

ACTIVIZENSHIP

CIVIC SPACE WATCH REPORT 2021 | STORIES OF HOPE IN DARK TIMES

POLAND

Since 2015, when the Law and Justice government took power, democracy and the rule of law have gravely backslided. As a consequence, the conditions for Polish civil society organisations have seriously deteriorated. However, civil society and social movements have demonstrated their crucial role in protecting the rule of law and fundamental rights “from below”. This was true also in 2021, a year of crisis in which there was sustained pressure on democracy and the rule of law, linked with the further deterioration of media pluralism, the contested election of the Ombudsperson and the state of emergency on the borders with Belarus, in the context of systematic violations of the rights of migrants, LGBTI+ community and women. Civic organizations organised participatory public hearings on the National Recovery Plan and contributed to the election of an independent person as Ombudsperson, in accordance with the Constitution, achieving important results.

FACING DETERIORATING CONDITIONS

Civil society unites to protect fundamental rights

By the National Federation of Polish NGOs (OFOP), with the support of Filip Pazderski

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Since 2015, when the Law and Justice government took power, democracy and the rule of law have gravely backslided. As a consequence, the conditions for Polish civil society organisations have seriously deteriorated. However, civil society and social movements have demonstrated their crucial role in protecting the rule of law and fundamental rights “from below”. This was true also in 2021, a year of crisis in which there was sustained pressure on democracy and the rule of law, linked with the further deterioration of media pluralism, the contested election of the Ombudsperson and the state of emergency on the borders with Belarus, in the context of systematic violations of the rights of migrants, LGBTI+ community and women. Civic organizations organised participatory public hearings on the National Recovery Plan and contributed to the election of an independent person

as Ombudsperson, in accordance with the Constitution. In both cases, it was not certain whether the two actions would be successfully concluded, so the victories are significant. An important achievement in the context of both events was also the mobilisation of large coalitions of very diverse civil society organisations around both issues.

ELECTION OF THE OMBUDSPERSON

The term of the former Ombudsperson, prof. Adam Bodnar, expired on 9 September 2020. Before the end of his term of office, NGOs nominated the civic candidate Zuzanna Rudzińska-Bluszcz. While until the end of 2020, the ruling majority did not propose any candidates, it regularly rejected the civic candidate, supported by the opposition. She resigned when her candidacy was rejected for the third time at the end of January 2021.

According to constitutional tradition, if a new Ombudsperson is not elected, the old one continues to hold office in order to ensure the constitutional principle of continuity of power. However, the ruling party’s parliamentarians submitted a motion to the Constitutional Tribunal (controlled by the ruling party since 2016) challenging whether prof. Bodnar should remain in office after his term as, according to the Constitution, it lasts five years. This was considered by civil society as a move to put political pressure to promote the election of the ruling party’s candidates, since without a new elected candidate, citizens would risk being left without an Ombudsperson. Indeed, in April 2021, the Constitutional Tribunal decided that the term of office of the Ombudsperson must last only 5 years, and that Bodnar had to definitively cease to hold office on 15 July 2021. After the decision of the Constitutional Court and with the impossibility of the Parliament to elect a successor, a



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suspicion arose the ruling party would appoint a person from the party acting as an Ombudsman, therefore modifying the existing law accordingly.

Nevertheless, also thanks to pressure from civil society organisations and their cooperation with the political opposition an independent candidate was chosen. Prof. Marcin Wiącek from the University of Warsaw was formally proposed by the opposition. He went through the entire procedure and was elected to the post six days after prof. Bodnar left the office in July.

There are at least two victories achieved by civil society organisations in the situation described above. First, the participation and pressure of more than 1200 civic organizations from various parts of the country ensured the independence of the position which could have been hijacked by the governing majority. Second, this civic engagement led to an ongoing cooperation of organizations that now monitors what is happening with the Ombudsperson's budget, checks how public institutions respond to the Ombudsperson's general comments and takes action in this matter, and finally works out demands and cooperate with the Ombudsperson's office on the implementation.¹

