-to-protest/>

⁶⁴. See: <https://www.onet.pl/informacje/onetwiadomosci/wraca-sprawa-ataku-policjanta-na-magdalene-biejat-ruch-prokuratury/64q71sk,79cfc278>

⁶⁵. <https://www.pap.pl/aktualnosci/zlamana-reka-aktywistki-i-bmw-ktore-wjechalo-w-protestujace-prokuratura-wraca-do>

⁶⁶. <https://www.amnesty.org.pl/apel-do-premiera-donald-tuska-w-sprawie-zgromadzen-cyklicznych/>

⁶⁷. This law has often been abused in the past years and there have been a number of interventions by the Polish Ombudsman on this issue. See: <https://bip.brpo.gov.pl/pl/content/rpo-zgromadzenia-kontrolmanifestacje-miesiecznice-policja-ponowne-odpowiedz> and <https://bip.brpo.gov.pl/pl/content/stanowisko-rpo-dla-etpc-ws-siedlecka-przeciwko-polsce>; <https://bip.brpo.gov.pl/pl/content/rpo-zgromadzenia-cykliczne-etpc>

⁶⁸. <https://eli.sejm.gov.pl/eli/DU/2017/579/ogl/pol>

⁶⁹. https://docs.google.com/document/d/1ceVBWueSPmX-BEtbDDkrqpoD98jVWZAG/edit?usp=drive_link&oid=108704070465651001306&rtfpof=true&sd=true

2023, civilian supervision of the agencies was practically non-existent. The audit covered: the prime minister, the Coordinator of Intelligence Services minister, the chairman of the Intelligence Services College, the defence minister, and the heads of the Internal Security Agency, the Central Anti-Corruption Bureau and the Military Counterintelligence Service.⁷⁰ One of the key recommendations made by the Audit Office which may have an impact on civil society is to ensure “the right of citizens to be informed about the operational and investigative activities conducted against them and the right to complain about the activities of the services and other authorized entities in this regard.”⁷¹ According to the Audit Office, citizens should be informed about being subjected to surveillance within a reasonable timeframe (up to 6-12 months after the end of the operation), if it is proved to be unfounded.

Pegasus

On 17 January 2024, the Polish Sejm established an investigative commission into the legality of the Pegasus, an advanced spyware developed by the NSO Group that has been used to hack phones. The work of the Commission is ongoing, but numerous witnesses have already testified. However, the Constitutional Tribunal, which in itself poses serious rule of law questions (see above), ruled that the work of the commission was “unconstitutional.”⁷⁴ Despite this ruling, the commission continued its work. Additionally, in February, a list of the people who were spied on was created. It has not been made public. Pegasus victims have received letters to this effect.

One of the people who was subjected to Pegasus surveillance was the leader of the Polish Women’s Strike, Klementyna Suchanow, who discovered that she was under surveillance through the media.⁷⁵ While the Warsaw District Court approved the surveillance request for Suchanow, it did not authorise the surveillance Polish Women’s Strike activist and leader Marta Lempart. Commenting on the news, Lempart said:

The most important legal development in 2024 was the judgment of the European Court of Human Rights in the case *Pietrzak and Bychawska-Siniarska and Others v. Poland* (application nos. 720238/17 and 25237/18), which focused on Polish legislation which authorised a secret-surveillance regime. This included the operational control and the retention of telecommunications, and postal and digital communications data for possible future use. The ECtHR found that Poland had violated Article 8 on the respect of private life of the European Convention on Human Rights and that there was an effective lack of possibility of judicial review for citizens who suspect they could have been subjected to surveillance.⁷² Shortly after, the justice minister, Adam Bodnar, and the interior minister, Tomasz Siemoniak, announced plans for a wide-ranging reform of the current surveillance laws in Poland.⁷³

“The fact that in this new Poland someone somewhere could have decided to hide this information from the parliamentary committee on intelligence services raises many questions for me. So does the fact that I found out about this not from the institutions of the state, but through the work of TVN journalists. My trust in the institutions of the Polish state, which was supposed to give us both law and justice in its new guise, is close to zero at this point.”⁷⁶

The work of the Pegasus Commission has revealed that Polish judges were not provided with adequate information about what kind of surveillance method they were authorising. This changed in December 2024, as the government introduced amendments to the regulations concerning three services: the Internal Security Agency, the Central Anti-Corruption Bureau, and the Military Counter-intelligence Service.⁷⁷ The new regulation foresees that the judges and prosecutors will not only have access to more information but will also have to justify their decision to approve surveillance in a given case.⁷⁸

⁷⁰. <https://www.nik.gov.pl/aktualnosci/sluzby-specjalne-nadzor-kontrola.html>

⁷¹. <https://www.nik.gov.pl/aktualnosci/sluzby-specjalne-nadzor-kontrola.html>

⁷². See: Chamber hearing *Pietrzak v. Poland and Bychawska-Siniarska and Others v. Poland*, <https://hudoc.echr.coe.int/rum/%7B%22ite-mid%22:%5B%22002-14333%22%5D%7D>

