

# 2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2023<sup>[1]</sup> falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

[1] Unless the information was already submitted in the input for the previous Rule of Law Reports.

## Type of information

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The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

### **A) Legislative developments**

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

### **B) Policy developments**

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

### **C) Developments related to the judiciary / independent authorities**

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[2])

### **D) Any other relevant developments**

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

## **About you**

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\* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO

- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

\* Organisation name

250 character(s) maximum

Joint submission of 5 Polish NGOs:  
 1) Citizens Network Watchdog Poland  
 2) Helsinki Foundation for Human Rights  
 3) Institute of Public Affairs  
 4) National Federation of Polish NGOs  
 5) Stefan Batory Foundation

Main Areas of Work

- ☒ Justice System
- ☒ Anti-corruption
- ☒ Media Pluralism
- ☐ Other

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

1) <https://siecobywatelska.pl/?lang=en>  
 2) <https://hfhr.pl/en/about-us/who-we-are>  
 3) <https://www.isp.org.pl/en/about-us>  
 4) <https://ofop.eu/eng/>  
 5) <https://www.batory.org.pl/en/about-us/about-us/>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

1) Citizens Network Watchdog Poland: 384760948458-33  
 2) Helsinki Foundation for Human Rights: 657241221166-37  
 3) Institute of Public Affairs: 884313938581-87  
 4) National Federation of Polish NGOs: 558046445201-01  
 5) Stefan Batory Foundation: 10828394017-54

\* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria

- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic

- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya

- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☒ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis

- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen

- ☐ Zambia
- ☐ Zimbabwe

First name

Maciej

Surname

Kalisz

Email Address of the organisation (this information will not be published)

[REDACTED]

#### \* Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2024 rule of law report.pdf](#)

## Questions on horizontal developments

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In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[List of topics 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

*5000 character(s) maximum*



## Questions for contribution

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The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023<sup>[3]</sup>. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

**If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.**

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania

- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☒ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

## I. Justice System

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Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

*5000 character(s) maximum*

N/A

### A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

*(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)*

*5000 character(s) maximum*

On November 23, 2023, the European Court of Human Rights ruled on the case *Wałęsa v. Poland*, concluding that Poland violated Article 6 of the European Convention on Human Rights. The violation stemmed from the decision made by the Extraordinary Control and Public Affairs Chamber of the Supreme Court (CERPA). In its decision, the Court utilized the pilot judgment procedure, highlighting systemic problems within the Extraordinary Control and Public Affairs Chamber. These issues included the compromised independence of both the National Council of the Judiciary and CERPA.

On December 20, 2023, Poland's Sejm passed a resolution concerning the National Council of the Judiciary (NCJ). The resolution acknowledged that the Sejm's past decisions about appointing judicial members to the NCJ blatantly violated the Polish Constitution, the Treaty of the European Union, and the European Convention on Human Rights. The Sejm recognized that these violations hindered the NCJ's ability to perform its constitutional duties, particularly in ensuring the independence of courts and judges. The resolution also demanded that members of the NCJ, who were appointed improperly, should immediately stop their involvement in the Council. Additionally, the Sejm announced plans to swiftly rectify the legal status of the NCJ to align with constitutional norms.

The Helsinki Foundation for Human Rights (HFHR) prepared a report (<https://hfhr.pl/publikacje/nowa-krs-krajobraz-po-reformie>) analyzing judicial appointments that involved the so-called new National Council of the Judiciary (new NCJ). The report highlights that from 2018 to August 2023, the president appointed 2,204 individuals to judicial positions based on new-NCJ recommendations. This number does not include individuals appointed as assessors.

The HFHR also noted that eighteen judges were appointed to their judicial positions twice, with the involvement of the new-NCJ. By comparing the list of appointed judges and the list of judges endorsing candidates to the new-NCJ, the report found 239 individuals who appeared on both lists.

In terms of absolute numbers, most appointments facilitated by the new-NCJ were to district courts and regional courts, with 988 and 876, respectively. However, in relative terms, the highest proportion of appointments occurred in appellate courts (179 individuals) and the Supreme Court (56 individuals), constituting 39% and 42% of the composition of these courts, respectively.

HFHR also analysed the professional paths of individuals appointed to judicial positions through the new-NCJ. The data collected indicate that 47% of those appointed previously held the position of judge, 19% obtained judicial positions through the transformation of assessor positions, and 34% came from other legal professions. In this last group, the most common backgrounds were court clerks (254 individuals), advocates (159), assistant judges (111), and legal advisors (110).

The Foundation analysed the ratio of judges appointed by the new-NCJ to the total number of judges in several dozen courts<sup>[JK2]</sup>. The analysis showed that this ratio ranged from 7% to even 63% in individual courts and identified courts and departments almost entirely composed of individuals appointed with the involvement of the new-NCJ.

HFHR further examined whether individuals appointed to judicial positions during the competition procedure had competitors. From the collected data, it appears that out of 1782 analyzed competitions, there were no competitors in 557 cases.

The Foundation emphasized that these data must be considered when designing solutions related to the status of individuals appointed with the involvement of the new-NCJ.

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

*5000 character(s) maximum*

In June 2023, the District Court for Warsaw Śródmieście ruled to reinstate Judge Marzanna Piekarska-Drażek. This decision came after her transfer, along with two other judges, to a different department by the President of the Court of Appeal in Warsaw at the end of 2022. The District Court determined that her transfer was a reaction to her application of rulings from the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU), and her questioning of the legitimacy of judges appointed with the involvement of the new National Council of the Judiciary. It also found that the transfer was illegal, ignoring her tenure and expertise. Similar rulings were made for Judge Waldemar Żurek and Paweł Juszczyzyn, who were also transferred by their respective court presidents. On September 1, 2023, all three judges resumed their roles in the criminal department.

In July 2023, Judge Rafał Jerka was moved from the labor and social security department to the family department by the Regional Court in Olsztyn's president, Michał Lasota. Reports suggest that this transfer aimed to create a vacancy for the wife of a district court president, who is also a member of the National Council of the Judiciary. Judge Jerka has appealed to the European Court of Human Rights, claiming his transfer was unjust.

Meanwhile, Minister of Justice Zbigniew Ziobro dismissed the Deputy Prosecutor of the District Prosecutor's Office in Poznań Stare Miasto. Ziobro justified the dismissal on the grounds of inadequate supervision over subordinate prosecutors and failure to assess their legal qualifications. This decision followed the conviction of two individuals for a robbery motivated by homophobia, a case that garnered critical remarks from the Ministry of Justice, including accusations of being a 'judicial crime.'

Promotion of judges and prosecutors (incl. judicial review)

*5000 character(s) maximum*

The Court Watch Polska Foundation published a report (<https://amicus.courtwatch.pl/files/2023/12/Mapa-drogowa-reformy-konkursow-na-stanowiska-sedziowskie.pdf>) emphasizing the need for a change in the system of appointing judges in Poland and advocating for expanded substantive preparation of judges for their roles.

Allocation of cases in courts

*5000 character(s) maximum*

Minister of Justice Adam Bodnar opened public consultations on a draft amendment to the regulation governing common courts. The proposed amendment stipulates that requests to disqualify a judge due to the method of their appointment cannot be reviewed by judges appointed in the same manner. This measure aims to prevent judges appointed by the new-NCJ from deliberating on disqualification requests that pertain to their manner of appointment.

In June 2023, the Supreme Administrative Court (case no. III OSK 4359/21) rejected an appeal by the Minister of Justice against a ruling that required him to provide the ePaństwo Foundation with copies of reports from random judge allocation draws. The foundation sought access to information that included the name and surname of the randomly selected judge, their court and department, the case file number, and the date of the draw.

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

*5000 character(s) maximum*

The new National Council of the Judiciary (new-NCJ) continues to appoint and promote judges, while openly criticizing the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). Following the ECtHR's judgment in *Wałęsa v. Poland*, the new-NCJ declared that the judgment is not binding in Poland's national legal system.

Additionally, the new-NCJ has rebuffed the Sejm's December 20, 2023, resolution urging it to halt its activities. The new-NCJ's presidium labeled the Sejm's call as an infringement on the NCJ's independence.

The new-NCJ's social media presence, especially on the X portal (formerly known as Twitter), is notable for its frequent criticisms of independent judicial associations, politicians from opposition parties, and specific judges, which can be seen as undermining judicial independence.

The actions of the new-NCJ also raise concerns. On March 14, 2023, the KRS chairperson requested the President of the Regional Court in Poznań to consider sending a judge for constitutional law training, especially on the protection of religious cults, following a controversial ruling by that judge.

In a separate case of a robbery motivated by homophobia, the new-NCJ supported the critical views of the judgment expressed by Minister of Justice Zbigniew Ziobro and called for a review of similar rulings by the same court.

