

An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory

Poland

2022

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Author Małgorzata Szuleka

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1. Civic space developments in 2022

1.1. SLAPPS against civil society activists

Area	Strategic Lawsuits Against Public Participation (SLAPPS)
Topic	Proceedings against civil society activists
Impact	Major

In 2022, the media and civil society organisations continued to report on cases of proceedings launched against civil society activists (SLAPPS).

As in the previous years, also in 2022, the LGBT+ community remained under pressure from the state and local authorities. In 2022, the court proceedings against Bart Staszewski and activists of the Atlas of Hate, who documented the cases of adopting by the local government the so-called “LGBT free zones”, continued. For example, in December 2022, the court in Piotrków Trybunalski dismissed a lawsuit against Atlas of Hate lodged by the Opoczyński powiat. Furthermore, the Regional Court in Rzeszów dismissed the lawsuit against Bart Staszewski lodged by Niebylec county.¹ In both cases, the local government sought compensation for defamatory statements.²

In 2022, some of the activists providing humanitarian aid the Polish-Belarussian border faced criminal charges. The activists provided aid to migrants who tried to cross the border and were several times pushed back by both Polish and Belarussian guards. In March 2022, the prosecution submitted a motion for ordering a pre-trial detention

¹ Bolanowski R., Bart Staszewski wygrywa w sądzie z gminą Niebylec. Żądali przeprosin na łamach "New York Timesa" i "Guardiana", Wyborcza.pl, <https://rzeszow.wyborcza.pl/rzeszow/7,34962,28412560,autor-stref-wolnych-od-lgbt-wygrywa-w-sadzie-z-gmina-niebylec.html>

² Ambroziak A., Aktywiści Atlasu Nienawiści wygrywają z Ordo Iuris i homofobicznym samorządem, Oko.press, <https://oko.press/aktywisci-atlasu-nienawisci-wygrywaja-z-ordo-iuris-i-homofobicznym-samorzadem>

against four activists, the courts, however, dismissed the motions. The investigation is still on-going.³

In 2022, the prosecutor pressed charges against Justyna Wydrzyńska, a pro-choice activist, who helped another women in carrying out an abortion by sharing with her abortion pills. Wydrzyńska was charged with 'helping in the performance of an abortion' on the basis of Article 152.2 of the Polish Penal Code, and 'possession of unauthorised drugs with the aim of introducing them to the market' under Article 124 of the Pharmaceutical Law. If convicted, she faces up to three years in prison. It is the first criminal proceeding in such a case against a civil society activist. The proceeding is still ongoing.⁴

1.2. Increasing the tax deduction rate for NGOs

Area	Financing framework
Topic	Access to funding
Impact	Major

In 2022, the Parliament changed the Act on public benefit, raising the percentage of the tax deduction from personal income tax from 1 to 1.5%. The change was a part of legislation package introducing changes to the general tax scheme. According to civil society organisations advocating for the change, the raise of the possible tax deduction will mitigate the risks of potential financial loss that would occur if the rate remained at the level of 1% and that would be caused by the major changes in the entire tax system.

³ Chołodowski M., Granica polsko-białoruska. Sąd nie zgodził się na tymczasowe aresztowanie aktywistów pomagających uchodźcom, Wyborcza.pl, <https://bialystok.wyborcza.pl/bialystok/7,35241,28264643,granica-polsko-bialoruska-sad-nie-zgodzil-sie-na-tymczasowe.html>

⁴ Center for Reproductive Rights, Center for Reproductive Rights Condemns Prosecution of Polish Human Rights Defender Justyna Wydrzyńska, <https://reproductiverights.org/center-for-reproductive-rights-condemns-prosecution-of-polish-human-rights-defender-justyna-wydrzynska/>

The organisations also pointed out that raising the rate would, even partially, remedy the threats to CSOs incomes caused by the inflation.⁵