⁷³. <https://www.gov.pl/web/sprawiedliwosc/minister-adam-bodnar-i-minister-tomasz-siemoniak-skomentowali-orzeczenie-etpc-ws-kontroli-operacyjnej-w-polsce>

⁷⁴. <https://oko.press/na-zywo/na-zywo-relacja/trybunal-julii-przylebskiej-komisja-sledcza-ds-pegasusa>

⁷⁵. <https://wiadomosci.onet.pl/kraj/liderka-strajku-kobiet-inwigilowana-za-pomoca-pegasusa-to-mnie-zupelnie-nie-dziwi/80r1te5>, <https://tvn24.pl/premium/inwigilacja-pegasusem-abw-prosila-sad-o-zgode-na-kontrolę-operacyjną-liderek-strajku-kobiet-st8127580>

⁷⁶. <https://www.msn.com/pl-pl/wiadomosci/polska/strajk-kobiet-inwigilowany-pegasusem-mamy-komentarz-marty-lempart/ar-AA1s2Fng>

⁷⁷. <https://www.gov.pl/web/sluzby-specjalne/nawelizacja-rozporzadzen-prezesa-rady-ministrow-dot-kontroli-operacyjnej-realizowanej-przez-sluzby-specjalne>

⁷⁸. <https://www.tvp.info/83978419/siemoniak-zmiany-w-sluzbach-specjalnych-wieksza-kontrola-prokuratorow-i-sadow>

As the Pegasus Commission continues its work, there are doubts as to whether it is going to identify those perpetrators who should face consequences.⁷⁹ The commission has faced various challenges, such as

lack of cooperation from PiS witnesses, and there are concerns that it has turned out to be nothing more than a political spectacle.

TV stations on strategic companies list

In December, the Polish government caused controversy with its decision to add TVN and Polsat TV stations to the list of strategic companies.⁸⁰ It justified the decision by stating that there was a need to protect media that is key to the state's information security. The government argued that control of these companies by national bodies was necessary to preserve the independence and stability of the media sector in the context of potential external threats.

Inclusion on the list of strategic companies means that any attempt to sell or change the ownership of TVN or Polsat must be approved by the government, and it could potentially block sales to "hostile states". This decision is particularly significant in the context of earlier reports of potential interest in TVN by Hungarian investors

linked to the pro-government camp of Viktor Orbán. A possible takeover of TVN by Hungarian investors would carry a high risk of changing the broadcaster's direction in favour of far-right political movements.

Regardless of the merits its arguments about the risk of foreign influence, this decision could have serious consequences for civic space. The introduction of such restrictions could be perceived as an attempt to limit media freedom and influence information pluralism. Additionally, there is a concern over the possibility that the government could use this mechanism to put pressure on independent media, which could undermine citizens' access to diverse and independent sources of information.

Safe space

Verbal, physical and online attacks

In June 2024, the daily newspaper *Gazeta Wyborcza* reported that the attacks on activists providing humanitarian assistance at the border have increased in number.⁸¹ For example, humanitarian organisations receive direct threats online and via emails. There were also attacks by right-wing columnists, who vilified these organisations, accusing them of acting against the

interests of the Polish state.⁸² The newspaper reported that there is also vigilantism by nationalist groups, which may pose a threat to humanitarian workers. In July 2024, a statement was issued and signed by over 20 CSOs, raising concerns over political attacks and disinformation related to their work, as well as lack of reaction to hate speech directed towards them.⁸³

Cases against women human rights defenders

On 3 October 2024, the District Court in Warsaw acquitted Polish Women's Strike activists Marta Lempart, Agnieszka Czerederecka, and Klementyna Suchanow, who were prosecuted for organising protests against Poland's abortion ban after the controversial Constitutional Court ruling in 2020.⁸⁴ This decision came on the eighth anniversary of the Women's Strike's first

mass protests, a pivotal movement advocating for abortion rights. Despite their legal victory, the activists criticised the new government for failing to fulfil their promises to improve abortion access, highlighting ongoing harassment of abortion activists and systemic failures.

⁷⁹. <https://www.rp.pl/polityka/art41713861-komisja-ds-pegasusa-sie-poddaje-nadzieja-w-prokuraturze>

⁸⁰. See: <https://www.infor.pl/prawo/nawosci-prawne/6800158,tvn-i-polsat-w-wykazie-firm-strategicznych-krrit-to-bezprawne-rzad-zablokuje-sprzedaz-tvn-jest-reakcja-departamentu-stanu-usa.html>

⁸¹. <https://bialystok.wyborcza.pl/bialystok/7,35241,31103169,grozba-linczow-na-granicy-polsko-bialoruskiej-coraz-wiecej.html>

⁸². <https://bialystok.wyborcza.pl/bialystok/7,35241,31103169,grozba-linczow-na-granicy-polsko-bialoruskiej-coraz-wiecej.html>

⁸³. <https://interwencjaprawna.pl/sprzeciw-konsorcjum-migracyjnego-wobec-akatkow-na-obroncow-i-obronczynie-praw-czlowieka/>, see also: <https://interwencjaprawna.pl/co-sie-dzieje-na-granicy-polsko-biloruskiej-oswiadczenie-grupy-granica/>