Furthermore, during an extraordinary hearing on August 28, 2023, convened at the request of the Minister of Justice, the head of the new-NCJ criticized specific judgments and accused certain judges of politicizing their roles.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

*5000 character(s) maximum*

On July 7, 2023, the European Court of Human Rights delivered a verdict in the case of *Tuleya v. Poland*. It found that the Disciplinary Chamber of the Supreme Court, which decided to lift Judge Igor Tuleya's immunity, was neither independent nor impartial, and thus not lawfully established. Consequently, the Court declared a breach of Article 6 of the Convention concerning Judge Igor Tuleya.

Despite this, Poland's system of disciplinary accountability for judges still fails to align with the standards set by the Court of Justice of the European Union's case law. In 2023, several judges faced disciplinary actions for various reasons: Judge M. Piekarska-Drażek for public statements defending the rule of law; Judge T. Jaskłowski for decisions made during legal proceedings; Judge M. Gersdorf for decisions regarding the Supreme Court's management; Judges S. Bagiński, D. Tyrała, and W. Maczuga for applying European law in assessing the independence and impartiality of judges appointed by the new National Council of the Judiciary; and Judge K. Krygielski for evaluating the unlawful suspension of a judge.

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

*5000 character(s) maximum*

In 2023, there were significant concerns regarding the salary indexation of judges and prosecutors. According to the Law on the Structure of Common Courts and the Law on the Public Prosecutor's Office, their salaries are supposed to be linked to the average earnings in the national economy during the second quarter of the previous year. However, between 2021 and 2023, the Sejm implemented measures that altered the basis for calculating judges' and prosecutors' remuneration.

Due to these changes, the salary indexation for judges and prosecutors was insufficiently low, particularly in the context of Poland's high inflation. This situation prompted judges and prosecutors to file lawsuits against the State Treasury.

On November 8, 2023, the Constitutional Tribunal, in case no. K 1/23, ruled that the provisions of the law on special solutions for the implementation of the 2023 budget act were unconstitutional. Notably, this ruling was made without the involvement of judges who had been appointed to already filled positions.

## Independence/autonomy of the prosecution service

*5000 character(s) maximum*

On December 27, 2023, Poland's Council of Ministers, following the recommendation of Minister of Justice and Prosecutor General Adam Bodnar, agreed to join the European Public Prosecutor's Office (EPPO). Additionally, in the same month, Minister Bodnar appointed five prosecutors from the Lex Super Omnia association to the National Council of Prosecutors.

In July 2023, the Sejm passed an amendment to the Law on Prosecution, introducing significant changes to the prosecution service. These changes state that the National Prosecutor (Prokurator Krajowy) and other deputies of the Prosecutor General can only be dismissed with the written consent of the President of Poland.

Moreover, the amendment shifted the power to appoint and dismiss regional, district, and local prosecutors from the Prosecutor General to the National Prosecutor. It also granted the Prosecutor General the authority to perform tasks and exercise rights outlined in the Police Act and other laws related to secret services, making the National Prosecutor the sole authority for initiating operational control.

Additionally, the amendment considerably reduced the powers of the Prosecutor General to directly command subordinate prosecutors. According to the new version of Article 7 of the Law on the Public Prosecutor's Office, the Prosecutor General now issues orders through the National Public Prosecutor's Office.

The Helsinki Foundation for Human Rights (HFHR) has critically assessed these changes. According to HFHR, the amendments are not intended to improve the prosecutor's office's efficiency or independence, but rather to strengthen political control over it, making it less susceptible to political changes. HFHR notes that these reforms perpetuate a detrimental structure within the prosecutor's office, adversely affecting its functionality, effectiveness, and independence.

The HFHR's criticism emphasizes that these changes do not alter how the National Prosecutor is selected. They do not ensure the participation of the prosecutor's self-government or politically independent entities in this process. Furthermore, these amendments significantly impede the current parliamentary majority from implementing reforms that would genuinely enhance the independence of individual prosecutors in their duties.

## Independence of the Bar (chamber/association of lawyers) and of lawyers

5000 character(s) maximum

The Constitutional Tribunal dismissed, due to formal reasons, a case initiated by a group of Law and Justice party members aiming to declare certain provisions of the Law on the Bar unconstitutional (case reference K 6/22). Legal professionals critically assessed the case as a threat to the independence of the professional self-government.

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

5000 character(s) maximum

On December 13, 2023, a seven-judge panel of the Supreme Court (case reference I KZP 5/23) refused to adopt a resolution regarding the costs of unpaid legal aid. In the justification of its decision, the court referred to the legal situation of the Constitutional Tribunal. It pointed out that Constitutional Tribunal decision issued with the participation of individuals appointed to previously occupied positions do not have the effects envisaged in the Constitution. Therefore, they are not universally binding and final.

## B. Quality of justice

*(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)*

Accessibility of courts (e.g. court/legal fees, legal aid, language)

5000 character(s) maximum

In 2023, the Parliament adopted changes in the Act on court costs in civil cases. The new regulation lowered the fees for delivering court decisions with justification. Before the change, the fees for delivering court decisions with justification were the same for judgements as well as other court decisions such as those rendered during a proceeding. Currently, the fee for delivering judgement with justification is 100 PLN whereas in cases of other decisions 30 PLN.

Resources of the judiciary (human/financial/material)

*(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)*

5000 character(s) maximum

In 2023, court and prosecutorial service employees organized a protest against low wages. According to media reports, in 2023 among over 8,000 prosecutorial service employees almost 1,300 employees received minimal wage (PLN 3,490 before taxes). The 2024 proposed state budget envisages a 20% wage increase for court and prosecutorial employees.

Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

5000 character(s) maximum

In November 2023, Minister of Justice Zbigniew Ziobro appointed Kamil Zaradkiewicz for a five-year term as the director of the National School of Judges and Prosecutors (KSSiP), responsible for the continuous education of judges and prosecutors, as well as trainees in the judiciary and prosecution.

Kamil Zaradkiewicz is a close associate of Minister Ziobro and a former director of the administrative

department of the Ministry of Justice. He was appointed to the Supreme Court by the new-NCJ. Furthermore, his appointment occurred through Minister Ziobro's personal recommendation.

Ziobro's decision to appoint Zaradkiewicz as the Director of KSSiP raises doubts regarding compliance with the provisions of the law on the Supreme Court. The law prohibits judges from holding any official position or full-time employment other than as an academic or teaching staff member in a higher education institution. Furthermore, according to the law, a judge of the Supreme Court appointed to serve as a state authority must immediately resign from the judicial office while retaining the right to return to the position held before the appointment.

What is more, at the same time, judge Robert Pelewicz was appointed as the Deputy Director of KSSiP. In 2023, Gazeta Wyborcza published an article accusing Mr. Pelewicz of attempting to influence the outcome of the judicial application exam by inciting the examiner to complete the test instead of the examined candidate (privately, the daughter of the then Law and Justice Senator, and currently the judge of the Constitutional Tribunal, Stanisław Piotrowicz).

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online

*5000 character(s) maximum*

N/A

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

*5000 character(s) maximum*

N/A

Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

*5000 character(s) maximum*

N/A

## C. Efficiency of the justice system

*(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section*

*2)*

Length of proceedings

*5000 character(s) maximum*

The Polish justice system remains plagued by prolonged judicial proceedings, a problem that has intensified since the judiciary changes initiated in 2015. This has resulted in a notable increase in the average length of court proceedings. For instance, in 2015, district court proceedings averaged 3.9 months, but by 2022, this duration extended to 5.7 months. During this period, proceedings in all case categories grew longer, except for criminal cases in regional courts, where the duration decreased from 10.3 to 8.6 months.



However, compared to 2021, there has been a statistical acceleration in the adjudication pace in some categories within common courts. Notably, the duration of civil cases in regional courts decreased from 8.9 to 8 months, and in district courts, from 7.6 to 6.1 months. Additionally, family cases and business cases in district courts saw significant reductions in duration, from 5.3 to 4.9 months and from 8.6 to 7.3 months, respectively.

Conversely, compared to 2021, the duration of proceedings in regional courts increased in the areas of social insurance and labor law (from 12.6 to 13.3 months) and business cases (from 11.1 to 11.7 months). A noteworthy increase was also observed in regional court cases related to social insurance and labor law, from 11.5 to 12.2 months.

The duration of criminal proceedings in regional and district courts remained nearly the same as in 2021.

Other - please specify

*5000 character(s) maximum*

N/A

## II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)

*5000 character(s) maximum*

The Polish government has not implemented any of the recommendations mentioned in the 2023 report. The regulations on lobbying have not been improved. The system of asset declarations has not been reformed. Provisions introducing impunity for politicians and officials have not been removed from the law. It was only after the change of the government in result of the elections on 15 October 2023, that reforms aimed at de-partisaning the prosecutor's office and reducing political pressure on the judiciary began. However, it will be difficult or even impossible to introduce deeper reforms, as they are likely to be blocked by a president who favours the previous ruling party.

