

When norms clash

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WHEN NORMS CLASH

**How Polish Liberal
Civil Society
Contested
Government
Standards for the
Rule of Law and
Human Rights
from 2015-2022**

Akudo Kyoshia McGee

When Norms Clash: How Polish Liberal Civil Society Contested Government Standards for the Rule of Law and Human Rights from 2015-2022

to obtain the degree of Doctor at Maastricht University, on the authority of the Rector Magnificus, Prof. Dr. Pamela Habibović in accordance with the decision of the Board of Deans, to be defended in public on Wednesday 20 March 2024 at 13.00 hours.

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List of Acronyms

AD	Akcja Demokracja (Action Democracy)
AEAJ	Association of European Administrative Judges
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEE	Central and Eastern Europe
CJEU	Court of Justice of the European Union
CSCE	The Conference on Security and Cooperation in Europe
CSO	Civil Society Organisation
CT	Constitutional Tribunal
CoE	Council of Europe
DC	Disciplinary Chamber
EAJ	European Association of Judges
ECHR	European Convention on Human Rights
ECJ	(European) Court of Justice
ECtHR	European Court of Human Rights
EEC	European Economic Community
ENCJ	European Network of Councils for the Judiciary
EP	European Parliament

ERCIC	Ethical Review Committee Inner City faculties
EU	European Union
EUMAP	EU Accession Monitoring Program
FASoS	Faculty of Arts and Social Science
FEDERA	Federacja na rzecz Kobiet i Planowania Rodziny (Federation for Women and Family Planning)
FOR	Fundacja Forum Obywatelskiego Rozwoju (Civic Development Forum)
HFHR	Helsinki Foundation for Human Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILGA	International Lesbian and Gay Association
ILGCN	The International Lesbian & Gay Culture Network
IVF	In Vitro fertilisation
IO	International Organisation
IR	International Relations
KOD	Komitet Obrony Demokracji (Committee for the Defence of Democracy)
KOR	Komitet Obrony Robotników (The Workers' Defense Committee)
KPH	Kampania Przeciw Homofobii (Campaign Against Homophobia)

KRS¹	Krajowa Rada Sądownictwa (National Council for the Judiciary)
LDD	Łódzkie Dziewuchy Dziewuchom (Łódź Girls to Girls)
LGBT+	Lesbian, Gay, Bisexual, Transexual+
LPR	Liga Polskich Rodzin (League of Polish Families)
MEDEL	Magistrats Européens pour la Démocratie et les Libertés
MEP	Member of the European Parliament
MKS	Międzyzakładowy Komitet Strajkowy (Inter-Factory Strike Committee)
MP	Member of Parliament
MW	Młodzież Wszechpolska (All-Polish Youth)
NGEU²	Next Generation EU
NGO	Non-governmental Organisation
OI	Ordo Iuris
OSCE	Organization for Security and Co-operation in Europe
OSK	Ogólnopolski Strajk Kobiet, OSK (All-Poland Women's Strike)
PiS	Prawo i Sprawiedliwość (Law and Justice)
PO	Platforma Obywatelska (Civic Platform)
POS	Political Opportunity Structure

¹ Also NCJ.

² Also the European Union Recovery Instrument.

PSL	Polskie Stronnictwo Ludowe (The Polish People's Party)
PWN	Polska Wspólnota Narodowa (Polish National Community)
QDA	Qualitative Document Analysis
R4R	Rechters voor Rechters (Judges for Judges)
SLAPP	Strategic Lawsuits Against Public Participation
SMS	Social Movement Studies
SPR	Stowarzyszenie Pracownia Różnorodności (Diversity Studio Association)
SRHR	Sexual and Reproductive Health Rights
TEU	The Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
USSR	Union of Soviet Socialist Republics
UW	Unia Wolności (the Freedom Union)
ZP	Zjednoczona Prawica (United Right Coalition)

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Chapter 1: When Norms Clash

1.1. The EU 'Crisis of Values'

The European Union (EU) depicts itself as a community of shared values, or norms, which, unlike the past iterations of the European Community from which it emerged, is bound by more than economic self-interest (Akaliyski et al., 2022; Akaliyski and Welzel, 2020; Calligaro et al., 2016). These shared norms are legally enforceable (Scheppele et al., 2020), codified in EU treaties, and form the core of the Union's constitutional identity (Mehlhausen, 2015; Wouters, 2020). As its founding treaties, the Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), declare, member states are to be united in their mutual respect for and recognition of 'human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities' ("TEFU," 2012). It is also to these standards that EU institutions, like the European Commission, the so-called 'Guardian of the Treaties', hold member states accountable. Despite the seeming importance of these values for the Union and its member states, however, the EU is said to be facing a 'crisis of values,' in which these very values are contested by member states at an unprecedented level (Ágh, 2017; Mos, 2020; Wouters, 2020).

This crisis is reflected by pervasive backsliding, or the regression of standards or rights, in various member states, as standards for values like democracy have deteriorated with time (Karolewski, 2021). In this development, Central and Eastern European member states are among the most conspicuous backsliders (De Búrca, 2022; Scheppele et al., 2020). Poland, the focus of this study, especially stands out not just in the EU but globally (*Autocratization Turns Viral: Democracy Report 2021*, 2021; Csaky et al., 2021; Kelemen, 2017; Lührmann et al., 2018). Since 2015, Poland's conservative United Right Coalition³ has pursued policies which have degraded judicial independence (Matos, 2019; Pech and Scheppele, 2017a; Sadurski, 2019a; Zamęcki and Glied, 2020), threatened the rights of LGBT+⁴ persons (Korolczuk, 2020a; Pronczuk and Novak, 2020; Rettman, 2022), deteriorated sexual and

³ This coalition was in power from October 2015 until December 2023 when Prime Minister Mateusz Morawiecki's caretaker cabinet failed to win the vote of no confidence in the Sejm and Donald Tusk was nominated prime minister of Poland, with his cabinet sworn in days later. This coalition was, however, in power for the entirety of the study period.

⁴ LGBT+, or Lesbian, Gay, Bisexual, and Transexual+ is used here to refer to various non-heteronormative sexual orientations and the non-use of other forms of this term (e.g. LGBTIQ+) is not meant to exclude any specific orientations not related to the first four listed.

reproductive health rights (Bucholc, 2022a; Koralewska and Zielińska, 2021), and caused the selective closure (or ‘tilting’) of the civic space (Bill, 2022; Buyse, 2018; Roggeband and Krizsán, 2021). As a result, in the study period, Poland had the lowest ranking for LGBT+ rights in the EU, one of the lowest rankings for reproductive rights on the continent (Mishtal, 2019; Tilles, 2022, 2022), and was ranked by the leading democracy index V-Dem as the world’s most autocratizing⁵ country since 2021 (Csaky et al., 2021).

As a result of these and other concerns, the EU has reacted with a combination of traditional political measures, such as the so-called Article 7 Procedure (Kochenov and Pech, 2015; Zamęcki and Glied, 2020), newly developed interventions, like the European Commission’s Annual Rule of Law report (Pech and Bárd, 2022; *Rule of Law*, 2020), and a series of ‘constructive dialogues’ (Pech and Scheppele, 2017b). Accordingly, research, especially in the fields of law and political science emerged to unpack both the way that United Right challenged various norms in Poland (Pech and Scheppele, 2017b; Sadurski, 2018) as well as the activities aimed at addressing these challenges (Platon, 2021) (or the lack of activity, as Kelemen (2020; 2022) would argue). However, while the EU was experimenting with how to mount an appropriate response, something intriguing occurred in the Polish civic space. Unlike Hungary, where liberal civic society was mostly captured and struggled to mount a formidable resistance (Szabó, 2022; Uitz, 2022), Polish liberal civil society demonstrated a significant and immediate resistance to the aforementioned actions of United Right. This resistance, in which civil society seemed to contest United Right’s norm violations, aroused hope that such civil society could become a bulwark against growing attacks on norms like the rule of law (Dobler, 2020; Grabowska-Moroz and Śniadach, 2021).

A myriad of organisations formed or became engaged to counter everything from the shrinking of the civic space to threats to judicial independence (Łętowska, 2022; Matthes, 2022a) to restrictions to reproductive rights (Korolczuk, 2020a) to the political scapegoating of sexual minorities (Holt, 2022). This lent weight to the claim

⁵ Here, autocratizing/autocratization is used almost interchangeably with the concept of democratic backsliding to refer to various processes through which both democratic and autocratic countries move towards a more autocratic system. The difference between the two terms is namely that consolidated autocracies cannot experience democratic backsliding as there are no extant democratic traits in such a system which can be repealed. This is part of a longer debate, which also casts doubt on the term ‘democratic backsliding.’ For further discussion of this debate see: Lührmann and Lindberg, 2019.

that civil society may, despite its many challenges, counter various forms of backsliding, however, such interventions in the civic space remain understudied.

1.1.1. Problem Definition and Justification for the Study

Despite the seemingly robust response of Polish civil society to backsliding in-country (Matthes, 2021), the diagnosis of EU interventions as anaemic and ineffectual (D. Kelemen, 2020; Pech, 2023; Pech and Scheppele, 2017b), and the significant response from civil society (Grabowska-Moroz and Śniadach, 2021; Grabowska-Moroz and Wójcik, 2021; Korolczuk and Saxonberg, 2015), the focus of much academic research has been on the role of institutional actors, like the European Commission and European Parliament, in addressing backsliding (Christopoulou, 2022). Even with this lack of research, civil society is increasingly theorised as a potential remedy to backsliding, such as that seen in Poland (Matthes, 2021; Mikecz, 2020), as scholars also note the progressive impact of non-institutional actors at the meso- and micro-levels in countering some forms of backsliding. For these reasons, this research highlights norm violations which have received the most reaction from civil society organisations and from institutional actors, like the EU (e.g. during debates in the European Parliament, in resolutions the EU adopted, and in the statements of MEPs and other EU figures) and investigates the strategies of the organisations active in these areas. This work aims particularly at understanding how civil society contests, or expresses disagreement with the activities of the ruling coalition and what resources or barriers these organisations face when expressing this discontent.

After monitoring both the reaction and strategies of civil society and the discourses and activities of the EU, the decision was made to focus on the rule of law and human rights.⁶ The rights of focus for the CSOs examined related to the rule of law were judicial independence, the right to a fair trial (also a human right), and the separation of powers. The rights of focus for human rights were reproductive rights (including access to contraception, in vitro fertilisation (IVF), and abortion) and LGBT+ rights (including the restriction of anti-LGBT+ discourse by political elites, freedom of assembly, and non-discrimination on the grounds of sexual

⁶ For more details on how this monitoring was conducted, see **Chapter 3: Methodology**, section 3.2.1. **Selecting Norms for Study**

orientation⁷). These foci are not novel, since they came under pressure once United Rights came to power, extant research has paid significant attention to each of these areas. However, this work seeks to fill gaps within this extant research and contribute to a nascent research field. For example, scholars note the increasing role of (Polish and international) judges' associations⁸ and Polish judges in countering rule of law backsliding through activities like strategic litigation in Polish, European Union, and international courts (Grabowska-Moroz and Śniadach, 2021; Matthes, 2021, 2022a). However, this research is limited with most of it in legal studies, centring on the role of judges' associations only in the defence of the rule of law and singling out their use of legal tools primarily.⁹

Research examining the other rights mentioned in this chapter, such as that which investigates the mobilisation of (women's) organisations in reaction to restrictions on reproductive rights in Poland (Korolczuk, 2016a, 2020b; Muszel and Piotrowski, 2022; Szelegieniec, 2018), also tends to have a limited focus. It particularly has a hyper-focus on one or a small number of 'explosive' events, which have far-reaching consequences for reproductive rights, such as the 2016 'Black Protests' related to a citizen's draft bill to restrict abortion or the mass protests following the October 2020 decision of Poland's 'Constitutional Tribunal' to pass a near-total ban on abortion. Other kinds of CSOs, like those focused on LGBT+ rights, are typically excluded from these works, although they often mobilised together with women's NGOs to advocate for 'gendered' rights. Likewise, research on the activities of LGBT+ organisations, which remains scarce, often looks back at the historical development of such organisations since communist times or focuses on the acrimonious discourse of the ruling coalition regarding LGBT+ persons (Bucholc, 2022b; Demczuk, 2021; Grabowska-Moroz and Wójcik, 2021; O'Dwyer, 2018). Little research focuses on the activities of contemporary civic organisations in countering

⁷ This would include, for instance, Poland's 'Zones Free of LGBT Ideology.' As an additional note, although this work uses the term 'LGBT+,' deviations exist where specific terms are used by other audiences, such as various Polish voivodeships' declarations to be 'Zones free of LGBT ideology' or the European Parliament's declaration of itself as an 'LGBTIQ Freedom Zone.'

⁸ There is not space within this thesis to analyse the debate or questions about whether judges' associations ought to be included as civil society (organisations) or whether such organisations, representing groups sworn to be apolitical, many of whom do not see themselves as 'activists' or related to social movements, should be included with civil society. This work includes judges' associations in the discussion of civil society, however, it should be noted that this is an 'uneasy' grouping, for the aforementioned reasons and that the author is careful to speak separately about judges versus activists. According to the wide definition used for their research and the activities carried out by judges' associations in the study context, such associations can be included in civil society. This is consistent with other scholarly works related to the rule of judges' associations in the protection of the rule of law and the EU's own consideration of where such groups stand (see: Grabowska-Moroz and Śniadach, 2021).

⁹ Matthes, 2022 is a notable exception.

government narratives and/or attempts to restrict the rights of LGBT+ persons and groups. There is a much greater body of literature examining LGBT+ CSOs in the late 1990s and early 2000s when they worked to advocate for a new understanding of human rights that included increased protections for LGBT+ persons in an environment of great social, political, and legal change (Ayoub and Brzezińska, 2015; Holzacker, 2012; O'Dwyer, 2018a, 2018b).

As all of the aforementioned rights have been 'under attack' since 2015 in Poland (and some even before then), this work hopes to bring these separate strands of research together to understand not only how civic actors contest the activities of the government but also how they work together to strengthen and buttress each other's movements. This idea did not come spontaneously; when studying the Polish civic landscape, it was observed on multiple occasions that groups whose goals were aligned with other causes (e.g. judicial independence) engaged in strategic interactions with CSOs to advance completely different causes (i.e. limitations on abortion). This was the initial inspiration for research which looked at CSOs' defence of multiple rights and paid closer attention to how CSOs with varied missions and foci collaborated closely when facing the same threats. Further, by engaging a diverse definition of contestation which goes beyond discursive disagreement alone, it is also hoped that a more varied landscape of contestation will be uncovered in this work. Finally, the fact that much extant research is 'siloed' in such a way that legal scholars tend to study the response of civil society to threats against the rule of law and sociologists tend to focus on the role of civil society in countering anti-gender policies, and so on, obscures the relationship between some of the EU's core norms and makes it more difficult to understand how potential threats to some norms can affect the status of others or the strength of democracy overall.

For instance, scholars point out that democracy, the rule of law, and fundamental rights are co-constitutive and enjoy a triangular relationship (Carrera et al., 2013). This explains why courts are a sensible target for groups like United Right and why attacks on national courts, seen in many autocratizing states, are often linked to attacks on the rights of minority groups by majoritarian parties. Examining threats to the rule of law alongside threats to fundamental rights, human rights, and/or democracy, thus, may make these linkages more apparent and clarify why attacks on independent courts, for instance, often precede attacks on minority groups. Though courts may indeed be targeted for their ability to limit potentially

deleterious changes to national judicial and political systems (this was the case for Poland's Constitutional Tribunal after 2007 [see **Chapter 6, section 6.2: 2005 Elections and Aftermath** for more details]), they are also a danger to some parties for their ability to reign in the effects of majoritarianism. They guard the rights of minority groups, whose rights may otherwise be threatened by parties which have expressed little interest in considering the rights of groups outside their voter base (O'Donnell, 2004). This selection of issue areas and norms brings together organisations and issues which are not typically studied together. This study, therefore, may work to de-silo extant research on civil society in Poland and uncover if and how organisations with different foci may interact across the Polish civic space. In doing so, it is hoped that this project provides additional insights into the transformations happening across the Polish civic space, which include factors like cross-collaboration between organisations working to defend rights which have simultaneously come under attack by the same actors.

This work, therefore, seeks to fill the gap of the shortcomings mentioned by taking a wide look at 206 organisations addressing each of the issues named to better understand their strategies and experiences in a study period which featured intense political pressure. By tracking the response of civil society to multiple issues which have had the most relevance in the civic space and amongst EU institutions, it is hoped that a better view of the civic landscape will be captured than in research focused on one or a much smaller number of events, organisations, and causes. This work asks the following primary question: *How did civil society in Poland contest United Right's standards for the rule of law and human rights from 2015-2022?* It also explores the following secondary research question: *What challenges and opportunities did liberal CSOs experience when working to actualise their goals?* By exploring these questions together, this research outlines both the strategies employed by CSOs to contest standards of human rights and the rule of law which they believed to be incompatible with EU norms and investigates the difficulties these organisations have faced in the process. Such a combination contextualises CSOs' strategies, accounting for both the development of strategies as a response to the discourses and policies of the United Right coalition and the ways that such strategies must evolve in response to such new challenges presented by the ruling coalition (and others, as will be seen in **Chapters 7 and 8**).

1.1.2. When Civil Society Contests

In addition to the aforementioned shortcomings, this work also adds to research on norm contestation at the meso-level (as opposed to that on the micro-level, focusing on individuals or the macro-level, focusing on states and international institutions). Firstly, this research argues that civil society organisations are responding to United Right's contestation of certain standards for the rule of law and human rights. These organisations show, through a variety of strategies, that they disagree with United Right's standards. In addition, civil society works to frame the rights they advocate for as matters of the rule of law and human rights. In doing so, they employ the language of relevant law and treaties and cite powerful figures (such as representatives from the United Nations and other international institutions) who expressed direct support for these rights in their official capacity. In these ways, it seems that civil society organisations made attempts not only to express disapproval of United Right's standards of human rights and the rule of law, but they also used various strategies to advocate for their vision of these rights, cementing their arguments in the laws and treaties that the Polish government was or ought to be bound by.

Such a focus is not entirely uncommon in existing research. Quite a lot of research has looked at how civil society actors have tried to reframe gender rights in the United Nations by contesting the content of related norms and even the vocabulary used by various actors to articulate the content of these norms (Chen, 1995; Gilby et al., 2021; Nowicka, 2011; Sanders and Jenkins, 2022). There is, therefore, some research on how actors at the meso-level like interest groups or faith-based organisations, contest norms as defined by states and/or international institutions, seeking instead to replace their content, language, and other details with their standards for these norms. However, there seems to be a gap in this literature regarding how this occurs in the European Union, especially in states where these actors must not only compete with other actors at the meso-level seeking to influence these same norms (as is the case, both in this research and for groups seeking to influence norms at the United Nations level) but must also with direct threats from the government, such as the selective closure of the civic space and the weaponisation of the law against activists and judges. In addition to contributing to studies on the civic space in times of backsliding (benefiting fields like social movement studies), therefore, this research also hopes to contribute to international relations (particularly the study of norm contestation by civil society).

1.1.3 Relevance of the Study Outside of Academia

Beyond the realm of academic research, such a case study may present a helpful guide for organisations and practitioners (e.g. policymakers) seeking to replicate or learn from the way that Polish civil society organisations mobilised to contest their government's standards for the rule of law and human rights. The final chapter of this work, **Chapter 8: Conclusions and Discussion**, details advice for policymakers and other groups, such as academics, civil society, and the European Union in general. It is the intention of such advice to, for instance, ease collaborations between this civil society and policymakers, who have the tools and power to support the initiatives of civic actors but who may lack the skills to articulate their own needs and understand those of civic actors. Also, the European Union has not developed an official civil society strategy (Pardavi and Knoll-Tudor, 2022) yet engages civil society (somewhat chaotically) as a stakeholder in a variety of important policy decisions and interventions (e.g. the Commission's Annual Rule of Law report) (Kenner et al., 2020), additional insights into the activities and experiences of civil society organisations operating in a precarious civic space on such issues of great importance could benefit policy. Such advice may also be helpful for academics seeking to become involved with the issues raised in this work, both inside and outside of the academic realm.

Such engagement, when done meaningfully, could have a significant benefit for civil society, as academics possess the skills, knowledge, and expertise to assist them in actualising their goals (for more on this see **Chapter 7**, section **7.22.2 Opportunity: The International Community of Civic Actors and Scholars**). For a full list of recommendations, see 8th chapter, section **8.4. Recommendations for Future Research**. It is also a hope that this research lends greater visibility to the diversity of organisations engaged in addressing issues related to the rule of law and human rights in Poland, as both the European Union's engagement with civil society and extant research tend to focus heavily on several, large organisations and/or well-known movements. The outcome of this research, however, suggests that even smaller, unregistered organisations are heavily invested in addressing the aforementioned issues and seem to have an impact. Likewise, the work done to extensively detail the myriad of strategies employed by CSOs to contest United Rights' standards for the rule of law and human rights makes clear the extent of creativity and strategizing that is often lost in existing analyses which focus on

traditional methods of civic intervention alone, such as protests or legal mobilisation.

Doing more to reflect the diversity of extant movements, therefore, will present a much more accurate snapshot of the Polish civic space and potentially reveal novel ways that civic actors collaborate and engage in various strategies to achieve their goals. A more realistic reflection of the Polish civic space (although this work does not claim to provide a holistic representation of such a complex space with such varied actors), may help outsiders and non-experts better understand the space, some of the factors that lead to its present-day origins, and how to potentially replicate the successes (or avoid the difficulties and failures) experienced by organisations in this space. Lastly, as previously mentioned in the introduction, the EU is said to be facing a 'crisis of values.' On a global level, democracy itself is declining, leading to wider trends of de-democratisation and attacks on the rights of minority groups, vulnerable individuals, and institutions designed to protect democratic ideals (Papada et al., 2023). One of the many forces capable and currently engaged in reversing this trend is civil society. As such, many organisations may be able to learn from the strategies, challenges, and opportunities of Polish civil society which has formidably engaged with attacks on the rule of law, free press, human rights, and fundamental rights, among other issues. To this extent, it is hoped that the descriptions of these organisations' activities, as well as the barriers and assistance they have experienced while conducting such activities, will help other organisations organise their own mobilisation and potentially avoid some of the same difficulties experienced by the organisations studied for this work.

1.2 Dissertation outline

In the following chapters, one will find the theoretical framework guiding this research and an introduction to the fields of research from which this project draws (**Chapter 2: Theoretical Framework: When Civil Society Contests**). Next, the methodology of this research, case selection, limitations, and data collected as part of this study are presented (**Chapter 3: Methodology**), followed by a discussion of the development of Polish civil society before the end of communism and leading up to EU accession (**Chapter 4: Polish Civil Society Between Communist Occupation and EU Membership**). The chapter which follows uncovers the effect

that EU membership had on civil society working to claim new rights (**Chapter 5: Polish Civil Society in the Context of EU Membership**) before the focus shifts to the study period in **Chapter 6 (PiS and Civil Society— 2005-2007 and 2015- 2022)**. Finally, the results of the research are laid out in **Chapter 7: Data and Results** before a discussion of the results and some final words about future research, recommendations, and the potential future of the Polish civic space are offered in **Chapter 8: Conclusions and Discussion**.

Chapter 2: Theoretical Framework: When Civil Society Contests

2.1 Introduction

The goal of this chapter is to introduce the various bodies of literature from which this research draws. This research comes primarily from two fields: Social Movement Studies (SMS) and International Relations (IR), specifically IR research on norms and norm contestation. After introducing these fields and defining important terms, this chapter will reflect on how both fields are brought together in this work. As a reminder, this research addresses the following research question: *How did civil society in Poland contest United Right's standards for the rule of law and human rights from 2015-2022?* as well as a secondary research question: *What challenges and opportunities did liberal CSOs experience when working to actualise their goals?* The goal of these research questions is to better understand how Polish civil society has responded to government actions, which, according to them, represent a violation of norms like the rule of law and human rights and to contextualise such responses by investigating how the ruling coalition has sought to constrain CSOs' activities. In doing so, this work aims to uncover the activities Polish civil society organisations (CSOs) engaged in to express their disagreement with the United Right coalition's understanding of these norms and hopefully also reflect on some of the challenges and opportunities CSOs experienced. As extant literature on norm contestation and norms more generally maintains a heavy focus on the role of states and international institutions (also: international organisations or IOs), it is also hoped that such additional research on contestation at the meso level (e.g. including groups and organisations, as opposed to individuals and families [micro-level] or states and international institutions [macro-level]) will contribute to broadening understanding of contestation in general.

Namely, this research will add to understandings of how 'alternative' actors, like civil society, engage in contestation in the defence of or to resist certain understandings of shared norms. In the sections which follow, the concepts of social movements, civil society, and CSOs will be introduced and explained in **2.2. Social Movements and Civil Society (Organisations)**. Next, the chapter will bring in the second body of literature, namely that focused on norms and contestation in **2.3. Norms, Contestation, and the Role of Civil Society** before reviewing the various ways that CSOs contest norms in **2.3.2. Who Contests Norms? The Role of Civil Society**.

2.2. Social Movements and Civil Society (Organisations)

At the heart of this research is SMS, a field of study intertwined with disciplines like political science, which seeks to unpack social movements, civic mobilisation, and how actors in this space like CSO communicate and strategically actualise their demands.¹⁰ Focus on social movements and civil society has been aroused periodically by the emergence and decline of various civic movements like those of the 1960s. The 1960s protest and liberation movements (in the West) attracted interest from scholars, especially in the Global North, who focused on everything from the reason for (lack of) social engagement to the resources needed for social movements to take place (Tarrow, 1998), to the potential of social movements to influence public opinion and even the actions of decision-makers (e.g. politicians) (Agin, 2022). The actors involved in social movements are brought together by their 'shared collective identity' (Van Laer and Van Aelst, 2010) and shared 'commitment to change' (Tilly, 1984). They act in common to achieve shared goals which have relevance beyond individual actions alone. The terms 'social movements' and 'civil society,' while often used interchangeably (Daniel and Neubert, 2019), have subtle¹¹ differences, as:

'A study of **civil society** analyses the *features of associations* in a public sphere or arena and their *role in politics and society* [and] a study of **social movements** looks at *processes of mobilization and action*' (ibid; *emphasis added by author*).

There *is* an overlap between the two concepts as well since civil society includes 'a wide range of associations, such as charities, non-governmental organizations, community-based groups, women's groups, faith-based groups, professional and business associations or trade unions...[and] social movements' (Bernhard et al., 2020; Daniel and Neubert, 2019).¹² In this research both social movements and civil

¹⁰ The extent of the history of social movement studies and the intricacies of positioning it as a distinct field are not covered in this project, however, for a rich overview, one may see Della Porta et al., 2015.

¹¹ These differences are much more subtle in the European and North American contexts than those of the Global South.

¹² Social movements and civil society organisations are typically considered distinct from both political and religious organisations (Bernhard et al., 2020; Yom, 2005), although the unique influence of the Catholic Church in Poland and its proximity to both the civic and political spaces both in the study period and earlier, in communist times, raises questions about where and how to separate the two. Further, other theorists (e.g. Villa, 2006; Osborne, 2021)

society are of interest as it examines the composition and features of CSOs as well as the activities they engage in to contest standards of the rule of law and human rights. This work further seeks to reflect on the resources and relationships which aid their mobilisation and the difficulties which hinder it. Today most scholars align with the contemporary understanding of civil society as published by the International Encyclopaedia of Civil Society, which considers it 'the arena of unconstrained collective action arranged around shared interests, tasks and values' (Irish, 2010). Like social movements, civil society requires a self-organised 'critical mass' of persons sharing a common goal and working to articulate political needs and opinions, although these organisations need not be politicised per se (they can include for instance, charities and groups with political potential which don't always express a 'political voice,' such as business or trade associations) (Daniel and Neubert, 2019).

This additional criterion avoids a potentially borderless definition of CSOs by stressing that they ought to articulate political needs and/or should be 'active in collective deliberations that are somehow politically relevant' (Díaz, 1993; Kopecký and Mudde, 2003). Despite these stipulations, however, this research maintains a diverse understanding of which organisations fall under the term CSOs. They include all forms of self-organised groups of citizens which meet the above stipulations and are not limited to organisations that have official registration statuses but also include informal groups. These exclude political parties and religious institutions (e.g. The Roman Catholic Church), however, they *include* separate organisations founded and/or supported by religious institutions, such as Caritas Internationalis (O'Rourke, 2010). This work is especially careful to include organisations in the civic space beyond larger, well-established CSOs as it seeks to counter the bias in literature towards 'permanent, long-established organisations' (Kopecký and Mudde, 2003) which has led to a hyper-focus on a small number of relatively well-known, registered organisations.¹³ CSOs may fulfil a number of roles in their society, however, CSOs and social movements in general are traditionally understood as antithetical to hegemonic powers (e.g. the State) (Tarrow, 2011). CSOs are also thought to be integral to the (re)equilibrium of democracy, as they may keep anti-system, non-democratic actors in check (Bernhard et al., 2020) while

consider religious groups, at least in some contexts, as part of civil society as well. While this question is fascinating and needed for contexts such as the Polish context, it is not covered in this research.

¹³ For a full overview of the differentiation between **registered** organisations in Poland, see this [article](#) on the Registry of Polish portal or non-governmental organisations (in Polish).

elevating the needs and concerns of various social groups, especially the disenfranchised.

2.2.1. When and How to Act: Strategic Interactions and Opportunity Structures

To achieve their goals, CSOs may engage in what are called strategic interactions, such as strikes and protests. Strategic interactions are the activities that CSOs engage in, to influence others' 'thoughts, feelings, and actions' (Jasper et al., 2014).¹⁴ CSOs choose to implement one or more of these interactions by drawing from what Tilly (1984) referred to as 'repertoire[s] of collective action' or 'set[s] of means that are effectively available to a given set of people' (ibid). In other words, these repertoires are sets of strategic interactions that CSOs may engage in to accomplish their goals. Strategic interactions in these repertoires may take varied forms such as street protests, strategic litigation, letter-writing campaigns, petitioning, illegally occupying strategic spaces (e.g. sit-ins), and reclaiming areas (i.e. parks or schools) for alternative uses (e.g. housing camps or art installations) among others (Boeselager, 2014; Boutcher and McCammon, 2018; Fuchs, 2013; Hammond, 2013; Oleinik and Strelkova, 2015; Tarrow, 1998; Tilly, 1993, 1983). Within repertoires, there is room for manoeuvre and actors may disengage from certain means when they no longer appear to be effective. For instance, civil rights groups operating in the Jim Crow US American South litigated for equitable laws for decades, but by the 1950s, it became obvious that such methods would yield incremental change if any at all due to the hostile social environment and the hegemonic role of the Jim Crow System in American culture and legal systems (Harding, 1984).