⁸⁴. <https://civicspacewatch.eu/poland-polish-womens-strike-protests-organisers-on-trial-verdict-on-03-10-2024/>

Last Generation case

Despite recent positive developments, restrictions on the right to peaceful assembly are still occurring. On 4 June 2024, climate change activists from Last Generation planned to organise a protest during a rally organised by the ruling Civic Coalition. The gathering was attended by Prime Minister Donald Tusk and other politicians and government officials. However, the activists were stopped from gathering and detained by the police. The activists later filed a complaint against the detention. The District Court for Warsaw-Srodmiescie ruled that the detention of the Last Generation activists by the police was “illegal, unjustified and improper.”⁸⁵

More recently, the movement has faced a wave of criticism. Prime Minister Donald Tusk called on the authorities (on his official X account) to respond strongly to their actions, deeming them a threat to public order.⁸⁶ The mayor of Warsaw, Rafał Trzaskowski, has also criticised the activists’ actions, describing them as vandalism.⁸⁷ And at the beginning of December, commenting on blockades organised by the group, the Minister of the Internal Affairs and Administration said: “We will fight this kind of pathology with the utmost firmness. It is only a matter of time that if we do not react, a dangerous incident will occur. The police will act firmly in this regard. This kind of action is not acceptable.”⁸⁸

Palestine solidarity protests

Universities in the Polish legal system enjoy a high degree of autonomy. The constitutional principle of university autonomy is strictly observed. It was therefore a highly publicised incident when the rector of the University of Warsaw called the police to the university campus on 13 June 2024, following the escalation of Palestinian solidarity protests on the campus.⁹¹ The move goes against a long-standing Polish tradition of the autonomy of the university.

Criminalisation of solidarity

In one trial that began on 28 January 2025 at the Hajnówka District Court, five people face serious criminal charges for providing humanitarian assistance.

Last Generation rejected the accusations, stressing that their actions are a form of democratic protest against the authorities’ inaction in the face of impending climate catastrophe. In response to Prime Minister Tusk, the activists said that instead of suppressing protests, the government should focus on real climate action.

Within the public debate there are opinions that both support and criticise the methods of Last Generation. Some commentators argue that such forms of protest are ineffective and alienate the public from environmental movements, while others point to the need for radical action in the face of the impending crisis. Some critics have chosen to respond to these protests with violence. In one case, an influencer fired a fire extinguisher at one of the activists.⁸⁹ The interventions of the police, however, raise increasing concerns about proportionality.

Related to this, on 2 December 2024, the director of the regional branch of the public broadcaster TVP3 Warsaw announced that the broadcaster will stop reporting on the activities of climate activists from the Last Generation movement, as they are controversial and often violate the law. In the opinion of the Watchdog Poland, “these actions bear the hallmarks of censorship.”⁹⁰

A statement by university authorities said that it took action “driven by concern for the safe operation of the University”, alleging property damage and reporting that university guards were injured.⁹² The student protesters issued a statement disputing the allegations of property damage and stated that some of them were taken in for questioning under Article 193 of the Penal Code.⁹³

“In May 2024, the Hajnówka District Court received an indictment against five people involved in providing aid to refugees near the Polish-Belarusian border. The four are charged with acts under Article 264a §1 of the Criminal

⁸⁵. See: <https://hfhr.pl/aktualnosci/nielegalne-zatrzymanie-aktywistow-na-wieczu-ko>

⁸⁶. <https://x.com/donaldtusk/status/1863545242118422934>

⁸⁷. https://warszawa.tvp.pl/83742525/rafal-trzaskowski-i-radni-krytykuja-protesty-ostatniego-pokolenia?utm_source=chatgpt.com

⁸⁸. See <https://oko.press/ostatnie-pokolenie-tusk-policja>

⁸⁹. <https://warszawa.wyborcza.pl/warszawa/7,54420,31540439,maria-schreiber-odpalila-gasnice-w-trone-dzialaczy-ostatniego.html>

⁹⁰. See: <https://siecobywatelska.pl/raport-o-stanie-jawnosci-w-polsce-2024/>

⁹¹. <https://www.pap.pl/aktualnosci/protest-studentow-uw-rektor-decyzji-o-wezwaniu-policji-nie-podjalem-sam-wywiad>

⁹². <https://mamprawowiediec.pl/czytelnia/arttykul/studenci-protestuja-rektor-dzwoni-policja-pacyfikuje-a-politycy-propalestynski-protest-na-uw-a-autonomia-uczelni>

⁹³. https://www.instagram.com/p/C8Gy3Q_ILMX/?img_index=2&igsh=MWM3ZGtsbnFzdWg3dA%3D%3D; <https://www.instagram.com/p/C8IXP-2pupC2/?igsh=MXJoMWtjeWxnMWh3bQ%3D%3D>