### A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

*5000 character(s) maximum*

In 2023, like the previous reporting period, Poland did not experience any major institutional or legal developments aimed at enhancing its anti-corruption capabilities.

It is important to highlight that the budget for the Central Anti-Corruption Bureau (CBA), a specialized body dedicated to combating corruption, remained relatively unchanged from the previous period, totaling slightly over 211 million PLN for 2022, as reported in the Bureau's annual activity report. However, the CBA addresses only a limited portion of corruption crimes, with more than 90% of such cases traditionally managed by specialized police departments.

Additionally, following the October 15, 2023 elections, Prime Minister Donald Tusk and Minister of Justice Adam Bodnar initiated the process for Poland to join the European Public Prosecutor's Office. This move, one of the new government's first actions, signals a commitment to future legal and institutional reforms aimed at strengthening Poland's capacity to fight and prevent corruption.

## Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

*5000 character(s) maximum*

The persistent political pressure on the judiciary in Poland has been a significant issue. The ruling camp failed to restore the National Council of the Judiciary to lawful operation, leading to an increase in judges appointed or promoted through unconstitutional procedures. This raises concerns about potential impunity in corruption cases, particularly those involving individuals connected to the ruling camp, as they might be adjudicated by judges lacking independence.

The situation with the Central Anti-Corruption Bureau (CBA) also remained unchanged. Like previous years, the Bureau continued to be under the complete control of the government and the ruling party. This control compromises the CBA's effectiveness in prosecuting corruption offenses involving individuals linked to the ruling camp, similar to the issues with non-independent judges.

Additionally, the structure and functioning of the prosecutor's office did not see any changes. The continued politicization of the office is largely due to the dual role of the Minister of Justice as the Prosecutor General. This position allows extensive control over line prosecutors, influencing the direction of cases and potentially impacting the detention of individuals. In corruption cases, this is particularly crucial when they involve individuals from the ruling camp or the opposition. Past experiences have shown that this system has often been used to dismiss or delay cases related to the ruling camp or to initiate proceedings against opposition figures.

In anticipation of a possible election defeat in autumn 2023, the ruling camp introduced legal changes transferring several powers of the Prosecutor General to the National Prosecutor, and creating a mechanism that makes dismissing the National Prosecutor difficult or impossible without the President's written consent. Given the President's ties to the ruling camp, this change seems to be a strategy to maintain influence in the prosecutor's office, despite the loss of power in the October 15, 2023 elections. This move not only exemplifies the deepening partisanship within the prosecutor's office, a form of political corruption, but also suggests that the former ruling camp might use this mechanism to continue manipulating cases and maintaining impunity for those associated with them. As of the completion of this report, the new Minister of Justice and Prosecutor General had not yet managed to replace the National Prosecutor.

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

The outgoing ruling camp has not prepared any policy document in the area of counteracting corruption. On the other hand, the parliamentary majority formed after the elections on 15 October 2023 took power only in mid-December 2023, so it was not able to present even a draft of the anti-corruption policy at the time covered by the report, i.e. until the end of 2023.

At this point, it should only be emphasised that Poland has not had an anti-corruption strategy or programme since 2020. On the other hand, the latest government anti-corruption programme for 2018-2020 was assessed very critically by the Supreme Audit Office at the end of 2022, as we reported in a previous report. It should also be pointed out that Poland has not yet implemented more than twenty recommendations of the GRECO from various rounds of evaluation carried out by this organization.

In addition, there are also a number of anti-corruption solutions that have been called for years by civil society organisations and experts – including the reform of the asset declaration system, the proper regulation of the liability of collective entities for corruption offences or the increase in the transparency of policy financing. The creation of a new anti-corruption programme is therefore an important challenge for the new government and the parliamentary majority.

## B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training)

5000 character(s) maximum

In 2023, there were no legal or institutional changes. The problems in this area, signalled in previous reports, still remain valid.

General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)

5000 character(s) maximum

In 2023, there were no significant legal or institutional factors increasing or decreasing the transparency of public life, solving the problem of illegal lobbying, or avoiding conflicts of interest. However, it is worth mentioning a few events at this point.

The first is the publication of a report by the Citizens' Legislation Forum, operating at the Batory Foundation, on the practice of law-making in Poland in the last two years before the elections in October 2023 ([https://www.batory.org.pl/wp-content/uploads/2023/10/Polski.BezLad.Legislacyjny\\_XV.Raport.OFL\\_.pdf](https://www.batory.org.pl/wp-content/uploads/2023/10/Polski.BezLad.Legislacyjny_XV.Raport.OFL_.pdf)). Experts assessing the quality of the legislative process in Poland have stated that it is constantly decreasing. In addition to the well-known phenomenon of by-passing bills, i.e. presenting government bills as parliamentary bills, in order to avoid the obligation to conduct public consultations and speed up the proceeding of bills. It is also worth mentioning that scandalous standards as to the speed of the proceeding of laws were also continued. For example, the extremely important and controversial law to hold the 2020 presidential elections only by post was passed without any consultations, ignoring any objections of the opposition and parliamentary legislators, in just 113 minutes. The report also points out, among other things, that it is difficult for experts, civil society organisations or business organisations to participate in the work of parliamentary committees and subcommittees, although everyone has the right to apply for such participation. There has also been an intensification of the practice of including in bills proposals provisions that completely deviate from the substance of a given bill and amend other legal acts. The report showed

that the Polish law-making system requires urgent and deep reform to make it transparent and accessible to citizens.

The second event worth mentioning here is the problem of the anachronistic system of asset declarations, which recurred in the election campaign to the parliament. This allows you to hide information about the real assets of the most important public officials. As part of the election campaign, it was pointed out that Prime Minister Morawiecki had transferred a large part of his property to his wife and had dropped the community of property as part of the marriage. He was accused of concealing his property – implicitly concealing information that could prove illegal enrichment. Spouses in Poland do not have to disclose their assets, so it is not possible to provide an analysis of the assets of the Prime Minister's wife. It is worth noting this thread because after the October elections, in December 2023, two bills aimed at including spouses in the obligation to submit declarations of assets appeared (one presented by the new parliamentary majority and the other by the Law and Justice party). Unfortunately, these are ill-conceived and fragmentary projects. Meanwhile, the system of asset declarations in Poland requires a comprehensive, deep reform, including, above all, the digitization of declarations, and not only a possible extension of the list of persons obliged to submit them.

Referring to the elections, it is worth noting that during the elections the ruling camp had no fears about abusing state resources to improve its position in the election campaign. A special report on this subject, based on the monitoring of the campaign, was prepared by the Responsible Politics Foundation. The ruling camp organised a referendum on various issues closely related to its electoral programme (a similar mechanism was used by FIDESZ in Hungary in 2022). This required a change in the electoral law, as it had previously not allowed referendums to be held together with parliamentary elections. The referendum questions were also controversial due to their content and close connection with the ruling party's election messages. It concerned the privatisation of state controlled enterprises, the retirement age, the removal of the wall on the Polish-Belarusian border and the admission of immigrants as part of the EU's migration policy. The referendum opened up the possibility for state companies and NGOs controlled and supported by the ruling camp to join the campaign. Under the guise of being involved in the referendum campaign, they de facto supported the ruling camp's campaign, as exemplified by the massive purchase of advertising space by state-owned enterprises. In addition, there were already well-known forms of abuse of state resources, such as obtaining donations from managers of state-owned enterprises, infrastructure and government officials.

Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

*5000 character(s) maximum*

In 2023, there were no legal or institutional changes. The problems in this area, signalled in previous reports, still remain valid.

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

*5000 character(s) maximum*

In 2023, no laws protecting whistleblowers were adopted. Poland invariably remains a country where whistleblowers have virtually no protection. The government's bill implementing EU Directive 2019/1937 on the protection of persons who report breaches of EU law has not only not changed fundamentally from the previous report (it is burdened with the same flaws that we have already pointed out in the 2022 report), but it has not even been sent to parliament. Work on it stopped at the government stage. The new government formed after the October 2023 elections is likely to give up continuing work on this project and present a new one of its own authorship.

At the same time, it is worth noting that in 2023, an attempt was made for the first time to apply the directive directly. An employee of one of the public university, who, in his opinion, was unlawfully dismissed from his job for signalling abuses, weighed the effectiveness of the dismissal before the district court in Toruń, referring to the premises arising directly from the directive and arguing that in the face of Poland's failure to implement it, he was deprived of the protection due to him. By the time the report was completed, only the judgment in the first instance had been issued. It is worth noting, however, that the Toruń court agreed with the whistleblower's argumentation and decided that in the absence of relevant national regulations, the provisions of the directive should be applied directly (ref. no. V P 171/22). If the judgment becomes final, the whistleblower will not only keep his job, but will also be able to seek compensation from the Polish state for the fact that it has fulfilled its obligations under the directive, which exposed him to damage.