Groups thus turned to staging protests and other interactions (e.g. sit-ins) to 'breach...white hegemony' and provoke a state of crisis (ibid). This example, in which societal attitudes and even the court system influenced a social movement shows that movements do not exist in a vacuum, and they may have to alter their repertoires to adapt. Groups, like authorities (e.g. police, judges, politicians etc.) can be involved as 'interlocutors, regulators, and even agents provocateurs' (Tilly, 1993, 1983). For instance, authorities may hinder strategic interactions (e.g. by placing

¹⁴ It is worth noting that the same act of multiple individuals united by shared goals engaging in action collectively for a shared cause is represented by alternative terms used by different scholars, however, the same basic phenomenon is described. For the purposes of this research, this term is used, although others are not negated by the use of this term (e.g. Tilly and Wood, 2019).

barricades or removing protestors) or invalidate them (e.g. by-passing laws to forbid certain strategic interactions). These reactions in turn may encourage civic actors to modify or change their interactions to avoid these constraints (Tarrow, 2011). Collective action is, thus, not always possible or favourable so CSOs wait for their opportunities to pursue action (Tarrow, 1998). They wait for 'changes in political opportunities and constraints' (ibid) that may come about as a result of 'changes in the broader political structure and climate' which affect the ease or difficulty of pursuing collective action (Caraway, 2018). Crisis events or political attacks, like repression, may restrict opportunities to act or embolden CSOs to react (ibid), however, predicting these events and their influence on the emergence of contentious politics is difficult (Gamson, 1992; Tarrow, 1998).

For instance, the collapse of communism made the formation of (non-state-founded) CSOs and the expression of various social movements, (which were, importantly, independent of the state) possible again (Císař, 2013). Its collapse, which created new opportunities for independent movements and organisations, however, was largely unanticipated, even by those working underground to undermine it. Similarly, crisis events, like pandemics or financial collapses may inspire movements but often come about spontaneously. This is not always the case, however. As will be seen in **Chapter 5: Polish Civil Society in the Context of EU Membership**, events like EU accession, which was planned and had an official date, can also inspire CSOs to act. In this case, CSOs were inspired to advocate for new rights, such as those of LGBT+¹⁵ persons and women's reproductive rights, under the premise that Poland was preparing to integrate normatively, politically, and legally into an IO (the European Union (EU)), whose standards for these rights were much more favourable. Likewise, CSOs may also mobilise leading up to other important events like elections.

2.2.2. Problematising the Liberal Bias

The seemingly impartial definition of civil society notwithstanding, civil society is generally theorised to be aligned with 'ideals of political equality, peaceful

¹⁵ LGBT+ is meant to signify those who identify as lesbian (L), gay (G), bisexual (B), transexual (T) or non-heteronormative, including those who are not biologically consistent with one gender or the other (e.g. intersex individuals). The usage of this term in no way negates the validity of the usage of similar terms including LGBTI and LGBTQIA, among others.

coexistence, politeness, tolerance, inclusion, trust, truthfulness, and willingness to participate in civic affairs and to support democratic principles' (Daniel and Neubert, 2019). Even the various reignitions of interest in civil society and social movements are related to the role of pro-democratic, equality-based groups. Consider, for instance, the interest in the rights movements of the 1960s in the West, democratisation movements throughout the Global South in the 1990s (Cavatorta, 2012), or the anti-communist movements of the late 1980s and early 1990s in the East (Bernhard et al., 2020; Poppe and Wolff, 2017). The fall of communism in Central and Eastern Europe (CEE) in particular inspired high hopes in scholars regarding the transformative and democratising potential of civil society (Kopecký and Mudde, 2003; Mikecz, 2020). It also inspired various ideas about the ways that modern civil society could aid democratisation and democratic stability. The concept and usage of the term civil society then took on a normative character (Abril, 2008; Daniel and Neubert, 2019; Putnam, 1993; Zafirovski, 2007). Even in the present day, CSOs are largely seen as a potential bulwark for democracy especially when it is under threat (Christopoulou, 2022; Mikecz, 2020; Szuleka, 2018).

Additionally, civil society is often considered that which exercises 'a spirit of non-violence, mutual tolerance, and respect' (Harmsen, 2008), causing many scholars to exclude groups which do not exemplify these traits but which otherwise would appear to be CSOs (Daniel and Neubert, 2019; Kelley, 2011). These criteria not only exclude certain organisations based on their values but also organisations that engage in violent or 'uncivil' actions to achieve their goals. This bias is derived from several assumptions, many of which are restated widely without criticism (Mercer, 2002). Firstly, CSOs are thought to increase the number of channels that various groups have to voice their concerns about a variety of issues and empower these groups to put pressure on governments or more well-institutionalised actors that would be impossible to take on alone (Bernhard et al., 2020; Mercer, 2002). Likewise, the ability of (some) non-governmental organisations (NGOs)¹⁶ to empower and elevate 'poor and marginalised groups' brings attention to civil society's capacity to expand access to justice and defend the rights of marginalised and/or at-risk groups (Giersdorf and Croissant, 2011; Mercer, 2002). All these facts together have obscured any potential non-democratic aims of civil society. In fact, by the 1980s:

¹⁶ NGOs and CSOs are the same and are used by some scholars interchangeably. Although much research which focuses on NGOs by name, appears to refer only to larger, legally registered CSOs, in this work they are the same.

'...the idea of civil society acquired a rarely challenged positive connotation. Social scientists and policy makers assigned civil society a key role in driving progressive social, political and economic transformation. Robust civil society was considered a panacea against a wide variety of social and political ills' (Ekiert, 2019).

Despite this, some academics challenge the liberal basis implicit in conceptions of civil society (see Ekiert, 2019 and Mercer, 2002 for an overview of these works).¹⁷ According to them, political systems that poorly articulate societal needs and concerns through democratic channels and/or weak political institutions themselves may encourage the development of a civil society which does not promote liberal democracy and even one that may actively destroy it (ibid). These scholars argue that some CSOs may be extremist, illiberal, or exclusionist in nature, posing a direct threat to democracy and facilitating an environment for the success of other anti-democratic actors (i.e. political parties with anti-democratic aims or principles) (Kopecký and Mudde, 2003; Youngs, 2018). When theorising about the role and definition of actors in the civic space that do not appear to subscribe to liberal democratic norms or fit other hallmarks of civil society, some scholars have proposed problematising the premise of civil society as a bulwark for democracy and asking questions like what *kind* of CSOs may strengthen (or threaten) democracy instead (Chambers and Kopstein, 2001). To contribute towards plugging this research gap, they have formulated a variety of concepts such as 'uncivil society' (Kopecký and Mudde, 2003; Kopecký, 2003) or 'bad civil society' (Chambers and Kopstein, 2001).

Even these definitions, however, are contested and imprecise (Kopecký and Mudde, 2003). 'Uncivil society' for example, has also been used to describe organisations which resemble CSOs but which were formed by the state or occupied by politicians primarily, such as those which existed in communist Poland (Kotkin, 2010) (for more discussion on this form of civil society, see **Chapter 4: Polish Civil Society Between Communist Occupation and EU Membership**). However, these terms are often used by scholars and public figures alike to refer to several other diverse organisations and movements, including those with un-democratic values, using

¹⁷ In addition to the normative discussions of who constitutes civil society, there is also discussion amongst scholars about the composition of such organisations and their relationship with the state (e.g. whether trade unions, which tend to collaborate closely with the government, may also be considered CSOs). For an in-depth discussion of these debates see: Kopecký, 2003.

violent or uncivil interventions but which function independently of the state, like the Ku Klux Klan (Chambers and Kopstein, 2001). From this brief overview of the various forms and roles of civil society, it should, therefore, be understood that civil society is not monolithic. It does not always mean the strengthening of democracy, nor does it mean that civic actors advance the same kinds of goals, maintain the same kind of relationship with the State and other actors, or share the same ambitions for the future of the society they operate in. Likewise, although this work, focuses on civil society and CSOs that advocate for a particular understanding of the rule of law and human rights norms (often referred to as 'liberal' both by the State and other scholars) and which challenge the standards of United Right in these areas, there is, when relevant, reference to other kinds of civil society in Poland.

Lastly, this work considers all of the aforementioned 'other' groups as CSOs as well, since they collectively organise citizens with a shared identity around the same cause(s) to articulate political demands. It does not matter that these CSOs may use tactics that are 'uncivil' or violent (e.g. blockades) or that they may advocate for a conservative or traditionalist society over a 'liberal' one. When relevant, CSOs that are different from the ones of focus for this work (e.g. so-called 'liberal CSOs') are differentiated by defining details (such as their relationship with the State, their ideological outlook, or their stance on the norms in question). The purpose of this work is not to parse out the various forms of civil society which exist in Poland (or in general) and there is not adequate space to wade through the sea of conflicting terms which scholars have used to understand and circumscribe the 'other' civil society. However, it is often important to differentiate between the various kinds of civil society, especially in the Polish context. Care will be taken to avoid diverting the course of this work by only addressing these 'other' kinds of civil society when relevant.

2.3. Norms, Contestation, and the Role of Civil Society

The following section introduces the second body of literature from which this research draws, namely that on norms and norm contestation. A norm is defined as 'a standard of appropriate behaviour for actors with a given identity' (Finnemore and Sikkink, 1998; Katzenstein, 1996). Norms are used by members of the group or community in which they are entrenched as a baseline for establishing appropriate

courses of action in response to a variety of situations and to help actors avoid inappropriate behaviour (Thomas, 2006; Deitelhoff and Zimmermann, 2019; Finnemore and Sikkink, 1998; Katzenstein, 1996). The most recent wave of norms research focused on the introduction and socialisation of norms from one context to another. Here the focus was on so-called norm entrepreneurs, actors whose goals are to institute new norms widely amongst a community where they have not yet been internalised and accepted, leading to these norms' eventual incorporation (Finnemore and Sikkink, 1998; Sunstein, 1996). Norm entrepreneurs are believed to be integral for the introduction of norms in new social contexts (Finnemore and Sikkink, 1998), exposing the fact that norms are neither automatically nor organically bequeathed from one society to another but rather have to be socialised in each new context (Wiener, 2007). In other words, norms 'don't travel well' (Wiener, 2014) and may be challenged, changed, or misunderstood when they cross a (cultural) border.

Further, attempts to establish norms within new contexts risk significant potential for disagreement, particularly at the domestic level (Finnemore and Sikkink, 1998), as norms are never introduced in a 'normative vacuum' but rather come into spaces, which are already filled with a dense network of existing domestic norms (ibid). The process of norm socialisation is considered complete once the adoption and internalisation of norms lead to 'changes in identities, interests, and behaviour' (Risse et al., 1999). Once this occurred, normative compliance was theorised to continue, even absent the impetuses that previously ensured compliance like punishment or domestic pressures, such that norms were followed habitually and automatically going forward (Finnemore and Sikkink, 1998). The socialisation phase of this so-called norm life cycle was thus understood to be the most tumultuous (ibid) with relative stability predicted once norms had reached a certain threshold of acceptance (Deitelhoff and Zimmermann, 2020). Originally, this lifecycle was thought to occur in three stages, (1) norm emergence; during which a new norm is introduced (2) norm cascade (or the broad norm acceptance), and (3) internalisation; when norms are finally accepted by norm receivers (Finnemore and Sikkink, 1998). By the 'final' stage, scholars believed that norms were likely to become so internalised that they achieved a taken-for-granted status and would no longer be under significant threat of public debate (ibid).

Some scholars, however, have challenged the straightforwardness of how the internalisation process is described. They posited that the norm lifecycle is not

linear and that norm entrepreneurs face a much stronger resistance than previously believed. Since norm entrepreneurs must work to introduce change into an existing system with its own norms, they experience pushback from those who want to preserve extant norms, reject new norms, and/or stick by existing definitions of the norms that entrepreneurs seek to influence. Some researchers even introduced new actors into the norm life cycle such as norm 'antipreneurs,' opponents of norm entrepreneurs, who resist normative change (Bloomfield, 2016). As regards the non-linearity of the norm lifecycle, scholars have pointed out that even norms that seemed well-understood and established (like human rights, the rule of law, democracy, and fundamental rights) have been challenged. Norms may be rejected, altered, or replaced by norms which better suit norm followers, even after they have seemingly passed the internationalisation step (Iommi, 2019). This is achieved through the contestation of a norm.

2.3.1. Norm Contestation

While research about norm socialisation tended to suggest a unidirectional process that was stabilised once actors were thoroughly socialised beyond a certain tipping point of domestic acceptance (Wiener, 2008), recent norms research has shown this process to be much more volatile (Deitelhoff and Zimmermann, 2020). The realisation of this volatility represented new developments in norms research and a general turn away from compliance-oriented scholarship that (over-)emphasised norms' stability. Instead, research reoriented this process to understand contestation as a natural part of a norm's lifecycle (Wiener, 2018). Here, contestation refers to practices of challenging, questioning, or disagreeing about the definition, interpretation, scope, or validity of a norm (Deitelhoff and Zimmermann, 2019; Mos, 2013). Norm followers may contest a norm to establish a new understanding of its meaning, content, and/or scope. Even widely respected norms like the rule of law and human rights are prone to contention because they lack specification and must be grounded by adjacent norms (Wiener, 2014). Thus, while many actors often accept these norms in principle, one will find that they are often disputed, or contested in practice (Wiener, 2017a). The ability of actors, including norm-followers themselves to challenge or change the definition or scope of the norms they ought to follow reveals norms' dual quality. Namely, norms are both structuring, delimiting the behaviour of norm followers and constructed, able to be changed, challenged, or (de)constructed by these very same norm followers (Wiener, 2014).

Contestation may include a 'range of social practises which discursively express disapproval of norms' (Wiener, 2017) but it is not restricted to the discursive realm. Contestation may also include acts like the non-implementation of or withdrawal from a treaty (Petri and Biedenkopf, 2020), challenging or seeking to alter the meaning or content of norms (e.g. CSOs lobbying the UN to redefine how it defines women's rights) (Chappell, 2006; Gilby et al., 2021), undertaking activities prohibited by law or treaty (e.g. states conducting torture in wartime even though they are still bound by norms like the prohibition of torture) (Wiener and Puetter, 2009), and even mobilisations (e.g. organising protests to express opposition for EU climate policies or against hijab requirements) (Cianciara, 2017; Khazraee and Novak, 2018). In these brief examples, it can be seen that contestation includes several strategic interactions including (online) petitions, statements, (online) protests, letters to prominent figures, blockades, hacking, and more. Wiener (2020) further defines contestation as taking one of two functions. The first form is reactive contestation. Here, contestation may be employed to challenge a norm, to challenge the conditions under which compliance is warranted according to a norm, to breach a norm outright, or to contest another actor's contestation of a norm (Wiener, 2017a, 2020). The second form is proactive contestation. Here contestation may be used as an avenue through which to critically engage with norms and achieve shared normative understandings across a group of stakeholders (ibid). The anticipated result of critiquing a norm (proactive contestation) is the *strengthening* of that norm's robustness since expected norm followers can request further clarity of norms' application and definition and even contribute to its co-creation.

With the introduction of proactive contestation, it is easy to see how, despite previous research positing contestation as a danger to norms, some scholars may assert that the contestedness of a norm is indicative of its legitimacy. In fact, stakeholders who do not maintain input into the norms that govern them often struggle to recognise the legitimacy of these norms (Wade, 2012; Wiener, 2017b). In this sense, proactive contestation is important to increasing norms' legitimacy because it 'enabl[es]' norm followers 'to challenge international norms by interpreting and translating them differently across cultural, social, and political contexts,' therefore allowing them to settle on a definition of a norm that is most appropriate for their particular context (Aggestam et al., 2023; Wiener, 2014). The focus, therefore, should not be on containing or preventing contestation, to shield a norm from change and instability but rather on facilitating regular contestation while maintaining the need to expand participation in contestation to

all stakeholders affected by these norms, on the principle that stakeholders should have agency in the processes that directly affect them (Tully, 2008; Wiener, 2017b; Zimmermann et al., 2017). This follows the *quod omnes tangit* principle, which maintains that 'what affects all must be approved by all' (*Contestation in World Politics*, 2015; Tully, 2012; Wiener, 2020; Zimmermann et al., 2017). Of course, not all actors who are affected by norms have equitable access to co-shape them through contestation. There is a clear power dynamic.

For instance, between state governments and civil society but also between powerful norm setters, like the EU and individual states, especially if states are persuaded to abide by EU norms (e.g. by financial gain, by the prospect of EU membership, or by the angst of punishment due to non-compliance). For organised citizens, coming together to contest a norm or its content until it becomes suitable and relevant can be achieved through social movements, as will be partially demonstrated in this work. Movements are thus both a way to elevate the voices of citizens, especially disenfranchised ones and a vehicle to contest ill-fitting norms while championing a collective declaration of what norms ought to govern one and how they ought to be defined. Civil society need not traverse this road alone, however, powerful norm-setters such as IOs are often allies when it comes to legitimising a particular norm or a certain definition of a norm. Likewise, by using strong tools like the law, civic actors can articulate the legitimacy of their contestation (e.g. by showing that it aligns with the law) or instrumentalise these tools to punish the norm violations of others.

2.3.2. Who Contests Norms? The Role of Civil Society

While previous research tended to focus heavily on the role of states and IOs in promoting and contesting norms (Bonnard, 2013; Finnemore and Sikkink, 1998; Schimmelfennig, 2005, 2001), recent scholarship has centred on the role of new actors like CSOs. For instance, some research has focused on how CSOs contest United Nations (UN) standards for norms like women's rights, human rights, and sexual and reproductive health rights (SRHR) (Chappell, 2006; Chen, 1995; Gilby et al., 2021). They highlight how CSOs, often together with other powerful actors, like the Catholic Church or political parties lobby for the inclusion or removal of certain rights or issues (e.g. access to contraception) as part of these norms or how CSOs press the UN to include or exclude certain definitions of concepts they consider to be sensitive, like gender. Other research has examined the ways that CSOs challenge their own governments by acting as entrepreneurs 'from below' to

introduce new norms (such as refugee protection) or to catalogue certain issues (i.e. the protection of refugees) under the extant human rights norms (Asztalos Morell, 2019; Nah, 2016). Others looked at how CSOs contested hegemonic cultural norms, which linked non-heteronormativity to deviancy by working to change public discourse about LGBT+ persons and through mobilisations that reoriented non-heteronormative identities as normal and deserving of social visibility (Bruce, 2013).

Still, others examined the ways that CSOs used strategic interactions in the digital space (e.g. social media campaigns, hacking, online petitions, and email campaigns) to advocate for refugee-burden-sharing norms during the 2015 'refugee crisis' (N. Hall, 2019). As it regards the norms and rights of focus for this research, recent scholarship has reflected on the role of Polish CSOs in advocating for and upholding particular standards for the rule of law and human rights, which include matters like judicial independence, the separation of powers, SRHR, and LGBT+ rights. This turn in research is hardly surprising as contestation is at the heart of social movements. Social movements, in addition to organising around a collective identity and seeking to advance shared goals, are also tasked with 'contest[ing] an existing social order' (Bruce, 2013; Taylor and Van Dyke, 2007). The targets of these movements and related CSOs need not be the state, it may also include, for instance, 'cultural symbols or non-state institutions' (ibid). This is not to say that actors like IOs and states are no longer important. Non-state actors at the micro- and meso-levels (e.g. activists and CSOs) often base their arguments on the normative standards set by legitimate actors such as well-respected IOs. They may also form coalitions with politicians or IOs to advance their goals. CSOs, further, regularly seek to influence powerful actors and international publics, lobbying these actors directly via media campaigns and other interactions to elicit their sympathy and gain (inter)national attention in hopes of enacting greater change (Taylor and Van Dyke, 2007).

For instance, CSOs like Federacja na rzecz Kobiet i Planowania Rodziny (Federation for Women and Family Planning) (or FEDERA) worked to advocate for the right to on-demand abortion in Poland in the late 1990s and found most of their (admittedly marginal) success only after they gained the support of the United Nations Commission on Human Rights¹⁸ (Nowicka, 2007). Their influence alone was not

¹⁸ FEDERA also worked with other national parties, like other NGOs and parliamentarians and international civil society, like the Dutch Women on Waves CSO in its various strategic interactions to advocate for unfettered access to abortion as an issue of women's and human rights (ibid).

strong enough to introduce the idea of abortion as a woman's or human right in Polish social discourse at the time (ibid).

Conclusion

In this chapter, the theoretical framework and existing literature guiding this work are described. It begins with an overview of the field of social movement studies as well as the common terms used in this field, which appear throughout this work. It explains how civil society organisations and social movements are defined and distinguished, as well as when both decide to act. As social movement studies and related disciplines often operate under the assumption that civil society and civic mobilisation have a positive relationship with the maintenance of a liberal democratic society in which the rights of minorities are protected and the power of the state and/or other majority groups are curtailed, this chapter takes a subsection to criticise this 'liberal bias.' Following this discussion of social movement studies, the chapter explores the second field of research from which this work draws, namely, IR. The focus here is particularly on norms research and various understandings of norm contestation. Subsequently, the two fields are brought together by a brief section which outlines how norm contestation can be carried out by non-state and non-institutional actors, despite the hyper-focus on these groups. It shows how this study also attempts to explore contestation 'at the margins' and by actors at the meso level. In this way, the role of civil society in contestation can also be introduced before concluding the chapter with a brief discussion about how contestation finds its place in civil society in the Polish context.

Chapter 3: Methodology

This research focuses on how Polish civil society contested the standards of the United Right coalition for the rule of law and human rights from 2015-2022. In doing so, it looks at the strategic interactions employed by Polish CSOs which expressed discontent, disagreement, and/or attempts to influence United Right's standards for these norms. This research argues that the 2015 electoral victory of the United Right coalition presented a rupture from previous Polish politics and, importantly for this study, some of the most significant threats to the right of focus in recent memory (or, as some would argue, since communist times). This, in turn, seems to have sparked an unprecedented wave of civic activity including the largest demonstrations since communist times (Magdziarz and Santora, 2020), for instance. A comprehensive review of the challenges to the Polish civic space and various rights under United Right can be found in **Chapter 6: United Right in the Civic Space — 2005-2007 and 2015- 2022**. As outlined in the first chapter, section **1.1. Problem Definition and Justification for the Study**, strategic choices were made about which norms and rights to focus on. These choices and the analysis of the data collected from targeted organisations will be the primary focus of this chapter.

3.1 Case Study Design and Selection

This project relies on an intensive, single-case study research design. A case study design is helpful for providing a '“thick” elaboration of the phenomenon under study and the context in which it is embedded' (Gerring, 2004; Snow and Trom, 2002). It was selected because this research narrows in on a specific case, post-2015 Poland and focuses on a specific phenomenon, namely the response of CSOs to (human rights and rule of law) backsliding. Case studies are additionally helpful for producing data which can be generalised and applied to similar circumstances (Gerring, 2004). It is hoped that the results of this research will shed light on how the civic space contests powerful actors like the state to regain or establish certain rights. The Polish case is particularly interesting for this research as it has both experienced attacks on the rights of focus in this work (e.g. restrictions to judicial independence and reproductive rights) and a lack of strong, consistent response from the institutional actors tasked with the defence of norms like the rule of law, such as some EU institutions (i.e. the European Commission) (Kelemen, 2022, 2020). This is not uncommon for EU states that have recently experienced democratic decline (Pech and Scheppele, 2017; Scheppele et al., 2020). However, what sets the

Polish case apart is the apparent emergence of resistance to threats against the rule of law and human rights coming from the civic space— even from organisations which traditionally navigate around political issues, careful to avoid politics or acting openly against the state (e.g. judges' associations) (Matthes, 2022).

Most extant research in this area focuses on how these norms and others are threatened in EU member states (Bucholc, 2022; Gall, 2017; Sadurski, 2018; Scheppele, 2022, 2019) and the role played by institutional actors in response to these threats (Christopoulou, 2022; Grabowska-Moroz and Śniadach, 2021; Rupnik, 2007). The Polish case, therefore, provides an opportunity to examine a third, and often overlooked factor. By isolating the Polish case it becomes possible to examine non-institutional responses to just one episode of what has been referred to as a 'crisis of values' in the EU and create a more holistic understanding of the actors involved in this 'crisis.' For example, this research will show that not only are liberal Polish CSOs deeply involved in contesting government activity but they also regularly interact and work with additional actors like international networks of other CSOs, international professional associations (i.e. Magistrats Européens pour la Démocratie et les Libertés or (MEDEL)), supranational courts, and non-EU international institutions (e.g. the United Nations (UN) and the Organization for Security and Co-operation in Europe (OSCE)). The following section will detail how CSOs were identified and selected for study.

3.2. Profile of CSOs

3.2.1. Selecting Norms for Study

To make the choice about which norms to focus on, the Polish civic space was monitored for a period of approximately 6 months to better understand which CSOs were active, what rights and causes they advocated for, whether these CSOs' strategic interactions were directly related to contesting the normative standards of United Right (e.g. that their interactions were actually a response to the actions/discourse of the ruling coalition and that this response expressed disagreement), and which norms, rights, and issues received the most international attention, particularly from the EU. The latter was a consideration because, in the event that norms are difficult to defend domestically (e.g. because they experience low resonance in the domestic context or political elites act as norm antipreneurs),

CSOs may reference or rely on IOs like the EU, a powerful norm-setter, especially amongst member states. It was, further, interesting to understand if and how CSOs engaged with external parties like IOs or foreign NGOs to strengthen their rights claims or engage in new forms of contestation. Monitoring included several sources. Such sources included debates in the European Parliament and EU dialogue-based interventions like the Commission's EU Rule of Law Framework and international reports about concerning trends in Poland (and worldwide) such as those from Human Rights Watch (Gall, 2017; Margolis and Bielecka, 2019), Amnesty International (Poland: The Judges Who Defend the Rule of Law, 2019), CIVICUS (CIVICUS, n.d.), and democracy indexes (Autocratization Turns Viral: Democracy Report 2021, 2021).

The interventions of IOs concerned about the actions of United Right were also followed. These included for instance, intervention by the Venice Commission (Bílková et al., 2016), the Article 7(1) Procedure launched against Poland (Reasoned Proposal in Accordance with Article 7(1) of the Treaty of European Union Regarding the Rule of Law in Poland, 2017), third-party interventions from the Council of Europe (CoE) in the European Court of Human Rights (ECtHR) (Europe Commissioner for Human Rights- Applications, 2020), and reports from UN Entities (Roggeband and Krizsán, 2020). Additionally, following news about developments in the civic space highlighted macro-trends in Polish civic mobilisation, such as several large protest events in response to restrictions on abortion access ("POLAND - The largest protest movement in post-communist Poland – and going strong," 2021; Szczygielska, 2019). The task was to isolate those issues which had been consistently present in Polish politics and which had elicited a significant response from civil society. After this initial period of monitoring, the first list of potentially relevant CSOs was started. Initially, each CSO was listed along with its foci, strategic interactions, name and website and over a period of an additional few months, this list was periodically reviewed until a final list of CSOs, and related issues was narrowed down.

The norms of focus, the rule of law and human rights, emerged as two of the most relevant norms both in the international debate about the situation of post-2015 Poland (e.g. during EP plenary debates and in international press media) and as reflected by the response of the civic space to these issues. The next step was determining what subset of the short-listed CSOs would be interesting to study as even narrowing the list down to CSOs focused on a norm like human rights in

Poland yielded a sample much too large to study. This is because human rights is a complex norm which is highly contested and remains so by all of the actors in this study. In the Polish context, the human rights norm is circumscribed by the country's embeddedness in the laws and treaties of IOs like the UN, EU, and the CoE, to name a few. However, given the utility of this norm's ambiguity and the number of rights that have historically been claimed as human rights, a myriad of various rights (i.e. SRHR, refugee rights, right to asylum, right to housing etc.) catalogued as human rights could have been the focus of study. This presented an almost infinite variety of organisations that could be focused on. Likewise, while more clearly defined, the rule of law can reference several rights, such as the non-arbitrary use of executive powers, the separation of powers, judicial independence, and access to independent courts.

The rule of law is, similarly, reflected in the IOs and treaties in which Poland is embedded (i.e. as a member of the EU and a signatory of the European Convention on Human Rights (ECHR)). For example, they are aligned with the European Commission for Democracy through Law's¹⁹ rule of law framework, which itself is based on the case law of the Court of Justice (ECJ) (Magen and Pech, 2018). They are also reflected elsewhere in the case law of the ECtHR and the Court of Justice of the European Union (CJEU)²⁰ (Sicilianos, 2020). CSOs dedicated to the rule of law, thus, focus on one or a number of the rights guaranteed under the aforementioned sources as resonant with the rule of law- again making the list of potentially relevant organisations quite large. To further narrow the focus on specific rights related to the rule of law and human rights, therefore, the CSOs in the first shortlist were pooled together based on the rights they defended and positioned as either related to the rule of law and/or human rights. Based on this grouping, a second shortlist was created of the rights that most of these groups focused. This was compared with where the most international focus centred, and the resulting list was taken up for this study. It was also important that rights that experienced significant pressure under United Right were explored for this work (i.e. if a CSO focused on judicial independence, it could only be considered as a relevant right for this study if United Right also threatened judicial independence).

¹⁹ Also known as the Council of Europe's 'Venice Commission.'

²⁰ The CJEU is comprised of both the ECJ and the General Court. Often the ECJ and CJEU are used interchangeably, even in scholarship.

In this way, the reaction of CSOs to challenges of specific rights which they catalogued as matters of the rule of law and human rights norms were of focus. Since the aim was to examine acts of contestation against government standards for these norms, there was no reason to examine CSOs' strategic interactions regarding rights not under threat by the government. The rights of focus for the CSOs examined regarding the rule of law were judicial independence, the right to a fair trial (also a human right), and the separation of powers. As it regards human rights, the rights of focus were reproductive rights (including access to contraception, in vitro fertilisation (IVF), and abortion) and LGBT+ rights (including the restriction of anti-LGBT+ discourse by political elites, freedom of assembly, and non-discrimination on the grounds of sexual orientation²¹). The aforementioned issues were the most active issues in the Polish civic space as they regarded the rule of law and human rights. While CSOs focused on the first cluster (those focused on the rule of law and human rights), seemed to engage in *reactive* contestation, contesting United Right's contestation of these two norms as they are defined in international law and treaty, the latter two groups (both focused on human rights) seemed to engage in *proactive* contestation, arguing that rights, like abortion or against homophobic political speech, while, not explicitly mentioned in extant laws and treaty, should be considered matters of human rights and protected under the human rights norm. More about this will be discussed in the conclusion of this research.