EMERGENCY ON THE POLISH-BELARUSIAN BORDER

Since August 2021, an important issue is stirring public debate in Poland and involves many civil society organisations and activists. Indeed, the humanitarian crisis caused by actions of the Belarusian authorities and reactions of the Polish authorities at the border between the two countries. On 2 September 2021, President Andrzej Duda issued a decree imposing a 30-day state of emergency in parts of Podlaskie and Lubelskie Voivodeships (in the cross-border zone), at the

request of the Council of Ministers. The decision was later extended to the maximum time allowed by the Constitution – 90 days. During the state of emergency and on the basis of a new law adopted afterwards (see below), access to the border strip was practically prohibited to all entities that do not belong to the state services or are not residents. Access to the border strip was, and largely remains, prohibited to the media and humanitarian and social organisations. In late August, the Sejm also received a government draft amendment to the Act on foreigners. The proposed changes enable the local chief of border guards to issue a decision regarding foreigners crossing the border illegally, on the basis of which they will have to leave the territory of Poland immediately. This legalises the practice of pushbacks, contrary to international law obligations. For this reason, the Act was explicitly criticised by the Ombudsperson, the Helsinki Foundation for Human Rights and aid organisations. Nevertheless, the law was adopted by Parliament at the end of October.

PRESSURE ON CIVIL SOCIETY

The only actors providing humanitarian help at the Polish-Belarusian border are civil society activists and volunteers outside the emergency zone and the residents of the restricted area inside it. They bring basic humanitarian aid to the migrants (food, drinks, warm clothes, sleeping bags, as well as work

ACCESS TO THE BORDER STRIP WAS, AND LARGELY REMAINS, PROHIBITED TO THE MEDIA AND HUMANITARIAN AND SOCIAL ORGANISATIONS

¹ More about the initiative can be found at <https://naszrzecznik.pl/>. The initiative is affiliated with the National Federation of Non-Governmental Organizations (OFOP).

THE AUTHOR

National Federation of Polish NGOs (Ogólnopolska Federacja Organizacji Pozarządowych, OFOP) was established in 2003 by the initiative group of Polish organizations – as a result of a participatory process aimed at establishing a representation body for the third sector in Poland. It is a politically independent and non-governmental organization guided by the principles of European Charter of the Fundamental Rights. Currently, OFOP has 146 member organizations. As many of the members are also federations of organizations, indirectly OFOP may claim over 400 member organizations. The list of members includes organisations working at national, regional or community level, engaging with the public on local issues, active in domains of third sector advocacy, watchdogs, human rights, social inclusion, ecology, heritage and many others.

with independent medics and hospitals) and support them with access to administrative procedures. In order to respond to the systematic human rights violations enabled by this context, civic organisations present at the border increased exponentially their activities, with huge psychophysical consequences of the staff and volunteers involved. At least two spontaneous movements – Medics on the Border (Medycy na Granicy)² and Families without Borders (Rodziny bez Granic)³ sprung to provide assistance. A joint civic campaign entitled Save the People on the Border calls for immediate

² See <https://www.facebook.com/medycynagranicy/>.

³ See <https://rodzinybezgranic.pl/english/>.

admission of medical and humanitarian aid to the emergency state zone.⁴

Both the activists and local residents have often faced threats or even repression for their relief work, including brutal stop and search operations, smear and intimidation campaigns against activists speaking up in the media. For example, the Crisis Intervention Post run by the Club of Catholic Intelligentsia⁵ reported that on 15 December 2021, volunteers on duty were detained by the Police and were held in a police car for several hours. Dozen police officers armed with automatic weapons conducted a search, questioned the volunteers until five in the morning and confiscated all computers and phones used for work as well as volunteers' private phones, other electronic equipment, and all documentation.⁶

RESTRICTIONS TO ACCESS OF INFORMATION AND FREEDOM OF EXPRESSION

The state of emergency described above resulted in a ban on recording of the border area using technical means. Access to public information on the activities carried out in the areas covered by the state of emergency was also restricted. In short, citizens were cut off from access to information.

The reasons provided for the restriction of access to information were “numerous, intensified attempts to illegally cross the border” and “the scale and nature of the actions undertaken by the Republic of Belarus”. In addition, there were arguments about the threat to national security posed by people providing humanitarian aid who supposedly made it difficult for Border Guard officers and Armed Forces soldiers to perform their duties. It was also argued that providing access to information would have reduced

⁴ PL <https://publicystyka.ngo.pl/ratujmy-ludzi-na-granicy>

⁵ See <https://www.kik.waw.pl/english/>.