1.3. Functioning of the National Institute of Freedom

Area	Financing framework
Topic	Access to funding
Impact	Major

In 2017, the Parliament adopted the Act on the National Institute of Freedom - the Center of Civil Society Development. One of the main tasks of the Institute is the distribution of public funds for NGOs for their activity. In 2022, the media reported on irregularities on how the funds were distributed in the previous years. In the years 2019-2021, the Institute distributed funds to 1059 organisations - ten of these organisations, which received the biggest donations, had personal ties to the representatives of the governing majority.⁶ The media also reported that the organisation applying for the funds from the Institute and who have some ties to the governing majority have over 40% more chances than other organisations to receive the grants.⁷

⁵ NGO.pl, Stanowisko Forum Darczyńców i OFOP w sprawie rządowej propozycji wyrównania strat w odpisie 1%, <https://publicystyka.ngo.pl/stanowisko-forum-darczyncow-i-ofop-w-sprawie-rzadowej-propozycji-wyrownania-strat-w-odpisie-1>

⁶ Czyżewska A., Pierwsza dziesiątka Narodowego Instytutu Wolności i zagmatwana procedura konkursowa, NGO.pl, <https://publicystyka.ngo.pl/pierwsza-dziesiatka-narodowego-instytutu-wolnosci-i-zagmatwana-procedura-konkursowa>

⁷ Flis D., Organizacje związane z PiS mają 40 proc. skuteczności w zdobywaniu dotacji. Inne - 11 proc., Oko.press, <https://oko.press/niw-narodowy-instytut-wolnosci-piotr-mazurek>

2. Promising practice in 2022

2.1. The first National Citizens' Assembly

In 2022, in Poland the first national citizens' assembly was organised. The panel was an initiative of the Shipyard Foundation.

100 selected persons participated in the panel discussion. The discussion was dedicated to the issue of energy poverty. The panel focused on the problems such as support for seniors who cannot afford the costs of heat and energy, how to ensure access to clean and cheap sources of energy and how to engage citizens in the process of managing the energy system.

The process of preparation of the assembly took 1.5 years and was preceded by series of citizen's assemblies organised at the local level.⁸

The results of the national panel were presented in December 2022. The results indicated among others the suggestion to reduce the use of fossil fuels and a development of eco energy. The results were presented to the political parties - some of which declared including the results of the panel in their program.⁹

⁸ Jędrzejczyk A., 113 tys. telefonów. Ruszył pierwszy w historii ogólnopolski panel obywatelski. O kosztach energii, *Oko.press*, <https://oko.press/pierwszy-w-historii-ogolnopolski-panel-obywatelski-o-kosztach-energii>

⁹ Jędrzejczyk A., Ważne! Politycy biorą wyniki panelu obywatelskiego na poważnie. Najlepiej jak umieją, *Oko.press*, <https://oko.press/wazne-politycy-biora-wyniki-panelu-obywatelskiego-na-powaznie-najlepiej-jak-umieja>

3. Visa for human rights defenders

3.1. Entry and stay for human rights defenders (HRDs) at risk

Dedicated visa scheme for HRDs at risk available in your country	No
Other type of visa or alternative legal entitlement or derogation clause applied to HRDs	Yes

The Polish legal system does not recognise a special visa scheme for human rights defenders at risk. Nevertheless, for many years, it has been a priority for the Polish diplomacy to support human rights defenders from countries such as Belarus, Russia and other Central Asian countries.¹⁰

Human rights defenders at risk can apply for a humanitarian visa. According to the Act on foreigners¹¹, the residence permit for humanitarian reasons (the so-called humanitarian visas) can be issued on such grounds if a foreigner would e.g. face the threat to their life or liberty in their country or they could be subjected to torture or inhuman and degrading treatment or punishment.

As of mid-2021, the Helsinki Foundation for Human Rights (HFHR) has been developing a hub for human rights defenders at risk working in the countries of Eastern Europe, Russia and Central Asia. The hub provides a wide scope of services for human rights defenders who need to flee their country including, among other things, assistance in applying for humanitarian visas, assistance upon their arrival in Poland (including help in the process of legalising their stay and psychological aid) and integration services (including Polish language courses) as well as support in continuing the work the evacuated persons conducted in their own countries.

¹⁰ <https://www.gov.pl/web/dyplomacja/polska-pomoc>

¹¹ Act on foreigners (Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach) 12 December 2013