Sectors with high-risks of corruption in your Member State:

- Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement
- List other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen /residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

*5000 character(s) maximum*

The list of areas with a high risk of corruption has not changed substantially compared to the reports of recent years. Nor have there been any new solutions that would help counteract corruption, whether in the area of public procurement, the health care sector or other areas prone to corruption.

Any other relevant measures to prevent corruption in public and private sector

*5000 character(s) maximum*

N/A

## C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

*5000 character(s) maximum*

In 2023, there were no legal or institutional changes.  
The problems in this area, signalled in previous reports, still remain valid.

Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible) including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds

*5000 character(s) maximum*

The only available statistics are still the same as in case of the previous report This information is available at the following addresses:

<https://statystyka.policja.pl/st/przestepstwa-ogolem/przestepstwa-gospodarcz/przestepstwa-korupcyjne/122279,Przestepstwa-korupcyjne.html>

<https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-10/63537,Lapownictwo-bierne-art-228.html>

<https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-10/63538,Lapownictwo-czynne-art-229.html>

<https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-10/63541,Platna-protekcja-art-230-i-230a.html>

<https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-10/63570,Naduzycie-wladzy-art-231.html>

<https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-17/63915,Naduzycie-zaufania-art-296.html>

<https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-17/63917,Korupcja-gospodarcza-art-296a.html>

Again, some more detailed data on the prosecution of corruption crimes and control activities are published only by the CBA. However, the Bureau, as it was mentioned above, deals with only a small percentage of the total number of corruption crimes identified in Poland.

<https://cba.gov.pl/pl/o-nas/informacja-o-wynikach>

The available data also refer in most cases to 2020 or 2022 at best.

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

*5000 character(s) maximum*

In this part, it is worth mentioning, above all, the so-called "visa scandal", which broke out at the turn of July and August 2023, during the ongoing parliamentary election campaign. The media revealed that for several years the Ministry of Foreign Affairs has not exercised effective control over the process of issuing visas to Polish, as well as visas to the Schengen Area. As a result, intermediary companies participating in the visa process from various countries, mainly in the Middle East, Africa, Asia, and India, facilitated obtaining visas in exchange for bribes. It is very likely that officials of the Ministry and other public officials also took part in the process. After the it was revealed in the media, the Deputy Minister of Foreign Affairs, Piotr Wawrzyk,

suddenly lost his position. However, neither the Prime Minister nor the Foreign Minister explained to the public the reasons for this dismissal. No charges have been brought against the Deputy Minister. At the same time, four less important people associated with the ministry were detained and several officials were dismissed. The ruling camp has tried to downplay the scandal, claiming that an investigation has been conducted in connection with this case for a long time, in which no more than two or three hundred cases of issuing visas for a bribe have been found. Experts and journalists estimated that hundreds of thousands of visas could have been issued in violation of the law within a few years. However, the ruling majority did not agree to the appointment of a parliamentary investigative committee to investigate the scandal, and the ad hoc audit initiated by the Supreme Audit Office in connection with this case was depreciated in the government media, calling it a political action. It was only after the October 2023 elections, in December, that the new majority established such a commission. At the time of completion of this report, however, it has not yet started operations. Undoubtedly, this is the biggest corruption-tinged scandal to erupt in 2023, which also had an impact on the outcome of the election.

<https://notesfrompoland.com/2023/09/15/seven-charged-in-visa-scandal-engulfing-polish-government/>

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

*5000 character(s) maximum*

As in case of criminal data, there are no up-to-date sources to answer this question.

Other - please specify

*5000 character(s) maximum*

N/A

### III. Media pluralism and media freedom

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Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

*5000 character(s) maximum*

N/A

#### A. Media authorities and bodies

*(Cf. Article 30 of Directive 2018/1808)*

Measures adopted to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

*5000 character(s) maximum*

In 2023, there were significant changes concerning the impartial functioning of the National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji). This year the NBC political bias, that has been visible also in the previous years, resulted in maximum penalties imposed on two leading private broadcasters for their critical coverage of the government's actions.

In April 2023 the Chairmen of the NBC issued a decision imposing a fine of PLN 80,000 (€17,680) on Radio Tok FM (a part of Agora media corporation) for the critical comments made by one of its journalists concerning the new school handbook "History and the present" (Historia i Teraźniejszość). The handbook ordered by the Ministry of National Education was strongly criticized for its conservative and discriminatory approach. The TOK FM editor-in-chief expressed concerns that the fine might be used by the NBC as an argument against the renewal of the radio broadcasting license. Eventually, after 9 months of waiting for the renewal decision, the NBC decided to prolong the broadcasting license of the Radio.

In August 2023, the Chairman of the NBC issued a decision imposing a fine of PLN 476,000 (approximately €107,300) on Radio ZET. Radio Zet published a material informing about American services' lack of confidence in the Polish services during an organization of the transport of the Ukrainian President in Poland. According to the NBC this material was contradictory to the Polish *raison d'etat*.

Furthermore, in March 2023, the Supreme Administrative Court ruled that the NBC "grossly violated the law" by delaying issuing the decision on prolonging the broadcasting license of one of the private TV station. TVN 7 applied for the renewal of the license a year earlier whereas the final decision was issued only 6 days before the former decision expired.

#### Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

*5000 character(s) maximum*

In 2023, the Ombudsman appealed to Elżbieta Witek, the Speaker of the Sejm, to initiate the implementation of the Constitutional Tribunal's 2016 judgment regarding the competencies of the National Media Council (NMC) and the National Broadcasting Council (NBC).

In 2016, the Polish Parliament passed the Act on the National Media Council, which shifted some of the NBC's responsibilities, particularly in appointing public media management, to the newly established NMC. The Constitutional Tribunal deemed the exclusion of the NBC in this appointment process unconstitutional. Despite this ruling, the Parliament had not acted on the judgment for nearly seven years.

In December 2023, following the formation of the new government, the e Minister of Culture and National Heritage commenced a process to alter the management of public media. Using provisions from the Commercial Companies Code, the Minister dismissed the supervisory boards and heads of public media. These actions were widely debated regarding their legality. The Helsinki Foundation for Human Rights (HFHR) expressed "serious legal concerns" about these measures. HFHR highlighted that appointing public media management by a government member contravenes the Council of Europe's standards.

In response to these developments, President Andrzej Duda vetoed legislation that would have increased the national media's budget. Consequently, the e Minister of Culture and National Heritage initiated the liquidation of Public TV, Public Radio, and the Polish Press Agency. The Ministry justified this move as a way to ensure media operation and facilitate needed reorganization without resorting to mass layoffs of employees.

#### Existence and functions of media councils or other self-regulatory bodies

*5000 character(s) maximum*

N/A



## B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

*5000 character(s) maximum*

N/A

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

*5000 character(s) maximum*

No legislative changes that increase the independence of the media from political influence took place. However, elections and the change in the public media, which has been criticized as legally questionable, has triggered an acceleration in civic work around public media reform. All drafts stress the independence of these media from politicians.

A topical issue is press publishing by local governments. In 2023, this topic was repeatedly discussed in the community of independent local media publishers. Towards the end of the year, publishers of local media began to call for the inclusion in the Local Government Act of a ban on local governments of all levels, their affiliates, subsidiaries, foundations - the press as defined in the press law. <https://www.press.pl/tresc/79474,lokalne-media-niezalezne-slabo-odrozniane-od-mediow-samorzadowych>

In addition, in June 2023 the editor-in-chief of one of the leading news portals, "Wirtualna Polska", published a column informing about alleged efforts to influence the outlet's editorial independence by state actors. According to the article, after Wirtualna Polska began publishing investigative reports, a state-owned company made an offer to acquire the portal. As the offer was rejected, another offer was allegedly made, that of business cooperation – which was also rejected. Afterwards a head of a state institution allegedly suggested to a member of the board of the portal's publisher which specifically named journalists should be fired and hired. According to the column, once all such offers were refused, a state regulator issued seven requests relating to their various business activities of the portal's publisher in a single week, a few days only after the head of the state agency expressed dissatisfaction with Wirtualna Polska's editorial line.

Also in June 2023, an editor-in-chief of another news portal, Onet, had published an article describing similar attempts. According to the article, a person close to the government had suggested in a conversation with the editor-in-chief that Onet hire a new deputy editor-in-chief to represent the government's viewpoint, who would directly report to the portal's management board rather than the editor-in-chief.

On 28 June 2023, the editors-in-chief of 67 media outlets in Poland issued a joint declaration denouncing the pressure reported by Wirtualna Polska and Onet as latest efforts to restrict the independence of Polish media.

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

*5000 character(s) maximum*

In 2023, the Helsinki Foundation for Human Rights (HFHR) released a report titled "From the Regional Press to Orlen Press" (<https://hfhr.pl/en/news/from-the-regional-press-to-orken-press>). This groundbreaking study analyzes journalistic freedom and freedom of speech in regional media following the acquisition of Polska Press by the state-owned company Orlen. The report, drawing on interviews with current and former Polska Press journalists, identifies five key trends that threaten journalistic freedom post-acquisition. Notably, it highlights practices favoring the former ruling party, Law and Justice, and its politicians in editorial coverage.