⁶ PL <https://publicystyka.ngo.pl/oswiadczenie-dzialania-policji-w-punkcie-interwencji-kryzysowej-kik>

THIS BILL WILL IN EFFECT PROVIDE THE GOVERNMENT WITH A MEANS TO CONTROL AND PREVENT EXTRACURRICULAR ACTIVITIES AND/OR EDUCATIONAL WORKSHOPS FROM TAKING PLACE IN SCHOOLS

their efficiency, which in turn would be a danger for citizens.⁷ Even before that, although without any legal basis, journalists were not allowed to observe the border.⁸

On 17 November 2021, in view of the passing of the maximum constitutional deadline for the duration of the state of emergency, the Sejm adopted amendments to the Act on State Border Protection and introduced the possibility of further cutting off journalists from the possibility of observing the situation on the border. It de facto extended the state of emergency. From that moment on, the Minister of Internal Affairs and Administration can, by ordinary decree, without additional procedures, introduce a ban on non-residents in a given area. Journalists can get special permission from the local Border Guard Commander (in justified cases, temporarily, under specific rules) to stay in the area. However, NGOs cannot obtain such a permit.⁹ This greatly affected access to information for

⁷ PL <http://www.sejm.gov.pl/sejm9.nsf/PrzebiegProc.xsp?nr=1512>

⁸ PL <https://drive.google.com/file/d/1Hb-PjS9HuFSaRpKinjyBUI6mPzozK2bTg/view?usp=sharing>

⁹ PL <https://sejm.gov.pl/Sejm9.nsf/PrzebiegProc.xsp?id=8F2FFCA4F3477BB7C125878E0064B115>

CONVERSATIONS ABOUT ABORTION, VIOLENCE AGAINST WOMEN, ABOUT GENDER IN GENERAL HAVE BECOME PART OF THE EXPERIENCE OF A LARGE SECTION OF THE SOCIETY

humanitarian organisations. For example, it was not possible to find out the orders (with reasons laying behind) intended to be the basis for the non-acceptance of requests for international protection and the ban on serving food to foreigners being stuck in the border zone.

These regulations on the state of emergency also concerned the “*suspension of the right to organize and hold assemblies in the area covered by the state of emergency.*” On 19 January 2022 the Supreme Court in Poland ruled that forbidding general access to the border was disproportionate. Freedom of Speech cannot be restricted to such an extent. This verdict was issued in the individual case of three journalists who were punished for entering the state of emergency zone.¹⁰

FREEDOM OF ASSOCIATION UNDER PRESSURE

In 2021, almost nothing happened in terms of guarantees for NGOs. On the contrary, the situation of independent NGOs in Poland and the general atmosphere in which they operate have continued to worsen. The number of restrictive legislative proposals initiated in 2021 and affecting fundamental rights as well as imposing on the sector additional burden require CSOs to remain

constantly mobilised, draining their resources and capacities to focus on their core mandate.

Among these proposals, amendments to the regulations on the system of education (the Education Act), the so-called ‘Lex Czarnek’, are under discussion in the Parliament. In addition to questionable provisions on the organization of education itself (the role of superintendents, reduction of schools’ autonomy), the draft includes provisions directly regulating the operation of NGOs in schools. These provisions introduce certain bureaucratic procedures that in practice can limit NGOs access to educational institutions. Additionally, schools’ regional superintendents, representatives of the Minister of Education on the regional level, will have the power to arbitrarily decide on such a permit, even against the parents’ opinion. Over 100 organizations have come together to stop these laws as part of the Free School campaign.¹¹ Civil society representatives are voicing concerns that this bill will in effect provide the government with a means to control and prevent extracurricular activities and/or educational workshops from taking place in schools, such as ones pertaining to anti-discrimination, gender equality, LGBT+ rights, or comprehensive sexuality education.

A draft governmental Act on NGO Reporting was made public in July 2021, officially aimed at gathering in one place the rules of reporting by NGOs and simplify the reporting obligations. However, the document was prepared without any prior discussions with CSOs. The National Federation of NGOs and other CSOs networks pointed out the inadequacy of the timing and method of consultation¹² as the consultation period for the act was short and the process was conducted in the middle of the summer

holidays. Contrary to the aim of the law, the drafted regulations proved to be complicated, flawed and their enactment would not simplify the obligations. In addition, the draft imposed on NGOs obligations that did not exist previously, such as the requirement to disclose the data of individual donors (natural persons). Some of the new measures that this act proposes to establish includes also obliging all CSOs to report to one governmental entity all funding coming from all foreign entities (individual and private persons, as well as public entities).

RESTRICTIVE LAW ON FREEDOM OF ASSEMBLY IS STILL IN PLACE, ‘STOP LGBT+ BILL’ THREATENS LGBTI RIGHTS AND PRIDE PARADES

The Act on Assemblies, adopted in 2015, met all modern requirements. In 2016, the ruling majority adopted an amendment introducing provisions on cyclical assemblies, which raises objections. Among other things, they are vague and favour one type of assembly.