3.2.2. Selecting and Identifying Organisations

Due to the selective focus of this research, organisations were selected as the result of purposive sampling — organisations of interest varied by their formal recognition (both legally registered and unregistered organisations were selected) but organisations did have to be located in Poland (or have at least have one Polish location to study, for organisations located in multiple countries), had to focus primarily on the rule of law and/or human rights (as indicated by their own statements, statues, 'about us' website pages, or other self-identification of organisational causes and foci), and had to be or become active within the time period of this research. Lastly, CSOs had to take a particular stance towards the issue areas of focus, namely, they had to in some way contest the actions and/or

²¹ This would include for instance, Poland's 'Zones Free of LGBT Ideology.'

discourse of United Right concerning the rights in question and frame their strategic interactions as consistent with the rule of law and/or human rights in Poland. An example of how CSOs' websites were scanned to identify these details can be found in the below, translated²² text example from the LGBT+ rights organisation, HomoKomando's website.

Text from HomoKomando's website:

'Whenever the authorities carry out an attack on human rights - we are there and we protest.

On August 7, 2020, during the Rainbow Night, we were in Krakowskie Przedmieście, blocking the arrest of an LGBT+ activist. We were stopped and put on the holes and Linus is still fighting in court for his acquittal for that day.

After the so-called verdict of the so-called tribunal, we were on the streets of Warsaw every day, fighting for the rights of pregnant people, protecting and guiding people on Women's Strikes.

When Kaja Godek was preparing the STOP LGBT project, we were there from the beginning, protesting, proposing the STOP GODEK project. When it was read in the Sejm - we protested in front of the Sejm.

We also participated in many other protests about the rule of law, climate, and other key values. We have always been on the side of people repressed by the authorities.

We are always there when needed' (HomoKomando, 2020).

In the above statement on the website of HomoKomando, the CSO identifies 'authorities' 'attack on human rights' as an issue against which they protest, calling out both the dubious position of the now compromised 'Constitutional Tribunal' (here termed the 'so-called tribunal') as well as political actions targeting LGBT+ rights (like the 'STOP LGBT' bill) and reproductive rights (e.g. the de facto abortion

²² Translated with Google Translate from Polish to English and sourced from the 'Protests' section on their landing page.

ban, which is alluded to here). Among other causes, HomoKomando mobilises for 'LGBT+ activists... pregnant people...' and '...the rule of law,' as can be noted from the above statement. In addition to CSOs' own websites, this research benefitted from a wide range of local, national, and international newspapers. Extensive searches were conducted in attempts to locate organisations operating or acting across the country, as many organisations and much activity was concentrated in cities like Warsaw and Kraków. International news searches were conducted via Google News and the Lexis Uni newspaper database using search term combinations like 'Poland' + 'protest;' 'Poland' + 'civil society;' 'Poland' + 'citizens;' 'Poland' + 'LGBT' + 'protest;' 'Poland' + 'LGBT' + 'civil society;' 'Poland' + 'abortion' + civil society;' and 'Poland' + 'abortion' + 'protest.' Polish-language search term combinations were also employed with Google News and Lexus Uni, such as 'zakaz aborcji' (abortion ban) + 'Polska' (Poland); 'aborcja w Polsce' (abortion in Poland) + 'społeczeństwo obywatelskie' (civil society); 'LGBT' + 'społeczeństwo obywatelskie;' and 'trybunał konstytucyjny' (Constitutional Tribunal) + 'społeczeństwo obywatelskie' (civil society).

Polish-language search terms were improved with each successful Polish-language article identified, as news sites often listed tags related to the article (see Figure 1. Article Tags). This was also the case with the English-language terms, however, as this research relied on Google Translate and the reporting of translated articles in English-language papers and my Polish knowledge was insufficient, this iterative process of improving article tags was more helpful for the continuous development of Polish-language search terms.

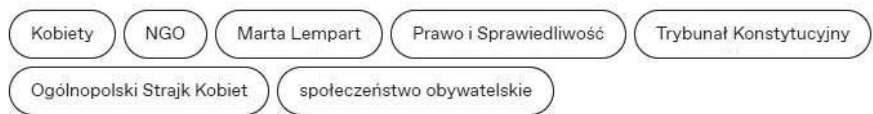


Figure 1. Article Tags

In addition to these targeted searches, subscriptions for blogs and newspapers were maintained to stay up to date on developments in the civic space and potentially identify more organisations. These included Civic Space Watch, wyborcza.pl, OKO.Press, Lossi 36, Verfassungsblog, Rule of Law, Notes from Poland, and Visegrad Insight. The purpose of maintaining these listings was to identify sources for the most consistent reporting on developments in the Polish civic space, which also

featured interviews, photographs, or other key information from which various CSOs could be identified. Additionally, research revealed that CSOs collaborated extensively across issue areas and between organisations of various sizes and makeup, thus studying one organisation typically led to uncovering other CSOs it operated with. For instance, CSOs leading large protests were more likely to be captured by news coverage, especially international news coverage, which led to the identification of (mostly larger, well-known) CSOs. By looking at these CSOs' strategic interactions, like street protests or letters to EU institutions, other CSOs also came to light (i.e. as their banner was spotted in photographs taken at street protests or when they were listed among the other signatories of letters or petitions).

Another example of sketching CSOs' networks to identify more relevant CSOs included the use of social media. Social media, especially Facebook and Instagram, was important for CSOs as a space to share thoughts on developments in Poland and their strategic interactions (or updates to previous interactions). By using the Facebook event pages where CSOs announced events (e.g. protests, Pride marches, rallies, and signature collection campaigns), co-organising organisations were identified along with other CSOs that shared news of the event on their Facebook pages. In addition, this allowed for the identification of organisations and activities even if they are not reported by the media, which tended to focus mostly on large mobilisations and/or large groups, to the disadvantage of smaller groups (Jacobsson and Korolczuk, 2017). A total of 206 relevant CSOs were included for study in this research.

3.3. Data and Data Collection Instruments

Recovering the Past

Although this research reflects on the recent history of civil society in Poland, producing research about interactions that occurred in the past typically presents similar challenges. Firstly, the researcher is unable to witness events (e.g. through participant observation and other ethnographic methods) which occurred before their pursuit of the research question. In the case of this research, five years of activity occurred before the PhD project was even begun, meaning at least some part of the studied time period was out of range for direct observation. Additionally, identifying sources for interviews may be difficult as movements dissolve,

participants pass away, and memories become obscured. Fortunately, there are various ways that researchers can recover data on social movements that are lost to time. Document analysis is one of these methods (Kutsyuruba, 2023) with sources often including organisations themselves, as they produce documents on their activities, aims, networks, and more (Clemens and Hughes, 2002). In this manner, documents can serve as 'witnesses to past events' (Bowen, 2009). Although this method has been seen as more suitable for organisations that still exist or defunct organisations whose documents and other records exist in traditional archives (ibid), in the internet age, this barrier is somewhat removed— even organisations that no longer exist may, if operating recently enough, leave a substantial digital trail. Further, internet archives, such as the WayBack Machine, also used for this research, help researchers recover websites (including social media pages) lost to time, in much the same way that traditional archives allow researchers access to documents produced during bygone eras (Andersen, 2013; Arora et al., 2016; Murphy et al., 2007).

As it regards the value of social media to this research, the easy access to social media, which allows organisations, often with minimal expertise, to create free websites to share events, updates, news, and activities, while networking with other organisations, may shift the balance of power regarding the documentation and preservation of CSOs' strategic interactions. CSOs also often used their social media pages to present the 'human face' of their movements by sharing their daily frustrations (like being summoned to court or having their personal information leaked). This, in turn, made the exploration of the secondary research question easier as, in addition to the information contained in reports and newspapers, CSOs themselves spoke openly about the challenges they faced in carrying out their work. In general, social media increases the wealth and diversity of knowledge available through social media channels. It empowers CSOs, especially smaller, non-registered CSOs to maintain their narrative and sketch traces of their existence through time. While their activities may have escaped memorialisation in traditional media (e.g. because a protest was too small to be covered by media, due to government repression of social movements, or because the organisation was unknown to outside audiences), these CSOs can document their activities (or even just their existence) for the outside world. However, this does present some challenges related to the way that organisations reflect on their activities and self-report strategic interactions, this point re-emerges later in this chapter. The difficulty of using documents produced and/or sources by organisations themselves

is that recordkeeping may selectively record information or selectively save certain documents in order to present the organisation in a favourable light.

For instance, CSOs may only publish conference proceedings of adopted resolutions and not publish or downplay proceedings for resolutions which failed; they may also obscure internal conflict in the organisation or within movements (Clemens and Hughes, 2002). However, for this research, such limitations were not seen as credible threats, as it sought to assess which activities CSOs engaged in, in response to backsliding. This is different from SMS research which evaluates the quality or impact of strategic interactions and which may need to focus on details like whether the proposed interaction elicited the intended response or whether the numbers of reported protestors at street protest events were 'significant.' It is possible that organisations obscured or failed to report on activities that did not have their intended effect— to avoid such shortcomings, a combination of sources was used for the documents analysed in this research. In total, the document analysis included over 797 documents, which were compiled within a 2,5 year period including (translated) Polish-, German-, Dutch-, and English-language newspaper articles, reports from think tanks and policy organisations focused on civic mobilisation (e.g. *the European Economic and Social Committee*, *the Citizens Network Watchdog Poland*, and *Human Rights First*), reports commissioned by EU and other international institutions (i.e. the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, the Venice Commission, and the United Nations General Assembly), judgements from the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU), and information published on CSOs' websites and social media (Facebook and Instagram were used, when present).

Together with the websites and social media pages of these organisations, these documents helped create a clearer picture of the strategic interactions each CSO engaged in and expanded the list of potentially relevant organisations. Although this research used many 'newer' sources (like internet archives of websites and social media), some kinds of documents, like newspapers, have traditionally been identified as useful sources for tracking (protest) events and outcomes (Clemens and Hughes, 2002; Tilly, 1998). Although documents, like newspaper articles, may be shaped by the newspaper itself, this research focused on two variables. It firstly concerned what kind of strategic interaction took place (i.e. newspapers may report on protests and organisations may post a draft bill they submitted, regardless of

how these interactions are framed. Producing a record of such events can be used then to ascertain that an interaction took place and which interaction was carried out. Secondly, it was important to know whether the strategic interaction was related to contesting United Rights rule of law and/or human rights standards (e.g. did the CSOs themselves refer to the rule of law, human rights, or any of the rights previously mentioned like reproductive rights? If so, did they express disagreement with the standard of those rights under the United Right coalition?). Guidance on where to source documents came from common methods for SMS as well as the literature review completed before this research was conducted, which drew attention to the use of newspapers (Clemens and Hughes, 2002; Tilly, 1998), social media (Algozzine and Hancock, 2017; Anderson et al., 2018; Chen et al., 2021; Mundt et al., 2018), court documents (Handmaker and Taekema, 2023), and organisations' websites (Matthes, 2022a) as key sources.

3.3.1. Methodological Choices: Document Analysis

Document Analysis

Document analysis is the 'systematic procedure for reviewing and evaluating documents' and 'entails finding, selecting, appraising...and synthesizing data contained' within the selected documents (Kutsyuruba, 2023). It involves not only assessing the content of the document itself but also the context in which the document is produced, sometimes requiring an 'interpretative reading of the symbolism' contained in the physical data (Berg and Lune, 2017). Taking the first two years to become embedded in the Polish case and accumulate sufficient background knowledge was important to understanding the content of documents analysed in this work in several ways. As will be demonstrated in the examples included in this chapter (and **Appendix f. Coding Examples**), such knowledge was indispensable to zeroing in on seemingly innocuous phrases or brief references that were otherwise easily missed, including common protest slogans and symbols, mentions of politicians from United Right and the policies they championed, references to infamous figures within the various social movements, and allusions to controversial legal decisions. Solidifying this knowledge beforehand was important for both identifying potentially relevant documents and for understanding their content. For instance, event flyers, Facebook event images, and

the use of symbols or 'frames'²³ on one's social media profile picture of the red lightning bolt were easily identified as references to the logo of the All Polish Women's Strike (Ogólnopolski Strajk Kobiet, OSK) (Wądołowska, 2020), the national initiative and CSO at the heart of the 2016 Black Protests and subsequent protests for abortion access, reproductive rights, and related causes (ibid).



Figure 2. The logo for the Ogólnopolski Strajk Kobiet²⁴

Knowledge of the post-2015 Polish pro-choice movements and the symbols (i.e. black umbrella or the 'phrase' '***** ***) related to these movements, which recur in subsequent protests and communications addressing attacks on reproductive rights made it easier to spot when a protest, organisation, post, or article was likely referencing the Polish struggle for abortion access and against the contestation of reproductive rights as human rights. Such background context was especially

²³ This is not a reference to frames in an analytical sense but rather digital images that can be placed on one's profile picture or border that profile picture to represent support for a cause or allyship for a particular group ("Tot actie oproepen met Facebook-profielkaders," n.d.).

²⁴ The logo for OSK, including the now iconic, red lightning bolt, was created by artist Ola Jasionowska (Brown, 2020). According to a statement on Jasionowska's website (Jasionowska, 2021), the displayed image, altered to include the logo of OSK is made available for non-commercial use and is thus reposted here.

helpful when the documents did not explicitly mention phrases like reproductive rights, LGBT+ rights, the rule of law, or backsliding, instead making references through phrases like 'the so-called court' or 'we are not an ideology,' which allude to the compromised status of the post-2015 'Constitutional Tribunal' (Sadurski, 2019) and discourses (used by United Right politicians but also figures in the Catholic Church and members of ultra-conservative CSOs) which allege that LGBT+ rights and persons are part of a destructive, invasive ideology (Ploszka, 2022; Tilles, 2021).

Ways of Conducting Document Analysis

There are many ways to conduct document analysis according to one's research design, research question(s), and the positioning of the document itself within the research (Kutsyuruba, 2023). Some scholars posit that documents are 'social actors' in the research and 'fields of research in their own right' (Miller and Alvarado, 2005). While others understand documents as content or as 'independently adequate resources for understanding some aspect of social practice and meaning' (Miller and Alvarado, 2005; Wood et al., 2020). This description of documents (documents as content) is the one taken up in this research as this approach is the most appropriate for the inclusion of documents for the purpose of this work, namely to uncover strategic interactions based on the activities reported in various documents. This understanding of documents requires a content analytic approach to document analysis and for this reason, qualitative document analysis (QDA) was isolated as an appropriate research method to analyse documents. The approach to documents was both deductive and inductive. This work was guided by extant research on the strategic interactions employed in response to rule of law and human rights concerns (with limited examples from the Polish case specifically), which helped identify some of the strategic interactions that could be expected of relevant CSOs (e.g. Polish judges apart from judges' associations would be expected to lobby for litigation in response to rule of law backsliding, based on existing research (Matthes, 2022a)).

However, this research required an open-minded approach to new interactions which may be uncovered and it evolved as a result of uncovering new kinds of interactions. The purpose of analysing these documents and conducting the semi-structured interviews was not only to confirm the presence of expected strategic interactions but also to reveal novel interactions and/or the interplay between various interactions (i.e. if some strategic interactions, like lobbying EU institutions

for litigation or other action were buttressed by other strategic interactions, such as street protests or lobbying other international institutions).

Semi-structured Interviews

For this research 18 semi-structured interviews were conducted with 21 CSOs.²⁵ Due to the epidemiological threat posed by the COVID-19 pandemic as well as restrictions on travel and meetings (see section **3.7.1. COVID-19 Pandemic** for more details), interviews were conducted via Microsoft Teams, the preferred programme of Maastricht University for its GDPR compliance and suitability for processing high-risk, sensitive data, among other reasons (“Switch from SURF Videobellen to Teams as the tool for video conferencing for high-risk data processing,” 2020). They were not recorded in efforts to potentially make discussing divisive and politicised issues, for which activists have been targeted for violence and other harassment easier to freely speak about as I had no previous rapport with interviewees (see section **3.6. Ethical Considerations and Positionality**). The semi-structured interviews can be labelled key informant interviews, as they were conducted with insiders close to the CSOs and the movements of interest. Interviewees held positions such as (co-)president, board member, and (co-)founder and were often involved from the beginning in the CSO or otherwise maintained an intimate knowledge of the organisation and its functioning. Such interview candidates help ‘gain access to insider understandings of a social movement’ (Blee and Taylor, 2002).

For the Polish case, obtaining such access to key informants was fairly straightforward, as a number of CSOs sprung up as a result of challenges to LGBT+ rights, reproductive rights, and the rule of law, resulting in fairly small, intimately organised CSOs. Respondents often reported that their and other CSOs operating in the same capacity (e.g. other pro-rule of law CSOs) were composed of a fairly small team where most members assumed a leadership position and maintained intimate knowledge of the organisation and its functioning. The value of this particular kind of interview is the ability to obtain insider knowledge without having to first embed oneself in a particular community by instead obtaining rich, insider knowledge from those already close to the activities of CSOs. It is a popular method to gain insight into CSO’s networks and strategies (ibid). Semi-structured interviews are instrumental in research that focuses on mobilisations in the civic space, as they

²⁵ During 3 interviews, interviewees asked to speak about their experience as members or leaders of more than one relevant CSO.

allow those 'on the ground' to articulate their experiences in their own words and provide a 'greater breadth and depth of information' (Blee and Taylor, 2002; Klandermans and Staggengborg, 2002). Additionally, these interviews are important in fields or for topics, where little has been written (ibid) or to record the experiences of CSOs and movements that are more loosely organised (such as some of the CSOs of focus for this research) (Blee and Taylor, 2002). Here the exploratory and flexible nature of semi-structured interviews is an asset (ibid).

They allow the researcher to ask pre-planned questions, for some level of comparability while also allowing them to explore new topics that arise and were previously unanticipated (Berg and Lune, 2017). Semi-structured interviews have long been seen as a way to introduce human agency into the research process, especially for research which does not involve a co-creative process between researcher and research subject, as it allows individuals to invite the researcher into their world and 'generate representations that embody the subject's voices, minimising, as much as possible, the voice of the researcher' (Blee and Taylor, 2002). An interview guide was used for the interviews— with a Polish- and English-language version created. The questions for both interview guides changed only slightly to reflect new themes which arose from interviews and document analysis (See **Appendix a: List of interview topics/interview guide English (All Versions)** and **b: List of interview topics/interview guide Polish (All Versions)** for the interview guides). The interviews were, at one level, important for cross-checking the information gained during the document analysis, namely, checking to see if there were any strategic interactions which had not been uncovered in the analysis. Secondly, they provided additional insight into some of the challenges and opportunities organisations faced, as well as the kind of networks they built in their efforts to address backsliding. This helped in contextualising the data, since CSOs do not act in a vacuum but rather interact with various actors, institutions, and within legal, political, and cultural frameworks.

Likewise, SMS reflects not only on the activities pursued by CSOs and their goals but also on the tools they use to accomplish their goals, the obstacles to achieving these goals, and their relationships with other actors. Interviews helped to unpack the everyday experiences of those in CSOs, including their interactions with other CSOs, the government, and various international institutions. Such data was also reflected in the documents, as CSOs wrote openly (via their social media pages and websites but also in letters to international institutions, for instance) about their difficulties

and frequently collaborated with other CSOs on strategic interactions, however, including the interview data helped cross-check this data. Additionally, this contextualising data was sometimes difficult to find in documents. Examining the photographs of protests, rallies, and Pride events or the co-organisers listed on Facebook event pages helped identify which CSOs (and political parties) these CSOs worked with but CSOs did not always talk about their difficulties or the role played by other actors (like the police or local courts). The absence of references to these other actors was problematic because it can be assumed that CSOs did regularly interact with these groups as a result of engaging in some strategic interactions. For instance, many street protests, especially during COVID lockdowns involved a police presence and sometimes charges like that of ‘causing an epidemiological threat’ (*Polish Women’s Strike activists targeted by the state*, 2021). It can, therefore, be assumed that CSOs engaging in demonstrations also regularly interacted with police and courts.

However, this was not always reflected on their social media pages or in documents. Lastly, semi-structured interviews are often used as an alternative to gathering rich, ethnographic data over time such as when it is not possible for researchers to become embedded in the group(s) of study (Blee and Taylor, 2002). My personal limitations as a researcher (See **section 3.7.2. Personal Limitations**) made semi-structured interviews an attractive methodological choice. Due to the small number of interviews conducted²⁶ interviews were complemented by document analysis, which resulted in the creation of a repertoire of collective action for the CSOs of interest. This is a common choice; semi-structured interviews are often combined with documentary methods or participant observation (Blee and Taylor, 2002). The value of this combination is that one method supports the findings of the other and that these methods together are helpful in unpacking ‘complex social events and processes’ seen in the study of social movements and civil society (ibid).

3.4 Qualitative Document Analysis (QDA)

Qualitative Document Analysis (QDA)

²⁶ Although expressed here as a limitation of research, it should also be noted that the same themes began to recur in interviews conducted and statements made by interviewees mirrored the themes identified both through secondary data and primary data from document analysis closely, thus, the overall quality of the data from these interviews was high.

The steps taken to analyse the documents were inspired by Altheide's (1996) steps for qualitative document analysis (QDA). Notably, these steps are similar to other guides to QDA, however, Altheide was a useful source for his more detailed steps. While these steps provide a guide to conducting QDA, it should be noted that the intention is not for these or similar guides to act as rigid constructs for the analysis of documents across the board, but rather to be flexibly adapted to the document, its context, and the research question one aims to answer (Altheide et al., 2008). This involved four core steps to analysing the document, which are recounted below. They are paraphrased from the chart drawn up by Kutsyruba (2023) with some steps removed based on the purpose of this document analysis (to isolate strategic interactions) (for actual examples of how several different documents were coded see **Appendix f. Coding Examples**).

Step	Explanation
1: Step Inclusion Criteria for Documents	This involved creating a set of rules for the kinds of documents which would be included or excluded for the analysis. ²⁷
2: Collection of Documents	This involved collecting the documents, in the case of this research, from various online databases, newspapers, and social media pages.
3: Coding Documents	Documents are coded to determine the extent to which they address the identified themes
4: Verifying Documents	The analysis of documents is confirmed either through the verification of a second researcher or the primary researcher re-approaching the analysis.

²⁷ Such as that the document must have been written at or after the begin date of the study period for this work and/or reference activities occurring between 2015-2022

Table 1. QDA Steps

3.5. Thematic Coding Semi-Structured Interviews

Semi-structured interviews followed an inductive coding approach. Notes were transcribed by hand and the analysis also took place by hand, this was made possible due to the small and relatively manageable number of interviews conducted and partially preferred due to the cost and learning/skill development needed to use most mainstream transcription applications. Due to the varied topics explored during these interviews (which lasted up to one hour), a number of themes were reflected on and analysis took place on two levels. The first level relates to the main task of this research, namely, to uncover which strategic interactions CSOs engaged in as a form of contestation. While this was reflected on throughout the interview, as participants recounted the various activities they or their organisation engaged in, this query is mostly addressed by the participant's response to the 6th question in the interview guide (for examples of a coded interview [excerpt], see **Appendix 1f. Coding Examples**; for a list of the interview questions see **Appendixes a: List of interview topics/interview guide English (All Versions)** and **b: List of interview topics/interview guide Polish (All Versions)**).

3.6. Ethical Considerations and Positionality

Ethical Considerations

The most significant ethical considerations for this research related to the engagement of 'human subjects,' namely interviewees for this research. Prior to proceeding with interviews, clearance was obtained by the Ethical Review Committee Inner City faculties (ERCIC) of Maastricht University's Faculty of Arts and Social Science (FASoS) and suggestions on the approved application were adopted. In order to minimise the potential ethical concerns, informed consent was obtained for all interviews, with interviewees first being informed about the aims of the study in an email written both in Polish and English (see **Appendix 1c. Interview Invitation Email**). Once potential interviewees agreed to proceed, more information followed in the form of a consent document which also contained further details about the study, the contact details of myself and my primary

supervisor, and details on how their data would be stored and protected (see **appendices d. Informed consent form Polish (All Versions)** and **e. Informed consent form English (All Versions)**). The form was available in Polish and English, with respondents being sent a form in either language based on their own identification of their comfortability with speaking English during the interview and in communications. When interviewees indicated that they would prefer to do the interview or communicate in English but if they were unsure of their English skills, both versions of the consent form were provided.

Interviewees were informed that they may stop the interview at any time and that their names, as well as information that could be used to identify them (like the name of the organisation they worked for), would not be tied to their responses. Due to the politicised nature of the subjects discussed and the effect that activism had on the well-being and daily lives of potential interviewees (i.e. Polish activists in these spaces have reported threats like doxing, online harassment, physical assault by counter-protesters and police, and hacking (Bakun and Pomorska, 2019; *Byliśmy traktowani jak przestępcy*, 2022; Jędrzejczyk, 2021; Szuleka, 2018)), interviews were not recorded. However, detailed notes were taken during the interview and were stored on my encrypted Maastricht University personal drive ('J-drive'), which was accessed through my password-protected personal laptop and computer. My previous experience interviewing participants who may find themselves targeted for their involvement in politically and/or socially divisive subjects as an 'outsider' (see below discussion in the section, **Positionality**) has revealed that not recording interviews and conducting them in person (when possible) made interviewees more comfortable sharing information and more likely to participate. Other actions were taken to make the interviews more comfortable and effective, such as using terms in plain language and explaining or providing examples of terms that could be confusing. The fluidity of a semi-structured interview, further, allowed for follow-up on questions or themes which arose, making the interview more like a guided conversation and easing the unequal power dynamics of the interviewer-interviewee relationship. It also allowed me to demonstrate my background knowledge of the CSOs' issues of focus and political and social developments in Poland, potentially gaining trust among interviewees.

As regards the document analysis portion of the research, care was taken to use only documents which were publicly available, such as those shared on the social media pages or websites of CSOs or published open-source by supranational courts.

Although some concerns arise when using social media for research, such as the fact that users are sometimes unaware of the sharing settings on their posts and other activities (Gelinás et al., 2017), these CSOs used social media to share their activities with followers and others, often encouraging all groups to share content (like links to petitions or the announcement of protest activity) widely. Care was also taken to avoid using details, such as ‘likes’ or other post reactions to explore CSOs’ networks or report on their activity, as users may be unaware of who can view this kind of activity and therefore not intend to share it with others (ibid). Likewise, the personal social media pages of interviewees were not used nor were private groups created for activists; these pages’ content was not recorded in any way. Concerns over the exposure of private or internal documents were therefore minimised.

Positionality

SMS research always involves a ‘problematic balance’ between the researcher as an insider or outsider to their subject(s) of study (Blee and Taylor, 2002; Thome, 1979). There are benefits and drawbacks to taking an ‘insider’ or ‘outsider’ position when researching a community or movement. For instance, while being an ‘insider’ may allow the researcher special access to a particular community or certain ‘private’ or obscure information, it is difficult to study a phenomenon that one is also involved in (Delyser, 2001) and the place of the researcher in that movement or community may obscure their interpretation of the results. The position I take as a researcher in this study is primarily that of an outsider. The label outsider fits for many reasons— firstly, as a non-Polish, non-European, and non-Polish speaking researcher with no prior network in the country of study and significantly reduced opportunities for creating those links (see section **3.7.1. Covid-19 Pandemic**), I could not identify as an insider. This is not an unusual position for a researcher, as the distance from one’s topic of study has traditionally been seen as conducive to greater levels of neutrality (Korolczuk, 2016). Unlike many of the researchers addressing various forms of backsliding (Jacobsson and Korolczuk, 2020; Korolczuk, 2016; “#Scholactivism,” 2022), I am not an activist, ‘scholaractivist,’ or any other practitioner actively engaged in this topic.

For instance, some scholars, like Prof. Laurent Pech are intimately engaged in the topic of (challenges to the rule of law) backsliding in their professional *and* in their personal capacity. Pech, while writing extensively about the rule of law breakdown (Pech, 2022, 2021, 2020), also provides expert data to EU bodies for rule of law

reports and interventions and intervenes regularly as a third party in supranational court proceedings related to rule of law backsliding (*Judgment Juszczyzyn v. Poland - Disciplinary Chamber not a lawful tribunal, suspension of civil-court judge for issuing judicial decision violated his rights*, 2022, *ŻUREK v. POLAND*, 2022). Scholars like Prof. Elżbieta Korolczuk, who writes extensively about Polish civil society, especially the women's and reproductive rights movements from the perspective of an activist and participant who is also a scholar (Jacobsson and Korolczuk, 2020; Korolczuk, 2020) is another such example of 'scholactivist' and an insider. These scholars' intimate embeddedness in their topics of research brings them closer to their data and the actors engaged in the civic space while making them potentially privy to 'secret' information which may escape the grasp of the outsider. However, nuanced literature about the role of academics engaged in research on politicised, socially relevant topics (such as this work) challenges the stiff binary regarding the role of the researcher as an activist and the researcher as independent and neutral of activism (see: the Scholactivism debate and blog series by Verfassungsblog ("[#Scholactivism](#)," 2022) and section **8.4. Recommendations for Future Research** in **Chapter 8: Conclusions and Discussion**).

Tilly goes a step further (1993), considering political scientists and other scholars studying social movements and contentious repertoires as actors engaging in these repertoires. Therefore, the role of the researcher as an insider or outsider in SMS remains ambiguous (Blee and Taylor, 2002), as do questions about the role that researchers play when they produce knowledge about societal issues and social movements. One could ask if producing research which expands the understanding of civic activities to address backsliding and which may inspire other movements and future research makes it impossible for the researcher to distance themselves as a 'neutral' outsider. I, therefore, leave this discussion open for the reader to ponder questions about whether academic research, especially on societally relevant topics, may indeed ever be called neutral. While I have not experienced this 'outsider' position to be a major setback, the combination of this status and the COVID-19 pandemic, which made it impossible to travel in the first one and a half to two years of my PhD made it difficult to build a connection with those in the civic space, establish a connection and contacts with potential participants, and, ultimately, to secure the desired number of interviews. Interviews were therefore supplemented with rich data from document analysis and measures were taken to make the interview as accommodating as possible (e.g. by not recording interviews, meeting participants any time they were available, offering interviews in Polish (with

a native Polish-speaking translator), and producing Polish-language versions of all the documents shared with the interviewees).