The interviewed journalists also reported the practice of marginalizing political opposition in media coverage and limiting reporting on topics that could be detrimental to the former ruling majority. Additionally, the study uncovered instances of significant editorial interference in journalists' work and a concerning proximity between editorial management and politicians linked to the former ruling majority.

Furthermore, in 2023, the Supreme Audit Chamber released a report on its audit of Public TV finances. The Chamber's report revealed numerous legal and fiscal management violations within the public broadcaster. The report from the Chamber stated, "The scale of the irregularities, their financial dimension, and their nature, which suggests a likelihood of recurrence, preclude a positive assessment of the state station in the audited areas."

## C. Framework for journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

*5000 character(s) maximum*

In 2023, the Polish Parliament passed the Act on a commission "to Investigate Russian Influence." This law, widely known as Lex Tusk, was perceived as primarily targeting the opposition leader, but it also raised concerns among media and civil society organizations about potential impacts on media freedom. The legislation grants the commission the power to summon journalists, override their professional confidentiality (including the protection of sources), and initiate criminal proceedings against journalists. The former deputy Minister of Defense commented that "many journalists operating under Russian influence should be summoned by the Commission."

Following the parliamentary elections in 2023, the members of this commission were dismissed by the Parliament. Representatives of the new governing majority declared their intention to appoint new members to the commission and to redefine its scope of work.

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

*5000 character(s) maximum*

In March 2023, the European Court of Human Rights communicated a case involving two Polish journalists, Maciej Moskwa and Maciej Nabrdalik, to the Polish government. The case arose while the journalists were reporting on the humanitarian crisis at the Polish-Belarusian border, where they experienced harassment by soldiers, including being aggressively stopped, handcuffed, and searched. Notably, no investigation into this incident was initiated.

In their application to the ECHR, the journalists cited violations of several articles of the European Convention on Human Rights: Article 5, concerning the right to liberty and security; Article 10, relating to freedom of speech; and Article 13, which guarantees the right to an effective remedy.

Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

*5000 character(s) maximum*

The Act on the access to public information did not undergo any changes in 2023, although it was a topic often raised by journalists who criticized the way how the law is implemented. The problem continues to be the use of legal opportunities to continually delay answers, the need to appeal to the courts, lengthy court proceedings and the lack of oversight and data on the situation. In 2023, the Citizens Network Watchdog Poland issued a Report on the State of Openness, which summarizes the situation over the years [https://siecobywatelska.pl/wp-content/uploads/2023/12/raport\\_2023.pdf](https://siecobywatelska.pl/wp-content/uploads/2023/12/raport_2023.pdf)

A more proactive sharing of information could be a certain solution. However, it also encounters obstacles, e.g. the date for the entry into force of a central contract registry, which could show how the finances of public finance sector entities look, has been delayed. The latest effective date for launching such a registry is 2026. (<https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20230001723>, Article 36 of the Amending Law).

A group of experts has been working at the Ministry of Finance to prepare new solutions, established by an Order of the Minister of Finance <https://www.gov.pl/web/finanse/zarzadzenie-ministra-finansow-z-dnia-5-pazdziernika-2023-r-w-sprawie-powolania-zespolu-do-opracowania-wstepnej-koncepcji-rejestru-umow-jednostek-sektora-finansow-publicznych>). And although the provisions of the preliminary new concept are not yet ready, all indications are that, according to the new proposals, the range of contracts available in the register will be significantly reduced compared to the previous solutions. The solutions sought by Polish organizations are already known in many EU countries, such as the Czech Republic, Slovakia, Bulgaria, Hungary and Spain. Read more about this topic [https://www.youtube.com/live/mci\\_02NsEFk?si=UTAiDF1ddNYU1slj](https://www.youtube.com/live/mci_02NsEFk?si=UTAiDF1ddNYU1slj)

Another topic that the Citizens Network Watchdog Poland 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. At the time of the pandemic, the realization of this right was very limited due to the remote mode of deliberation of many bodies - this problem was especially true of meetings of municipal councils.

Municipalities have dealt with these challenges differently, especially in the spring and summer of 2020. - The transition to a remote mode proved to be an uneven process, generating conflicts and conflicting interpretations of the law. However, while the pandemic situation was a surprise, and making mistakes in ensuring the implementation of constitutional rights was inevitable, it took years in individual cases. And what's more, as late as 2023, when the pandemic state was formally in force but public life had returned to

normal, still 13% of a drawn representative sample of municipalities were holding such sessions.  
[https://backend.sprawdzamyjakjest.pl/media/annotations/mission/report\\_file/raport\\_zdalnie\\_czy\\_realnie.pdf](https://backend.sprawdzamyjakjest.pl/media/annotations/mission/report_file/raport_zdalnie_czy_realnie.pdf)

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

*5000 character(s) maximum*

In 2023, the District Court in Hajnówka sentenced a journalist who commented on the works of the Border Guard in the context of the humanitarian crisis on the Polish-Belarusian border. The journalist stated that the Border Guard officers "who forbid the delivery of water and prevent migrants' access to doctors can attach SS patches to themselves".

Another example of a SLAPP relates to an article published in the environmental magazine Zielone Wiadomości on 18 August 2022 by Nawojka Ciborska, a member of the collective of environmental activists "Bombelki". The article reported on a protest by "Bombelki" against plans by Gaz System S.A., the state-owned company operating Poland's gas network, to build a terminal for natural gas delivered by sea. The article criticised the Gaz-System's plans to build a LNG terminal in Gdansk, indicating that gas has a significant impact on global warming and for this reason fossil gas should not act as a transition fuel towards decarbonisation. The article also quoted an unnamed activists saying that "Gas is a dangerous fossil fuel that we need to move away from, not invest in (...) Gaz-System are a bunch of criminals who are pushing us straight to disaster for their profits." In response to the article, on October 28, 2022 Gaz System has filed a defamation lawsuit against both the author of the article and the publisher of the magazine. The plaintiff demands an apology and 20 000 PLN compensation (c.a. 4500 euro). The case is currently pending before the District Court in Warsaw.

Other - please specify

*5000 character(s) maximum*

N/A

## IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

*5000 character(s) maximum*

N/A

### A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

[1] This includes also the consultation of social partners

*5000 character(s) maximum*

Poland has so far failed to meet the milestone declared in the National Recovery Plan on improving the quality of the legislative process (F 2.1). The original implementation deadline has been postponed from September 2022 to January 2023. As of the date of the opinion, the work has not formally started. Meanwhile, as we will show below, there are serious problems with the transparency and inclusiveness of the legislative process in Poland.

The work of MPs from first to third reading on many bills - in the fourth year of the parliament term (2023) on 52 (out of 166 passed - one-third) - took less than three days. This means there was no time allowed for a broader discussion, listening to stakeholders, and hearing expert opinions.

In 2023, the Sejm adopted the government's draft law on the Agricultural Protection Fund in 10 hours and 7 minutes, although it introduced a state aid mechanism for agricultural enterprises that should have been notified to the European Commission, which was not the case. In less than 24 hours, the Sejm adopted a controversial amendment to the referendum law tabled by a group of Law and Justice MPs so that it could be held on the same day as elections to the Sejm and Senate.

In the fourth year, of the 127 government submissions, at least 36, or 28 %, were not consulted at all or were consulted for less than 14 days.

When a highly controversial project is submitted to the Sejm or when it has not been properly consulted, a substitute for consultation can be the organisation of a public hearing. Opposition MPs have repeatedly requested such a hearing. The parliamentary majority rejected these requests. This is why the Sejm has only agreed to organise three hearings in the current legislative term; two in 2022 and one in 2023. Two at the request of KO MPs and one by Confederation and Law and Justice MPs.

There has appeared a problem with so-called "riders" to laws at the parliamentary stage, which involve the insertion, usually at an advanced stage of the legislative process, of provisions relating to completely different areas than regulated by the underlying bill. This practice further limits the possibility of effective civil society participation in the law-making process. In such instances, civil society representatives are surprised by the changes, leaving no time to formulate substantive opinions. There has been an increase in this lawmaking practice, particularly before the end of the parliamentary term.

This situation was exemplified in the case of an amendment to the draft Act on Export Insurance Guaranteed by the State Treasury and Certain Other Acts (print no. 3458). During a meeting of the joint Committee on Public Finance and the Economy and Development, a rider amendment was introduced concerning the pharmaceutical market. This amendment proposed changes to the Pharmaceutical Law, specifically altering the operational rules for pharmacies.