On 9 August 2021, a civic legislative initiative to amend the Act on Assemblies was submitted to the Sejm. The bill called ‘Stop LGBT+’ was signed by 140,000 citizens. The bill would ban LGBT+ Pride events in the context of systemic deterioration of LGBT+ rights. On 29 October 2021, the bill was sent for further work in the Sejm’s Administration and Internal Affairs Committee. Although to date legislative

THESE THREATS HAVE BEEN ENABLED BY THE VIOLENT RHETORIC OF THE GOVERNMENT AND STATE-OWNED MEDIA AGAINST THE MOVEMENT

¹⁰ <https://siecobywatelska.pl/whyombudsmanrighttoknow/?lang=en>

¹¹ PL <https://www.wolnaskola.org/>

¹² PL <https://ofop.eu/stanowisko-organizacji-pozarzadowych-w-kwestii-projektu-ustawy-o-sprawozdawczosci-organizacji-pozarzadowych/>

works did not progress¹³ such laws tend to return to the public debate whenever favourable political circumstances or need arises. In such case parliamentary work can be unfrozen by a parliamentary majority.

THE 2020 PROTESTS ON THE BAN ON ABORTION HAVE BENEFICIAL IMPACT ON SOCIETY BUT THE MOVEMENT REMAINS UNDER PRESSURE

In 2020, a general mass mobilisation erupted throughout Poland, both in large and small towns, in workplaces, at universities and schools against the ruling of the Constitutional Court of November 2020 which led to the practical ban on abortion.¹⁴ The huge protests have had a positive impact on the Polish society:¹⁵ conversations about abortion, violence against women, about gender in general have become part of the experience of a large section of the society and individuals confronted with the topics for the first time in their life have become acquainted with or involved in feminist and women rights issues.

HARASSMENT AND INTIMIDATION PRACTICES

The constant pressure and threats, including judicial harassment and intimidation tactics by police, other state authorities and ultraconservative groups is also a threat to the sustainability of democratic civic organisations and movements, particularly those acting for the rights of migrants, LGBTI+ rights, and sexual and reproductive rights.

Following the 2020 protests against the practical ban on abortion, leaders the

THE POLISH SECRET SERVICES, CONTROLLED BY THE RULING PARTY, HAD ACCESS TO CALLS, PHOTOS, E-MAILS, MESSAGES FROM MESSAGING APPS USED BY TWO ACTIVE CRITICS OF THE GOVERNMENT

Polish Women's Strike movement and supporting organisations have received death, rape and bomb threats. While there has been little to no response from the authorities in investigating these threats, escalating threats on Marta Lempart during October 2021 eventually resulted in police protection being assigned to her in public. These threats have been enabled by the violent rhetoric of the government and state-owned media against the movement. Additionally, women rights defenders and people who have been protesting against the near-total abortion ban have faced judicial harassment. Lempart is facing over 90 criminal charges for her role in protests. Many youth activists involved in women's rights protests have faced reprisals from their school principals or school superintendents. There have also been some publicised cases where police have turned up at the homes of minors only supporting the protests in the morning. All this has also undoubtedly had a chilling effect on many young people.

LGBTQI+ activists continue to face persecution. Although three LGBT+ activists were acquitted for the crime of "offending religious beliefs" after displaying posters depicting the Virgin Mary with a rainbow halo symbolic of the LGBT+ flag around her head, in December 2021 the case was heard again after the prosecutor appealed

the outcome. Others are facing legal actions from far-right religious groups. In July 2021 six lawsuits were opened against the founders of The Atlas of Hate, a website that maps local municipalities that passed anti-LGBT+ resolutions or adopted a charter written by the ultra-conservative Catholic organisation Ordo Iuris Institute, by the so-called "LGBT+-free" municipalities. The founders of the website believe that the lawsuits are an attempt to silence them.

WIRETAPPING OF THE OPPOSITION RAISES CONCERNS OVER THE RIGHT TO PRIVACY

In late 2021, a major surveillance scandal occurred involving people perceived as opposition to those in power. The Canadian Citizen Lab group revealed that Roman Giertych, an attorney, and Ewa Wrzosek, a prosecutor, were both subject to surveillance using the Pegasus programme. This technology was also used during the 2019 election period (when European and national elections took place) against then Civic Platform chief election campaign officer and now Senator Krzysztof Brejza. In result, the Polish secret services, controlled by the ruling party, had access to calls, photos, e-mails, messages from messaging apps used by two active critics of the government as well as information on the current campaign plans of the main opposition party. Materials from this surveillance were also to be used to fabricate news items criticising selected individuals in the public media controlled by the ruling party. The case was reported by the Associated Press.