These efforts aside, I still must contend with the fact that some limitations, such as my linguistic abilities, may have made certain information inaccessible to me and perhaps affected the information gathered as well (i.e. maybe some words and concepts were lost to translation or perhaps interviewees avoided or over-explained some details due to their doubts about my knowledge of events in Poland as a non-Pole). Lastly, some time was needed to acclimate myself to the Polish context, as I was culturally and academically an outsider to this context as well. While I had previously studied social movements and the influence of CSOs on socially divisive and politicised topics (e.g. refugee integration), the study of the Polish and Central and Eastern European space was new to me. This meant a long period of acclimation with the various movements, their symbols, major players and the political changes they responded to. Here, the COVID-19 pandemic had an unexpected *benefit*, as it allowed me to intensely delve into the subject matter rather than conducting various research visits and attempting to, in a short period of time, build relationships and trust with research subjects. This knowledge was gathered online by subscribing to and following the social media pages and websites of potentially relevant organisations and crawling through news on the subject matter to start identifying potential CSOs and causes of interest.

3.7. Limitations

As with any research, there are limitations, some of which can be anticipated (like lack of experience with some research techniques, scarce data, and linguistic limitations), while others (like an illness, pandemic, or the death of a participant) are more difficult to anticipate and plan for. Some challenges were anticipated in this research (see: section **3.7.2. Personal Limitations**), however, the most significant set of limitations in this work were unanticipated (see section **3.7.1. COVID-19 Pandemic**), they are discussed in further detail below, as are the attempts to remedy or mitigate these limitations.

3.7.1. COVID-19 Pandemic

This four-year research project started on 2 March 2020, approximately two and a half weeks before the first 'lockdowns' in the Netherlands when travel in and out of the Netherlands was significantly restricted and most non-essential locations (such as universities, archives, restaurants, and shops) were closed by law. Likewise, in Poland and globally, travel to and from all countries was significantly restricted as was access to the aforementioned non-essential locations and some resources (books and other documents that were not yet uploaded into online library systems, archival documents not already digitally scanned, and study/work locations). Events, like research training, street protests, conferences, social events, and (educational, community, and religious) meetings, were likewise cancelled. Of course, this is due to the COVID-19 pandemic, a global pandemic caused by the novel coronavirus SARS-COV-2, which caused the most extensive disruptions to travel and physical interaction from 2020 to late 2021 and in some countries, early 2022. This had a number of consequences for the research, which I attempted to minimise.

Effects of Study Design

Due to the pandemic, research visits were not possible in the years which were primarily dedicated to data collection and creating the study design. Additionally, it was not possible to establish some connections with target CSOs, for instance, by attending their events, especially those more accessible to foreign audiences, like street protests and Pride events. Doing so may have allowed for participant observation to become part of the study design and could have potentially made interview appointments more likely, as I could have built a rapport with participants. Such a 'real life' connection may have also made it easier to secure interviews for CSOs that are more difficult to reach by email or social media due to the high volume of connection requests through these media, among other potential factors (e.g. emails going to spam, not having a dedicated outreach team that can go through emails and messages and respond to them etc.). Fortunately, many sources existed already online and this time was used to come closer to the topic of study, as previously described. Earlier research ideas for this project which relied heavily on physical archives were also abandoned due to concerns that waiting for archives to reopen would delay the research. This factor is also behind the choice to isolate a more contemporary phenomenon than most in the field of history would centre on. However, the end result was a research topic which I am extremely happy with.

The over-reliance on digital sources such as social media and the lack of a personal network which could have connected me with CSOs was also problematic because it increased the chance of failing to identify CSOs with less of an online presence and/or those with activities that were not reported in alternative sources (e.g. newspapers and reports). For instance, CSOs not active on social media, which conduct most of their activities in person, with little online record or other recording (i.e. in newspapers), were significantly at risk of being excluded in this research study. Attempts were made to minimise this limitation by exploring a wide variety of sources to identify organisations and their strategic interactions (e.g. newspapers, reports, social media, word-of-mouth, existing research etc.).

3.7.2. Personal Limitations

As previously mentioned, I take an outsider position to this research, partially as a result of my newness to the field (though not to SMS), lack of language capabilities, and the forfeit of significant time to the COVID-19 pandemic. As a result, as is typical of outsiders (Blee and Taylor, 2002), access to social movements and CSOs was difficult. This resulted in far fewer interviews than was hoped. Additionally, personal limitations, like the lack of Polish language skills, resulted in some interviews being conducted through a translator, running the risk that some phrases and other content were lost in translation. Although hundreds of documents were used for the document analysis and English-language documents were obtained for some sources (such as case documents from the ECtHR and CJEU), the majority of documents engaged were (originally) in Polish. Even with the assistance of sophisticated translation software and ad hoc questions and translation requests to my research assistants (who provided translation/interpretation assistance), there is always a chance that some details were accidentally missed or some phrases or words cannot technically be translated. Therefore, instead of doing a deep semiotic analysis of documents, document analysis focused mainly on the identification of the strategic interactions and was often cross-checked with other documentary sources or semi-structured interview data.

3.7.3. Other Limitations of Study Design

Semi-Structured Interviews

Although commonly employed in SMS for the study of social movements and CSOs, there are several well-documented limitations of semi-structured interviews. Firstly, they are less reliable than survey data or structured interviews because the results may be less comparable. Although the questions in the interview guide are the same, a respondent's answers may trigger additional discussion, follow-up questions, or a change in questions such that not every interviewee is asked the same questions or asked all of the questions. Secondly, the data produced by semi-structured interviews 'ultimately produce data derived from artificially constructed realities' in conversations that are 'highly situational' and may not accurately reflect reality. For instance, a respondent may conceal potentially embarrassing information or the interviewer may not have enough rapport with the respondent to obtain the needed information (Blee and Taylor, 2002). To abate these limitations, semi-structured interviews are often accompanied by other techniques, such as participant observation and documentary analysis (ibid). The incorporation of a second method was also helpful to overcome the small number of interviews conducted although a small sample size is fairly common for semi-structured interviews. This is because they require a significant amount of time (i.e. transcription, note-taking, and coding, which is an iterative process that recurs throughout the data collection and analysis processes). Studies where the sample size is larger often use transcription software and/or are handled by a team (Blee and Taylor, 2002). Despite these and other limitations, the strategic interactions identified in this work were the result of rich and ample data.

Document Analysis

There are also some shortcomings to using document analysis. Firstly, documents are not written for researchers or research purposes and thus may not contain all required information and require additional investigation and investigative skills from the researcher. Documents may also be incomplete, inaccurate, or of questionable authenticity. This can be resolved by examining a greater number of documents (when available) which are related to the phenomenon of study and seeking (when available) official sources from known authors. As it relates to this research, efforts were made to include as many documents as feasible for analysis and to obtain them from the official websites, social media pages, and online databases of known organisations and other parties. Cross-checking details found in some documents (e.g. social media posts) with other documents (e.g. court documents and newspapers) was also helpful. For instance, if a CSO posted a

picture of a letter sent to an EU institution on their Facebook page, the website of that EU institution or a Google News search with keywords related to that letter and the date of its submission were used to confirm the letter and its contents. Cross-checking documents, particularly when they are unclear or questionable in content (i.e. a document is not posted in its entirety or the image or a document is illegible), is a common method of reducing unreliability for the documents used for document analysis. However, including these additional documents highlights a second shortcoming of document analysis, namely that it takes much time and effort (Bowen, 2009).

This can be eased, for instance, with the use of software or working in teams, however, for processing data from varied sources (e.g. social media, online archives, organisation websites, news reports) and in various forms (photographs, social media posts, court documents) makes this challenging. Additionally, this was not a team project and the budget which may have been used to hire a research assistant to help in the analysis was dedicated elsewhere (i.e. to translation assistance and conferences). Fortunately, an advantage of conducting this study for my PhD was that I had an extended period of time available to gather and analyse a large corpus of data. Additionally, relying on the documents for a very limited piece of data (strategic interactions) reduced the burden of having such a large corpus. The relative isolation of the first two years of the COVID-19 pandemic, further, provided a fantastic opportunity to work intensively with the data, gathering sources and analysing documents found online, as few other activities were possible in this time (conferences, trainings, physical archival visits etc. were impossible or significantly restricted).

Conclusion

In this chapter, the methodologies at the centre of this research are introduced, namely, semi-structured interviews and document analysis. The case study design used in this work is explained and justified before diving into the selection process of the CSOs of focus for this study and the norms of focus. Such a selection process involved a long process of staying abreast of issue areas that appeared to be problematic in Poland (e.g. the 'tilting' space and threats to free press) and which experienced the most reaction from Polish civil society and international institutions like the EU. Once these selection processes are explained and the results of these

processes are presented, this chapter focuses on data collection and analysis. It outlines the instruments used for data collection and the methods of data analysis before a discussion of the limitations of this study closes out the chapter. These limitations included limitations related to the COVID-19 pandemic and personal limitations related to skills and experience, as well as classic limitations such as those which may have affected the identification and inclusion of organisations for the study.

Chapter 4: Polish Civil Society Between Communist Occupation and EU Membership

This chapter reflects on Polish civil society from the communist period, leading up to and immediately following EU accession (from the late 1970s - the 1990s). It follows the development of the country's independent civil society, the metamorphosis of its government-created 'uncivil society,' and how entry into international treaty systems and the wider European Community, what I term 'embeddedness,' created a pathway for claiming new rights for CSOs.²⁸ **Chapter 2: Theoretical Framework, 2.2.1. When and How to Act: Strategic Interactions and Opportunity Structures** stressed that CSOs' repertoires for collective action are a consequence, in part, of historical bonds, resources, barriers, previously engaged strategic interactions, and the 'windows of opportunity' that arise for CSOs to act. This chapter, therefore, reflects on the alliances between various social movements, CSOs, and other institutions forged in this period, the evolution of CSOs' strategic interactions, and the resources, barriers and windows of opportunity that catalysed CSOs' rise, fall, and strategic interactions. This chapter focuses on Polish civil society more generally and, where research on such organisations exists, does a deep dive into CSOs focused on the issues of interest in this research.²⁹ The purpose of providing such a mix of a more general focus on CSOs with that of a targeted focus is to account for the unique character of the Polish civic space, which can be traced to its development since the communist period and the country's eventual embeddedness in the EU and other IOs.

In the communist period, there was a limited landscape for any CSOs or social movements to emerge or exist in the entirety of CEE and East Germany because of the domineering ubiquitousness of the state (Kotkin, 2010). The organisations and movements, which did emerge were mostly in Poland and (aside from the state-created uncivil society) were of limited scope, mostly focusing on the labour rights of particular professional groups and building resistance against the state (Bojarski, 2021; Buchowski, 1996; Kotkin, 2010). In the post-communist period, there was an 'explosion' of new CSOs and social movements (Ekiert et al., 2017a). Therefore,

²⁸ This chapter focuses on Polish civil society since communist times, however, it begins by looking at the movements in the 1970s, this is because most of the resistance before this time (e.g. the protests of 1956-1976 did not lead to long-time, sustained movements and struggled to establish stable leaders and actual social movements with longevity (Paczowski, 2015).

²⁹ In Chapter 3 these rights were identified as judicial independence, the right to a fair trial, and the separation of powers (under the rule of law and human rights norms), reproductive rights (including access to contraception and reproductive procedures like vitro fertilisation (IVF) and abortion) (under human rights), and LGBT+ rights (including negative rights, such as the restriction of anti-LGBT+ discourse by political elites, threats like (proposed) restrictions on the events and strategic interactions of LGBT+ CSOs, and Poland's 'Zones Free of LGBT Ideology') (under human rights).

instead of taking a broad focus on the rapidly growing and diverse field of these organisations and movements, the chapter focuses on those organisations which relate to the areas of interest for this research. In this way, it is possible to transition into a discussion about the basis upon which these CSOs could claim new rights as Poland became more embedded into new systems after joining new IOs and signing new treaties. This embeddedness, which allowed CSOs to claim new rights (like reproductive rights) for decades is, this work argues, relevant and related to rights claims made by the post-2015 movements for LGBT+ rights, reproductive rights, and the rule of law at the heart of this research. In fact, there is already some research suggesting that the CSOs of the periods covered in this chapter made explicit reference to Poland's embeddedness in this variety of systems (e.g. As signatories of the ECHR and members of the CoE) to claim or defend new rights.

The Central and Eastern European Civic Space

The civic space in countries in CEE is commonly described today as considerably less vast than that further west in Europe or in the United States, especially by assessments relying on the number of registered organisations; although the extent of this deficit is debated (Bernhard, 2020; Ekiert et al., 2017b; Ekiert and Kubik, 2017; Garben, 2019). This common diagnosis of the Central and Eastern European civic space is the combined result of several factors, such as limited, Western-oriented understandings of which actors make up civil society (Buchowski, 1996; Kopecký, 2003), a laser-focus on certain organisations like well-established NGOs (ibid), a lack of scholarly attention to Central and Eastern European civil society in previous decades, a lack of insight into the strategic interactions most appropriate during communist times (Jacobsson and Saxonberg, 2012), limited (often quantitative) instruments for measuring the size of civil society (Ekiert and Foa, 2012; Kopecký, 2003), and the tendency to see CSOs in Poland and other Central and Eastern European states as 'donor-dependent' and in desperate need of catching up with CSOs in the West (Jacobsson and Korolczuk, 2017). Perhaps the most optimistic assessment of Central and Eastern European civil society is that which refers to the well-known Polish trade unions, which developed in communist times, the largest of which, is thought of as the death knell of communism (Bernhard, 2020; Bloom, 2013; Kubow, 2013).

The collapse of communism allegedly at the hands of this Polish trade union, *Niezależny Samorządny Związek Zawodowy Solidarność* or *Solidarność* (Solidarity)

seems to lend credence to the idea that both democracy and the end of authoritarian regimes can be ushered in by bottom-up movements (more on this later) (Valenza and Trobbiani, 2019). Here, the 'weak' civil society seen as endemic to CEE at least enjoys the hagiographic limelight of scholars' retellings of the movement's strength and success. This is of course because it is in Poland and because of *Solidarność's* efforts that the (in)famous 'Roundtable' talks were held. They signalled the end of the communist system and heralded the first semi-open elections not only in the People's Republic of Poland but in the entirety of the Soviet Bloc³⁰, an accomplishment which would inspire other civic action in the Bloc (Bernhard, 2020). While there is no room to devote to the explorations of the potential roots of Poland's idiosyncratic civil society, scholars have argued that the robustness of the non-state organised Polish civic space during communist times is related to factors like the country's long-standing traditions of activism (Jacobsson and Korolczuk, 2017), the experiences of past partitions and occupations (Jacobsson and Korolczuk, 2017; Kotkin, 2010), and the unique (although still extremely restricted) 'freedom' of the People's Republic of Poland, compared to other countries in the Soviet Bloc (Kotkin, 2010; Meyer et al., 2017).

This special character notwithstanding, it is also acknowledged that, as a consequence of the Nazi and Communist occupations which (mostly) managed to suppress 'social, professional, and political organisations' by banning them, eradicating and/or imprisoning their leaders and other dissidents, and confiscating their resources, the state of Polish civil society was badly battered (Foa and Ekiert, 2011). Those organisations which did manage to survive and operate during one or both occupations did so underground³¹ and mostly at the local level (Foa and Ekiert, 2011). So just what did civil society in the People's Republic of Poland look like and how did such a repressive space lead to a movement that would eventually initiate semi-free elections in 1989, something unheard of at the time (Kosłowski and Kratochwil, 1994; Kulawik, 2014)?

³⁰ References to the Eastern, Soviet, or Communist Bloc (or simply, 'the Bloc' include Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and Yugoslavia and exclude the USSR's 'field of influence' both for the sake of simplicity and because there is little research on civil society in this period beyond the Eastern Bloc.

³¹ Although it is true that the *Solidarność* (or Solidarity) trade union became the first legal, independent trade union out of all communist-occupied states (Stanley, 2010), it was subsequently re-banned on 13 December 1981, when Martial Law was declared in Poland.

4.1 Polish Civil Society During Communism- The Rise of the Opposition

'Imagine a state with monopoly control over everything—economy, education, media, cultural institutions, unions, police, the military, entertainment—that could not raise the price of sausage without risking mass social protests. Such was the price of price hikes in Poland' (Kotkin, 2010).

Even amongst the landscape of debate about the extent of civil society in communist-occupied Poland, namely, because the State exhausted all measures to prevent such a civil society from forming (Kotkin, 2010), it is widely acknowledged that Polish civic space was not entirely barren (Meyer et al., 2017). Of course, the most well-known CSO from this time was Solidarność, the first legal, independent trade union out of all communist-occupied states (Stanley, 2010). What began rather unambiguously as a protest around the rising cost of meat products, worker conditions, and other workplace concerns at individual factories, snowballed into a country-wide social movement for economic and political rights (Tarrow, 2011). Since the late 1970s, various groups of workers led strikes and protests in response to price hikes in meat products and other goods (Bakuniak and Nowak, 1987). As a result of these protests, which featured demands that were economic and not political, the state responded by lowering and/or freezing the prices of the food products in question (ibid). It was not until the August 1980 protests at the Lenin Gdańsk Shipyard, however, that these protests took on a new character, leaving the individual workplaces where they began and articulating political demands (ibid).

When the strike began at the Lenin Gdańsk Shipyard, to end the strike and following the same strategies as always, the state offered to meet the demands of the strikers and negotiate changes like raising salaries at the plant (Bakuniak and Nowak, 1987). However, this time, after workers in Gdańsk were guaranteed their demands³² would be met, instead of stopping the strike, they advocated for the economic demands of other plants, refusing to back down until the demands of others were addressed (Bakuniak and Nowak, 1987; Tarrow, 2011). Likewise, the formation of Międzyzakładowy Komitet Strajkowy (Inter-Factory Strike Committee or MKS)

³² These included the rehiring of colleagues and trade union activists Anna Walentynowicz and Lech Wałęsa, a pay increase, an increase in family allowances, and guarantees that employees would not be retaliated against for erecting the Monument to the Fallen Shipyard Workers of 1970 (Lorens and Bugalski, 2021).

overnight and just two days after the strikes began marked the true presence of a social movement, no longer the disjointed, individual reactions of exhausted and repressed workers, the strikes took on a communal quality. At various points, MKS could coordinate strikes at 700 factories within a week (Kotkin, 2010). Eventually, it negotiated the Gdańsk Agreement in late August of 1980 guaranteeing, among other things, the legal formation of independent trade unions in Poland (Wałęsa and Jagielski, 1982). By September, over 30 Inter-Factory Committees had formed, eventually becoming the Inter-Plant Founding Committee of the Independent Self-governing Trade Union 'Solidarity' or the *Solidarność* so well-known today. The movement became organised and powerful enough to mobilise coordinated strikes country-wide in a show of force that, while minuscule compared to civil society elsewhere in the Global North, was unprecedented for the Soviet Bloc.

Thus, this movement, sparked by the self-mobilisation of workers' concerns over raised meat prices and reinstating fired workers ultimately spread beyond one plant, to others, beyond Polish shipyard employees, to 'intellectuals and artists, peasants and students...even state workers' (Tarrow, 2011). Official and unofficial *Solidarność* branches for various professions (e.g. farmers/peasants, judges, and nuclear physicists) erupted throughout the country, transforming *Solidarność* into a national movement for claiming workers' rights (Bojarski, 2021; Stanley, 2010). The importance of *Solidarność* branches and related movements throughout the country was not only in their ability to strengthen the movement and spread its presence across the country but also in the creation of a lateral movement which avoided the hierarchical arrangement of state institutions and government-created uncivil society (Ekiert, 1996). This was especially useful during heavier periods of state repression and martial law as it prevented the shutdown of one chapter from affecting the entire movement since tasks could be taken up by other regional branches (*ibid*). The collaborative efforts of the *Solidarność* trade union and the movements it inspired also seemed to stretch across gender boundaries,³³ with women workers keeping up activities (like strikes and managing the underground press) when their male counterparts were imprisoned (Kulawik, 2014; Stanley, 2010). In fact, the dismissal of female crane worker Anna Walentynowicz shortly before her planned retirement was the spark of the Gdańsk strike³⁴ (Kotkin, 2010;

³³ For more information about women's participation in the *Solidarność* movement, see (Penn, 2021). Although party membership was approximately equal for men and women, there were significant shortfalls in gender equality within the party and wider (civil) society. Also see (Stanley, 2010).

³⁴ Although discontent was already brewing, for instance over food prices and worker safety conditions.

Stanley, 2010). The movement also crossed economic and ideological barriers, as the rash of *Solidarność*-related movements across Poland would demonstrate (Ekiert, 1996).

In addition to the well-known *Solidarność* trade union, citizens also organised into other groups, like *Komitet Obrony Robotników* (The Workers' Defense Committee or KOR³⁵) years earlier. It was the first independent, non-religious CSO to 'achieve notable social impact' in Poland after its founding in 1976 (Buchowski, 1996). Before *Solidarność*, which was well known for the mass organisation of simultaneous strikes, KOR started by providing direct support to demonstrators of the 1976 protests (Bojarski, 2021) and later moved on to the collection of information on state activities, acting as a kind of uncensored, watchdog archive (Kotkin, 2010). It later established the KOR Intervention Bureau, which helped workers with labour law cases with its most typical case being that of workers who were fired for their participation in protests (Bojarski, 2021). This is not to suggest that such resistance or workers' movements always articulated the same demands and had the same plans for moving forward, however. It is clear both from internal documents and letters between different civil society and religious figures (sometimes written from prison, as many activists were jailed), that decisions like how to move forward, how to sustain the movement (after martial law³⁶ was imposed), and which demands to articulate were all topics of discussion and disagreement between activists (Ekiert, 1996).

Although less frequent than in other Eastern Bloc countries, like East Germany (Kotkin, 2010), demonstrations were a tool for resistance, especially after martial law was enacted (Ekiert, 1996) but so were underground publishing, boycotts, and watchdog activities. What was unique about Poland was not just that an opposition could form within the Bloc but also that through this movement, CSOs articulated clear goals not just for the expansion of economic rights and guarantees but also for political rights and greater freedoms. At this time, the most substantial Polish CSOs focused on the rights of workers and were eager to avoid splitting focus or creating internal division by supporting the rights of other groups like LGBT+ Poles or

³⁵The CSO *Komitet Obrony Demokracji* (Committee for the Defence of Democracy) or KOD, formed in 2015 in response to concerns over the effect of PiS on the rule of law and democracy in Poland is an homage to KOR (Dobler, 2020; "KOR i KOD," 2016), hence the similarity.

³⁶ Martial law was imposed on 13 December 1981- shutting down communications country-wide, restricting travel within and outside of the country, banning all activist activities, meetings, and political activity in general and banning many activists and close collaborators (Stanley, 2010).

women (Stanley, 2010). CSOs, therefore, tended to centre on the same causes and rights, although there were other organisations which did have a focus beyond workers alone, such as the Polish Feminist Association, which operated since 1980 (Stanley, 2010).

The Role of the Roman Catholic Church in Poland

The Polish resistance movement would have had significant difficulties if it were not for the only actor in the People's Republic of Poland not controlled by the state, the Roman Catholic Church.³⁷ Although communist leaders attempted to suppress the Church and its influence on Polish society multiple times (Eberts, 1998), it proved to be too powerfully embedded in the minds, hearts, history, and culture of Poles to dislodge (Ekiert, 1996; Paczkowski, 2015; Stanley, 2010). The Church did, however, have to constantly negotiate its existence with the state and faced pressure and repression from the state. This fact notwithstanding, its freedom in this context cannot be overstated, as (Stanley, 2010) put it:

'After 1956, every decade brought greater freedom, authority, and power to the Roman Catholic hierarchy. The Church soon had greater freedom than any other institution in the Communist world.'

Since the Church existed as a legal institution, even in the times before independent trade unions were legal and when *Solidarność* had been made illegal, (Gastil and Cottam, 1979; Ekiert, 1996), it often took up the defence of civil and workers' rights (Arato, 1981). In such a position, the Church mediated between civil society and the state, eager to avoid bloodshed during crackdowns on civil society that came to a head during the 1980-81 Political Crisis (ibid) and eager to avoid any 'radical' changes in the political environment (Stanley, 2010).³⁸

Well-known figures like Archbishop and Polish Primate Jozef Glemp established committees like the Primate's Committee for Assistance to the Prosecuted and Their Families, which provided direct aid to those affected by marital law and included

³⁷ The term 'the Church' is used through the chapter; this refers to the Roman Catholic Church in Poland. Likewise, references to Catholicism refer to Roman Catholicism more specifically.

³⁸ It is worth noting that although groups like the Roman Catholic Church and various CSOs are spoken about as cohesive decision-makers, different viewpoints existed amongst and within these groups, with some figures expressing dissenting opinions about the role of their and other groups. There was often disagreement about the role that civil society ought to take in Poland vis-à-vis the state (Arato, 1981).

committee members associated with *Solidarność*. In fact, during other key moments in the relations between civil society and the state, such as the Roundtable Talks, Primate Glemp and other Church representatives acted as negotiators between the two sides. Representatives from civil society, like *Solidarność*'s Andrzej Stelmachowski, even reached out directly to Church representatives for advice and assistance (Stelmachowski and Glemp, 1988). Even after *Solidarność* was banned and forced underground, the Church, along with the underground *Solidarność*-related movements and like-minded initiatives, paid the fines and court costs for members demonstrating or participating in other banned political activities through organisational dues (Ekiert, 1996). In addition to these roles, the Church was also a place to gather, worship, and even conduct leisure activities (e.g. artists who boycotted official, state-organised exhibitions held an exhibition on Church property instead) (Ekiert, 1996). It is little wonder that the cross was one of the most used symbols of the *Solidarność* movement (Stanley, 2010). This is not to say that the Church did all of this selflessly; It also advocated for the improvement of issues of interest to the Church, such as better state-Church relations and freedom of speech while preaching (Buchowski, 1996; Stanley, 2010).

As a consequence of the intimate relationship between the Church and *Solidarność*, *Solidarność* often avoided issue areas that were sensitive to the Church and advocated in line with its demands (Bystydziński, 2001). Such was the case, for instance, when restricting legal abortion was put on the table during the Roundtable Talks by *Solidarność*, despite the significant female presence in the organisation and the knowledge that such restrictions would be extremely unpopular with Poles generally (Stanley, 2010). In addition to support from the Church, Polish underground opposition enjoyed support from international groups and governments, *Solidarność* especially was allowed to maintain international contacts (Ekiert, 1996) like Western trade unions which provided material and financial support to *Solidarność* and protested against the Polish government both during the organisation's time as a legal trade union and after martial law was declared (ibid). Amongst the state-created 'uncivil society' (more about this later) and the unofficial civil society, on which most of this chapter focuses, there were also organisations formed by the Church. These organisations, like the Primate's Committee for Assistance to the Prosecuted and Their Families, mentioned previously, fit awkwardly in this arrangement. They were 'official' in that they were not operating clandestinely. However, they were not operating because of but

rather in spite of the state. The state did not create them, it was simply not strong enough to dislodge the Church or the organisations founded by it (ibid).

The impressive Polish resistance movements, notwithstanding, the state crafted its own demise through a combination of totalitarian repression, poor leadership, and economic inefficiencies, which threatened the existence of the People's Republic of Poland (Ekiert, 2010; Kotkin, 2010). Thus, while the opposition was able to challenge the state significantly and make advances unheard of elsewhere in the Bloc (Paczkowski, 2015), it alone was not the harbinger of communism's end (Kotkin, 2010). Firstly, the State destroyed all channels for the freedom of speech and association, making it impossible for citizens and groups to regularly express discontent or negotiate with the state on their rights. This was then expressed in the form of protests and strikes, which the state met with a heavy-handed response from the army or police (Paczkowski, 2015). This made charged and explosive interactions between the state and organised citizens more likely. Secondly, officials in the Polish state were relatively more tolerant than those in other countries in the Bloc, especially when it came to not exerting the same pressures on intellectuals who had, since the mid-1950s been expressing discontent with the state (ibid).

Thirdly, by entering into international agreements like the Final Act of the Conference on Security and Cooperation in Europe (CSCE, hereafter referred to as The Final Act), the Union of Soviet Socialist Republics (USSR or the Soviet Union) opened the door to rights claims to human rights like the freedom of assembly and freedom of speech from citizens and groups in the Bloc (Staar, 1981). The Final Act was especially important for dissidents looking to discursively frame their acts of rebellion as aligned with the human rights guaranteed by the Act (ibid). Lastly, the USSR had a failing economic system, lagging far behind the economies in the West and also performing worse than it had in previous years, coupled with considerable volatility and disagreement amongst the leadership itself (Schöpflin, 1990; Siemienska, 2005).

4.1.1 The Wider Civil Society

'In contrast to Hungary and Czechoslovakia, where all traces of independent social organizations and political activities were methodically erased by the regime in a very short time, in Poland the post-martial-law regime...gradually relinquished its political control over many aspects of social and economic life, scaled down repression and its

political ambitions, and accepted implicitly the existence of the political opposition' (Ekiert, 1996).

As it regards other kinds of CSOs, especially those related to the main themes of this work (namely human rights, especially LGBT+ and reproductive rights and the rule of law), there were some CSOs concerned generally with human rights and the human rights protections guaranteed under the treaties that Poland was already signatory of, like the UN's International Covenant on Civil and Political Rights (ICCPR) and the Helsinki Final Act (the Helsinki Accords) (Bojarski, 2021; "To the Polish people. Manifesto of the Movement for Defence of Human and Citizen's Rights," 1977). Likewise, there were other CSOs, including trade unions for those working in the judiciary concerned with judicial independence and the rule of law in general (Bojarski, 2021).

Reproductive and Women's Rights

At the time, few organisations existed which advocated for reproductive rights primarily, as these were hardly under threat in the communist period; the right to on-demand abortion for instance had existed since 1956 (Kulawik, 2014). The greatest threat to these rights would occur after the collapse of communism³⁹ (ibid), once traditional, conservative norms about women and the family re-emerged and once the Roman Catholic Church again reclaimed its omnipresence in all sectors of Polish life (Mishtal, 2015; Szelewa, 2016). Thus, although these were some women's groups like the women's section⁴⁰ of Solidarność (women made up approximately 50% of Solidarność (Bystydzienski, 2001)) and the Polish Feminist Association mentioned previously, political and legal circumstances did not yet make reproductive rights a relevant concern. An exception was the mobilisation of women's groups (including the founding of a new CSO, Pro-Femina, tasked with keeping abortion legal) which formed once abortion was threatened by the newly

³⁹ This is not to indicate that The People's Republic of Poland or any Communist states were an oasis of women's rights. In this time, while women could work freely and have access to abortion, they still bore the 'double burden' of motherhood and their role as workers in the nation, additionally other resources, such as childcare, often fell short of expectations (Bystydzienski, 2001; Graff, 2019).