Code, which, according to the prosecutor's office, allegedly consisted in the fact that the defendants (quote): "On March 22, 2022, jointly and in agreement, in order to obtain personal benefits for an Egyptian citizen and Iraqi nationals, facilitated the designated persons' stay in the territory of the Republic of Poland in violation of the law by transporting them into the country." The fifth person, a resident of Podlasie, was charged by the prosecutor's office under Article 264a §1 of the Penal Code in conjunction with Article 12 par. 1 of the Penal Code, alleging that (quoted): "In the period from March 20 to March 22, 2022, with the purpose of gaining personal benefit for an Egyptian citizen and Iraqi nationals, she facilitated the designated persons' stay in the territory of the Republic of Poland in violation of the law, by providing them with food and clothing during their stay in the forest, and provided them with shelter and rest, and, moreover, on March 22, 2022, transported them into the country." These acts are punishable by 3 months to 5 years in prison."⁹⁴

This quote from court documents has been added *in extenso* as it illustrates that the prosecutor's office clearly defines humanitarian assistance as a crime. Information

published by the Szpila Collective underlines that "into the country" means "literally driving them from the forest a few kilometres to the nearest city."⁹⁵ The need to seek help is defined as gaining "personal benefit." To show solidarity, and to protest against the criminalisation of humanitarian assistance, a group of around 100 activists and public intellectuals signed a letter addressed to the District Attorney's Office in Hajnówka, in which they state that they too have provided such assistance.⁹⁶ As the letter states: "Repression of people who not only did not break the law, but showed elementary human decency by giving the cold, hungry and thirsty food, clothing and shelter is, in our opinion, shameful and inhumane."⁹⁷

It is worth noting that legal regulations that restrict access to the zone at the Polish-Belarusian border are still in force and may result in new proceedings against activists operating there. Under a decree of the Minister of Internal Affairs and Administration of 9 September 2024,⁹⁸ the temporary ban on staying in a specific area of the border zone was extended for another 90 days, until 9 December 2024. Minister Tomasz Siemonek announced another extension of the ban, which entered into force on 10 December 2024.⁹⁹

Financial viability and sustainability of civil society

A senior official of the government stated that "an organised system of theft from the state" was inherited from Law and Justice. It is therefore unsurprising that the deterioration of standards negatively impacted funding policies between 2015-2023.¹⁰⁰ After the new civil society minister took office, one of the first decisions was to initiate extensive changes at the National Freedom Institute - Centre for Development of Civil Society (NIW-CRSO), which is the key state-controlled

institution in Poland when it comes to the funding and development of civil society.¹⁰¹ A lengthy discussion took place within the CSO community, mainly in the form of op-eds on the portal ngo.pl, about the way it was managed and if such an institution is needed in the first place.¹⁰² One of the first decisions of Minister Buczyńska was to change the composition of the management and the Council. The new director was chosen in an open call. An audit by the Supreme Audit Office published on

⁹⁴. Information as published by Grupa Granica and Collective Szpila: https://szpila.blackblogs.org/czym-jest-sprawa-h5/?fbclid=IwY2xjawHv7rRleHRuA2FI-bQlxMAABHQqViu9uuLjQKhBuuGsfu1HsBF3MYrzdxCrZq4AtEBR1cdfDXNwD8Spg_aem_OiRLJ3mZL2L_nDhSPY5X9w, Case number: Sygnatura sprawy: VII K 120/24

⁹⁵. https://szpila.blackblogs.org/czym-jest-sprawa-h5/?fbclid=IwY2xjawHv7rRleHRuA2FI-bQlxMAABHQqViu9uuLjQKhBuuGsfu1HsBF3MYrzdxCrZq4AtEBR1cdfDXNwD8Spg_aem_OiRLJ3mZL2L_nDhSPY5X9w

⁹⁶. Grupa Granica, <https://www.facebook.com/photo?fbid=585125997482493&set=a.156833196978444>

⁹⁷. Grupa Granica, <https://www.facebook.com/photo?fbid=585125997482493&set=a.156833196978444>

⁹⁸. See <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20240001345>

⁹⁹. See <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20240001810>

¹⁰⁰. www.youtube.com/watch?v=EN9MRAIqja8&t=26s&pp=ygUgY3p5IHJ6xIvklGx1YmkgcG9teXNseSBuYSBwb2xza2U%3D

¹⁰¹. <https://publicystyka.ngo.pl/minister-agnieszka-buczynska-zmienia-czlonkow-rady-narodowego-instytut-wolnosci-i-rady-dzialalnosci-pozytku-publicz-nego>

¹⁰². <https://publicystyka.ngo.pl/co-z-tym-niwem-bedziemy-sledzic-rozwoj-wypadkow>

17 June 2024 revealed an enormous scale of irregularities in the way NIW-CRSO funds have been distributed to CSOs. The Audit report highlights that:

“The process of evaluating applications, selecting projects for funding, as well as verifying and clearing them was unreliable, and in some cases illegal, wasteful, did not correspond with the aims, and was fraught with the risk of corruption (...) This affected the assessment (...) of NIW as an institution that did not meet all the requirements of expedient and rational spending of public funds, there was lack of formalization and transparency of methods in the allocation of grants on merits, or there was evaluation by experts who did not have impartiality, or who acted without a contract.”¹⁰³

The audit office confirmed that the evaluation of grant proposals was based on criteria which were not foreseen by law (criteria A, B, and C, which were not in accordance with accepted standards for grant evaluation). The report formally confirms what CSOs have highlighted over the past eight years.