Oversight on wiretapping by security services is a concern in Poland. The courts accept 98-99% of wiretapping requests filed by secret services. Polish legislation also allows the Internal Security Agency to conduct wiretaps in certain situations without asking for court approval (2016 Anti-Terrorism Act). An expert

¹³ PL <https://orka.sejm.gov.pl/proc9.nsf/0/7510F178D30F38AAC12584B7003F9693?Open>

¹⁴ See the ruling in English at <https://trybunal.gov.pl/en/hearings/judgments/art/11300-planowanie-rodziny-ochrona-plodu-ludzkiego-i-warunki-dopuszczalnosci-przerwywania-ciazy>.

¹⁵ PL <https://publicystyka.ngo.pl/ponad-rok-od-protestow-po-wyroku-tk-komentarz-malgorzaty-leszko>

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group operating at the Ombudsperson's office consisting of former secret service officers and representatives of organizations protecting human rights calls for the establishment of an independent body to control the services and informing the persons subjected to surveillance about it after the control is completed.¹⁶

**CRITICAL ORGANISATIONS
ARE STARVED**

The economic and financial viability of the sector¹⁷ has been negatively affected on the one hand, by the Covid-19 pandemic and the decrease of income of local governments (the main sources of financing), and, on the other hand, by the decreasing availability of public sources.

¹⁶ <https://panoptykon.org/pegasus-giertych-wrzosek>
¹⁷ Before the pandemic, the annual budget of an average organization was PLN 28,000. 6% of organizations had a budget of over 1 million PLN; 22% between 100 thousand and 1 million PLN; 43% between 10 thousand and 100 thousand PLN; 19% between 1 and 10 thousand PLN; 11% up to 1000 PLN. 39% of the income of organizations came from domestic public funds; 15% from foreign public funds; 15% from paid and business activities; 14% from individual and institutional philanthropy; 3% from 1% of taxes; 3% from membership fees; 3% from own property, 2% from other organizations; 6% other: <https://api.ngo.pl/media/get/108227>

Organisations working for the defence of the rule of law or fundamental rights also face a significant reduction in the possibility of obtaining funds in competitions organised by the governing party's subordinate institutions, including ministries or the National Freedom Institute. While new programmes supporting the activities and development of NGOs are established, these funding tends to be accessible mostly by those loyal to the ruling party.¹⁸ In result, the gradual transformation of civil society in the country is a tremendous threat. Independent organisations find it increasingly difficult to operate due to a lack of resources. At the same time, pro-governmental organisations benefit from privileged access to policymaking, financial support and a favourable political climate for their activities. In the long-term, if the trends are not inverted, the Polish civil society and non-governmental organisations will be deprived of the basic characteristics of the sector – independence from those exercising power.

**CIVIL DIALOGUE IS
INSTITUTIONALISED BY THE
PUBLIC BENEFIT ACTIVITIES
COUNCIL, BUT THE BODY IS
NOT REPRESENTATIVE OF
THE SECTOR**

The Public Benefit Activities Council is the only body that institutionalises the principle of civic dialogue and cooperation between the public sector and the third sector. It is a consultative and advisory body of the Minister called the Chairperson of the Public Benefit Committee and complements the institutions implementing the principle of social dialogue. However, this body is heavily overburdened and does not fully meet the requirement of being a place for dialogue between organizations and the government.

¹⁸ <https://oko.press/dotacje-niw-fundacje-zych-or-do-iuris/>

The composition on the non-governmental side is ultimately decided by the Minister, although organizations themselves propose candidates who must prove being strongly supported by other NGOs or their coalitions. The current term of the Council began at the end of 2021. Despite the huge mobilisation by civic organisations, the Minister responsible for the selection chose the Council members at his own discretion.¹⁹ As a result, the Council did not include people who have been working in the NGO sector for years and, among others, the person who won the most votes of support from various NGOs. Due to the lack of elections, the Council does not represent the NGO sector in Poland.