Opposition MPs raised significant concerns about the relevance of this amendment to the underlying subject of the draft act. Parliamentary legal advisors also expressed reservations, noting that the content of the amendment greatly surpassed the scope of the main law under discussion by the committee. Despite these objections, the rider amendment was included in the bill, which was subsequently forwarded to the Senate and the President for approval. Further details on the legislative process from 2019 to 2023 can be found here <https://www.batory.org.pl/publikacja/polski-bezlad-legislacyjny-raport-obywatelskiego-forum-legislacji-z-prac-ix-kadencji-sejmu/>

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

*5000 character(s) maximum*

The Rules of Procedure of the Government, Sejm, and Senate include provisions that, in certain circumstances, allow for the expedited drafting of legal acts without undergoing the full legislative process.

According to Articles 98 and 99 of the Rules of Procedure of the Council of Ministers, the government can utilize a special procedure known as the 'separate procedure'. This is initiated when the ministers preparing a bill apply to the Prime Minister. The Prime Minister may approve its use when 'the importance or urgency of the matter requires immediate resolution by the Council of Ministers'. With this approval, government projects can bypass or abridge nearly all stages of the legislative process, except for the mandatory 'consideration by the Council of Ministers'. This often leads to the skipping of public consultations.

In 2023, this separate procedure was used to enact 24 laws, constituting 19% of the total. Additionally, there were seven bills that did not undergo government consultations, even though the separate procedure was not formally applied for during the relevant legislative processes.

During the final year of the 2019-2023 legislative term, several bills were processed in a separate mode without clear justification, other than the upcoming elections. For instance, the bill amending the law on state aid in child upbringing increased the child allowance to PLN 800. Another bill, amending the Act on toll motorways and the National Road Fund, introduced free tolls on certain motorways starting summer 2023. The use of the extraordinary procedure was often vaguely justified as "the need to urgently amend the law". For example, the rationale for the latter bill was described as: "given the urgency of the changes underway and their positive impact on citizens and other highway users."

In the Sejm, the equivalent of the separate procedure is the urgent procedure. Article 51 of the Sejm's Regulations allows, in specially justified cases, for the legislative proceedings to be expedited, moving bills immediately to subsequent stages after MPs receive the bill documents. In the third year of the 2019-2023 legislature, this urgent procedure was employed 15 times, but in the fourth year (2023), it was used only three times, all for projects aimed at averting an energy crisis.

However, the Sejm more frequently shortens legislative work without formally invoking the urgent mode. Articles 37(4) and 44(3) of the Sejm's Rules of Procedure enable MPs, typically the parliamentary majority, to reduce the time between a bill's introduction and its first reading, as well as between successive readings. In 2023, this approach was used for 19% of the drafts.

## Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight

*5000 character(s) maximum*

There is currently no declared state of emergency. There has also been no change in regulation in this area. However, problems occurred in earlier years and included unlawful restrictions of rights and obligations during the COVID-19 pandemic (the government did not declare a state of emergency, but restricted rights on the basis of regulations of the Council of Ministers) and in the case of the intensive flow of immigrants on the border between Poland and Belarus. Both cases are described in the contributions to the 2021 and 2022 reports.

## Regime for constitutional review of laws

*5000 character(s) maximum*

The crisis at Poland's Constitutional Tribunal is intensifying monthly. The new government is contemplating reforms, including the dismissal of three individuals who were illegitimately appointed to already filled judicial seats. Concurrently, on February 15, 2023, the European Commission lodged a complaint with the EUJC,

accusing Poland of violating the EU's legal framework and infringing upon EU citizens' rights with its judicial decisions ([https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_842](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_842)). The Commission specifically challenges the legitimacy of the substitute judges and Julia Przyłębska's role as the Tribunal's President.

In 2023, internal conflict within the Tribunal escalated. Several judges questioned Julia Przyłębska's legitimacy as President and boycotted hearings she attended. This included the case on reforming disciplinary proceedings against judges (Kp1/23), which aimed to comply with the National Recovery Plan's conditions. Despite initial resistance, some dissenting judges attended a December hearing, resulting in a ruling that declared the disciplinary proceedings reform unconstitutional.

Similarly, in December 2023, the Tribunal, in a full session, ruled that the CJEU's imposition of periodic financial penalties or a lump sum was unconstitutional (K 8/21).

In total, the Constitutional Tribunal delivered 25 judgments in 2023, slightly more than in 2022. These included 15 constitutional complaints (individual citizens' cases), six legal questions (from courts), one case following a complaint by the President, and three from other state bodies.

The former government continued to use the Tribunal for its purposes. In a dispute over public media, following a Law and Justice MPs' motion, the Tribunal issued an unlawful safeguard preventing the Minister of Culture from implementing media reforms (K29/23).

The current government aims to initiate Tribunal reforms in January 2024. A key part of this plan involves adopting a new law on the Constitutional Tribunal, based on a proposal by the Stefan Batory Foundation's Legal Expert Team (<https://www.batory.org.pl/publikacja/spoleczny-projekt-ustawy-o-trybunale-konstytucyjnym/>). The government also plans to pass resolutions to stop the three judges who were unlawfully appointed from performing their duties.

## B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

5000 character(s) maximum

The Ombudsman (Rzecznik Praw Obywatelskich) is one of the key actors for the protection of civil liberties in Poland. Since its establishment the institution has played an important role as an independent actor responsible for the protection of citizens against violations of their rights.

The Ombudsman performs his duties with the support of three deputies. The Ombudsman Office has approximately 300 employees, many of which are experienced and high qualified legal specialists. Its main location is in Warsaw but it also has field representatives in three major cities (Gdańsk, Katowice and Wrocław). Since 2021 its financial situation has improved, yet the Ombudsman still perceives the institution's budget as inadequate comparing to its duties.

In the years 2015-2021 (at the time when Adam Bodnar was holding the office) the institution served not only as a protector against human rights breaches. It also played an important role as an independent legal authority loudly protesting against threats to the rule of law posed by unconstitutional and illegal reforms introduced by the ruling majority.

Since 2021 the Ombudsman Office has been held by Marcin Wiącek. The Office has continued its mission of citizen protection, processing a record-high number of complaints. Yet, Marcin Wiącek has been criticized for

the lack of a clear and decisive position on violations of the principles of legal order in the area of judiciary. At the turn of 2022 and 2023 the Ombudsman dismissed his deputy, Hanna Machińska, a distinguished human rights activist. This decision aroused protests among the legal circles and civil society organizations since it was interpreted as a step towards weakening the potential of the Office to protect human rights effectively.

The Polish Supreme Chamber of Control (NIK) serves as an independent state audit institution. NIK assesses the functioning of the state and the management of public funds, and its main task is to control the activities of government administration bodies, the National Bank of Poland, state legal persons, and other state organizational units. The Chamber also controls the activities of local government bodies, communal legal persons, and other communal organizational units. Additionally, NIK can also control the activities of all other entities, to the extent that they use state or communal funds and fulfill financial obligations to the state.

NIK has almost 1600 employees. Its main office is located in Warsaw but it also has its field offices in 16 cities which are provincial capitals (Białystok, Bydgoszcz, Gdańsk, Katowice, Kielce, Kraków, Lublin, Łódź, Olsztyn, Opole, Poznań, Rzeszów, Szczecin, Warszawa, Wrocław, Zielona Góra).

As we can read in the recent NIK report, in 2022 the Chamber held 1896 controls in 1558 entities. It revealed financial and reporting irregularities reaching 20 billion PLN. The Chamber submitted 250 complaints to law enforcement agencies.

In 2023 the Chamber played an important role in pointing out the irregularities in public administration and other entities. In the recent year NIK launched important reports regarding the following problems:

- financial condition and irregularities in the public television (Telewizja Polska SA),
- weakness of the Polish civil defense system,
- institutional causes of the environmental disaster in the Oder River in 2022
- the so-called 'grain scandal' on the Polish agricultural market.

The Chamber's contributions have certainly had an important role in the public discourse, contributing to the debate on the important issues in Polish politics and public policy.

Yet, the Chamber has also experienced several violations to its independence. As pointed out in the international SGRAM report, NIK has been subject to various obstacles, regarding: threatening the independence of the Chamber's personnel, obstructing inspections, limiting NIK's access to the necessary documents and information. The Chamber itself was also alarmed that reducing its budget in 2023 might threaten its financial independence.

However, the Chamber's President, Marian Banaś, also contributed to the weakening of the institution's perceived independence. In July 2023 Banaś held a press conference hand to hand with Sławomir Mentzen, one of the leaders of far-right political party Konfederacja, which was interpreted as the President's support for this political group in the upcoming electoral campaign.

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

*5000 character(s) maximum*

N/A

## C. Accessibility and judicial review of administrative decisions



Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

*5000 character(s) maximum*

N/A

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

*5000 character(s) maximum*

N/A

Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

*5000 character(s) maximum*

N/A

Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non-implementation

*5000 character(s) maximum*

N/A

## D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

*5000 character(s) maximum*

Poland's Civil Society Organization (CSO) legal framework remained unaltered in 2023. According to the law, registration courts have seven days to review an application to establish an association or foundation. However, the process often takes many weeks. Inconsistent jurisprudence causes some courts to question provisions in organizational articles of incorporation, which further prolongs the process. Meanwhile, companies and other private enterprises receive fast-track registration.