In mid-December, a description of a draft law amending the law on the National Freedom Institute (NIW) - Centre for Civil Society Development and the law on gambling appeared in the list of legislative and programme work of the Council of Ministers.¹⁰⁴ It plans a significant increase in the budget of the NIW and changes in the procedures for the allocation of funds.

Throughout the year, there were also ongoing developments of irregularities in relation to the previous government's use of public funds from the Justice Fund.¹⁰⁵ Instead of funds being allocated to post-penitentiary aid and support for victims of crime, it went to organisations ideologically or personally close to the former ruling party.¹⁰⁶ The fund was also used to support entities operating in electoral districts where members of the PiS government coalition, led by the then justice minister, ran in the elections.¹⁰⁷ In 2024, the new prosecutor's office initiated proceedings against further suspects.¹⁰⁸ An indictment was also

brought against the deputy justice minister of the previous government, Mariusz Romanowski, who was responsible for the dispersal of the fund's financial resources.¹⁰⁹ The current Sejm's decision to lift his parliamentary immunity paved the way for the MP's arrest (the prosecution issued an arrest warrant). However, he fled to Hungary, where he was granted political asylum.

Given the problematic funding policies of the past years, together with the COVID-19 pandemic, the humanitarian crisis following Russia's full-scale invasion of Ukraine, and recently the floods in southern Poland, the sector is depleted and needs serious reform of financing. During the democratic crisis of the past years, many Poles began donating their money to CSOs who they believed defended the causes most important for them. However, current tax incentives for donating to organisations are inadequate. For this reason, a new framework for philanthropy is needed, to correspond with this apparent willingness of the public to support social causes. Citizens need to be incentivised to support the third sector. For example, many private companies were engaged in the relief efforts after the Russian invasion, but one needs to put in place systemic solutions (including tax incentives) to sustain this trend in the long term.

In its 2022 report, the Polish Economic Institute (PIE) found that “Poles allocated a total of about 10 billion PLN from their own pockets to help refugees” in the first months following Russia's invasion.¹¹⁰ The report also states that:

“The percentage of companies involved in aid is highest among large enterprises - as many as 86% of such companies support Ukraine in various ways. However, when it comes to micro companies, 40% of them have engaged in such assistance. Trade (57%), service (56%) and manufacturing (55%) companies are most likely to help. Among the various forms of assistance, in-kind aid is the most popular. Financial assistance from company funds was provided by only one in four companies.”¹¹¹

¹⁰³. <https://www.nik.gov.pl/najnowsze-informacje-o-wynikach-kontroli/narodowy-instytutu-wolnosci-niw-crso.html>

¹⁰⁴. <https://www.gov.pl/web/premier/projekt-ustawy-o-zmianie-ustawy-o-narodowym-instytucie-wolnosci--centrum-rozwoju-spolecznostwa-obywatelskiego-oraz-ustawy-o-grach-hazardowych>

¹⁰⁵. <https://www.prawo.pl/prawnicy-sady/ms-uniewaznia-23-umowy-w-ramach-funduszu-sprawiedliwosci-i-chce-zmian-w-przepisach,527228.html>

¹⁰⁶. <https://www.nik.gov.pl/najnowsze-informacje-o-wynikach-kontroli/realizacja-zadan-funduszu-sprawiedliwosci.html>

¹⁰⁷. <https://www.prawo.pl/samorzad/dotacje-z-funduszu-sprawiedliwosci-mapa-ms,527222.html>

¹⁰⁸. <https://www.pap.pl/aktualnosci/akt-oskarzenia-ws-funduszu-sprawiedliwosci-w-najblizszych-tygodniach-dotyczy-9-osob>; <https://wiadomosci.wp.pl/prokuratura-przygotowuje-akt-oskarzenia-ws-funduszu-sprawiedliwosci-7101448205810304a>

¹⁰⁹. <https://www.rp.pl/prawo-karne/art41556421-jest-decyzja-sadu-ws-aresztu-dla-marcina-romanowskiego>; <https://www.prawo.pl/prawnicy-sady/siedem-nowych-zarzutow-dla-b-wiceministra-romanowskiego,530665.html>

¹¹⁰. <https://businessinsider.com.pl/gospodarka/polska-liderem-pomocy-ukrainie-ile-to-wszystko-kosztowalo-wykresy/l5s7lnw>

¹¹¹. <https://businessinsider.com.pl/wiadomosci/ile-polskich-firm-pomaga-ukraincom-jest-badanie/mnbdlp>

Another challenge is building a sustainable system that would strengthen not only CSOs but the resilience of citizens as whole. It is important given the poly-crisis societies face today. A notable step in that direction was made with the adoption of the new Law on Civil Protection and Civil Defence.¹¹² The bill puts in place a basic legal framework for building a cross-sectoral, territorial crisis intervention network, and to some extent acknowledges CSOs, but it does not meet all needs for the sector fully.¹¹³ It is clear that the sector

needs a more systemic approach to funding for crisis intervention, and that CSOs will not be able to sustain their long term potential if this is not done.