RECOMMENDATIONS

The EU institutions should constantly monitor the situation, in direct contact with Polish NGOs. In addition, they should make even greater use of the position of federations, network organisations or larger groups of the non-governmental sector, including them in the process of systematic assessments of the situation in the country. Strengthening the capacity of independent organisations becomes crucial, which means preparing

¹⁹ PL <https://publicystyka.ngo.pl/na-profilu-rdpp-na-fb-opublikowano-liste-pozarządowych-kandydatow-do-rady>

**ESTABLISH A
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funds available from the level of individual EU institutions so that they are directed not only to projects, but also to the development and building of organisational stability of Polish organisations.

It is also essential to emphasise the need to respect EU law and the principles set out in, inter alia, the Charter of Fundamental Rights by each Member State. It would be advisable for the European Commission not only to carry out its own monitoring of Charter violations and actively encourage Member States to apply the Charter, but also to establish a permanent point or body to which civil society organisations can report violations of fundamental rights in individual Member States on a permanent basis. ■

The interview was carried out on 20 August 2021.

In responding to the omission of organised civil society from the preparation and consultation on the National Recovery and Resilience Plan in Poland, an unofficial coalition of NGOs mobilised to initiate their own series of public hearings. Within a few weeks, the coalition organised the largest ever public hearings in Poland, resulting in a series of 11 public hearings over 11 days, bringing together over 460 speakers (from civil society, local government, trade unions, businesses etc.), and watched by over 20,000 people via livestreams. This award celebrates the determination of NGOs in defending civil dialogue, in bringing social partners and local dignitaries on board, and making their voices audible to decision makers, who recognised the value of the hearings by attending and assuming roles as listeners.

SELF-ORGANISING DEMOCRATIC PROCESSES

CSOs work closer together to raise their voices

Interview with Iwona Janicka, OFOP, National Federation of NGOs

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Can you tell us a bit about the context in which the hearings started? Why did you decide to self-organise and what were the goals of the coalition behind them?

We understood quickly that time was of the essence as we realised that The National Recovery and Resilience Plan for Poland that the government was preparing would not include consultations with civil society. There was no dialogue about the Recovery Plan. We were presented with a final and complete document that only allowed for minor modifications. Therefore, we could not think of that recovery plan as civil society's plan. It was for us a technocratic and political document. We met the deputy minister for EU funds, Ms Małgorzata Jarosińska-Jedynak and

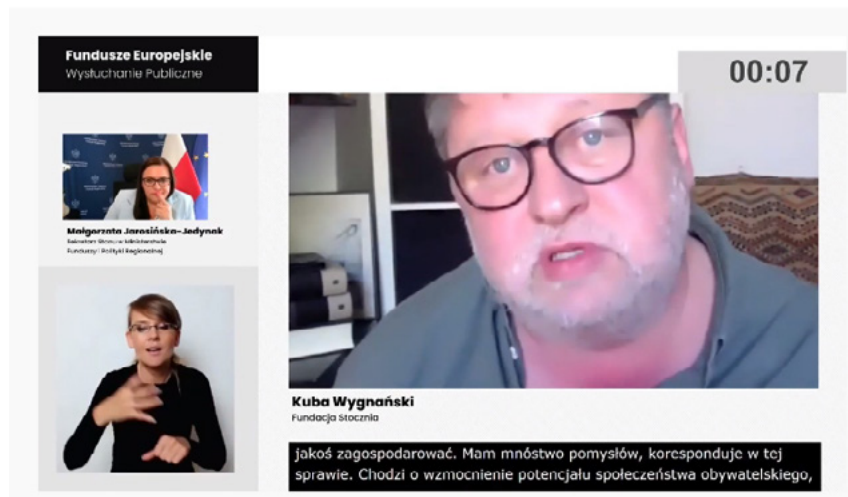
showed that the Code of Conduct for Partnership set out in EU legislation and the basic principles of dialogue were violated. She agreed but could not provide support in this regard. We then decided very quickly to organise on our own hearings to create the consultation process we wanted. First, the health situation forced us to organise ourselves online. Second, we had a very challenging timeframe as we only had two weeks to organise all the sessions. We also encountered other issues among which the fact that we did not have an online platform to hold the sessions, there was a problem of accessibility in relation to access to internet coverage. The pandemic also added personal challenges. Despite all these issues we pulled through and decided that the only way was to make

this possible and show that civil society is strong, even stronger than the government expected.

The goal was both to have a process in which we learn from each other but also to create a collaborative document coming from a consultative process that civil society would recognise as its own. We wanted to achieve a recovery plan by civil society. These consultations included civil



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society in a broad term including social business partners and others.