Mid-2021 saw the introduction of online registration of CSOs with the court, allowing for the evaluation of this new system's effectiveness in 2022 and 2023. Unfortunately, the new registration procedures failed to address longstanding registration issues, and in some regions of the country, the process to register a new organization remained lengthy. Additionally, both registration and online reporting proved challenging for small CSOs and those with members who lack digital access.

The standard annual reporting requirements for organizations 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 using electronic signatures, which costs several hundred zloty per year. This presents a particular burden on smaller organizations with limited budgets and capacity. Only CSOs that did not employ a single person (even at minimum wage) in the reporting year are exempt from this requirement.

Given the difficulties associated with registering and reporting, an increasing number of community initiatives are eschewing formal legal status and operating as non-registered structures instead. This trend has accelerated due to increased public funding available to such initiatives over the past several years, as well as the development of social media and crowdfunding tools.

In 2023 work was finalized on the Family Foundation Act. CSOs criticized the name of the proposed new legal form as misleading since family foundations are not civic organizations; their purpose is to organize succession in large companies and ensure the continuation of business operations. Despite appeals from CSOs, the government did not change the name and the measure ultimately passed into law in early 2023.

Work on an NGO reporting bill introduced in 2021 continued throughout 2023. However, no further consultations have been organized with CSOs to verify tenets of the bill. The draft provides for a major expansion of CSO oversight, granting broad supervisory powers to the Chairman of the Committee for Public Benefit, the government body responsible for coordinating policies concerning CSOs. In addition, work was still ongoing on a parliamentary bill regarding the transparency of NGO funding, which introduced during the 2022 parliamentary term. The bill would have required CSOs to maintain registers of contributions, contracts, and disclose information on support received, sources of project funding and other income, as well as costs and types of implemented activities. The law further proposed new reporting obligations, especially for the largest organizations and entities receiving support from abroad. Work on both bills has not been concluded as of the end of the Sejm's term and therefore both bills were subject to discontinuation.

The latter half of the year also presented an interesting example of how the Referendum Law can benefit CSOs. The law allows NGOs with appropriate statutory purposes to register with the National Electoral Commission (Państwowa Komisja Wyborcza, PKW) as entities entitled to officially conduct a referendum campaign. A group of CSOs effectively utilized these provisions; after completing a relatively straightforward administrative process, they gained the right to apply for free airtime on national and regional public media.

However, it's important to note that exercising this entitlement required submitting additional applications to each of the numerous CSOs, often using different templates and, in many cases, necessitating the submission of documents in person at the CSOs' offices across the country. This procedure constituted a significant inconvenience for many CSOs.

Despite these challenges, the referendum spots, which highlighted calls against human rights violations, were broadcast on public media and received wide promotion. An example can be found here: [https://youtu.be/Tq-1nOfbDGw?si=Dk5TzTpyg6iZxng\\_](https://youtu.be/Tq-1nOfbDGw?si=Dk5TzTpyg6iZxng_).

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services

*5000 character(s) maximum*

There were no legislative changes in this area. CSOs have successfully opposed potentially harmful changes proposed in preceding years (see above).

CSOs objected to planned legal amendments to the tax on donations. The respective regulation was called a "group donation fundraising tax" and 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 (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)). This action undertaken by CSOs was successful and the amendments were finally abandoned by the government back then.

Civil society successfully prevented the adoption of amendments to the Act on Civil Protection and the State of Disaster in January 2023, which were seen as detrimental to human and civil rights protection. The proposed bill allowed government authorities to issue binding orders under a state of emergency, directed at local government authorities and companies, among others (as per Article 35 of the draft). These proposed measures violated fundamental principles of the Polish Constitution.

Firstly, the bill allowed for the issuance of these orders outside the states of emergency as defined in the Constitution. Secondly, unlike in a state of natural disaster where actions are limited to preventing emergency effects, the scope of these orders was not confined.

Additionally, the draft law permitted uniformed service officers, who were executing the aforementioned orders, to "issue orders to persons to behave in a certain way." This aspect was problematic for two reasons. Firstly, it enabled officers to limit citizens' rights and freedoms without declaring a constitutional state of emergency. Secondly, the provision did not specify the nature of the orders, thereby granting officers discretionary power to determine which civil rights and freedoms to restrict and how to do so. (see: <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/>).

Although the state of emergency that the government established at the Polish-Belarus border area, which significantly restricted civil liberties, including media access and the activities of CSOs, has been mostly lifted as of July 2022, CSOs and independent groups that had previously aided migrants in the area continued to deal with prosecutions and lawsuits throughout 2023. In most of these cases, which have already been resolved, however, the courts decided in favour of the CSOs, pointing out the illegality of border guards' actions.

Regardless of these rulings, CSOs and civil society representatives remained actively engaged near the Belarusian border. Faced with the government's anti-refugee stance and inhumane policies until October 2023, their focus was primarily on providing aid in the border regions, often in life-saving efforts. Concurrently, it's important to recognize that since 2021, both national and international human rights monitoring institutions, along with CSOs offering legal and humanitarian assistance in these border areas, have consistently emphasized the need to remove provisions from Polish law that violate the principle of non-refoulement for individuals crossing the Polish border.

The practice of pushbacks, targeting individuals crossing the Polish-Belarusian border, is embedded in the Polish legal framework. This practice is upheld through the establishment of service relationships (in the form of orders and official instructions), the enforcement of the Ordinance of the Minister of the Interior and Administration dated March 13, 2020 (which temporarily suspends or restricts border traffic at certain crossings), and the amendments to the Act on Foreigners in 2021.

In February 2023, the European Commission chose to close the infringement procedure against Poland regarding the so-called "LGBT-free zones," despite the Polish government not providing a satisfactory response to the Commission's inquiries in this matter. At that time, even though there was a gradual repeal of these zones by various local governments, a significant portion of the country still had such zones in effect. At the point of the Commission's decision, around three quarters of the originally established zones

remained active. However, there was progress in the latter part of the year, with local authorities continuing to amend relevant resolutions, a process that advanced through the end of 2023.

Such resolutions are still in force in only a few municipalities and districts (see <https://atlasnienawisci.pl/>). However, two cases against activists who created the Atlas of Hate website containing a map showing the 'LGBT-free zones', are still pending before the Regional Court in Nowy Sącz and the Regional Court in Łódź - filed by the local governments presented on the map.

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

*5000 character(s) maximum*

In the year leading up to the October 2023 elections, there were no legal changes in the area of public funding for Civil Society Organizations (CSOs), including Government-Organized Non-Governmental Organizations (GoNGOs). However, the implementation of existing laws significantly worsened, with more public funds being directed towards GoNGOs and CSOs active in areas of political interest to the ruling party. This trend appeared to be incentivized by the upcoming elections.

Significantly, several legal proposals introduced in 2022 loosened the rules for transferring public money to CSOs. Amendments to both the Law on Public Benefit Activity and Volunteering and the Law on the Protection of National Heritage included provisions that allowed central authorities to allocate funds without considering the recommendations of competition committees. Consequently, there was an observed increase in selective funding distribution by various ministries to entities aligned with them ideologically or even personally.

This preferential support was not only used to favour political allies but also to finance a referendum campaign that coincided with the general voting day. The campaign supported the narrative of the United Right and was seen as a strategy to secure a sustainable future for political allies in the event of an election loss.

For instance, in the referendum campaign that coincided with the election campaign, the Foundation for the Development of Economy and Innovation from Lublin, which received substantial public funding and was established by activists of the ruling party, spent two million zlotys (approximately €450,000) on advertisements. These advertisements promoted participation in the referendum alongside the election in a way that aligned with the preferences of those in power. (see: <https://jawnylublin.pl/fundacja-dzialaczy-pis-z-lublina-w-tydzien-wydala-milion-na-kampanie-referendalna/>).

"Villa Plus" is a significant scandal that erupted over sweetheart and large-scale grants for real-estate purchases, allocated based on the Minister of Education's political sympathies (e.g., Onet News report: <https://wiadomosci.onet.pl/kraj/willa-plus-wyjasniamy-co-chodzi-w-glosnej-aferze-wokol-ministra-czarnka/cxz1fll>). In 2023, there was also a marked increase in various forms of support for rural homemaker clubs, a legal entity established under a new law by the United Right government.

Further controversy surrounded the politicized allocation of the Justice Fund, controlled by the Minister of Justice. Grants from this fund were used not only for self-promotion and organizing election meetings by members of the party led by the Minister of Justice but also for supporting organizations. After the October 15 elections, it was revealed that substantial grants, amounting to millions of PLN, were allocated to organizations ideologically aligned with the ruling party and the Catholic Church, despite their activities being only loosely related to the fund's intended purpose.

In response, the new Minister of Justice, in January 2024, suspended payments from the Justice Fund to a total of 112 entities, amounting to PLN 79,770,098.59. This decision was a significant move to address the fund's controversial disbursement practices.