⁴⁰ This section was created upon the request of one of the organisation's Brussels-based funders out of concern that women's issues did not take enough precedence in the CSO (Bystydzienski, 2001; *Hidden Victims: Women in Post-communist Poland*, 1992). Unfortunately, for the women activists in this time, their objection to the Round Table talk suggestion for a provision to protect 'unborn lives' which had not been discussed with the women of Solidarność led to constant harassment, the restriction of the women's section in Solidarność's international representation, and latter into the disbanding of the women's section (Bishop, 1990; Bystydzienski, 2001).

elected Solidarność party after winning the first semi-free elections in 1989 (Bystydzienski, 2001). Despite their efforts, feminist organisations and women's groups aligned with the defence of reproductive rights faced a difficult environment. They were seen as siding with Communists, who originally made abortion legal and acting against the groups which pushed for the ban like the Catholic Church and other traditionalist groups (ibid).

In any case, their efforts were enough to stave off the abortion ban (although there was undoubtedly influence from the public support for legal abortion), at least for the time. At the time, a vocabulary for articulating these rights or any other rights related to sexual and reproductive health was lacking significantly in Poland, not the least of which because of the strong moral influence of the Catholic Church (Stanley, 2010) and a gendered understanding of Polish nationalism and cultural values (Graff, 2019). Outside of these grassroots organisations, there were state-created uncivil society organisations (uCSOs) such as the main women's organisation in Communist Poland, The League of Polish Women (Liga Kobiet Polskich) which was created by the government as independent women's organisations were not allowed (Bystydzienski, 2001; *Hidden Victims: Women in Post-communist Poland*, 1992; Siemienska, 1991). With provisions such as on-demand abortion, significant maternity leave, free daycare and education, a healthy population of women in politics since 1980, and all kinds of state-created 'women's organisations,' many, both inside and outside of Poland struggled to see, at face value, why the country would need any feminist movements or grassroots women's groups (ibid).

LGBT+⁴¹ Rights

By 1981, the Communist government appeared to loosen its treatment of homosexuality,⁴² which was legal since 1932 although heavily stigmatised (Stanley, 2010). For instance, the State allowed for the publishing of an article about the 'homosexual underground' in Warsaw this year, which also pushed for more tolerance of homosexuals in Poland. Two years later, papers like *Relax* were allowed

⁴¹ This term is used for consistency, however, it should be noted that in Poland, during the Communist period and even in the post-Communist period, there was little focus on gender identity and thus little focus on bisexuals and transgendered persons but rather a focus first on homosexual men and then on lesbians (O'Dwyer, 2018a). Further, a review of discourse from 'LGBT+' organisations, movements, clubs, and newspapers will show that homosexuals and lesbians were most frequently targeted in discourse (just some examples include: (*Ulotki Warszawskiego Ruchu Homoseksualnego 1987, 1987*).

⁴² Homosexuals were still harassed by police and other authority figures and the victim of secret data collection by the government, this data later being used to blackmail them (Stanley, 2010).

to print gay classified adverts (ibid). Just one example of the acts of oppression which contradictorily marked this period of increasing tolerance towards LGBT+ persons was Operation Hyacinth, a two-day operation launched on 15 November 1985 undertaken jointly by the police of the People's Republic of Poland and the country's Secret Service to 'detain, interrogate, and register both actual and alleged homosexuals' to create a special archive (Szulc, 2016). It ended in various gay men being detained by police while at their homes, schools, and workplaces and inspired the establishment of the underground gay movement (Stanley, 2010).

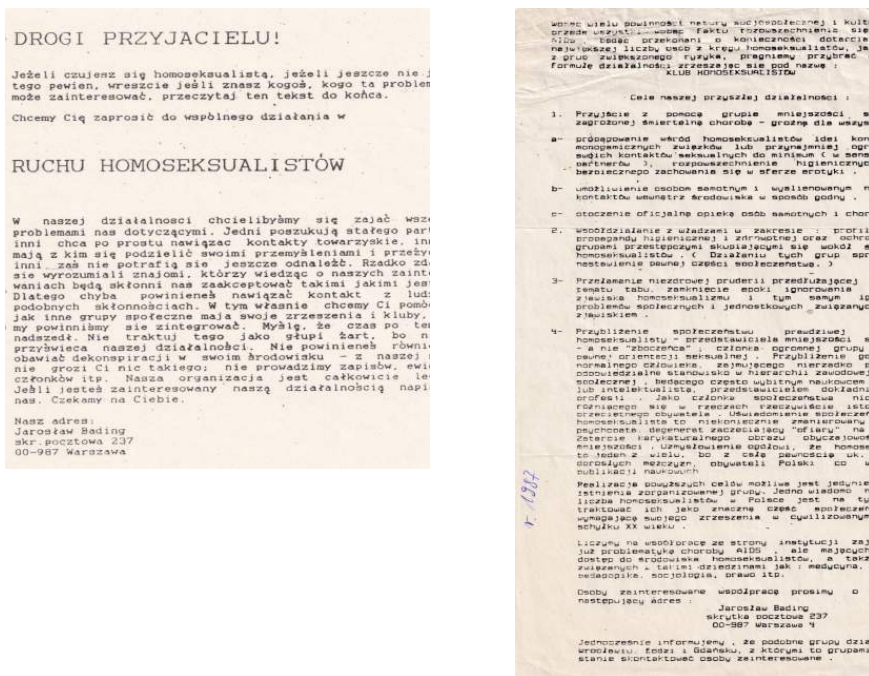


Figure 3. Warsaw Homosexual Movement Flyer⁴³

Archival sources reveal some of the extent of the gay publications published underground (Azov, 1990), gay and lesbian clubs throughout Poland (as well as some other Eastern Bloc countries), and some of the loosely structured movements

⁴³ Here one can see the front and back of a 1987 flyer for the Warszawski Ruch Homoseksualny (Warsaw Homosexual Movement) found on the shared archive of Lambda Warszawa, QueerStoria. In this flyer, homosexuals are invited to meet and speak about shared issues with other homosexuals in the city such as stopping the spread of HIV, combating loneliness, and normalising the existence of homosexuals in Poland (translated with Google Image Translate) ([Ulotki Warszawskiego Ruchu Homoseksualnego 1987, 1987](#)).

characteristic of the time (*Ulotki Warszawskiego Ruchu Homoseksualnego 1987, 1987; Wizytówka Waldemara Zboralskiego – Warszawski Ruch Homoseksualny, 1987/88, 1987*). Despite the appearance of increasing tolerance, like the rights of other minority groups, there was still repression and unequal treatment by the state. This sometimes had the unintended effect of fuelling contentious activity and the formation of new initiatives and groups. However, it was not until the early 2000s, when, fuelled by the promise of EU accession and the protection for sexual minorities that EU membership entailed, overtly political LGBT+ organisations formed in Poland. The first of these was the Campaign Against Homophobia (Kampania Przeciw Homofobii or KPH), founded in 2001 and still in operation today (more on this in section **4.2. Out of Communism: Polish Civil Society Leading Up to EU Membership**) (O'Dwyer, 2018a). There was some organised civic mobilisation at this time, although limited and scarce. For instance, the Association of Lambda Groups (SGL) was formed in 1990. However, like other such groups at the time, it was mostly 'low density, uncoordinated, and apolitical' (O'Dwyer, 2018b). This was likewise the case for the several, informal LGBT+ groups formed in the 1980s like ETAP, FILO, and Warszawski Ruch Homoseksualny (the Warsaw Homosexual Movement or WRH) (ibid).

Human Rights

While the language of human rights was not yet widely used to advocate for reproductive and LGBT+ rights in Poland, there were CSOs focused on human rights more generally. Under this category fall some of the oldest and most well-known Polish human rights organisations, like the Polish Helsinki Committee (Komitet Helsiński or KH), which later became the Polish branch of the Helsinki Foundation for Human Rights and the Fundacja im. Stefana Batorego (Stefan Batory Foundation), as well as others like the Movement for Defense of Human and Civic Rights (Ruch Obrony Praw Człowieka i Obywatela or ROPCiO) (Bojarski, 2021). What was unique about CSOs like ROPCiO was that they not only pressed for compliance with international human rights standards and treaties but also sought to seek recourse for violations of these standards by bringing legal actions against the state (Bojarski, 2021). ROPCiO's strategic interactions included publishing appeals, declarations, and open letters to authorities; providing direct assistance (i.e. counselling) to victims of the Communist regime; and producing informational texts (e.g. reports) to help activists facing discipline by state authorities (ibid). Another of the CSOs operating in

this space is the aforementioned KH, a namesake of the Helsinki Final Act⁴⁴ established during the 1975 Conference on Security and Cooperation in Europe (CSCE); it was formed in 1982 when Poland was still under martial law (Helsińska Fundacja Praw Człowieka, n.d.; "Komitet Helsiński w Polsce," n.d.).⁴⁵

KH was one of many Helsinki chapters that sprung up internationally since the 1975 Conference, including chapters in Central and Eastern Europe and Russia (where the first chapter started) ("Komitet Helsiński w Polsce," n.d.). It investigated how Polish standards for human rights stood vis-à-vis international standards for human rights, publishing reports underground which were later smuggled and translated into other languages like English and French in the West (Bojarski, 2021; Gebert, 1990; *Poland Under Martial Law*, 1983). It especially shed light on the human rights abuses which occurred under martial law (Gebert, 1990), pressing the general prosecutor of Poland to prosecute the overly violent crackdowns (Nowicki et al., 1990) and even sharing expert information on the status of human rights and the status of judiciary independence in Poland with international organisations like the UN (Nowicki et al., 1990). KH established a Centre on Human Rights in East Europe (EEHRC) as a way of creating a base of information for the defence of human rights, which could be used by professionals but also everyday individuals (ibid). The goal of the EEHRC was to translate the highly legal language of rights contained in international treaties into forms of data that were easily comprehensible to diverse audiences (ibid). There was a close collaboration between CSOs in this space for instance between KOR, KH, and ROPCio (Bojarski, 2021; Grodsky, 2007). The same was true for women's, feminist, and LGBT+ organisations, which supported each other but also carefully avoided 'stepping on each other's toes' such that their outreach and activities rarely overlapped although they benefited some of the same groups (ibid).

Rule of Law

⁴⁴ This Act, signed by 35 nations, covered a variety of issues, from scientific collaboration to the recognition of country borders, to human rights and freedoms (*CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE FINAL ACT*, 1975). Although The People's Republic of Poland ratified this act, it was never implemented by the Bloc country (Mamiński, 2020).

⁴⁵ After 1989, when political circumstances allowed, KH formally become the well-known Helsinki Foundation for Human Rights (ibid).

There were few independent organisations⁴⁶ in this period that focused on the rule of law or related issues like judicial independence (Bojarski, 2021). Despite this, research has revealed the growth of judges' associations and judicial CSOs, like the aforementioned judicial branch of Solidarność (Solidarność also had a Social Legislative Council and Centre for Civic Legislative Initiatives), which totalled almost 30% of the judiciary after 1980 (Frankowski, 1991), and the Union of Justice Workers. These groups collaborated intimately with organisations dedicated to democracy/democratisation and human rights, such as KH and the Stefan Bathory Foundation (ibid). KH, through its connections with the judiciary branch of Solidarność, created a network of experts, activists, judges, and others interested in the rule of law in Poland and published reports on the state of the rule of law in the country via the underground publications, like those run by KOR (Bojarski, 2021). Together these groups also arranged other activities, like organising legal representation for activists and workers. Although state influence over the courts was visible, it varied somewhat in the Post-Stalinist period (1956-1989) and judges could periodically express their discontent with the state's influence and their working conditions (Frankowski, 1991). This mostly took the form of 'passive resistance' in which judges did not openly disagree with the state or resist it but tried to apply the law fairly and resist political pressure to rule a certain way because of state influence,⁴⁷ although, when Solidarność was legal, judges did join openly (ibid).

Just as they had advocated for human rights protections in Poland based on the stipulations of international treaties, KH also used international rights standards to argue for the rule of law (Bojarski, 2021), referring to the ICCPR, which, among other things guaranteed the right to independent courts (*International Covenant on Civil and Political Rights*, 1966). It is worth noting, however, that the interaction between CSOs and the courts was most significant in the 1970s and 80s, although these interactions largely took place in secrecy (Bojarski, 2021). Judges who did collaborate with civil society or engage with the public were often ridiculed by others in the judiciary (Bojarski, 2021). By the 1970s, the slow decay of the communist system left room for more 'political diversity' in the judiciary, such that more judges did speak

⁴⁶ It should also be noted that there was a significant lack of interest in judicial independence or activism in CEE for some time; it was instead generally assumed that judges in the Eastern Bloc were subservient to the state with little to no resistance (Smithey and Ishiyama, 2002) and, as a result, research on this topic has been difficult to locate.

⁴⁷ This is not to say the state did not have a solution to abate such resistance as politically sensitive cases, like those of activists brought before labour or criminal courts, were handed to judges known to be aligned with the state who would rule along party lines and whichever judges ruled on these cases were subject to additional political pressure.

out against repression but the judiciary also became more divided; some judges were outspoken and strived for independence while others were staunch party loyalists (Frankowski, 1991). In the beginning, before bonds between civil society and these judges were stronger, the two had a more adversarial relationship (Bojarski, 2021). Similarly, it was difficult to encourage public support for the judiciary, as, unlike the workers' and religious movements, which could more easily draw public support, judges were generally distrusted by the public (Bojarski, 2021).

Public distrust and lack of civic collaboration were no surprises as the judiciary in the People's Republic of Poland, as in all Eastern Bloc countries, was closely tied to the state (Frankowski, 1991). This was a consequence of the state's understanding that 'since the elective representatives to the legislative branch are chosen by the people, there is neither need for a separation of powers nor for any limitations on the legislature's supreme power' (ibid). The relationship between the state and the judiciary was thus influenced by this Leninist idea of the judiciary, which persisted even into the post-Stalinist era (ibid). For instance, the state could appoint its most trusted party members to all top administrative positions, put pressure on courts to rule a certain way in politically sensitive cases, and, as of 1962, appoint supreme court justices (via the Council of State, which also supervised the Court) (ibid). Despite this fact, however, both the loosening up of state repression on the judiciary and the significant effort of CSOs like KH (which continued even after KH became the Helsinki Foundation for Human Rights), improved both the public image of the judiciary, media reporting on Polish courts, and the overall relationship between judges, judicial CSOs, and other CSOs (Bojarski, 2021).

4.1.2 Uncivil Society

'After communist takeover, a dense and comprehensive organizational network of politicized, monopolistic, and centralized mass organizations was constructed, designed to incorporate all social, generational and professional strata and categories' (Foa and Ekiert, 2011).

This chapter has dedicated quite some space to the historical reconstruction of the Polish resistance and a few of the other groups that existed in the Eastern Bloc. While impressive in the Bloc given the circumstances of crushing State influence, this civil society was dwarfed by the state-created uncivil society (Kotkin, 2010). As

explained in **Chapter 2: Conceptual Framework**, the term 'uncivil society' is used diversely to refer to several organisations which seem to describe civil society or CSOs but lack important characteristics of civil society. It is for this reason that further use of the term in this work is always coupled with a descriptor. In the People's Republic of Poland, as in the rest of the Eastern Bloc, the state set up its own uncivil society. This government-created uncivil society existed at the same time as the opposition in Poland, together forming a lopsided landscape of civil society in the country (Jacobsson and Korolczuk, 2017). The former was well-funded and professionally staffed and the latter had much fewer resources and mostly operated underground as illegal movements. The uncivil society was made up of official associations, corporations, leagues, and even grassroots organisations like the Village Women Housekeepers' Association (Buchowski, 1996). Importantly, these organisations had a mixed character; all higher-up positions needed to be approved by the state and were founded according to the State's mission to achieve the creation of an 'organised society' (Buchowski, 1996; Jacobsson and Korolczuk, 2017).

On the other hand, members in the lower positions did not need to be hard-core party loyalists (although they had to show respect for the state and not form an opposition) (ibid). Buchowski (1996) thus refers to such an arrangement as 'political at the top, non-political at the bottom.' Additionally, though the aim of the organisations at a high level was to create this 'organised society,' uCSOs (uncivil society organisations) were also dedicated to their specific causes, like the support of housewives or football players (Buchowski, 1996). Some other common uCSOs included 'youth organisations, trade unions, farmers' unions, professional associations, recreation and leisure organisations, sports clubs, women's organisations, and veterans' and retirees' unions,' (Kotkin, 2010; Lane, 2010). Through uncivil society, both state and society were merged, in a heavy-handed, top-down process, in which only those fully committed to the regime could find themselves at the top of the state's many institutions, various clubs, and 'citizens' groups' (Buchowski, 1996). Of course, this uncivil society could only manage its robust existence with the help of the state, however, as will be seen later in the chapter, the end of communism did not mean the end of these uCSOs. Rather, they reoriented their focus, regrouped, and joined the boom of CSOs that took place shortly after accession.⁴⁸

⁴⁸ This was not often a seamless transition as de-communisation meant a collective abandonment of old communist systems and organisations. Similarly, some former members were shunned from joining CSOs or

4.2. Out of Communism Polish Civil Society Leading Up to EU Membership

Following the collapse of communism, civil society grew and developed rapidly (Ekiert and Foa, 2012). This was also the case for other forms of public life and political expression as groups, like political parties, could now form freely without the threat of heavy-handed crackdowns from the state (O'Dwyer, 2018a). This growing civil society included organisations that had been banned and/or forced to operate underground in communist times which could now operate legally and uCSOs that managed to assimilate to new democratic standards and reform to survive the transition (Ekiert, 2019; Ekiert et al., 2017a). The latter group represented the civil society inherited from the communist regime, which, no longer dependent on the state, had to reshape itself (Jacobsson and Korolczuk, 2017). In addition to these two groups, opening the civic space for free participation also led to the formation of new CSOs (Kopecký, 2003). Such was the case for Samoobrona Rzeczpospolitej Polskiej or Samoobrona (Self-Defence of the Republic of Poland). It, like *Solidarność* and Polish National Community (Polska Wspólnota Narodowa or PWN) (Platek and Płucienniczak, 2017), was a unique combination of two independent organisations, one a trade union and the other a political party that would go on to win the 2001 parliamentary elections (Krok-Paszowska, 2003). As a result, the civic space diversified and more small-scale groups with various foci formed, providing a wide range of services and focusing on diverse missions and causes (Císař, 2013; Ekiert, 2019; Ekiert and Kubik, 2017).

Despite this growth, CSOs were forming at a difficult time, as uCSOs and a history of state-coordinated collectivism left many wary of civil society, which was seen as elitist (Şerban, 2018). Other difficulties included funding and resource shortages (ibid); this was especially the case for CSOs with extreme ideologies (Platek and Płucienniczak, 2017), those linked to communist times (ibid), and those focused on controversial topics like abortion (Bystydziński, 2001), which struggled to find popular support and funding. This lack of support fluctuated with the changing political landscape as well, however. For instance, far-right groups gained some

movements on the grounds that they were active in one or more government-created uCSOs or initiatives, even if they were not necessarily party-loyalists and were low-ranking organisation members.

support once the extreme-right party, PWN became an official party (Platek and Płucienniczak, 2017). Something similar happened in 2001 when the conservative League of Polish Families (Liga Polskich Rodzin or LPR) came to power with heavy support from the long-established nationalist and conservative CSO All-Polish-Youth ((Młodzież Wszechpolska or MW) (Platek and Płucienniczak, 2017). The two formed a mutually beneficial relationship in which LPR enjoyed the popular support and promotion of MW and MW was empowered to move out of the sidelines once nationalist, conservative discourses were legitimised by the meaningful presence of political parties like LPR in popular politics. This gives a brief overview of some of the changes that Polish civil society underwent after the collapse of communism and the proceeding sections give some insight into how the status of CSOs focused on reproductive rights, LGBT+ rights, and the rule of law developed during this time.

Reproductive Rights

This period was marked by a return to traditionalism, including a re-uptake of traditional social structures and roles which were previously influenced by the state during communism (Pascall and Kwak, 2009). As part of the process of shedding its communist legacy, all laws and discourses associated with State Socialism were dismantled, with conservative, traditional discourses reinstating traditional social roles (including gender roles) (ibid). The process of doing away with the remnants of the communist era resulted in the end of legislation and political attitudes that privileged women's roles as workers over that of reproducers (Gerber, 2011). In addition, Polish women were pushed to resume their 'traditional,' 'natural' functions in the home to both ease the scarcity of employment opportunities and return Poland to a place of 'normality' after a long occupation (Gerber, 2010; Moghadam, 1995). The end of State Socialism also meant that the Church resumed its prominent place in Polish society, influencing all levels of politics and even the negotiations between Poland and the European Union. The significant resurgence of the Catholic Church in Poland also coincided with the decline of reproductive rights in the country, as laws allowing access to legal abortion since 1956⁴⁹ were significantly restricted under the new 'Abortion Compromise' (Kulawik, 2014). Under the so-called '1993 Compromise,' abortion was allowed only under three

⁴⁹ Although not made legal until 1956, abortion was easily accessible from 1932 in Poland— in addition to access to legal abortion, contraception was easily accessible from 1956 as well (Stanley, 2010).

circumstances⁵⁰— when a pregnancy posed a risk to the mother's health/life, when a pregnancy resulted from rape or incest, or when severe, irreversible foetal defects were detected (Kacpura et al., 2013; Tomczak, 2021). This legislative change was spearheaded by the Catholic Church (Zielinska, 1993) and despite resistance from civil society, especially from women's groups, civil society could not effectively mobilise against the Compromise (Kulawik, 2014).

This does not mean there was not an attempt by such groups to resist the change and the strong influence of the Catholic Church— in fact, the Federation for Women and Family Planning was one of many women's CSOs which openly opposed this change (Mamiński, 2020). In addition to protesting against the changes, organisations like the Association for Rights and Freedoms also collected signatures⁵¹ to introduce a milder version of the bill as an alternative (ibid). The Compromise itself was very unpopular, not only with women but in society at large (Hadley, 1994). When the 1989 semi-free elections brought Solidarność leader Tadeusz Mazowiecki into power and abortion was first threatened, women's groups and women unaffiliated with groups or the women's movement launched demonstrations against this loss of rights (Bystydzienski, 2001). These efforts had managed to stave off rights restrictions at the time. Unfortunately, women's rights groups active during communism found it difficult to continue in their original capacity due to the after-effects of 'shock therapy' and the economic consequences of communism's sudden collapse (Kulawik, 2014; Bystydzienski, 2001). Despite their active roles in Solidarność and other movements, women activists also soon found themselves pushed out of powerful positions and political decision-making, marking a second step back for women's empowerment in Poland (Kulawik, 2014).

LGBT+ Rights

During communist times, LGBT+ groups existed more or less as small groups of friends and other acquaintances providing a small number of services and mostly focused on homosexuals or lesbians (O'Dwyer, 2018a). After 1989, however, although the movement remained smaller in scale (even in comparison to other former communist countries like Czechia), there was some growth and collaboration

⁵⁰ Although there was a conscious clause under which doctors could deny abortion care and would, in theory, need to refer patients to a new provider, often that did not happen (Kacpura et al., 2013). Abortion access had also been made more difficult from 1990 through directives, for instance, requiring psychologist and doctor approvals to receive an abortion (*Hidden Victims: Women in Post-communist Poland*, 1992).

⁵¹ Apparently 1.7 million signatures were collected for this, ultimately failed proposal.

amongst LGBT+ groups. For instance, on 23 February 1990, Poland's gay and lesbian groups banded together to form an umbrella organisation, the All-Polish Association of Lambda Groups (Ogólnopolskie Stowarzyszenie Grup Lambda), the first registered LGBT+ group in Poland, which opened local chapters the following year (O'Dwyer, 2018a). Although this in itself was an achievement for LGBT+ groups in Poland and CEE, the group faced difficulties due to social and religious attitudes towards homosexuality, to the point that activists refused to have their names or photographs printed in newspapers (ibid). Contrary to the status that many Polish LGBT+ CSOs, including the namesake of Lambda (Lambda Warszawa Association— a separate organisation founded in 1997), take today, these organisations tried to avoid political topics and mostly focused on HIV/AIDS prevention and self-help measures (Lambda Warszawa, n.d.) as a way of avoiding negative attention to LGBT+ issues, rights, and persons which could provoke attacks (O'Dwyer, 2018a).

This did not mean that LGBT+ people were invisible to the public eye. At this time, in fact, Poland hosted its first Gay Pride March⁵² in 1998⁵³ (Bell et al., 2001) and its first March of Tolerance in 2004 (Platek and Płucienniczak, 2017). Consequently, Pride Marches have been held in Warsaw each year since 2001 (O'Dwyer, 2018a). Polish LGBT+ organisations worked together, careful to avoid competition by operating towards different goals and carrying out different activities. For instance, non-political LGBT+ groups like the ILGCN Polska worked closely with groups like Campaign Against Homophobia, the former maintaining a non-political profile and the latter focused on politics and lobbying (ibid). Additionally, LGBT+ and feminist groups worked together, sharing resources, dividing labour across various initiatives, and keeping each other informed (ibid).

⁵² Here Pride refers to 'Gay' or 'LGBT' Pride events, which typically take the form of parades that lend visibility to the LGBT+ community, functioning as both a protests or statements about LGBT+ rights as well as social events.

⁵³ It is worth noting that the tone of Pride changed after accession when a significant right-wing backlash against LGBT+ and other rights forced it into the realm of politics. Previous to this, Pride was organised by the International Lesbian & Gay Culture Network (ILGCN), a non-political group, which was loosely organised and saw Pride as a vehicle for visibility but did not intend a radical or political message by hosting it (O'Dwyer, 2018a).



Figure 4. 2002 Equality Parade poster (from the online archive of Lambda Warszawa, QueerStoria (2002))

Rule of Law

The post-communist period was also one of significant development for specialised CSOs, such as judges' associations, the first of which, the Polish Judges Association *Iustitia* (Stowarzyszenie Sędziów Polskich "Iustitia") was established in 1990 (Bojarski, 2021). *Iustitia* was primarily tasked with the professional development of Polish judges, judicial independence, and accountability (ibid). Like collaboration in communist times, the formation of *Iustitia* did not happen in isolation, rather it was possible through the support of other, pro-democracy and human rights CSOs such as KH which was now the Helsinki Foundation for Human Rights and the Stefan Batory Foundation (Bojarski, 2021). Other rule of law CSOs formed as well, like the Polish Section of the International Commission of Jurists (ICJ), the Civic Development Forum (Fundacja Forum Obywatelskiego Rozwoju or FOR), and Court Watch Polska. At this time, rule-of-law CSOs focused on a variety of activities and outreach. Now that a free press was again possible, organisations like the Helsinki Foundation published periodicals for the media to explain legal principles and impress upon the media and citizens the importance of independent courts (Bojarski, 2021). This was the iceberg of educational activities run by the Helsinki Foundation, as other efforts included inviting children and other young people to courts, bringing legal professionals out of the courts and into Polish schools, and hosting an interactive

meeting series with judges and other legal professionals featuring debates, among other things (ibid). These activities were often a joint initiative of the Helsinki Foundation, the Stefan Batory Foundation, and Iustitia (ibid). The following section reviews how accession to and eventual entry into the EU impacted Polish civil society and created new opportunities for additional rights claiming.

Conclusion

This chapter traces the various civic movements across Poland during communist times with a special focus on opposition movements that formed in response to oppression by the communist state. It shows that contrary to the understanding of civil society and civic mobilisation in CEE as weak and underdeveloped, which has coloured understandings of the present civic mobilisation in Poland, Poland has a history of civic mobilisation in reaction to a repressive state. In this way, the civic mobilisation on which this research centres (namely that which developed or existed from 2015- 2022) can also be understood as the normal reaction of the civic space to state repression and thus a continuation of this activity rather than a new phenomenon. There are differences when comparing contemporary civic mobilisation with that in the communist period and even civic mobilisation during the few years of Poland's accession to the EU. Contemporary movements have become more established, often including established groups which participate in strategic interactions that are more regular and less sporadic when compared to earlier periods (O'Dwyer, 2018a). This chapter also introduces the idea of a civil society which differs from the type that dominates academic literature by describing the role of state-created uncivil society in section 4.1.2.

This section reminds the reader that civil society at this time was complex, just like civil society in the study period. Not all CSOs can be considered as representative of the organic will of (some of) the people which advance democratic ideals but rather, civil society may also be state-influenced, state-created, and/or advance goals and ideas that are not entirely democratic. Lastly, this chapter traces what can be considered the early roots of some of Poland's current CSOs and social movements. Namely, it traces the origins of the (mostly informal) organisations, groups, and professional societies dedicated to the rights of interest in this work (the rule of law, reproductive rights, and LGBT+ rights). This illustrates to the reader that the present

movements, although inspired by the challenges that various groups (e.g. LGBT+ persons and independence judges) have experienced under the United Right coalition, are not entirely novel and, on the contrary, represent one part of a longer history of various movements dedicated to these same rights. It additionally makes the argument that even considering the mass engagement of 'new' and young (under the age of 25 or even 18, in some cases) people in civil society (Bill, n.d.), at least some of the civic mobilisation seen in post-2015 Poland resembles previous social movements and groups (some CSOs, like KOD, even adopt the names in homage to these earlier movements).

Chapter 5: Polish Civil Society in the Context of EU Membership

5.1. The Effect of Accession on the Development of Polish Civil Society

On 5 April 1994, Poland filed an application for membership to the EU, marking the official start of its journey towards EU membership. This request was accepted on the provision that Poland, like other EU hopefuls, adopt a body of legal, economic, political, and normative changes in preparation for formally entering the European Community. The difference between this and previous enlargement rounds was both the number of states seeking membership at once and their fragile economic, social, and political conditions, having recently emerged from totalitarian systems (Michalski, 2014). To reduce the risks that such an enlargement could bring, the EU needed to further develop its membership requirements (Hughes and Sasse, 2003; Michalski, 2014). To prepare itself for the successful incorporation of these new members, the European Union developed an extensive integration programme. Accession requirements underwent a significant transformation and became more systematic and institutionalised (De Búrca, 2022; Hillion, 2011; Hughes and Sasse, 2003). In preparation for the first Eastern Enlargement, the European Council in Copenhagen further delineated membership criteria by requiring that candidates demonstrate 'stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities' ("Presidency Conclusions: Copenhagen European Council - 21-22 June 1993," 1993).