First of all, we had to fundraise to make this possible and secure a platform that would be easily accessible to ensure the public hearings' sessions. We also wanted to ensure transparency, which is harder for online events. We decided that the speeches will have to last five minutes maximum to allow everyone to speak. Anyone willing to participate could do it via a special form 48 hours before the session. We then grouped those who were willing to speak in line with the European Code of Conduct on the Partnership. The order of speakers was randomly selected.¹ We also ensured that the public hearing was streamed live on Facebook and YouTube to enable anyone to watch it. To increase accessibility, we also had sign language interpretation.

The public hearings were held in cooperation with very committed employees of the Ministry of Funds and Regional Policy under the patronage of the Partnership Development Subcommittee.

Could you tell me more about the partnership agreement that you talked about?

There were two processes running approximately on the same timeframe regarding the EU budgeting. One was about the Partnership Agreement within EU Cohesion Policy 2021-2027, for which the government was required to consult with partners, including civil society in its broader sense, the second was the National Recovery and Resilience Plan for Poland. Both processes

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were quite interlinked in terms of the content included and the analysis needed from our side. It appeared necessary for us to feed into both in order to provide a comprehensive and useful contribution. Therefore, we decided to have five public hearings sessions about the National Recovery Plan and to use the same model for nine hearings regarding the Partnership Agreement and related national programs. For the partnership agreement, we needed to provide nine national programs on thematic areas such as social issues, environment digitization, fisheries...

Working on both these processes almost simultaneously and in a short timeframe required a lot of work on our side but we decided to do it to provide a meaningful contribution that addressed the underlying causes of the issues that were highlighted during the COVID-19 crisis.

It was important for us that the provisions were consistent – the speakers emphasized that the demarcation line between the Reconstruction Fund and the Cohesion Policy programs is important. Through our contributions we also tried to highlight the role that civil society played during the pandemic. In fact, we could say that NGOs were like the local fire brigade, on which the government relied. For instance, we underlined the role that youth played in remote areas by biking to provide isolated elderly people with the medicine and basic food they needed. Young volunteers walked with the dogs. Meanwhile, there was a situation when the government forbade young people to leave their homes before 4 p.m. (without adult supervision), which was socially incomprehensible and disrupted the process of providing civic support. Therefore, for us it was important that in the Recovery plan and these thematic national programs the future of youth and children was addressed not only in terms of jobs but also regarding other issues faced during pandemic and beyond.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014R0240&from=PL>

What did you want to get out of the hearings?

We had no illusions about the way the government operated and its potential response to comments and proposed changes to the Plan, but we wanted to maintain goodwill. We thought that civil society's point of view should be captured in a document. We were very careful in our approach and relied on Union Regulations, in particular the European Code of Conduct on the Partnership.

We also criticized the government's plan which did not appear to us as an answer to a crisis, it was not a plan for our future, and it did not address the challenges that we were facing. The government's plan would only apply "bandages instead of an operation" without addressing the underlying causes and effects of the crisis. Addressing these shortcomings was also a motivation factor for us. We wanted to provide solutions for deeply rooted issues. In order to do so, we started from the beginning.

What was the result?

During the hearings, we received more than 2500 propositions and recommendations from very different point of views, experts, local actors and authorities, citizens, national level actors, students, trade unions and social partners... To ensure this diversity in the participation

THE GOVERNMENT'S PLAN WOULD ONLY APPLY "BANDAGES INSTEAD OF AN OPERATION" WITHOUT ADDRESSING THE UNDERLYING CAUSES AND EFFECTS OF THE CRISIS

we had to be flexible and adapt the agenda on the spot. This diversity allowed everybody to hear about many issues that we were not aware of in the past. Waldemar Buda, the minister of Funds and Regional Policy, that was present was impressed by the amount of information and point of views he was hearing, he used the term "information bomb".

We relied on a Union Regulation to ensure that our consultations took place and included the presence of national representatives and local authority representatives. That also meant ensuring that all actors are treated equally as partners as the Regulation puts economic and social partners as well as NGOs on the same level for collaboration.

We did not have a completely new version of the plan, but on the basis of the comments submitted to plan, we prepared a completely new, separate social component taking into account the scope, in particular the social and territorial cohesion; health, and economic, social and institutional resilience, with the aim of, inter alia, increasing crisis preparedness and crisis response capacity; and policies for the next generation, children and the youth, such as education and skills.

What do you think is the biggest success of the public hearings?

