

We are concerned by the ruling Law and Justice (PiS) party’s dismantling of judicial independence and the rule of law, which has been used as a tool to violate civic freedoms in Poland. Women Human Rights Defenders (WHRDs) advocating for reproductive justice and LGBTQI+ defenders are facing judicial harassment and intimidation. We are further alarmed by the repeated attempts to diminish media independence through restrictive legislation, government allies acquiring ownership of major media outlets and the filing of Strategic Lawsuits Against Public Participation (SLAPPs) against independent media.

KEY CONCERNS



FREEDOM OF PEACEFUL ASSEMBLY

Polish government has continued to violate the right to peaceful assembly through the detention of protesters and use of excessive force. The COVID-19 pandemic has been used as a pretext to arbitrarily restrict this right.

During pro-abortion protests sparked by the Constitutional Tribunal’s de facto abortion ban ruling, authorities used excessive force, including kettling and physical violence against protesters. WHRDs are facing judicial harassment and intimidation, including repeated death threats, from state and non-state actors.

The ‘Stop LGBT’ bill, submitted to the Sejm by the Life and Family Foundation in November 2020, aims to ban gatherings that promote, among other things, ‘sexual orientations other than heterosexuality’. This comes as LGBTQI+ protests have repeatedly faced restrictions.

LGBTQI+ rights defenders experience repeated persecution under article 196 of the Polish Penal Code, on charges of “offending religious feelings”. Other LGBTQI+ rights defenders are facing SLAPPs for campaigning against so-called ‘LGBT-free zones’ declared by municipal governments.



FREEDOM OF EXPRESSION

The government has made moves to diminish media pluralism by bringing foreign-owned media outlets under the control of its supporters. For example, Polska Press, one of Poland’s largest media publishers, was taken over by state-owned oil company PKN Orlen, whose CEO has close ties with PiS.

Journalists face legal harassment under the Polish Penal Code. Between 2015 and 2021, 58 criminal cases have been documented against journalists, of which 25 were brought under Penal Code article 212 on defamation.

Independent media outlets face smear campaigns and SLAPPs. Gazeta Wyborcza has faced 63 legal suits from different state actors, including from PiS and its leader. Investigative news outlet ONET is facing at least eight lawsuits, while OKO.press is currently facing at least nine lawsuits.

Access to information is being limited at the Poland/Belarus border after the government declared a state of emergency and initially restricted access to the area for journalists and CSOs working on humanitarian relief.



FREEDOM OF ASSOCIATION

The government has continued to obstruct the work of civil society through enacting or attempting to enact restrictive legislation. For example, National Freedom Institute Act 2017 introduces a national institute which has full discretion in how responsible funds to civil society are distributed. Thus far the Institute has allocated funds to pro-government and nationalist organisations.

Civil society groups that have expressed critical views on PiS face harassment. Specifically, CSOs working on women’s rights, democracy and migrants’ rights have been targeted. Since August 2017, the government has regularly and publicly accused human rights CSO Open Dialogue Foundation (FOD) of criminal activity and of using illegal funding.

In the context of the ongoing violations of the rule of law by the current government, judges active in the independent judicial associations Iustitia and Themis are facing harassment and pressure from the unconstitutional ‘Disciplinary Chamber’ of the Supreme Court.

Humanitarian aid organisations who are assisting at the Poland/Belarus Border have faced harassment, including stop and search operations, smear campaigns, detentions and criminal charges.

THE PATTERN OF VIOLATIONS AGAINST HUMAN RIGHTS DEFENDERS INCLUDE



Intimidation and harassment, including smear campaigns, against women human rights defenders fighting for reproductive justice and LGBTQI+ rights defenders.



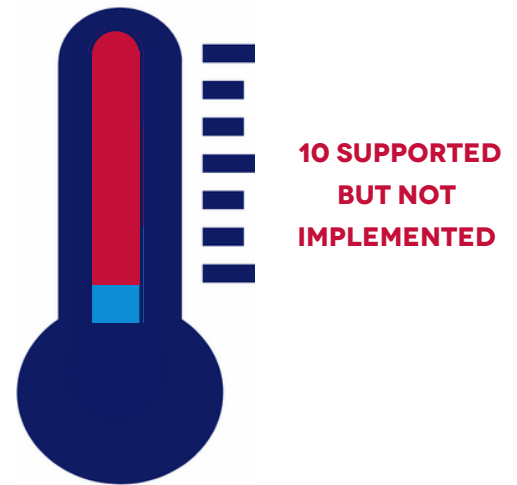
Judicial harassment of those participating in pro- abortion protests.



Strategic Litigation against Public Participation (SLAPPs) filed against LGBTQI+ defenders and independent media.

PREVIOUS UNIVERSAL PERIODIC REVIEW PROCESS

Recommendations related to the space for civil society in 2016:



12 recommendations on civil society received. 10 supported but not implemented, one partially supported, and one noted.



RECOMMENDATIONS

- 1 Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work without obstruction and legal harassment, conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
- 2 Immediately and unconditionally drop charges against all HRDs and ensure that government officials and non-state actors perpetrating intimidation and harassment against WHRDs and LGBTQI+ defenders are effectively investigated.
- 3 Refrain from further persecuting independent judges who uphold the rule of law and drop all criminal charges against them.
- 4 Refrain from harassment and intimidation of humanitarian organisations working at the Poland/Belarus border and allow CSOs full access to carry out their work.
- 5 Respect the right to access information and allow journalists and media outlets full access to report from the Poland/Belarus border and refrain from obstructing their reporting.
- 6 Drop all SLAPPs against journalists and media outlets and refrain from further legal harassment against independent media.
- 7 Respect the right of LGBTQI+ people to assemble peacefully and scrap the 'Stop LGBT' bill. Drop all charges against LGBTQI+ people for exercising their right to peaceful assembly.