Aspiring members were to fulfil these so-called 'Copenhagen Criteria' in addition to transposing the massive body of EU law known as the *acquis communautaire*.⁵⁴ The Union's shared norms were now formally embedded in the enlargement process, with each step in the EU's new 'pre-accession strategy' demonstrating the gravity of reflecting these norms across all EU member and candidate states (De Búrca, 2022; Hillion, 2011). In the past, membership to the European Community was open to 'any European state' (Schimmelfennig, 2001; *VERDRAG tot oprichting van de Europese Economische Gemeenschap en bijbehorende documenten*, 1957). At that time 'no substantive conditions of admission were envisaged,' except that the applicant

⁵⁴ This step was not new, the *acquis* were also a requirement during previous enlargements as well (Hillion, 2011; Schimmelfennig, 2001).

ought to be a 'European' country, 'willing to take part' in the European Project (Hillion, 2011). There *were*, however, (ad hoc) disputes about the potential to deny membership to European states on the grounds that they did not respect norms presumed to be shared by those in the European Community. Such was the case when the European Economic Community (EEC) made the decision to block Spain's membership in 1962 'on the grounds that [it] did not respect democracy and human rights' (Thomas, 2006) or when the CoE and the European Community froze association with Greece following its 1967 coup d'état (Soriano, 2017).⁵⁵ These events highlighted the necessity to formally institutionalise a more concrete set of membership criteria.⁵⁶

For Polish politicians who yearned to rebuild, 'return to Europe' (Cimoszewicz, 2002), and demonstrate Poland's dedication to the EU's shared norms, EU membership was paramount. For Polish CSOs, membership was a new opportunity to improve their situations and champion their causes. They worked to seize this period of transformation to advance rights for specific groups, especially women and LGBT+ persons. Accession was also a window of opportunity for greater collaboration with EU institutions and other CSOs across Europe. One of the benefits of EU integration for LGBT+ and women's CSOs in Poland was the opening of communications with Western European organisations focused on the same cause(s) with which they could collaborate (O'Dwyer, 2012). The following section, therefore, explores the opportunities for expanding rights during the accession process.

5.1.1. Interactions between Civil Society and the EU During Accession

'EU membership has had a huge impact. Activists feel more secure in Poland now. They know the EU is watching' (Activist statement taken during one of Poland's first Gay Pride parades, quoted in O'Dwyer and Schwartz, 2010).

⁵⁵ Of course an important difference between the Statute of the Council of Europe and the actions available to the EU is that while the CoE is able to induce the removal of a member state, states may only exit the EU voluntarily and even this option, as seen in the exit of the UK from the EU (also known as 'Brexit') remains challenging. Until 31 January 2020 it was unprecedented.

⁵⁶ Another example from two decades later is the decision not to admit Turkey to the European Community on the grounds that it did not share the same standards for human rights (Duranti, 2017).

Just as CSOs also looked to accession as an opportunity to expand and claim new rights, the EU somewhat looked to shape Polish civil society, financing CSOs and helping them internationalise (Meyer et al., 2017). This is unsurprising as civil society was seen as a potential democratiser in post-socialist states (Lane, 2010). The following section examines the implications that such a potentially mutually beneficial relationship had for the CSOs of interest for this work— namely, those focused on reproductive rights, LGBT+ rights, and the rule of law.

Reproductive Rights

At this time, women in Poland were facing a significant curtailment of reproductive rights and a loss of the state's 'social investment in childcare and other services' which had previously made it possible for them to become more engaged in the workplace (Moghadam, 1995; Pascall and Kwak, 2005). As a result, Polish women's organisations mobilised against domestic laws which they deemed detrimental to women's rights, like the proposed abortion ban of 1992 (Gerber, 2010). Like the LGBT+ groups in Poland (O'Dwyer and Schwartz, 2010), these women's groups felt some level of comfort knowing that the 'acquis' had so far been taken seriously by domestic politicians and that accession was advancing promisingly (Regulska and Grabowska, 2008). They assumed, therefore, that the obligations attached to EU membership would compel Polish authorities and institutions to mirror the standards of women's and LGBT+ rights elsewhere in the EU. They thus pursued their goals by discursively positioning the improvement of women's rights and gender equality as consistent with the conditions for EU membership (Einhorn and Sever, 2003; Lohmann, 2005). The preservation or expansion of reproductive rights was similarly positioned. However, this received a limited political response, although there were times when parties or politicians more sympathetic to liberalising abortion restrictions were in power (Heinen and Portet, 2010).

Any liberalising of abortion access that was accomplished, such as when the Sejm liberalised the 1993 abortion ban in 1996 under the social democrats, was quickly reversed due to the pressure of the Catholic Church (ibid). Since many matters related to women's rights, excluding the mostly labour-based 'acquis' criteria, were not on the agenda of most domestic politicians, women's CSOs saw enlargement as a crucial opportunity to empower women by bypassing the national government (Regulska and Grabowska, 2008). They thus appealed directly to transnational networks of women's organisations and EU institutions, hoping to translate EU-level

gender policy goals and women's rights standards to change at the domestic level (ibid). For instance, in 2002, concerned and frustrated women's groups staged Manifas (feminist marches) and prepared a joint letter to the European Parliament to express outrage over an act of police harassment of a woman suspected of receiving an illegal abortion (Broniarczyk, 2023). Their 'Letter of One Hundred Women' detailed the pressure that medical staff and women in Poland faced even when conducting or obtaining abortions legally due to the position of the government and the Catholic Church on abortion in general. They, likewise, lamented over the overly restrictive state of abortion rights in the country (ibid).

Although their complaints were primarily about the activities of parties like the Polish Government and the Catholic Church, these women's groups knew that the EU didn't have competency in this area. They hoped instead to influence national discord and create a media buzz around the issue (Sudbery, 2010). These groups did not eliminate the pressure on women and doctors, however, they were able to gradually shift the national narrative from one about morality and the Catholic Church to one about women's rights, especially referencing the standards of women's rights enjoyed elsewhere in the Union (Roth, 2007). Even though Poland was not yet an EU member state, EU institutions had already become targets of political appeal. Outreach and resources came from the EU's side as well, especially in the form of funding (Roth, 2007). However, most groups did not see these funds. For one, EU funding schemes favoured NGOs and the EU was reluctant to directly fund new organisations with short (or no) track records of managing other funds (O'Dwyer, 2018a; Roth, 2007). Secondly, country-specific funding schemes left decisions on which CSOs were to be funded up to the state to determine—therefore, 'controversial' groups like LGBT+ groups, feminist groups, or any women's groups which had sought abortion access, were easily excluded by the government (ibid).⁵⁷

There were other ways in which the EU helped advocate for women's and reproductive rights in Poland, however. Despite the Union's seeming fixation on extremely narrow fields related to women's rights and gender equality (this is discussed in more detail in **5.3. Barriers to Rights Claiming**), the European

⁵⁷ The EU was not the only potential funder, however. US American funders like the Ford Foundation and Pew Charitable Trusts, overwhelmingly funded Polish civil society and other initiatives focused on human rights, international affairs, and development from 1990 until about the mid-1990s, although this support tapered off from these and other international funders by the late 1990s (O'Dwyer, 2018a; Regulaska, 1998).

Parliament and the European Women's Lobby pushed the EU on its approach to gender equity (Locher, 2012). Both hoped they would make a difference to abate the regression of gendered rights occurring in most CEE candidate countries (ibid). Even with some EU support, Polish CSOs were aware that EU accession standards did not require or insist upon domestic governments taking up matters like access to abortion and contraception, subsidised child care, or extensive family leave, which were under threat by the legislative changes being carried out by the Polish government (Roth, 2008). For them, accession represented an opportunity to advocate for greater rights but not a guarantee of achieving them (Lohmann, 2005).

LGBT+ Rights

LGBT+ organisations felt empowered to demonstrate and organise other public events because members felt that during accession 'the EU was watching' to see the extent to which Polish authorities and social circles seemed to already resemble those in other EU member states (O'Dwyer and Schwartz, 2010; Şerban, 2022). Like women's CSOs, LGBT+ CSOs like KPH, Lambda Szczecin, and Lambda Warsaw used their newly established access to international CSOs and networks to advocate for their rights. They often worked in tandem with the few human rights-focused CSOs which openly advocated for LGBT+ rights like the Polish Amnesty International (especially their Gender Group) and the Helsinki Foundation and used these burgeoning networks to form international collaborations with EU-based groups as well (Bell et al., 2001). For instance, KPH worked with the European Region of the International Lesbian and Gay Association (ILGA-EUROPE), an influential⁵⁸ federation formed in 1978 of over 300 organisational members, to report on the status of LGBT+ rights in Poland and the behaviour of the local and national government regarding these rights (O'Dwyer, 2018a). For their part, ILGA-EUROPE published comprehensive reports not only on the status of LGBT+ rights and government, Church, and social attitudes towards LGBT+ persons but also on the Polish laws' proximity to existing EU legal and normative standards for LGBT+ rights (Bell et al., 2001).

IGLA's review of Poland's progression towards incorporating the EU's human rights norms, especially regarding LGBT+ rights, differed from the focus of the Commission's reports (*Sexual Orientation Discrimination in Poland*, 2001). ILGA's

⁵⁸ The organisation's proximity to the EU is well-known.

evaluation of LGBT+ rights in every candidate state was poor (*Update on LGBT issues in the candidate countries*, 2002), despite the mostly positive assessments of human (and minority) rights in the candidate states by the Commission. In addition to forming transnational bonds with powerful international organisations like ILGA-EUROPE, some Polish CSOs like KPH were able to assume a brokerage role between the EU and the Polish government (O'Dwyer, 2018a). This was possible because the European Commission sought local NGO partners to monitor compliance with the 'acquis' at the national level (ibid). Additionally, some limited domestic support for LGBT+ rights expansion gave KPH experience with interactions like lobbying and made it easier for the organisation to articulate its concerns as concerns about upholding the EU's existing standards for human rights. One of KPH's founders was then politician and current MEP, Robert Biedroń who could (and did) introduce the 'political edge' to the organisation which shaped its strategic interactions (like lobbying) and aims (ibid).

Although there was some collaboration between these CSOs and the EU, the Commission devoted little attention to sexual minorities in their progress reports, instead focusing on ethnic discrimination. When it came to the Union's enforcement of LGBT+ rights in the form of promoting human or fundamental rights, the Union operated on a so-called 'hierarchy of minorities' (Hughes and Sasse, 2003). This is reflected in the reports themselves, as reports focused primarily on Roma, Jewish, and other ethnic minorities, neglecting to mention sexual minorities and other groups (ibid).⁵⁹ This stymied potential progress in this area.

5.2. New Structures for Rights Claiming: The Embeddedness within EU and European Structures

The following section provides an overview of some of the most important developments in rights claiming that occurred as a consequence of Poland regaining its freedom and increasingly embedding itself within various international rights discourses. Poland's accession to various international organisations and to treaties

⁵⁹ This is not to say that the EU 'didn't care' or that some MEPs and others were not concerned about the status of LGBT+ rights in Poland and other candidate states; institutions like the Commission and members of the Parliament expressed regret at the lack of progress in some of these areas and acknowledged potential conflicts between minority rights and Poland's ability to decide internally on matters which may be of 'moral significance' (Frischhut, 2019; Hardt, 2003).

was important for CSOs because it provided venues for claiming rights (such as supranational courts), discourses upon which to defend existing and new rights, and legal frameworks guaranteeing these rights. This embeddedness in international legal systems influenced CSOs' political opportunity structure (POS) by introducing special circumstances for rights claiming as well as the fuel to defend these rights. For instance, impending EU accession provided an opportunity for LGBT+ CSOs to advocate for better LGBT+ rights in Poland since EU membership entailed both new anti-discrimination laws which protected sexual minorities and put a spotlight on Poland's standards for human and fundamental rights of minority groups (O'Dwyer, 2018a). This period of intense political change and transition presented an opportunity for CSOs to pressure domestic elites into making policy decisions which would demonstrate their obsequiousness to EU norms and prove Poland's political and normative proximity to the West it had been artificially severed from and was now seeking to rejoin.

Increasing access to new courts and international institutions to express discontent or seek recourse also shaped the strategic interactions that CSOs in this period engaged in to advance their goals. Of course, all of these changes should be seen as just one part of a multi-stage process, which included de-Communistation, the refurbishing of Poland's judicial, social, and political systems (even before accession (Coman, 2014)), Poland's accession to the EU, and Poland's accession into other international systems. This brief section details some of the supranational systems in which Poland became embedded after its 1989 semi-free elections. Although an effort has been made to capture this moment of multifaceted transition in which Poland's rebuilt political, economic, and social systems developed amongst its accession to international organisations, it should be noted that Poland's previous membership in international organisations like the UN (from 1945) (Mamiński, 2020) or compliance with acts, treaties, and declarations like the Helsinki Final Act also shaped the country's embeddedness. The previous section mentions for instance, how CSOs like KH already began to articulate standards for human rights in the People's Republic of Poland in terms of the country's international human rights commitments as per the Helsinki Final Act and other treaties. However, the most significant difference here is not only the transitory nature of this time period but also the fact that Poland was now an independent country. CSOs could now form legally and operate openly, making demands of their democratically elected government and claiming or expanding rights for various groups.

5.2.1. Accession to the European Convention on Human Rights

The European Convention on Human Rights (ECHR),⁶⁰ for which the European Court of Human Rights (ECtHR) guarantees compliance, was signed by the then-12 members of the CoE in 1950 (Pabijanek, 2022; Sadurski, 2009). All future members of the CoE were also required to sign it (*European Convention on Human Rights*, 2021) and Poland ratified the ECHR in 1993 when it became a member of the CoE. Under the ECHR, certain rights are protected for all residing in member states, several of which are relevant to the rule of law and human rights. Firstly, signatories of the ECHR must guarantee access to a fair trial in 'an independent and impartial tribunal established by law' (*European Convention on Human Rights*, 2021; Spano, 2021) as per Article 6 (Section I). This requires certain standards of the rule of law, such as producing independent and impartial courts (Letnar Čerňič, 2018; Pabijanek, 2022). For courts to be independent and impartial, factors like the separation of powers and the selection procedure of judges must meet certain standards (Pabijanek, 2022; Spano, 2021). This brief example shows, therefore, just how involved one requirement, like access to a fair trial, can get and the implications that it can have for the legal system in a country, legal appointments, judicial independence, and other matters related to the rule of law.

Further, the rule of law is a guiding principle of the ECHR and is reflected in its protocols, in the normative principles guiding how signatory states interact with one another, and even in the composition of the ECtHR itself (Spano, 2021). Rights like freedom of expression, assembly, and association, (Articles 10 and 11) further protect the rights of CSOs to assemble and spread their message (Letnar Čerňič, 2018; Spano, 2021). The freedom of individuals, like judges and civil servants, even when they are critical of the government or the judiciary system, such as when 'they highlight structural and systematic problems within the government branches they work' is also protected under these articles (Letnar Čerňič, 2018). As it relates to rights which may be used to protect minority groups like LGBT+ persons, Article 14 (Section I) confers individuals with protection against discrimination including discrimination by sex or 'other status' (ibid). Although this protocol against discrimination may not have originally been envisioned as providing protection, for

⁶⁰ The full name of the European Convention of Human Rights is the Convention for the Protection of Human Rights and Fundamental Freedom. Sometimes, though rarely, the European Court of Human Rights is shortened as ECHR, however, to avoid confusion and adopt the most common abbreviated usage, ECtHR or 'Strasbourg Court' will always refer to the European Court of Human Rights and ECHR will always refer to the Convention.

instance, to LGBT+ persons, the ECHR's status as a 'living document' which is to be adapted to the current circumstance of its signatories (Sadurski, 2009) has made the ECtHR a destination court for cases of sexual orientation discrimination (Ayoub, 2016; Bell et al., 2001; Danisi, 2011; Johnson, 2011).

Thus the potential of the ECtHR as a court which can protect LGBT+ and other minority groups when domestic provisions are insufficient is to be expected.⁶¹ In fact, the ECtHR was already seen as an 'activist court' for its breakthrough rulings advancing and protecting LGBT+ rights (Ayoub and Paternotte, 2020). The ECHR is also a source of potential rights claiming for women's reproductive rights, although not so much for expanding them (*Women's sexual and reproductive health and rights in Europe*, 2017). For instance, abortion policies and other practices which cause 'inhuman or degrading treatment or punishment' (Article 3) such as mental and/or physical anguish because of denial of care, present just one of the avenues that can be pursued in relation to rights that ought to be protected under the ECHR ("Factsheet – Reproductive rights," 2022; *Women's sexual and reproductive health and rights in Europe*, 2017). This is not to say that the CoE opens access to abortion or expands abortion rights. Although the Parliamentary Assembly Resolution 1607 advises for all CoE states to make access to legal abortion available at least in the case that it would 'save the expectant mother's life' ("Access to safe and legal abortion in Europe: Resolution 1607," 2008), it also clarifies that abortion is not a family planning method and should be avoided (e.g. by using other measures to reduce unwanted pregnancies) at all costs (ibid). It does, however, state that 'the ultimate decision on whether or not to have an abortion should be a matter for the woman concerned, who should have the means of exercising this right in an effective way' (ibid).

If these or any rights protected under the ECHR are violated, individual complainants may appeal before the ECtHR to seek recourse (*European Convention on Human Rights*, 2021; Letnar Černič, 2018; Pabijanek, 2022). The ECHR, as with the supranational treaties of the European Union (discussed in greater detail in the following subsections), also required that Poland, like other signatories, place these treaties' laws above their national law. In a situation in which there is a

⁶¹ This does not mean that additional groups are always protected or that groups, like sexual minorities, are always equally protected. Just one example can be found in (Johnson, 2011) which looks at the unequal protection of LGBT+ adoption rights vis-à-vis LGBT+ marriage rights.

disagreement between these treaties and their domestic law,⁶² the treaties take precedence (Pabijanek, 2022; Sadurski, 2009). It was not only newcomers which were affected by accession to the CoE and the ECHR— for existing members this enlargement round meant an increase in the number of signatories to the ECHR and their heterogeneity. These new members had different ‘legal and cultural traditions’ in comparison to previous members, which were all mostly homogenous Western European states all coming from liberal democracies (Sadurski, 2009). In addition, these new members were emerging from systems of totalitarianism and had different track records for standards of human rights (ibid).⁶³ The situation for the existing CoE members was then very similar to that which EU member states would face a decade later. The accession of Poland and other CEE states to the ECHR transformed the ECtHR itself, which was at the time underused (Letnar Černič, 2018; Sadurski, 2009). Suddenly, the Court was constantly receiving cases and became a real policing force regarding its signatory states’ standards for human rights (ibid). Like the European Union, the ECtHR anticipated the entry of the post-Communist states and therefore introduced additional protocols, for instance, for individuals to bring cases to the ECtHR if domestic recourse had been exhausted (Sadurski, 2009)).

5.2.1.1. Other Measures of CoE Membership

Membership in the CoE also entails adherence to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), both of which the CoE ratified (*Women's sexual and reproductive health and rights in Europe*, 2017). Women's sexual and reproductive health is included in these conventions; Article 12 of the ICESCR guarantees 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' for instance, (*International Covenant on Economic, Social and Cultural Rights*, 1966). Article 16.e. gives women 'the same rights to decide freely and responsibly on the number and spacing of their children' and Articles 10.h, 14.b, and 12.1 provide access to

⁶² Although compliance with ECtHR rulings is quite high, this does not mean it is or has historically been iron-clad especially because once states are members, the system for sanctioning non-compliance is weak. For a brief overview of historical examples and the related ‘Constitutional Crisis’ in Poland, see Sadurski, 2009.

⁶³ This is not an entirely new situation for the European Union or the European Community, especially when considering the status of the former West Germany, for example. However, what was special about the so-called ‘Big Bang’ accession was both the number of states joining at the same time and the recency of their transition back to democracies.

information about health institutions related to family planning (*Convention on the Elimination of All Forms of Discrimination against Women*, 1979). Additionally, the right to life, including protection of women's 'equal enjoyment of the right to life' is covered under the first Articles of CEDAW. CEDAW, in their 1992 General Recommendations noted that forced sterilisation, forced abortions, and the stress of having to seek illegal abortions because of domestic restrictions were likewise to be avoided ("CEDAW General Recommendation No. 19: Violence against women," 1992). These recommendations and rights protections notwithstanding, many 'old' and 'new' CoE members like Ireland and Poland, featured right restrictions on abortion and could only assure women questionable access to contraception in general.

5.2.2. Entry into the EU

EU accession was of course a pivotal moment in potentially expanding rights claiming for various individuals and CSOs in Poland. It has already been somewhat demonstrated how even before accession, CSOs framed their activities and foci as aligned with EU norms in hopes that Poland's increasing proximity to the EU would encourage political elites to acclimate with norms elsewhere in the Union. Polish LGBT+ groups, for instance, hoped that integration could be used as leverage to advance their goals as the domestic context barely allowed for such an opportunity. Accordingly, research on how the process of Europeanisation can be used to socialise EU norms to (potential) member states, reflected on the potential of EU accession to induce the transposition of EU norms, especially while the EU held the attractive 'carrot' of membership (O'Dwyer, 2012; Regulska and Grabowska, 2008). It was thought that political elites would be keen on accepting EU normative standards for say the rights of sexual minorities out of fear of the consequences that non-compliance would have on their membership prospects. While this does not seem to be the case (O'Dwyer, 2012), membership did open opportunities for certain groups to claim rights once domestic and international conditions became more favourable. The core values that anchor the EU's institutional identity and on which its norms are based are memorialised in its founding treaties, The Treaty on the European Union (TEU) and The Treaty on the Functioning of the European Union (TFEU) (Mehlhausen, 2015).

Article 2 TEU explicitly states that:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.'

While Article 2 stipulates the founding values of the EU, Article 7 explains their enforcement, detailing both how potential breaches of these values can be raised and the conditions under which specific rights of member states, which are identified as persistently breaching these values, can be suspended (TEU, 2012). It is these values that have been evoked by CSOs and minority groups in attempts to claim new rights with weak domestic political support.

5.2.2.1. LGBT+ Rights in the EU

Human rights is one of the founding principles of the European Union, enshrined both in its treaties (Lewis et al., 1999) and formally institutionalised since the late 1960s, through the efforts of the ECJ (Ahrens et al., 2021; Lewis et al., 1999; Schimmelfennig, 2006). Although human rights protections are explicitly extended to minorities, it wasn't until 1999, with the Treaty of Amsterdam, which amended the founding treaties of the EU, that the Union explicitly mentioned (in Article 13 of the Treaty of Amsterdam) 'discrimination on grounds other than sex or nationality,' with the Treaties now, conferring protection against discrimination 'on the grounds of sexual orientation, together with sex, racial or ethnic origin, religion, belief, disability and age' (Lewis et al., 1999). This marked the first time that an EU treaty made explicit reference to discrimination on the grounds of other factors outside of sex and nationality (ibid). Although the Article remained obtuse about the actions the EU could take in response to suspected infringement of the human rights of protected groups, it at least signalled that the Union was concerned about discrimination on these grounds and that they were willing to act on it. LGBT+ rights (here, related to the protection of groups based on their sexual orientation) were referenced in a combination of EU treaties, directives, and other acts. This came about first in Article 13 of the Treaty of Amsterdam, then with the introduction of the 2000 Council Directives, in the Charter of Fundamental Rights of the European

Union (also in 2000), and lastly with the Lisbon Treaty⁶⁴ (“Charter of Fundamental Rights of the European Union,” 2012; *Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation*, 2000; “Treaty of Amsterdam,” 1997).

By embedding the rights of minorities in the membership criteria with the 1991 European Agreement⁶⁵ (O’Dwyer, 2018a), specifying the protection of rights for sexual minorities in the 1997 Amsterdam Treaty (ibid), and peppering these rights throughout discussions surrounding EU membership, the EU effectively brought greater visibility to LGBT+ rights and partially elevated its status from a matter of domestic policy or personal morality to a matter of EU and international standards of human rights. Another potential source of rights claiming can be found in the EU Charter of Fundamental Rights (The Charter), in which all of the ECHR rights are included. Like the ECHR, the Charter protects the right to the integrity of the person (Chapter I, Article 3) —protecting one’s ‘physical and mental integrity,’ confers respect for one’s private and family life (Chapter II, Article 7), protects freedom of expression (Chapter II, Article 11), freedom of assembly and freedom of association (Chapter II, Article 12), and lays down protections for non-discrimination (Chapter III, Article 21). Non-discrimination also includes discrimination on the grounds of sexual orientation, with the right to an effective remedy and a fair trial part of resolving violations of these rights (Chapter VI, Article 47) (“Charter of Fundamental Rights of the European Union,” 2012). Additionally, The Charter ‘brings together rights scattered throughout many different sources’ which include the ECHR but also rights formalised in the agreements of organisations like the UN and the International Labour Organisation (ILO) (Douglas-Scott, 2011).

Despite this layer of laws, treaties, directives, and normative attitudes about advancing or protecting LGBT+ rights, the potential influence of the EU was not limitless. As just one example, one of the declarations (the Declaration by the Republic of Poland on the Charter of Fundamental Rights of the European Union) concerning Protocols annexed to the Treaties in the Lisbon Treaty reads:

⁶⁴ As a result of the Lisbon Treaty, the Charter of Fundamental Rights became legally binding. Importantly, the Charter not only protects individuals on the basis of their sexual orientation but also their gender identity (De Schutter, 2011) and contains more substantive rights than the ECHR (the first six of the Charter’s seven articles detail these substantive rights).

⁶⁵ It should be noted that here the focus was primarily on ethnic minorities.

'The Charter does not affect in any way the right of Member States to legislate in the sphere of public morality, family law, as well as the protection of human dignity and respect for human physical and moral integrity.'

In addition, these treaties, directives, and norms do not de facto extend rights to LGBT+ persons like the right to marry. Within the EU itself, there were also uneven protections for LGBT+ rights (Bell et al., 2001) and uneven commitments to these rights— with some institutions like the Parliament taking a more active stance to advance rights like LGBT+ rights (Ayoub and Paternotte, 2020) and reproductive rights (Ramet, 2006), while other institutions focused less in these areas. Various international organisations, like ILGA-EUROPE, mentioned previously, collaborated with EU institutions to secure greater rights for LGBT+ persons in the Union and, at the time of Poland's joining, there were at least significant protections (by international standards at the time) preventing discrimination against LGBT+ persons in the workplace, along with robust monitoring of LGBT+ rights in the EU (Ayoub and Paternotte, 2020). With EU accession, homosexuality, which had always been seen as a personal and moral issue was reframed as 'one of European law and human rights,' giving many CSOs the chance to broach the topic in new ways now that EU presence was pushing such topics into open discussion (O'Dwyer, 2018a). The reality for these groups, however, was that EU membership could not secure the protection of their rights unanimously, although it did provide a venue to claim these rights. The hope of these groups that EU membership would encourage better protection for LGBT+ persons and their rights would become a reality, however, decades later, once the Union itself pursued a more robust commitment to sexual minorities.

5.2.2.2. Reproductive Rights

The human rights treaties introduced so far provide various protections for human dignity (Article 2, TEU), preventing inhuman/degrading treatment (Article 2 ECHR), and ensuring high standards of physical and mental health (Article 12 ICESCR). While these rights guarantees may be interpreted as protecting reproductive rights, they do not explicitly guarantee them. Reproductive rights in the EU have long been a pain point for the Union (Kováts et al., 2017). Although the EU has taken 'an active role in the field of promoting and mainstreaming gender equality policies,' it has always struggled to articulate a clear and consistent vision for reproductive rights,

instead formally leaving such rights in the hands of national governments (ibid). Like the protections guaranteed to LGBT+ persons in the EU at this time, most protections provided to women and focused on gender equality centred on equalising the number of women in the workplace and/or reducing workplace discrimination (Bell et al., 2001; Regulska and Grabowska, 2008). Despite this, membership did play some role in the advancement of reproductive rights. Firstly, EU institutions became yet another venue for expressing discontent about reproductive rights, despite restrictions on the EU's competency in matters of healthcare and reluctance to get involved in sensitive matters like abortion (Sudbery, 2010).

The EU was additionally used as a point of reference for CSOs trying to convince domestic and international audiences that the standards for reproductive and other rights in Poland fell short of those guaranteed in other EU member states (ibid). This tactic, called using the EU as a reference, was one of the primary strategies employed by women's CSOs like the Federation for Women and Family Planning leading up to Poland's accession (Sudbery, 2010). Like with LGBT+ rights, there was support for reproductive rights from EU institutions such as the European Parliament, which adopted a resolution supporting women's right to choose (Roth, 2007) and in 1995 made a statement stressing the importance of all individuals being able to access 'reproductive health and family planning information services' (Czerwinski, 2003). This position was reiterated in July 2002 following the Parliament's adoption of the Van Lancker Report⁶⁶ on Sexual and Reproductive Rights (Van Lancker, 2002). Another resolution⁶⁷ was passed after the adoption of the report stressing the importance of legal, safe abortion access for women's reproductive health rights (Czerwinski, 2003). Domestically, however, political support for abortion or any expansion of reproductive rights was almost non-existent. Despite multiple changes in power since the 1990s, there were no major, lasting changes made to the Abortion Compromise of 1993 and even liberal parties tried to quell protests about abortion access, not wanting to jeopardise⁶⁸ accession proceedings or relations with the Church in any way (Szelewa, 2016).

⁶⁶ This report was the result of a September 2001 sitting, in which the EP president announced that the Committee on Women's Rights and Equal Opportunities (with rapporteur Anne E.M. Van Lancker) may draft an own-initiative report regarding SRHR.

⁶⁷ This resolution was non-binding and one of multiple such resolutions launched by the EU since the mid-1990s.

⁶⁸ Strong support from the Church was needed during this period and even sympathetic politicians were adamant not to propose anything that would be offensive or controversial to the Church (Czerwinski, 2003; Szelewa, 2016).