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

*5000 character(s) maximum*

In 2023, at the central level, the government frequently bypassed the obligation to organize public consultations by submitting draft laws as parliamentary bills. On the rare occasions when consultations were held, they were often superficial, with very limited time for stakeholders to provide feedback. Moreover, suggestions submitted during these consultations were generally overlooked and not incorporated into the legislative process.

Additionally, bodies designed for civil dialogue proved to be merely tokenistic. For instance, committees responsible for overseeing programs implemented by the National Freedom Institute (Narodowy Instytut Wolności, NIW) were increasingly sidelined. This marginalization partly resulted from the dispersion of responsibilities among various bodies, including the Steering and Monitoring Committee, the NIW Council, the Public Benefit Committee, and the Committee's Chairman. Another factor was the staffing of these bodies with organizations aligned with the ruling party, whose appointments were politically influenced.

However, following successful advocacy by the National Federation of Polish NGOs, representatives concerned with fundamental rights were included in the monitoring committees for EU funds. Subsequently, work commenced on establishing the committees' rules of procedure and practically implementing the principles for organizational participation. The NGO community organized itself, providing recommendations on structuring such collaborations effectively. (see: <https://ofop.eu/postulaty-i-rekomendacje-wypracowane-w-ramach-obywatelskiego-kongresu-komitetow-monitorujacych/>).

The National Federation of Non-Governmental Organizations also sought to implement fast-track registration of associations. It presented a petition to the parliament and received a reply that such a legislative path would be initiated (see: <https://ofop.eu/odpowiedz-na-petycje-ofop-ws-szybkiej-rejestracji-stowarzyszen/>). The matter was not completed in the previous parliament and is expected to be one of the first demands from civil society after the elections.

## E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.)

*5000 character(s) maximum*

In September 2023, before the elections, the Batory Foundation released a report titled "Assessment of the State's Resilience to Abuses of Power. 2023 Edition." This report, drawing on the insights of a ten-expert panel, analysed key state institutions (including the parliament, government and civil service, prosecutor's office, judiciary) and civil society organizations. The focus was on their resilience to corruption and other abuses of power, and their capacity to counteract these issues. The assessment methodology employed was based on Transparency International's achievements and the National Integrity Systems, an analytical tool developed by this organization.

The report's findings were highly critical. The government received the lowest rating due to numerous corruption scandals involving top government officials, the politicization of the civil service, and the absence of a coherent anti-corruption policy. This report attracted significant media attention and public interest during the election campaign, contributing to a deeper discussion on corruption and governance quality in Poland.

See: [https://www.batory.org.pl/wp-content/uploads/2023/12/Ocena.odpornosci.-panstwa\\_Edycja.2023.pdf](https://www.batory.org.pl/wp-content/uploads/2023/12/Ocena.odpornosci.-panstwa_Edycja.2023.pdf)

Civil society organizations have actively engaged in initiatives to educate the public about electoral integrity principles and the importance of scrutinizing election campaign conduct through both public and civic lenses. The Committee for the Defence of Democracy (KOD) set up a nationwide system to mobilize and recruit over 20,000 observers for all Polling Election Committees (PECs) across the country. KOD also organized an alternative vote count for the elections under the Civic Control of Elections initiative (See: <https://okw.info.pl/>). This effort was bolstered by a campaign urging citizens to participate in election day observation (See: <https://ruchkod.pl/wybory-bez-picu-akcja-ruszyla/>).

The Institute of Public Affairs (IPA) focused on identifying potential threats to election fairness by organizing expert seminars, authoring policy papers, and engaging in dissemination activities. These efforts were aimed at elevating public discourse to ensure elections meet democratic standards (See: <https://www.isp.org.pl/pl/dzialania-isp-dotyczace-wyborow-i-finansowania-polityki>). The IPA also conducted training sessions for citizen observers to identify threats to election integrity and transparency.

The Rural Support Foundation (Fundacja Wspomagania Wsi) launched an initiative to educate rural residents, particularly young people, about electoral rights and the election process ("5 X – I'm voting"). Meanwhile, the Responsible Politics Foundation introduced the concept of "abuse of state resources" in election campaigns and carried out activities to inform the public about the various stages of the electoral process.

#### Other - please specify

*5000 character(s) maximum*

The year 2023 was dominated by parliamentary elections, and civil society organizations actively voiced their concerns on the matter. As early as January, these organizations protested the abrupt and last-minute changes to the election code and participated in parliamentary committee meetings, although these efforts proved to be ineffective. The introduced changes appeared to Favor the ruling party; for instance, they increased the number of Polling Election Committees (PECs) in rural areas, despite the main issues being with oversized PECs in cities. However, the rural electorate was a significant base for the then-ruling United Right. Professor Flis' analysis highlighted the ineffectiveness of these measures (<https://www.batory.org.pl/publikacja/nowa-siec-obwodowych-komisji-wyborczych-na-wsi-efekty-nowelizacji-kodeksu-wyborczego-w-praktyce/>). The organizations' stance on these changes can be found here: [<https://ofop.eu/nie-dla-pospiesznych-i-nieprzemyslanych-zmian-w-kodeksie-wyborczym-stanowisko-organizacji-spoecznych/>] (<https://ofop.eu/nie-dla-pospiesznych-i-nieprzemyslanych-zmian-w-kodeksie-wyborczym-stanowisko-organizacji-spoecznych/>).

Furthermore, these organizations 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. More information about this conference can be found at <https://ofop.eu/mamy-pomysl-na-polske/>.

Environmental organizations have developed the Forest Manifesto. See: <https://odzyskajmylasy.pl/>.

The extensive voter turnout in recent parliamentary elections was due to at least in part to a dozen pro-voting campaigns. Examples include:

1. Great Coalition for Equality and Choice.

You're getting pissed? Go vote!

[https://www.facebook.com/wielkakoalicja/posts/pfbid02eyULkTYZNq5M39XV9zLBvShoBGfwprDijHsP7pE9REkKJweqBTsWqTAN2h9uNL6vI?\\_\\_cft\\_\\_\[0\]=AZUHuy71SHc7JomK0Ucr5MbLtvF8EI70qZUBvdFXbOB8uGmC8C27P8rbWzJq652f64Jal-VGMy9rJzzNCbSmAXLn7PXkLd\\_EubgWrGmE9tpb1HOjGNfWNaXS-\\_gaSm8nkPHnenJnEij5Jw5M54qBeVYcGs6kH0uJPpTZgROyQVp3thsEXsKunlxJy9s3\\_-tDFE&\\_\\_tn\\_\\_=%2CO%2CP-R](https://www.facebook.com/wielkakoalicja/posts/pfbid02eyULkTYZNq5M39XV9zLBvShoBGfwprDijHsP7pE9REkKJweqBTsWqTAN2h9uNL6vI?__cft__[0]=AZUHuy71SHc7JomK0Ucr5MbLtvF8EI70qZUBvdFXbOB8uGmC8C27P8rbWzJq652f64Jal-VGMy9rJzzNCbSmAXLn7PXkLd_EubgWrGmE9tpb1HOjGNfWNaXS-_gaSm8nkPHnenJnEij5Jw5M54qBeVYcGs6kH0uJPpTZgROyQVp3thsEXsKunlxJy9s3_-tDFE&__tn__=%2CO%2CP-R)

2. Young women from the East Initiative (Inicjatywa WSCHÓD) Campaign addressed to young women, by young women.

<https://youtu.be/3D4p1q-wuhM?si=-BPnTbJUn77kOkfr>

3. Self-made films of Foundation for Supporting Rural Communities

Addressed to young people in rural communities. Main message - you have a role in mobilising others.

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

4. Professional campaign administered by the Batory Foundation, involving an extensive and professional coalition of media, PR, marketing, advertising and research agencies. The slogan was "You have a choice".

Landing page: <https://www.twojwybor.pl/>

5. Campaign addressed to women, showing that women can decide for themselves and that men may not necessarily represent their interests simply because they don't have the knowledge. This campaign was addressed to women from the political centre.

e.g. The girl asks for the names of three historically important Polish women. Most men were able to name only one - Maria Skłodowska-Curie.

<https://www.tiktok.com/@kobietynawybory/video/7280099736885939489>

6. Campaign run by the influencer Anja Rubik and her initiative Sexed.pl

<https://sexed.pl/projekty/sexedpl-zacheca-do-glosowania/>

Theme of politicians interfering in private decisions and life.

7. Tik Tok account for young people, run by Association 61/I have a right to know (smart voting)  
See: <https://www.tiktok.com/@orientuj.sie>

The Committee for Defence of Democracies has mobilized more than 20,000 people for public election observation. See: <https://okw.info.pl/>.

Organizations have educated, mobilized, vetted elections - among others, the Responsible Politics Foundation introduced the concept of “abuse of state resources” in the election campaign.

## Contact

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