An analysis by Simple NGO, which monitors civil society law, points out that the law only recognises the role for large, humanitarian assistance-oriented CSOs and does not include the full ecosystem of smaller actors, and does not largely focus on wider civil society resilience.¹¹⁴

Civil dialogue and the right to participation

After the change of government some progress was achieved when it comes to the framework for regulating public consultations. For example, there was a change in the law regulating the consultation process in the Sejm¹¹⁵ and the Council of Ministers, which precludes laws from being passed without consultations, with defined exceptions.¹¹⁶ This was as a result of the implementation of regulations foreseen in the Recovery and Resilience Fund (RFF) milestones.

However, there are still challenges related to public consultations, which need to be addressed, especially within the government's legislative process. For example, according to the data of the Legislative Monitor (Monitor Legislacyjny), "between 1 October and 31 October, the government prepared and published 28 draft laws on the Government Legislation Centre

portal, of which 20 were subjected to public consultation." Analysis by the Citizens' Legislation Forum shows that in the earlier months of the year the government consulted even less, on average only half, of its own draft legislation.¹¹⁷ In a positive development and as foreseen by legal changes, on 31 October 2024, a public consultation platform was launched on the Polish Parliament's website.¹¹⁸

As noted earlier, of most concern is the negative approach of the new government when it comes to consultations (or any dialogue) regarding migration policies, especially the decision by Donald Tusk to suspend the right to asylum. This is a significant challenge for all organisations working in the field of migration.¹¹⁹

A public hearing on Poland's migration strategy for 2025-2030

A public hearing on Poland's migration strategy for 2025-2030 was held in Warsaw at the end of November 2024. The meeting came in response to criticism from NGOs and experts about the lack of public consultation before the government adopted the strategy document. The main purpose of the event was to discuss the "Take Back Control. Ensure Security" strategy and to gather opinions and comments from representatives of civil society, academia, and migrant organisations.

The hearing was held in response to growing dissatisfaction that the document had been drafted without prior public consultation. NGOs accused the government of a lack of transparency and of failing to take into account the views of key stakeholders, such as organisations working with migrants and refugees. They also criticised the direction of the strategy, which many felt focused on security at the expense of human rights and the integration of migrants.

¹¹². <https://www.gov.pl/web/mswia/sejm-przyjal-jednoglosnie-ustawe-o-ochronie-ludnosci-i-obronie-cywilnej#:~:text=Ustawa%20o%20ochronie%20ludno%C5%9Bci%20i%20obronie%20cywilnej%20okre%C5%9Bla,oraz%20zasady%20planowania%20ochrony%20ludno%C5%9Bci%20i%20obrony%20cywilnej>

¹¹³. See expert opinion: https://www.batory.org.pl/publikacja/gotowi-na-kryzys-budowanie-spolecznej-odpornosci/?fbclid=IwY2xjawHvyHtleHRuA2FlbQlx-MAABHXPmXRj1s3KewSqUsokUiaC3vmhkuvVWkf6wai4D_0yprzEGgZnNKKWQ_aem_qyf4pbVrInpivESq0HrOGw

¹¹⁴. <https://proste.ngo/ud70-2024/>

¹¹⁵. <https://businessinsider.com.pl/wiadomosci/koniec-z-legislacyjnymi-potworkami-rzadz-zmienia-sposob-pracy/6dr02dk>

¹¹⁶. <https://www.batory.org.pl/wp-content/uploads/2024/11/Monitor-legislacyjny-5.pdf>

¹¹⁷. <https://www.batory.org.pl/oswiadczenie/stanowisko-obywatelskiego-forum-legislacji-w-sprawie-praktyki-przeprowadzania-konsultacji-publicznych/>

¹¹⁸. https://www.sejm.gov.pl/sejm10.nsf/agent.xsp?symbol=KONSULTACJE_PROJEKTY&NrKadencji=10

¹¹⁹. https://www.rmrf24.pl/polityka/news-ostrea-reakcja-tuska-ws-prawa-do-azylu-to-nie-bedzie-przedmiotem,nld,7835584#crp_state=1

The Warsaw meeting aimed to correct this mistake and create a platform for dialogue. During the event, representatives of CSOs pointed to the need for greater emphasis on human rights, integration programmes and building an open society. They also stressed the need for an improved asylum system and a more inclusive approach to migration policy. The government promised to take some of the comments into account in future measures, although many participants remained sceptical about the actual implementation of the demands made.