5.2.2.3. The Rule of Law

The rule of law is explicitly mentioned as a shared norm of all EU member states in the Treaties and a part of the Copenhagen Criteria which aspiring members must meet, thus making unambiguous the Union's commitment to the rule of law. The rule of law is both a normative component of EU membership (Schroeder, 2021) and a legally binding principle (Scheppelle et al., 2020; Schroeder, 2021). Although this norm appeared prominently in the Treaties, it was not until the TEU of 1992 that the rule of law was named explicitly in EU⁶⁹ treaties (Magen and Pech, 2018). Its late appearance in EU treaties, notwithstanding, the rule of law has been lurking in the background of European integration from the start of the European Project, which was to prevent the arbitrary use of law by those in power (such as that witnessed in the recent acts totalitarianism) and to inaugurate an international rules-based system of conflict management (ibid). The role of the CJEU itself as a mechanism to ensure the 'availability of effective remedies, the right to a fair trial' and ensure 'that any exercise of power may be subject to review by courts,' further cemented the Union's protection of the rule of law and supplied affected individuals and groups with legal recourse when domestic avenues of justice were exhausted (Acosta Arcarazo and Geddes, 2013).

Despite the protections provided for the rule of law in the Treaties and other conditions for membership, the concept itself is ambiguous and no explicit definition is mentioned in the Treaties (Magen and Pech, 2018; Schroeder, 2021). In this period, the ambiguity of the rule of law as a concept did not seem to be a main point of contention, as Poland was eager to prove its worthiness of EU membership. However, this would not be the case after 2015, when the Union's rule of law norm became contested in Poland. The EU, in response, attempted to clarify the ambiguity of the concept in a way that would respect the national diversity of its member states. In the pre-accession period, the feedback Poland and other candidates received on the standards of the rule of law centred around several concrete themes. In the Commission's assessment of Poland's rule of law standards, they examined the separation of powers in-country, the ability of the Constitutional Tribunal to resolve disputes around the potential infringement of constitutional rights, the stability of institutions which guarantee the rule of law, the status of

⁶⁹ NB: TEU or the Maastricht Treaty created the EU. Thus here, references to previous treaties refer to the treaties of the EU's predecessors such as the European Coal and Steel Community or the European Economic Community.

judicial independence, and how well Polish laws aligned with international standards for human and other rights such those guaranteed in the ECHR (*Regular report from the Commission on Poland's progress towards accession 1998, 1998*).

Standards for the rule of law were also clarified by CJEU case law or by taking a case to the CJEU if no such relevant case law existed (Grabowska-Moroz and Śniadach, 2021). It was not until sometime later that the Commission attempted to explicitly clarify the conditions for and importance of underpinning respect for the rule of law in their 2014 'New Framework to Strengthen the Rule of Law' ("New framework to strengthen the rule of law," 2014). Their Framework referenced the case law of the CJEU (Schroeder, 2021), provided a 'comprehensive conceptualization of the rule of law' (Magen and Pech, 2018), and listed examples of the kinds of activities that would breach the rule of law ("New framework to strengthen the rule of law," 2014). Reform of the judiciary was important to meet the EU's rule of law standards. Poland had embarked on such reforms since 1989, with the rule of law taking a significant role even during the Roundtable Talks (Bodnar, 2010). Several significant changes were made to the structure of Polish courts and the Constitution of 1952 to ensure strong protections for the rule of law (ibid). Accession added another layer of complexity to this process— it was a substantial undertaking for the Polish judiciary, which had a lot to learn about applying EU law and was being restructured, at the same time, EU legal standards needed to be transposed (Bodnar, 2010).

While there is little research on the collaboration between judges' associations or CSOs focused at least in part on the rule of law with EU institutions, it is known that Polish CSOs like the Stefan Batory Foundation, the Helsinki Foundation for Human Rights, and Iustitia did discuss Poland's implementation of EU rule of law requirements and the recommendations delivered by monitoring CSOs on how to elevate Poland's judiciary to these standards. Just one example is the conference organised by these CSOs to discuss the monitoring report of the Open Society Institute's EU Accession Monitoring Program (EUMAP), which monitored standards for human rights and the rule of law in candidate countries, publishing reports on the same subject (*Program Monitoringu Akcesji do Unii Europejskiej (UE)*, 2003). The Helsinki Foundation for Human Rights also assisted in the research to make the report possible (ibid).

5.3. Barriers to Rights Claiming

The preceding sections detailed how Poland's increasing integration with European institutions and entry into the EU increased opportunities to claim new rights. Despite this increasing embeddedness and this period being the most opportune time for the transposition of new norms (O'Dwyer, 2012), however, the state of LGBT+ and reproductive rights particularly did not improve as a result of Poland's transition (Kacpura et al., 2013; O'Dwyer, 2018; Regulska and Grabowska, 2008; Szelewa, 2016). This section, therefore, briefly covers some of the barriers to rights claiming that still existed despite this period's transformative potential.

5.3.1. The Church

The Catholic Church, a bulwark for Polish society, operated as a 'second state' during the communist⁷⁰ occupation (Einhorn and Sever, 2003; Kotkin, 2010), directly influenced the negotiation of Poland's accession to the EU, and yielded exceptional influence on political discourse, opinion, and decision-making (Szocik and Szyja, 2015). With such powerful relevance and with over 90% of Poles identifying as Catholic at the time (Bell et al., 2001), it is easy to see why the Church had, since 1989, enjoyed 'political influence unrivalled elsewhere in Europe' (Gerber, 2010; O'Dwyer and Schwartz, 2010; Roggeband and Krizsán, 2020) and how this influence was a threat to the more liberal attitudes towards abortion and LGBT+ rights. With this power, it had been able to intervene repeatedly in domestic politics, influencing matters like abortion, religious instruction in schools, the new Polish Constitution, and social views on homosexuality (Grzymała-Busse, 2019, 2019; O'Dwyer and Schwartz, 2010; Ramet, 2006; Sadurski, 2019b). It became a major player in Poland's transition and a co-negotiator in EU accession. One of the top items on the Church's agenda after the fall of communism was making abortion unlawful in Poland (Ramet, 2006). The efforts of the Church to restrict abortion in Poland seemed to brush uncomfortably against the EU's own norms, however. During Poland's accession, the European Parliament made a call for abortion to be legalised amongst EU member states and candidates, while the Church doubled down on measures to deny legal abortion (ibid). The Church's efforts were demonstrated for

⁷⁰ Of course, its power only increased after the collapse of communism (Grzymała-Busse, 2019; Roggeband and Krizsán, 2020).

instance in Poland's accession treaty, previously quoted, which gave the Polish state precedence over the EU for matters 'of moral significance...[and] the protection of human life' (*Declaration by the Government of the Republic of Poland concerning public morality*, 2003). The Church, therefore, represented one of the more obvious barriers to the expansion of 'controversial' rights.

5.3.2. Lack of Competency

The EU's ability (or lack thereof) to influence 'moral matters' in member and candidate states, such as abortion, featured frequently in discussions around accession and accession negotiations as well (Ramet, 2006). This is primarily related to the EU's lack of competence in related fields like healthcare and the family. In addition, EU institutions, such as the European Commission only vaguely addressed the rights of sexual minorities during the accession process, suggesting instead that their rights were a matter of domestic concern and already setting the expectation that this topic was outside the reach of the EU to some extent (O'Dwyer and Schwartz, 2010). The ECtHR and CJEU took a similar stance when cases related to abortion were referred to them, preferring instead to preserve national law (Miller, 1999).

5.3.3. Uneven Standards Across the EU

The legal landscape of protections for LGBT+ persons and abortion access amongst EU member states— including 'old' member states was considerably diverse (Ayoub, 2016; Bell, 1998). Looking at the landscape of LGBT+ rights, the protections, laws, and public attitudes towards LGBT+ individuals in EU member states have always lacked uniformity with the only protections guaranteed across the board being rights explicitly protected in EU treaties and directives (Bell et al., 2001; Hurst, 2021; Rosamund, 2020; Shreeves, 2020). Some countries, like the Netherlands, had significant protections for LGBT+ persons (e.g. their Equal Treatment Act which prohibited employment discrimination based on 'heterosexual or homosexual orientation,' on top of categories already protected in EU laws and treaties, like gender and nationality), while others provided little to no protections specifically for LGBT+ persons (Lewis et al., 1999). There hardly existed one standard across the

Union's member states and EU-wide initiatives consisted of a mixture of directives, treaties, and laws which had varied effects and reach and were reliant on the laws adopted regarding LGBT+ persons in member states themselves (ibid). In addition, sexual and reproductive health rights issues were framed by the EU as related to countries' 'cultural and moral distinctiveness,' enabling states like Ireland (in the 1970s) to retain restrictive abortion rights even as women's rights groups in the country tried to frame such laws as a violation of human rights (Cullen, 2008).

This diversity made a consistent 'top-down' approach to socialising the human rights norm in the area more difficult (Ayoub, 2016). This mosaic of rights also weakened the EU's credibility to set a normative standard for candidates in regard to the treatment of LGBT+ groups and made it easy for political elites and others to use other members with strict abortion laws, like Ireland or Malta as proof that they need not liberalise their laws (Bell et al., 2001; O'Dwyer and Schwartz, 2010; Shreeves, 2020).

5.3.4. Mixed Feelings Amongst EU Institutions

EU institutions, furthermore, displayed an ambivalent attitude towards LGBT+ rights, including, at times, open hostility to legislation which protected sexual minorities (Bell, 1998). Likewise, there was little in the way of formal monitoring to track developments of LGBT+ rights in Poland or other candidate states. The regular reports required by the European Council in Luxembourg on the progress of each candidate did not reflect on the rights of LGBT+ persons in sections dedicated to minority rights but instead focused on the rights of racial and ethnic minorities (O'Dwyer and Schwartz, 2010) (*Regular report from the Commission on Poland's progress towards accession 1998*, 1998). At the same time, there were noted shortfalls in the transposition of legislation and other measures to protect the human and fundamental rights of LGBT+ persons and incidents of inequitable treatment against members of the LGBT+ community. For example, Poland had not signed Protocol No. 12 to the ECHR, which prohibited discrimination 'on any grounds'⁷¹ (*Update on LGBT issues in the candidate countries*, 2002) and would have protected groups not mentioned in extant legislation protecting minorities. In addition, despite the protections that *were* afforded to LGBT+ persons and groups, LGBT+ CSOs on the

⁷¹ This is unchanged- Poland has still not signed Protocol No. 12.

ground in Poland, like Lambda Warsaw, were often unlawfully denied the right to hold public gatherings (typically Pride events) (Bell et al., 2001; O'Dwyer and Schwartz, 2010; *Sexual Orientation Discrimination in Countries Applying for EU Membership*, 2001).

This is not to say that all or even most EU representatives and institutions did not push for LGBT+ and reproductive rights. However, attitudes across institutions were mixed, the Union's competencies in these areas were restricted, and the EU's own nascent development in these areas contributed to spotty policies protecting these rights (Bell et al., 2001; Regulska and Grabowska, 2008). Most of the protections developed at this time were strictly related to workplace access and workplace discrimination. Regarding women's rights and gender equality— the regular reports produced by the European Commission discussed such rights almost exclusively as they related to employment, the labour market, spousal violence, equal access to education, and the political representation of women (*Regular report from the Commission on Poland's progress towards accession 2002*, 2002). EU hard and soft laws on women's rights, further, demonstrated an understanding of gender equality as predominantly centred around equal access to the workplace (Gerber, 2011) and goals like achieving equal pay and political representation (Gerber, 2010).⁷²

5.3.5. (Lack of) Domestic Resonance

In addition to the seeming unwillingness of the Polish government and inability of EU institutions to provide additional protections for sexual minorities, reports from ILGA on incidents of violence against LGBT+ groups, widespread negative social attitudes about these groups, and the role of the Catholic Church in Poland in limiting the protection of LGBT+ persons (Hardt, 2003) highlights an additional consideration, domestic resonance. Here resonance refers to 'domestic factors that facilitate or inhibit persuasion' of adopting certain norms (Schimmelfennig and Sedelmeier, 2005). Norms are more likely to be adopted when there is an 'openness to accept and adopt new and external rules' due to the absence of much-needed domestic rules and/or when new (EU) rules reflect 'existing or traditional domestic rules' (ibid). While abortion restrictions received little popular support and there

⁷² This stance is unsurprising, reflecting EU's protections of women, which dates back to Article 119 of the Treaty of Rome. In Article 119, the economic rights of women in the workplace are the focus rather than the fundamental and human rights of sexual minorities (Ellina, 2003).

were at least some LGBT+ movements in Poland at the time, political support for either issue was difficult to come by. The support of the Catholic Church was integral for both enlargement and transition; even liberal political parties hesitated to defend controversial topics like abortion liberalisation or LGBT+ rights (Einhorn and Sever, 2003; Szelewa, 2016). Some politicians who initially promised to support one or both of these topics either dropped these topics in favour of securing re-election or faced political backlash (Leszkowicz, 2004) for their support of such initiatives (O'Dwyer, 2018a).

This effectively buried such topics as EU institutions shied away from these 'sensitive' subjects and domestic resonance alone was not enough to address them (Regulska and Grabowska, 2008). Domestic resonance was also mostly unaffected by Poland's membership in other international institutions like the UN, which also pushed for increased reproductive rights. The UN, even then, framed ⁷³ sexual and reproductive rights, including abortion, as matters of human rights (Berro Pizzarossa, 2018; Pizzarossa and Sosa, 2021). Despite this, there was little consensus amongst member states.⁷⁴ Of course, there were significant pushes by civil society to put issues like reproductive rights on the table but even collaborations between Polish women's CSOs and women's CSOs abroad barely had the power to advance a more liberal agenda in these areas (although they did manage to stave off repeated attempts to introduce new abortion bans) (Mishtal, 2015). As a result of resistance from domestic actors and the ambivalence of EU-level decision-makers, many women's groups began to abandon controversial foci like abortion in favour of pursuing other women's issues more closely aligned with the agendas of powerful allies like the EU, Western European CSOs, and (potential) funders (Korolczuk, 2016b). These new foci included issues like women's representation in politics, equal employment, and workplace protections for women (ibid).

A perhaps unintended consequence of Europeanisation through enlargement, thus, was the channelling of women's rights campaigns and organisations towards much

⁷³ These rights were especially established during the 1994 International Conference on Population and Development (Cairo Conference) and the 1995 Beijing Conference (Pizzarossa and Sosa, 2021). Additionally, the UN has made unambiguous statements about its stance on reproductive rights, such as that 'human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence' ("Fourth World Conference on Women, Beijing 1995: Women and Health Diagnosis," 1995).

⁷⁴ The UN has become an increasingly popular site for lobbying against expanding reproductive rights and discourses which differentiate between gender and biological sex, as a result, its stance on the defence of reproductive rights is also contested (Chen, 1995; Korolczuk and Graff, 2018).

more narrow and more easily achievable directives for which domestic and international support did exist. This was unfortunate for many Polish feminists who had been waiting decades (with unofficial feminist groups meeting at least as early as the 1960s (Łapniewska, 2016)) for a new kind of feminism beyond that which groups oriented around 'traditional, conservative...family values,' such as *Solidarność* and other opposition groups, could envision. One may even consider such a development to be a lost opportunity, not only for some feminist/women's groups of this period but also for women's groups and women's rights in Poland for decades to come. The momentum which could have benefited other feminist initiatives and 'difficult' causes such as greater social security for issues that affect women unequally (e.g. childcare) and sexual and reproductive health rights (i.e. abortion and greater access to contraception) was lost in favour of pushing initiatives which a clear neoliberal scope of women's issues and women's rights and which maintained the supremacy of Poland's conservative, traditional view of such matters. It also allowed IOs and funders to claim successes for women's rights in areas which either had little impact on women's rights or for changes that were easier to adopt due to existing support. In addition, instead of strengthening the network of many Polish feminist groups, allowing them greater visibility and support in championing these causes, Europeanisation through enlargement seemed to encourage the 'de-politicisation of civic activism' (Korolczuk, 2016b). This once again disappointed women who had waited so long for the realisation of greater gender equality and who were again forced to integrate into groups which did not share their convictions or goals or find themselves shut out of this newly forming civic space.

Conclusion

In this chapter, the development of Polish civil society in the context of (the promise of) EU accession was investigated. It explored how EU membership presented a new opportunity structure for social movements and CSOs, especially those focused on rights which enjoyed little support domestically but which had the chance of achieving support from EU institutions and/or in its member states. While these groups and movements may have aspired to influence domestic decision-makers by tapping into the normative weight of the EU on matters like women's rights and anti-discrimination, the latter section of this chapter outlines the barriers to

achieving these aspirations. Namely, it outlines how factors, such as powerful domestic actors and a lack of cohesive policies across member states, made it difficult to advocate for rights like LGBT+ rights or reproductive rights, which included a liberalised stance on abortion. Despite these shortcomings, this chapter draws the reader's attention to the importance that Polish civil society has historically placed on powerful norm-setters like the EU. Like the CSOs of focus for this research, these earlier groups and movements understood the importance of being embedded in treaty, law, and political systems that could be used to argue for certain rights and for certain definitions of protected norms. In this way, the strategies of the CSOs in this work can also be understood as a continuation of those early strategies employed by the groups and movements mentioned in this chapter.

Both relied on appealing to the EU's dedication to norms like human rights and the rule of law to urge international institutions to act. They, furthermore, placed their hopes on such international institutions to intervene in situations where it appeared that the rights for which they stood may be violated or insufficiently actualised and hoped that the context of EU membership would influence the stance of national decision-makers on various issues. The idea that 'the EU is watching' has thus maintained relevance since Poland's membership request was submitted on 5 April 1994.

Chapter 6: PiS and Civil Society— 2005-2007
and 2015- 2022

This chapter focuses on the relationship that the Prawo i Sprawiedliwość (Law and Justice or PiS) party has had with civil society during both of its stints as a ruling party. It further reflects on the changes implemented by PiS and the United Right Coalition which have, since 2015, seriously endangered the rule of law and human rights in-country, causing the constriction of the civic space but also catalysing the extraordinary mobilisation of that same civic space. The first section concerns PiS's short run from 2005-2007⁷⁵ in a ruling coalition (called (Unia Wolności or the Freedom Union (UW)) with Samoobrona (the Self-Defense of the Polish Republic) and the Liga Polskich Rodzin (League of Polish Families, or LPR). Though brief, this section is designed to explore PiS's early engagement with civil society during its first and minorly successful run and contextualise these interactions within the wider post-Communist political landscape. After this, the chapter explores the post-2015 situation of Polish civil society and its relation to PiS's political resurgence after securing an absolute majority in the 2015 elections. Although it can be argued that its first run prepared the party for its comeback a decade later, it is this post-2015 period that is both the focus of this work and marks a significant shift in Polish politics and the relationship between the Polish State and civil society. As such, this chapter spends much of its time detailing the interactions between PiS and civil society from 2015-2022.

6.1. Poland after EU Membership: Civic Engagement and the Wider Political Spectrum

The fourth chapter demonstrated how, despite bleak understandings of the size and robustness of Polish civil society and the diagnoses of it as weak or even non-existent (Císař, 2013; Ekiert and Kubik, 2017), there was both significant civic activity and the presence of the most significant opposition movement in the Eastern Bloc (Kotkin, 2010). This chapter again picks up at a time in which Polish civil society was diagnosed as slow to develop and anaemic in comparison to other states further West by looking at the period following EU accession but before 2015. Despite the 2004 EU enlargement and the growth and professionalisation of CSOs in former

⁷⁵ PiS's first term is shorter than the usual term, as PiS dropped its coalition partners and called for an early parliamentary election to take place in which it was defeated by long-time rival Civic Platform (PO). This is discussed later in the chapter.

candidate states (Císař, 2013; Ekiert and Kubik, 2017), there was less focus (compared to 1989-2004 and after 2015) on Polish civil society in the 'awkward' 'between phase' of 2005-2015. After the 2015 election of the United Right coalition, few could argue that the mobilisation of the Polish civic space was anything short of robust and powerful. The period preceding 2015, however, bears the familiar diagnosis of Polish civil society and political engagement in the country in general as stagnant and weak. Extant research often focuses on how most citizens showed high levels of electoral apathy, low levels of party preference (even in comparison with other CEE states) (Chandler, 2013; Markowski, 2008, 2007, 2006), and faint interest in civic initiatives (Foa and Ekiert, 2011; Szawiel, 2009). Such a reality was seen as a consequence of weak political parties which offered inconsistent messages and were poorly organised (Markowski, 2007), low levels of trust in political parties and politicians (Brusis, 2013; Matthes, 2016; Szawiel, 2009), low levels of confidence in government institutions⁷⁶ (Szawiel, 2009), and the legacy of lacking civic engagement during communist times (Lane, 2010).

Even in such a mercurial political landscape and with disappointing party choices available to the Polish public, there *was* already some civic engagement centred around support for certain parties (although participation in voluntary organisations, as measured in the World Values Survey, was the lowest in any 'developed' nation (Szawiel, 2009)). One such example is the Gazeta Polska clubs, unofficial CSOs founded by the conservative weekly, Gazeta Polska shortly after it published its first issue in 1993 (Ślarzyński, 2022). Just as the first periodical of the Gazeta Polska weekly featured an interview with PiS party leader Jarosław Kaczyński, the Gazeta Polska clubs went on to show their support for PiS both during election time and when the party faced criticism. They even went as far as organising marches and protests in 2006 when PiS faced criticism and in 2007 because of the alleged demonisation of PiS by the mainstream media (Ślarzyński, 2018). These clubs were consistently active in their support of PiS from 2012 to 2015 as well (ibid). Similarly, PiS's right-wing coalition partner LPR enjoyed consistent support from (and was even founded by politicians of) conservative CSO All-Polish Youth (Młodzież Wszechpolska or MW)⁷⁷ (Płatek and Płucienniczak, 2016). Such direct engagement between political parties and CSOs or individual citizens was somewhat rare in this

⁷⁶ Exceptions include the armed forces, police, and the central bank (ibid).

⁷⁷ It is worth noting, however, that parties like LPR later distanced themselves from some of the activity of aligned CSOs like MW. Even though parties and CSOs may have shared some interests, goals, and ideologies, they functioned as independent entities and often attitudes espoused in the civic space, for instance, disdain for sexual minorities, were taboo topics even for conservative parties like LPR (Płatek and Płucienniczak, 2016).

period, as the political landscape was still defined as chaotic with most voters not consistently standing by the same party (Markowski, 2008) and voter turnout in Poland being the lowest out of all CEE member states (Szawiel, 2009). This engagement may, however, have hinted at a trend emerging in Polish society more generally, as a growing number of respondents to CBOS surveys agreed that they felt capable of changing things in the country and capable of influencing public affairs (Matthes, 2016). Perhaps, engagement in civic initiatives then was increasingly seen as a way to influence politics. Despite this and the growing willingness to become involved in ‘collective political action,’ however, volatility continued to plague the Polish political landscape (ibid).

6.2. 2005 Elections and Aftermath

In 2005, PiS came to power with 25% of the vote, allowing it to form a plurality in the parliament and seek coalition partners (Zoll and Wortham, 2018). They eventually settled on partners LPR and Samoobrona. It was in this election that PiS established ‘a virtual hegemony on the right wing of the political scene’ (Pankowski, 2010). Further, the election represented a reshuffling of the Polish political scene, which was largely established by liberal parties but now seemed to be moving right. PiS ran on a populist programme, challenging existing political elites as distanced from the everyday people, going after business elites, espousing an exclusivist ideology, and openly expressing Euro-sceptic views (Jasiewicz, 2008). The UW coalition government lasted until its official dissolution in September 2007, which was precipitated by a scandal⁷⁸ in the Samoobrona party that started in December 2006 due to accusations that lude acts were committed or demanded in exchange for jobs in the party (Szczzerbiak, 2008). The resulting snap elections ended with rival Platforma Obywatelska (Civic Platform or PO) receiving a plurality in the parliamentary election and forming a new coalition government with Polskie Stronnictwo Ludowe (The Polish People's Party or PSL) (Zoll and Wortham, 2018). In its short time, however, the UW coalition did have an impact both on the political spectrum and civil society.

UW, PiS, and Civil Society

⁷⁸ It should be noted, however, that the coalition was volatile, strained, and difficult to maintain between the varied parties coming from different party camps, which also saw each other as competitors (ibid).

The UW coalition cut spending to civil society, especially CSOs focused on topics in which it had little interest such as 'those promoting gender equality, defending minority groups' rights and/or propagating 'alternative' lifestyles (e.g. focusing on ecology, world peace or alterglobalism') (Korolczuk, 2013). Even EU funds earmarked for Polish civil society did little to help the shunned CSOs, as the funds' distribution was left to the ruling coalition. This lack of support, at least for some areas of civil society, was unsurprising. PiS especially had anti-elitist beliefs which extended to intellectuals and civil society, specifically those CSOs espousing cosmopolitan and liberal ideals (Bill, 2022; Markowski, 2007). Their majoritarian beliefs, further, made it easier to understand how CSOs focused on minority rights were less important to the party's funding goals (ibid). The coalition's relationship with civil society was not entirely acrimonious, however. PiS, like the Fidesz – Magyar Polgári Szövetség (or Fidesz) party in Hungary ⁷⁹, managed to establish and nurture bonds with like-minded CSOs, especially amongst its target demographic (Bernhard, 2020). The aforementioned Gazeta Polska Clubs were helpful in mobilising voter turnout and securing support between elections, as were Church-affiliated groups, which PiS had access to through its existing connections with the Polish Catholic Church. In this way, PiS could count on growing public support not only during its time in office but well beyond (ibid).

What linked PiS with these organisations were shared goals, ideologies, and concerns. For example, since 2012, questions of gender, including LGBT+ rights, reproductive health, and the so-called 'gender ideology' present in the EU and international organisations like the UN appeared both in the political programme of PiS (Blum et al., 2015; "EU-Poland: Opt-out Protocol to the Charter of Fundamental Rights," 2012) and in the discourses of (organisations affiliated with) the Catholic Church (Blum et al., 2015; Chen, 1995). These shared concerns connected the Church and religious organisations affiliated with or created by it, especially family CSOs, with PiS (ibid). PiS also relied on trigger events to mobilise support. One such event was the 2010 Smolensk air disaster (Bernhard, 2020) in which the then-Polish President Lech Kaczyński (PiS) and 96 others (among them, the country's top political elites and Lech Kaczyński's wife, Maria Helena Kaczyńska) were killed. Civic support was mobilised around the remembrance of the victims but also

⁷⁹ It should be noted that one import difference is that Fidesz regularly funds GONGOs through the Urban Civilian Fund, using 'legal loopholes' to bypass existing laws which restrict state funding for CSOs that cooperate with political parties or conduct political activities (Zubor, 2024).

conspiratory ideas (stoked by PiS, among others) about potential Russian involvement in the crash (Case, 2017; Przybylski, 2018). In any case, PiS used the time it spent in opposition, after the 2007 snap election defeat to grow and maintain civic support, which eventually eased its overwhelming win in 2015 (Bernhard, 2020). Investing this time in mobilising popular support between elections not only strengthened its position amongst its rivals to the left but also solidified its popularity on the right, amongst potential competitors which shared its voter based like LPR (ibid).

During PiS's time in opposition, old allies, such as the Gazeta Polska Clubs supported its demonstrations like the anti-government March of Freedom, Solidarity and Independence, which PiS organised in March 2012 (Ślarzyński, 2018).⁸⁰ In addition, many Club presidents also ran for local office and openly expressed support for PiS, eventually over other conservative parties (Ślarzyński, 2022). The relationship between PiS and the Clubs was mutually beneficial. While the Clubs lent legitimacy and visibility to PiS, PiS political leaders made themselves available for interviews and provided helpful political connections (Ślarzyński, 2018). This strategy of joint civic-political initiatives is older than the post-2007 period; the support of CSOs had been beneficial for conservative parties since the 1990s, when they still struggled for widespread popular support and were quite small (Ślarzyński, 2022). Conservative parties like PiS learnt early on the value of popular support, especially organised popular support (such as that which CSOs could afford) in cultivating a potential voter base and gaining legitimacy in an environment where trust and confidence in politics and political parties was low (Bernhard, 2020).

2005 Elections and the Political Spectrum

Although UW's run was short and their loss of the 2007 snap elections devastating, the 2005 elections did mark 'an important reconfiguration of political forces in Poland' as the post-communist left parties were dislodged by a loose coalition of right-wing, conservative parties, which displayed varying levels of populist tenancies (Sadurski, 2019). Their defeat, however, also demonstrated that Polish political systems, legal institutions, and the Polish people could recognise and democratically

⁸⁰ Although the Clubs were clear in their support for PiS, they also mobilised for other causes, such as the commemoration of important dates related to the Solidarity movement, remembering those who suffered during communist times, opposing Russian aggression in Ukraine, and expressing criticism during government scandals (ibid).

prevent attacks on democracy. Though little was concretely achieved in its time, the potential threat that UW may have posed to democracy in Poland was clear both to voters (Markowski, 2008) and scholars (Sadurski, 2019). In fact, the 2007 election of PO was viewed both as a consequence of PO's successfully popular electoral campaign and a backlash against UW's attempts to damage Polish democracy. Both during their campaign and after securing the election, PiS challenged the extant Polish constitution, even proposing an alternative draft to replace it; once elected, UW adopted several laws that broke the new Polish constitution and proposed strengthening presidential powers (Jasiewicz, 2008; Sadurski, 2019). Fortunately, the country's Constitutional Tribunal (hereafter, CT), the court which ensures compliance with the Polish Constitution and resolves disputes surrounding the constitutionality of laws and other acts (Łętowska, 2022; Sadurski, 2019, 2018), was strong enough to block changes attempted by PiS and its coalition partners that would have weakened Polish democracy (Sadurski, 2019). This led scholars to conclude:

'...Poles are usually politically apathetic, but when a 'clear and present danger' to the quality of democracy occurs they are ready to mobilise themselves to prevent democratic malpractices' (Markowski, 2008).

Laws adopted in breach of the Polish constitution, likewise, were seamlessly reversed after the 2007 elections, in part due to the 'active and vigilant' CT (Sadurski, 2019). The end of PO's snap-election term was, however, marked by increasing polarisation. Compared to 2005, when the Polish political landscape was seen as lacking in structure and only faint signs of polarisation and party preference were present (Markowski, 2007), by the 2010 presidential elections, PiS and PO became the two 'most established' parties in Poland (Matthes, 2016; Przybylski, 2018). They also became bitter enemies (a situation which remains unchanged today) (ibid), each representing opposing ideological positions (Markowski, 2008, 2006). While PiS focused on moral values, a strong state, and was comparatively Eurosceptic⁸¹, PO had economically liberal policies and demonstrated a pro-European outlook (Matthes, 2016). Their voter bases also diverged from each other, PiS attracting rural, poorly educated, and older voters and PO attracting voters mostly those from the left, some of whom had come from parties dissolved during the last elections

⁸¹ The Euroscepticism of PiS was a hallmark before this period, however, even leading up to EU accession, when such attitudes found little fertile ground with the Polish electorate (Zalewski et al., 2003).

and many of whom lived in Poland's larger urban areas (Jasiewicz, 2008; Markowski, 2007).