One of the main successes is related to the media. Apart from the independent media channels, the public hearings were also covered by the mainstream media which traditionally only cooperates with the government. I think this was an important achievement as it allowed the hearings to reach outside of the "traditional NGOs bubble". This coverage meant that the public hearings were accessible to a broader audience and a different public from the usual target.

But... the fact that we had to collaborate with the government questioned us and me personally on an ethical level. We had to be careful. We had very transparent

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rules so that they would be legible to everyone. I was afraid of being manipulated, which added a large amount of stress to the already difficult work. Being selected to the European Civic Pride Award was a timely and welcomed celebration.

The most important success is that we could all hear each other, with a feeling of mutual respect and eagerness to get to know different points of view. We want to cooperate further.

Did you have any chance to see if anything that you said during these people public hearing was taken upon by the decision-makers and authorities?

There were only few sentences that I could see were taken from the discussions held during the public hearings. However, often the ideas that were include were not assigned a budget, whereas other actions have clear assigned budget for implementation. Additionally, these sentences often described the climate around the issue and do not necessarily formulate a policy target.

Looking forward, we are concerned about the monitoring of funds, which must be independent. The government actually wants to secure a majority in the monitoring committee, which in the case of the general regime of conditionality for the protection of the Union budget, is a cause for considerable concern. We are afraid that the monitoring committee will be a façade.

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We insisted on an equal distribution of seats in the committee, where 1/4 of the seats are allocated to each group (government and local authorities and science, social and economic partners, NGOs), and on the fact that the government should not have a majority.

In addition, the committee must include independent NGOs, including those dealing with horizontal principles – the Charter of Fundamental Rights, sustainable development (to better implement the assumptions of the European Green Deal & Fit for 55), equal opportunities and non-discrimination, gender mainstreaming and accessibility for people with disabilities & needs.

During the hearings, you collaborated with social partners and local authorities. Do you see other opportunities to collaborate with them? How did the collaboration go?

This also requires a lot of effort and finesse in our interactions with the authorities. Organizing these public hearings allowed us to get to know other actors and to collaborate at a technical level with them.



These hearings stimulated our interactions among civil society actors. Indeed, by bringing people together, this process allowed us to build trust so we can really rely on each other for close collaborative work going forward. Additionally, it laid down the foundations for other collaborations with business and social partners as well as with local authorities. I am very pleased that everyone took these hearings seriously.

This experience is very useful now as we need to mobilize quickly and discuss some key issues with the different types of actors.

What can the EU institutions do to prevent the omission of a dialogue with civil society in the preparation and implementation of EU funds, including the National Recovery Plans?

We would need clearly written and binding regulations that require and structure the collaborations between the national governments and civil society regarding decisions such as the Recovery Plan. That would allow us to base our advocacy for implementation as we did for the Partnership Agreement within EU Cohesion

Policy 2021-2027. The Code of Conduct for Partnership is very helpful.

We also need clearer rules of implementation to avoid interpretations by national governments that would disadvantage civil society. For instance, we had a divergence in regards to the interpretation of the provisions of the Article 9 of EU Regulation establishing the European Social Fund Plus (ESF+).

The government interpreted the regulation as establishing that 25% of resources of the ESF+ of national program should be

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included for the capacity building of the social partners and civil society organisations. Whereas we were convinced after reading the regulation that it this applies both to the national program and to any regional program as well.

To resolve the misunderstanding the national government asked the European Commission through an unofficial channel which agreed with the government. However, as it is an unofficial answer, which stops us from contesting it without providing a clear and official answer. Therefore, it would be necessary to have straight forward indications on interpretation and implementation of regulations provided by the European Commission, as it is a heavy burden on civil society to have to contest the government's interpretations.

In this case, we were right, but many weeks passed before we achieved our goals.

What do you think the EU could do to help civil society engage in dialogue at National level, but also at the European level?

It is a difficult question; I understand that the EU must avoid involving itself in an internal and national conflict according to the treaties. However, if I use a metaphor to describe its involvement, I would say that it should act as a parent for certain member states providing a clear guide for conduct and punishing

when necessary. Additionally, it would be interesting if the EU could directly interact with civil society and not have to go through the government, especially when it comes to programming and monitoring European funds. It would provide a freer and a more cooperative system for the management of the funds. It would also avoid unfair situations where civil society finds itself unable to access EU funds because of the political decisions of their government. Especially, when this civil society does not share the views of the government and is active in denouncing its actions. This would of course require the setting up of guiding rules, maybe at regional level to ensure an oversight. ■