The Citizens' Consultation on the Migration Strategy has important implications for civic space. The lack of prior public consultation has undermined trust in the

legislative process and limited the ability of NGOs to have a real impact on migration policymaking. Such actions by the government may have the effect of marginalising the voice of civil society and discouraging engagement in future consultations. At the same time, the organisation of a citizens' hearing after a wave of criticism shows that public pressure and NGOs can influence the actions of decision-makers.¹²⁰ However, it should be noted that the public hearing was organised when the government had already decided to adopt the document it had drafted. At the end of the hearing, the deputy interior minister, who is in charge of migration policy, took the floor and admitted that the government even had the amended acts to implement the planned solutions ready at hand.

Access to information

In Poland, there is no dedicated institution responsible for overseeing access to public information, and no central body collects data on the implementation of related obligations. The only authority that occasionally monitors the systemic fulfilment of these obligations is the Supreme Audit Office. Administrative courts adjudicate cases involving specific instances of refusal or failure to comply with the law.

The Access to Public Information Act was enacted in 2001, and its most significant challenges stem from the definition of public information, which leaves room for wide interpretation. This ambiguity not only results in a narrowing of the constitutional standard for access to information but also leads to protracted legal disputes.

A glaring example of how access to information procedures can be excessively prolonged is the case concerning financial records of a publicly funded project at Cardinal Stefan Wyszyński University. Since 2015, legal proceedings have been ongoing to obtain financial records related to the project, titled "A Model for Regulating Openness and Its Limitations in a Rule of Law State," which is believed to have received 3.7 million PLN (over €860,000).

Due to legal provisions that allow the university to introduce new justifications for withholding information, the case has repeatedly returned to court, which has consistently ruled in favour of Watchdog Poland, who brought the case.¹²¹ If the university

continues to withhold the requested information — though it is expected to comply — the case will become the longest-running access to information dispute in Poland, surpassing a decade.

The failure to conclude cases like this in a timely manner is a regular occurrence, as the current provisions of the Access to Public Information Act allow for this. The act therefore requires urgent reform. A significant challenge to accessing public information arises from the act's ambiguous interpretation. One notable example is the category of "internal/technical documents", which lacks a legal definition and exists solely within administrative interpretations and judicial rulings. This ambiguity leads to unpredictability in the system and an inconsistent adherence to case law, regardless of the public significance of the requested information.

A prominent example of this issue is the case concerning access to the meeting calendar of the Constitutional Tribunal President Julia Przyłębska during the rule of law crisis. On 21 March 2024, the European Court of Human Rights (ECtHR) ruled that the refusal to disclose the calendar was unjustified, emphasising that the information was of public interest and relevant to the broader public debate. The court recognised that organisations such as Watchdog Polska (which brought the case) serve as public watchdogs and that access to such information is crucial for monitoring the actions of public authorities and safeguarding democratic processes. Consequently, the ECtHR found that the

¹²⁰. <https://www.pap.pl/aktualnosci/organizacje-pozarzadowe-krytycznie-o-braku-konsultacji-ws-strategii-migracyjnej-nasze>; <https://www.gov.pl/web/po-zytek/25-listopada-2024-r-w-centrum-nauki-kopernik-w-warszawie-odbylo-sie-wysluchanie-obywatelskie-dotyczace-dokumentu-odzyskac-kontrolę-zapewnić-bezpieczeństwo-kompleksowa-i-odpowiedzialna-strategia-migracyjna-polski-na-lata-20252030>; <https://publicystyka.ngo.pl/na-przygotowanej-przez-rzad-strategii-migracyjnej-nie-pozostawiono-suchej-nitki-relacja-tau>

¹²¹. The most recent hearing took place on 27 November 2024.

president's actions violated the right to information protected under Article 10 of the European Convention on Human Rights.¹²²

Another method used to withhold public information is the accusation that applicants are abusing their right to access such information. This concept is not explicitly defined in the Access to Public Information Act but is instead based on interpretations derived from other legal frameworks, where terms such as trivial, frivolous, unreasonable, irrational, vexatious, malicious, abusive, similar, and repetitive are clearly defined and subject to verification.

In jurisdictions where these concepts are codified, their meaning is clear, and they are applied within a structured legal framework. However, in the Polish system, the lack of a legal definition allows for arbitrary interpretations that vary depending on the circumstances. This frequently results in administrative authorities escaping accountability by prolonging proceedings and, ultimately, undermining the public interest.¹²³

According to a report published by the OECD in March 2024, Poland meets 67% of the regulatory criteria concerning open data and 54% of the practical criteria, compared to the OECD averages of 67% and 62%, respectively. However, the practical implementation of these standards reveals significant shortcomings, as illustrated by the case of the central register of contracts.

Initially scheduled for implementation in 2022, the register was intended for financial sector units to report contracts exceeding 500 PLN (€116). However, it was not implemented until 2025, and recent information suggests that another extension is under consideration. The proposed revision would raise the disclosure threshold to 10,000 PLN (€2,325), which would result in only 20 to 25% of contracts concluded by public institutions being made available.

Although information on contracts may still be accessible upon request, applicants are likely to encounter the challenges and procedural obstacles outlined above. Detailed information on the situation in Poland is available in the State of Openness Report 2024.¹²⁴

Civil society resilience

Although the first year of the coalition government has been favourable for the civil society sector in certain respects, it has not been without its share of disappointments.¹²⁵ The general feeling in the sector is that the coalition government has let down many groups which have been crucial for reversing the downward spiral of democratic decline in Poland. This includes women's rights organisations and actors providing humanitarian assistance to refugees and migrants at the border and/or dealing with migration in the context of access to the right to asylum, or integration. The overall feeling is that despite the creation of new bodies for dialogue, they have had little impact.¹²⁶ If this trend is not reversed, there is risk of mere "window dressing" on the part of the government. This would be especially concerning given that CSOs have put forward many concrete proposals and strategies for reforms.¹²⁷

During the conference organised by Batory Foundation in November 2024 to summarise the past eight years of resistance against democratic backsliding, there was a sense that much more needs to be done in the areas of women's rights, environmental protection, and educational reform. Instead, the government seems to have embarked on a "collision course" with CSOs, intending to undermine one of the most fundamental rights since World War II, the right to asylum.¹²⁸ This definitely does not bode well for building trust not only in the current government but democratic processes more broadly.

There is also a challenge of building trust. Unfortunately, representatives of the current government have not resisted the temptation to criticise CSOs in current politics, just as their predecessors did extensively. Statements by representatives of the current

¹²². <https://siecobywatelska.pl/watchdog-wygral-przed-europejskim-trybunalem-praw-czlowieka/>

¹²³. <https://informacjapubliczna.org/wp-content/uploads/raport-naduzywanie.pdf>

¹²⁴. https://siecobywatelska.pl/wp-content/uploads/2025/01/raport_jawnosc_2024.pdf

¹²⁵. <https://publicystyka.ngo.pl/niw-i-ministerstwo-wiedza-czego-oczekuje-sektor-pytanie-co-z-tym-zrobia-komentarz-tau>

¹²⁶. <https://publicystyka.ngo.pl/niw-i-ministerstwo-wiedza-czego-oczekuje-sektor-pytanie-co-z-tym-zrobia-komentarz-tau>

¹²⁷. The Strategic Road Map for the Development of the Third Sector in Poland, https://ofop.eu/wp-content/uploads/2015/11/smd_publikacja.pdf, <https://ofop.eu/propozycje-obywatelskie-dla-polski/>

¹²⁸. <https://publicystyka.ngo.pl/to-ostatni-moment-zeby-wladze-uznaly-role-spoleczenstwa-obywatelskiego-w-budowaniu-odpornosci-spoleczenstwa-i-panstwa-komentarz-ewy-kulik-bielinskiej>

government, including the prime minister himself, may be a threat to the continued positive image of social organisations in Polish society. In the context of the situation on the Polish-Belarusian border, CSOs

have been accused of working for foreign interests and had their actions labelled radical, while environmental activists have been threatened with more forceful action on the part of the police (see above).

Recommendations

TARGETED RECOMMENDATION:

→ **Take urgent steps to improve the framework in which civil society operates, including by addressing funding gaps in a depoliticised and sustainable manner for CSOs, especially those working on democracy, human rights, anti-discrimination, and the rule of law. This should be achieved by introducing transparent funding procedures and systemic solutions and incentives to support individual and corporate philanthropy.**

- Immediately refrain from verbal attacks on civic activists and CSOs, including in particular those dealing with support for migrants and refugees and combating climate change.
- Immediately discontinue all prosecutions of activists providing assistance to those fleeing war and persecution and peacefully exercising their right to protest by the end of 2025.
- Initiate the legislative process to amend the Law on Assemblies in order to bring it into compliance with the Constitution of the Republic of Poland and international human rights law by 2025.
- Urgently introduce reforms for systemic changes that increase the availability of public funds for diverse civil society actors and allow more flexible public funding for the organisations' statutory activities and covering their ongoing needs. For example, by improving the legal framework for result-based grant reporting or for adjusting grant budgets rules to acknowledge inflation rates.
- Adopt a national strategy for philanthropy development.
- Ensure that the Pegasus commission work is finalised and that public official responsible are held accountable.
- Introduce a framework for permanent, inclusive, and structured civil dialogue with all civil society in the legislative process, both at the level of government and parliamentary activities.
- Reform the Council for Public Benefit, as regards its competences and the way in which its members are elected, to ensure that it is free from political interference and that adequate self-governance mechanisms are being followed.
- Introduce a system of effective civic education and promote models of civic engagement, as well as ensuring that the civic sector becomes a competitive place of employment, by providing additional benefits not achievable in jobs in other sectors of the economy.
- Reform the Access to Public Information Act and bring it in line with international standards on access to information by 2025.

CIVIC SPACE REPORT 2025



About European Civic Forum

European Civic Forum (ECF) is a pan-European network of nearly 100 associations and NGOs across 29 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.

civic-forum.eu



About Civic Space Watch

CivicSpace Watch is an online platform that gathers data and reports on developments in civic space at the national and EU level and analyses national and European trends in civic space. Powered by the European Civic Forum, it collects findings through regular contact and interviews with a strong network of members and partners on the ground, as well as ongoing media and social media monitoring.

civicspacewatch.eu



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