Stabilisation of the Political Field and Increasing Engagement in the Civic Space

On the wider political scene, Poles continued to show weak political engagement although the political field was becoming more transparent. A crowded, chaotic, and confusing political field would persist until the end of the 2000s when the political field would grow more polarised, coagulating more, and bearing signs of today's liberal-conservative, PO-PiS divide. PiS would also emerge as the largest right-wing party in Poland (Płatek and Płucienniczak, 2016). Voters started to vote not only on behalf of material issues like economic stability but on ideological, religious, and sociocultural issues (Markowski, 2008; Matthes, 2016). They became less volatile and started to explicitly reveal preferences as opposed to the political disinterest of past years (Markowski, 2008; Matthes, 2016). This was also partially a result of parties themselves forming more clear ideological foundations and trying consistently to attract a particular base in efforts to become more stabilised, distinct, and consistent. There were also fewer parties represented in the parliament, making the political field less crowded as many parties coalesced into one or faded away entirely (Matthes, 2016). Soon the volatility characteristic of the 1990s and the early 2000s started to dissipate (*ibid*). Even with the emergence of stronger party narratives and lessening political apathy, party alignment in Poland remained relatively low, however (Matthes, 2016). The same was true for voter turnout. After the 2007 snap elections, voter turnout was 25% lower than that in Western European countries and voter volatility remained high (although still lower than in previous elections) (Markowski, 2008).

At the same time, there was a growing engagement in the civic space, especially after EU membership had provided opportunities like increasing collaboration with other EU-based CSOs and participation in EU-funding schemes. This indicated perhaps that citizens were also finding alternative ways to express their political will (Matthes, 2016; Rymysza, 2012), although such activity was mostly limited to the middle class and concentrated in urban areas (Matthes, 2016). These organisations, which were mostly small, informal organisations or social movements tackled everything from creating a social network for young mothers to helping migrants integrate into Polish society, to helping Polish businesswomen succeed in fields

dominated by men (Rymsza, 2012). Involvement in the civic space came in the form of signing petitions, staging protests, boycotts, and strikes (ibid). The civic space in some sectors grew more than that in others. For instance, LGBT+ CSOs, which had suffered heavy losses during and immediately following EU accession and received relatively little support from the EU, saw a resurgence from 2005-2007 (O'Dwyer, 2018a). Their growth was inspired by the return of far-right, conservative groups, which had gained stability and legitimisation when the far-right PiS-led coalition was in power (O'Dwyer, 2018a; Płatek and Płucienniczak, 2016). Suddenly, LGBT+ organisations had to defend themselves against a new threat, which improved their mobilisation and growth (ibid). They continued to grow once PO won the 2007 early elections and as political parties took clearer stances on LGBT+ rights, at the end of the 2000s. These CSOs formed closer political alliances as well,⁸² although the mutually beneficial support was less than that seen between parties like PiS and conservative groups like the Gazeta Polska Clubs (O'Dwyer, 2018b)).

6.3. Poland from 2015: The Election of the United Right Coalition

On 10 May 2015, Andrzej Duda, PiS's candidate for the Polish presidency won the Polish presidential election over centrist incumbent, Bronisław Komorowski. Just months later, on 27 October, PiS managed to secure 37,5% of the votes in the parliamentary elections, making it the first party to win an overall majority in Polish democratic elections. The PiS-led United Right Coalition (Zjednoczona Prawica or ZP) was composed of PiS, as the largest party and most significant electoral victor along with two other right-wing parties, Solidarna Polska (United Poland) and Jarosław Gowin's Porozumienie (Agreement). After coming into power in May 2015, ZP proceeded to consolidate state control over the civic space, media, schools, and Polish Courts. For instance, ZP's undue influence on media allowed for smear campaigns and 'bad press' to spread so as to delegitimise (liberal) CSOs and paint both supporters and leaders in a negative light (Bill, 2022; Korolczuk, 2022; Margolis and Bielecka, 2019; Matthes, 2021). The same level of broad influence allowed the government to launch smear campaigns against other opponents like opposing

⁸² It is also worth noting that the political relevance of LGBT+ rights became more salient at the tail-end of the 2000s, often forcing parties to take clearer stances on these rights than they would otherwise do and making it easier for CSOs and individuals to align themselves with a party that shared their values, at least at the surface level (ibid).

political parties and judges (Pankowska, 2019; *Poland: The Judges Who Defend the Rule of Law*, 2019). Among ZP's list of targets were LGBT+ organisations, women's rights organisations, migrant aid organisations, and organisations focused on reproductive rights especially abortion (ibid). However, all it took to be targeted by the government was being labelled as a 'liberal and left-oriented organization...' (Korolczuk, 2022).

The changes enacted are pervasive and are not documented here in their entirety, although they are mentioned when relevant to the themes and topics of focus. After its October success, PiS was finally free to make the sweeping changes across domestic policy sectors and domestic legal structures that it was unable to in 2005 (Tatała et al., 2020). It still lacked the $\frac{2}{3}$ parliamentary majority required to amend the Polish constitution and instead turned to amending the country's 'constitutional reality' (ibid), first through court-packing and then by continuously introducing a series of new laws on the CT (Sadurski, 2019). In the end, these changes (discussed in further detail in section **6.3.1. Serious Threats to the Rule of Law 2015-2022** hindered the CT's monitoring capabilities significantly (Konciewicz, 2017; Sadurski, 2019) and effectively blocked procedural and institutional pathways for the enforcement of constitutional rules. This was just the beginning of what turned out to be a more than seven-year process of increasing restrictions on the rule of law and human rights in Poland, which placed the country outside of the EU's normative and legal orbit (Pech, 2023a).

6.3.1. Serious Threats to the Rule of Law 2015-2022

2015

As PO was preparing to vacate office, having lost the presidential and parliamentary elections which took place in the same year, it appointed five new judges to the CT. Although it had the right to appoint judges, it was only allowed to appoint three, meaning the extra two appointed judges were incorrectly appointed (Konciewicz, 2015a). This was done to prevent PiS from replacing the two judges who were due to retire after PiS's term had begun (Rytel-Warzocha, 2017; Sadurski, 2019, 2018). It was under the guise of correcting these incorrect appointments that the PiS-

controlled Sejm began its first attacks on the CT. That November, the new Sejm voted in amendments (which were signed into law the same day by President Duda) to remove all five judges selected by the outgoing party, place limitations on the terms of the CT president and vice president (which would be retroactive, affecting the then president and vice president), and make the start date of new judges the day on which they took their oath before the president (Koncewicz, 2015b). Unsurprisingly, the Court which had acted in the past to protect democracy, sprang into action, declaring these changes unconstitutional and dangerous for democracy and the rule of law (e.g. the separation of powers) (ibid). The Polish Supreme Court, the Venice Commission, and the Helsinki Foundation of Human Rights, similarly, denounced the amendment (Koncewicz, 2015a; Sadurski, 2016). It was clear that something was wrong, especially as other institutions, like the Sejm, 'rubber stamped' this amendment without additional consultations (ibid). This phase marked the beginning of efforts to pack the CT to establish a majority, which was subsequently followed by efforts to overwhelm the court, through a series of amendments and other acts (Sadurski, 2019).

These amendments made changes like requiring a full court (13 of the Court's 15 judges) to make a judgement, requiring a $\frac{2}{3}$ majority to assess the constitutionality of laws (both of which would impede the Court's daily functioning and defy the Polish constitution), and introducing new pathways to challenge the Court's current and past judgements (Koncewicz, 2015a; *Poland: Free courts, free people, judges standing for their independence*, 2019). At the same time, the CT was captured- the 'CT'⁸³ taking its place was subsequently packed with party loyalists who could do PiS's bidding, unchecked (Koncewicz, 2017; Sadurski, 2019). The purpose of such a takeover was to allow PiS to puppeteer Polish courts as it pleased and to eliminate a court capable of keeping a check on their unconstitutional behaviour (Sadurski, 2019). PiS legitimised the takeover of the CT in two ways. Firstly, they posited changes as a way to correct the illegitimate appointment of extra judges by the outgoing PO party. Secondly, they framed these so-called 'reforms' as the solution to de-communise Polish courts and to improve the Polish justice system (*White Paper on the Reform of the Polish Judiciary*, 2018). Scholars recognised the actions of PiS as an attempt to change the Polish constitution without altering word, saying:

⁸³ The use of quotation marks for the Constitutional Tribunal and other courts and legal bodies is to differentiate the pre-captured courts from those which are captured by the government or otherwise no longer meet the standards set out by the ECHR for a 'tribunal established by law.'

‘A small and unstable parliamentary majority, cannot change the constitution. Instead, it changes ordinary legislation and constitutional practice by evading, hollowing out and bending the Constitution. The language of public discourse and propaganda masks the change in constitutional azimuths. The parliamentary majority, while seeking to take full control over the functioning of the state and society, strives for legalistic appearances’ (Łętowska, 2022).

Despite PiS's explanations, the fact was that the replacement of both legally and illegitimately appointed judges was also improper, as only the incorrectly appointed judges should have been replaced. Likewise, the alleged link between CT judges and judges in communist times was unfounded. Lastly, none of the changes made to Polish courts improved inefficiencies in the courts or positively affected the adjudication of cases brought before the CT or any Polish courts— in fact, quite the opposite (Bill, 2018). 2015 marked the start of the ongoing Constitutional Crisis in Poland. By the end of the year, civil society had seemingly picked up on these threats and the first protests for democracy, organised by the newly formed Komitet Obrony Demokracji (Committee for the Defence of Democracy, or KOD) began (“Poland protests,” 2015).

2016

This CT takeover, which started the previous year, reached completion in 2016. This of course, did not escape international attention and concern, not only by civil society (as will be seen in the following sections) but also in academic circles (Konieczny, 2016; Sadurski, 2016), foreign press (Cienski, 2015; Davies, 2016a), and in EU institutions (Bílková et al., 2016; “Rule of Law,” 2016). The European Commission activated its rule of law framework in January 2016 for the first time against Poland for the irregular appointments and other laws designed to target the judicial independence of the Constitutional Tribunal (Pech et al., 2021a). Additionally, the Venice Commission questioned the procedure used to appoint new judges, the dismissal of judges, the appointment of the President of the Constitutional Tribunal, and the handling of cases, among other issues (“Poland: Opinion on the Act of the Constitutional Tribunal,” 2016). In their March 2016 Opinion, the Venice Commission elevated concerns about ZP ‘crippling the

Tribunal's effectiveness' and recognised these actions as capable of undermining fundamental norms (Bílková et al., 2016). They wrote:

'Crippling the Tribunal's effectiveness will undermine all three basic principles of the Council of Europe: democracy – because of an absence of a central part of checks and balances; human rights – because the access of individuals to the Constitutional Tribunal could be slowed down to a level resulting in the denial of justice; and the rule of law – because the Constitutional Tribunal, which is a central part of the Judiciary in Poland, would become ineffective' (ibid).

Following the publishing of this opinion, the European Parliament held a debate about a resolution on the situation in Poland, which included the concerns highlighted by the Venice Commission. Concerns were also expressed by the Organization for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights and the United Nations Human Rights Committee (Gall, 2017). This same year, the European Parliament held various debates about the rule of law situation in Poland. In one of these debates, 'The Situation in Poland,' the then Prime Minister Beata Szydło tried to persuade concerned members of the European Parliament (MEPs) that the changes made in the CT were nothing more than needed reforms and were legitimised by PiS's overwhelming majority (*The Situation in Poland*, 2016). Szydło argued that PiS and ZP operated on the will of their voter base, since 'the Polish electorate has voted for change, voted for the policies of Law and Justice, my political party' (quoted in *ibid*). The attack on the rule of law did not end with the CT, however. Also in the first month of 2016, PiS announced the merging of the Office of the Public Prosecutor General with the Minister of Justice (this change took effect in March 2017). This made the Minister of Justice and the General Prosecutor one person (Solidarna Polska's Zbigniew Ziobro) and increased his powers (*Poland: Free courts, free people, judges standing for their independence*, 2019; Zoll and Wortham, 2018).

This change created the potential to influence the outcome of cases as the Minister of Justice wields influence both over prosecutions and prosecutors' careers and activities (*ibid*). About this change, the Venice Commission said that the law was 'unacceptable in a State governed by the rule of law as it could open the door to arbitrariness' (Pech et al., 2021a). The merger was further concerning because it meant that Justice Minister Zbigniew Ziobro would 'gain... significant influence over the common courts and over the body that appoints judges to the Supreme Court'

(Bill, 2018); this all taking place while purges were carried out across multiple Polish courts to disarm and pack other courts in a similar fashion to the 'CT.'

2017

2017 marked the start of the first assaults on judicial independence, which would later activate Polish judges and judges' associations to mobilise in defence of the rule of law (Matthes, 2022). The attack on judicial independence was aided by ZP's increasing control on national courts. Such control was achieved through acts such as an amendment to the Law on the System of Common Court, which gave the Minister of Justice control over the dismissal and appointment of the presidents and vice-presidents of the Common Courts (*Poland, 2022a; Poland: Free courts, free people, judges standing for their independence, 2019*). The Minister of Justice did not have to provide justification for these decisions and the Disciplinary Prosecutor, who is appointed by the Minister of Justice had the power to investigate judges and appoint other Disciplinary Prosecutors at the district and appeal courts (*ibid*). Such a position did not exist until the Law on the System of Common Courts was amended by PiS. Previously, the process of appointing judges to disciplinary courts was free from political influence and in no way linked to the decisions of any of the Ministries (*A country that punishes: Pressure and repression of Polish judges and prosecutors, 2019*). This change, however, resulted in the Minister of Justice/Prosecutor General having almost unlimited power to discipline judges (*ibid*). The passing of this law, as well as the other two amendments proposed (which were ultimately vetoed by President Duda), would impede the right to a fair trial and the independence of the judiciary, going against standards for human rights that Poland had agreed to as per Article 6 ECHR, Article 14(1) ICCPR, Article 47 of The Charter, and Poland's own constitution (*Poland: Further information: Judicial reforms must not threaten fair trial, 2017; "Poland," 2017*).

Changes to the Law on the Common Courts also triggered the European Commission to initiate legal proceedings against Poland for the violation of EU law, citing breaches of Article 19.1 TEU and Article 47 of The Charter related to judicial independence, the right to a fair trial, and effective legal protection (*ibid*). Other courts were also under attack. By the end of 2017, the Law on the Supreme Court

was amended, lowering the retirement age for judges⁸⁴ on the Supreme Court, a tactic used to dismiss judges which was later declared to be in breach of EU law by the CJEU (De Búrca, 2022; *Poland: Free courts, free people, judges standing for their independence*, 2019; Zoll and Wortham, 2018). As a result, once the amendment took effect in 2018, 27 Supreme Court judges were pushed into retirement and two new chambers in the Supreme Court were established, the Disciplinary Chamber⁸⁵ and the Extraordinary Chamber. In addition to allowing greater executive control over the appointment of judges, the new Extraordinary Chamber and Disciplinary Chamber of the Supreme Court 'further entrenched political control of the judiciary' ("Poland," 2021b). The Polish president also had the power to appoint the heads of these new chambers and appoint judges to the Disciplinary Chamber itself, which became nothing more than an instrument to put undue pressure on judges for complying with EU law or acting contrary to the wishes of the ruling party (Bober et al., 2020; "Independence of Polish judges," 2021; Pech, 2023a).

These changes, further, created a new tool (disciplinary proceedings) for regime-friendly judges to regulate the behaviour of independent judges and reprimand them for activities which undermined compromised courts or called out threats to the rule of law (Gajda-Roszczyńska and Markiewicz, 2020). Lastly, amendments were passed to the Act on the National Council of the Judiciary and Certain Other Acts, transforming the National Council for the Judiciary (Krajowa Rada Sądownictwa or KRS), from a body designed to safeguard judicial independence (Taborowski, 2022) into a body which could enable the government to interfere directly with judicial appointment procedures (Pech, 2023a). This law would take effect the following year. The response to these legal developments was nearly immediate. A week after passing the amendment to the Law on the System of Common Court and a law to restructure the KRS, the president of the European Parliament, Antonio Tajani issued an open letter to President Duda about the changes made to the Polish judiciary, concerned that they would endanger democracy and the rule of law in-country (Tajani, 2017). The European Commission also submitted a proposal for a Council decision regarding the state of the rule of law in Poland, stressing that the

⁸⁴ The lowering of the retirement age did not automatically remove judges from the Supreme Court, however, any judges wishing to remain on the court after they had passed the age of retirement had to seek approval from the Polish president, an obvious concern for the separation of powers.

⁸⁵ This chamber was later closed in attempts for the Polish government to satisfy some of the requirements holding back EU Recovery Funds (Newly created chamber of the Polish Supreme Court was in breach of the Convention, 2021; Tilles, 2019a). It was replaced by the Chamber of Professional Responsibility (Tilles, 2022b), which bore the same hallmarks of the first Chamber, namely that the new Chamber is full of questionably appointed judges (Pech, 2023b).

legal changes initiated since 2015 endangered the rule of law and amounted to a 'clear risk of a serious breach of the values...in Article 2 of the Treaty of the European Union' (*DRAFT INTERIM REPORT on the proposal for a Council decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law (COM(2017)0835 – C9-0000/2020 – 2017/0360R(NLE))*, 2017).

As a result of the law on the Supreme Court and increasing pressure on Polish judges, demonstrations broke out all over Poland. Over just one weekend demonstrations were held in 180 cities and just days earlier on 20 July, 130 cities saw protests, with crowds as large as 100.000 people (Zakrzewski, 2017). Additionally, judges and judges' associations raised the alarm about the increasing threats to judicial independence and the separation of powers. For example, in Katowice, during the Congress of Polish Lawyers, Polish lawyers and judges' associations spoke out about serious threats to the rule of law ("Kongres Prawników Polskich," 2017). Polish judges' associations, which historically remained unpolitical and functioned more like trade unions, began speaking out to the (international) public about their concerns regarding the takeover of Polish courts and the reprimanding of independent judges. At the end of the year, on 20 December 2017, the Commission officially initiated Article 7(1) TEU⁸⁶ against Poland, identifying a 'clear risk of a serious breach of rule of law' ("Rule of Law: European Commission acts to defend judicial independence in Poland," 2017). Such a decision was made only after the Commission had made various attempts to conduct dialogues with leading figures from ZP, which ultimately proved unsuccessful in addressing rule of law concerns (ibid). The European Commission's Rule of Law Framework, which was designed in 2014 to prevent threats to the rule of law in member states and open a dialogue concerning such threats before⁸⁷ Article 7 TEU needed to be triggered (Pech, 2022b), had so far failed to correct problematic behaviour in Poland.

This Framework was triggered by the Commission in the first month of 2016, without success as the recommendations issued by the Commission were not followed by the Polish government (Bonelli, 2017). The concerns raised by the Commission specifically included: the 15 December 2017 law on the Supreme Court,

⁸⁶ It should be noted again that Article 7(1) TEU is *lex imperfecta*, revolving around opening a dialogue between the government of a member state identified (by 1/3 of member states, the Commission, or the Parliament) as in 'clear risk of a serious breach' of the values referenced in Article 2 TEU and EU institutions but not applying sanctions against that member state (Bárd, 2021).

⁸⁷ The Framework is commonly referred to as the pre-Article 7 procedure.

laws amending the law on multiple parts of the Polish judiciary, including ordinary courts and the KRS, and the egregious takeover of the CT (*Reasoned Proposal in Accordance with Article 7(1) of the Treaty of European Union Regarding the Rule of Law in Poland*, 2017). Outside of the EU, others like UN Special Rapporteur Diego Garcia-Sayan expressed their concerns about these so-called 'reforms' in Polish courts (Gregorczyk-Abram et al., 2021).

2018

In the first month of 2018, the amendment made to the National Council of the Judiciary officially came into force, giving the PiS-controlled parliament the authority to appoint all 15 judges to the KRS even though the Polish Constitution only allows the parliament to appoint 6 (*Poland: Free courts, free people, judges standing for their independence*, 2019). Former members of the KRS also lost their tenure as a result of the amendment and the KRS became deeply politicised (*Poland: Further information: Poland's president approves judicial overhaul bill*, 2017). Alongside the now neo-KRS,⁸⁸ ZP entrenched its impact on other courts. In only six months, the Minister of Justice/General Prosecutor, Zbigniew Ziobro dismissed 137 presidents and vice presidents of 377 ordinary courts without explanation or warning (Gregorczyk-Abram et al., 2021). Individual judges, such as Warsaw District Court judge Igor Tuleya, Gorzów Wielkopolski District Court judge Olimpia Barańska-Małuszek, and Judge Bartłomiej Przymusiński, chairman of the 9th criminal division of the Poznań-State Miasto District Court and spokesman for *Iustitia* were issued summons to appear before disciplinary commissioners (Gregorczyk-Abram et al., 2021; Jalszewski, 2019, 2018). Disciplinary proceedings were brought against these (and many more ("Archiwum represji," n.d.)) judges for benign activities like attending a rule of law session during the well-known Pol'and'Rock Music Festival or for otherwise legal and responsible behaviour such as professional, legitimate criticism or expressing concerns over the so-called 'reforms' of Polish courts (*A country that punishes: Pressure and repression of Polish judges and prosecutors*, 2019; Bober et al., 2020; Jalszewski, 2018).

⁸⁸ 'KRS' or neo-KRS is used to denote that the politicised KRS no longer meets the requirement of independence in EU law. The prefix neo is also used to indicate judges who are appointed by the non-independent, illegal, and unconstitutionally created neo-KRS.

This was also a threat to judges' human rights, as it appeared that their own freedoms of expression, association, and assembly were endangered since they were reprimanded for their involvement in judges' associations and in the civic space more generally (*Poland: Free courts, free people, judges standing for their independence*, 2019). These events did not take place without a reaction from inside and outside of Poland. In the Polish civic space, demonstrations erupted across the country, co-organised by CSOs with diverse causes, from the defence of democracy to women's rights, to LGBT+ rights, to the environment. What united these protestors was their shared concern about the effect that such legal restructuring may have on the Polish judiciary and ultimately on democracy in the country. Not only were demonstrations organised (Pacewicz, 2018; "Protests across Poland as judicial reform law signed," 2018) but CSOs also began to reach out to EU institutions, like the Commission lobbying for action against the weaponisation of the law by ZP ("Podpisz list do Komisji Europejskiej," 2018). In response to these and ongoing challenges, judges of Poland's own Supreme Court issued a resolution about the unconstitutionality of these acts and later the Labour Chamber of the Supreme Court submitted requests for preliminary rulings⁸⁹ to the CJEU concerning threats to judicial independence (Gregorczyk-Abram et al., 2021). The Supreme Administrative Court similarly appealed to the CJEU about the neo-KRS (ibid). Since 2018, referring questions to the CJEU has been a core strategy for on-bench mobilisation against the dissolution of the rule of law in Poland by (semi-)independent courts like the Supreme Court, the Supreme Administrative Court, and ordinary courts (Grzeszczak and Karolewski, 2018; Łętowska, 2022).

Similarly, individual resistance by judges took place during personal cases launched by these judges with national and supranational courts like the ECtHR (Łętowska, 2022). Cases filed with the ECtHR typically focused on Article 6, the right to a fair trial, since compromised courts disallowed a legal remedy to retaliatory actions taken against judges (ibid). Embeddedness in EU and supranational structures did give judges additional venues for action, although the rulings were and continue (as of the end of the study period) to be ignored by the Polish government. For their part, Polish judges' associations like *Iustitia*, *Themis*, the *Pro Familia* Association of Family Judges, and "*Lex super omnia*" raised the alarm about threats to judicial

⁸⁹ A preliminary ruling is a procedure in which the ECJ issues a final decision on the interpretation of EU law upon the request of a 'national court or tribunal before which a dispute is brought' ("Preliminary ruling proceedings – recommendations to national courts," n.d.). Once the decision is issued, the referring court must implement the ruling, there is no appeal process.

independence and showed support for the Supreme Court judges who were fighting to remain independent and elevate attacks on the rule of law to the CJEU (IUSTITIA Stowarzyszenie Sędziów Polskich, 2018). They launched an appeal to Polish judges, prosecutors, advocates and legal advisers, members of legal associations, and other CSOs to support the independent Supreme Court judges working to resist pressure from ZP and defend Polish courts (ibid). In the Spring of 2018, the ECJ, responding to a request from the European Commission, provisionally ruled that Poland was to suspend the application of the Law on the Supreme Court (Silveira, 2018). However, the Polish government did not respond (Matos, 2018). Outside of the EU, the UN was active, as the UN Human Rights Council released a special report on its rule of law concerns in Poland (García-Sayán et al., 2018).

The report was completed with the collaboration of national figures, including the Commissioner for Human Rights, various CSOs (including judges' associations), academics, and individual lawyers and judges (ibid). Additionally, the European Network of Councils for the Judiciary (ENCJ) moved to strip the 'KRS' of its voting rights⁹⁰ due to its loss of independence and failure to 'safeguard the independence of the Judiciary...[or] defend the Judiciary or individual judge[s]...' ('ENCJ votes to expel Polish Council for the Judiciary (KRS),' 2021; Matos, 2018). Traditionally, judges' engagement in political or politicised matters is seen as inappropriate (Łętowska, 2022), however, in their current situations, many Polish judges saw themselves as the defenders of the law and of the rule of law, albeit in a different capacity, directly because of ZP's policies. As part of a resolution adopted by the 2018-'KRS,' some of the first strikes were taken at judges' freedom of expression as the resolution declared that 'public use of infographics or symbols that could be associated with political parties, trade unions or other political organisations' was capable of interfering with a judge's impartiality (*Poland: The Judges Who Defend the Rule of Law*, 2019). This move, many judges suspected, was to proactively stem judges' involvement in several informal rule of law campaigns that had formed (ibid). These early concerns turned into reality as Polish courts began reprimanding judges for violations of the so-called Muzzle Law (Jałoszewski, 2021; Jałoszewski, 2023a).

The Muzzle Law and criminal proceedings launched against judges by the Disciplinary Chamber were used to punish judges for actions like making statements regarding neo-judges at festivals or other, off-bench events (Bober et al.,

⁹⁰ This ended in the suspension of the 'KRS.' However, the neo-court was expelled in 2021 due to exacerbating concerns about the rule of law and its lack of independence (Gregorczyk-Abram et al., 2021).

2020). Judges who referred questions to the CJEU for a preliminary ruling (Bober et al., 2020; *Poland: The Judges Who Defend the Rule of Law*, 2019), criticising the ‘KRS,’ neo-judges, or the unconstitutional dismissal of themselves or their colleagues (ibid), protested (via street protests and other public acts of defiance or solidarity for penalised judges) (Łętowska, 2022), collaborated with dismissed judges (*Poland: The Judges Who Defend the Rule of Law*, 2019), or made statements to the media about the rule of law situation in Polish courts (*A country that punishes: Pressure and repression of Polish judges and prosecutors*, 2019) would also face reprimand.

2019

This year, new ‘judges’ were appointed by the president to the Supreme Court— one to the Criminal Chamber and one to the Chamber of Extraordinary Control and Public Affairs (Gregorczyk-Abram et al., 2021). The disciplinary apparatus established by ZP continued to use the Disciplinary Chamber of the Supreme Court to punish judges for seeking to uphold or restore the rule of law in any way (ibid). Compromised courts like the ‘CT’ upheld the unconstitutional system created by ZP. For instance, the ‘CT’ ruled that the neo-KRS was composed in a manner consistent with the Polish constitution, thus one compromised institution was used to legally legitimise another (Gregorczyk-Abram et al., 2021; Pankowska, 2022). Eventually, the Advocate General of the CJEU did issue the opinion that the ‘KRS’ did not satisfy the EU’s independence requirements due to its flawed appointment procedure and the Luxembourg Court ordered Polish judges to assess the legality of the Disciplinary Chamber and neo-KRS (*C-585/18 - A.K. (Independence of the Disciplinary Chamber of the Supreme Court)*, 2019; Gregorczyk-Abram et al., 2021). Based on this ruling, the Polish Supreme Court determined that the Disciplinary Chamber was not a court according to the law and that the process of the neo-KRS’s creation meant that the court was not independent and impartial (Pech, 2023a). In the Autumn of this year, a report was also published showing the Prosecutor’s Office to be behind the 2018 media smear campaign against Polish judges (Pankowska, 2019). This was unsurprising since ZP had moved to capture public media, which had then become the mouthpiece of the government (*Erosion of Media Freedom in Poland*, 2020).

In the last month of the year, the Polish Supreme Court Disciplinary Chamber law was submitted, which outlined new standards for the conduct of most in the Polish

judiciary, clearing the Sejm and going into effect the following year. This law, also called the 'Muzzle Law' was a direct response to the aforementioned rulings by the CJEU and was designed to restrict judges' ability to question or test the independence of compromised courts and neo-judges (Pech et al., 2021). This will be detailed briefly in the following subsection as it officially took effect in February 2020. As a result, the civic movement, 'Free Courts, Free Poland' mobilised across 200 Polish cities, with CSOs (including judges' associations) protesting alongside others concerned about the state of the rule of law in-country (Lempart, 2020). This law would expand the role of the legal system as an apparatus for punishment against independent judges for things like applying EU law and questioning the legitimacy of irregularly appointed judges. Additionally, judges would be forced to disclose their affiliation with judicial associations, such as those outspoken against serious threats to the rule of law in Poland (Matthes, 2022). The law was also a direct reaction to on- and off-bench mobilisation by judges, including their actions as members of judges' associations (ibid).

The disciplinary regime against Polish judges did not escape EU attention and again the Commission took some action by referring Poland to the CJEU due to its threat to judicial independence and reliance on courts which could not be determined as sufficiently independent ("Rule of Law," 2019). This would be the second infringement procedure launched against Poland by the Commission due to rule of law concerns and such actions would continue alongside the Commission's failed (Pech et al., 2021a; Pech and Scheppele, 2017b) dialogues (Wahl, 2018).

2020

'We marched against the closing of lawyers' mouths. It is for lawyers, not politicians, to raise the alarm when laws are violated...As a result of this law, which grants discretionary powers to remove judges from office, Poles will be dependent on the whims of politicians who want to become legal experts. It must be stated clearly, they will be able to influence sentences in such a way that members of their own party will not be harmed, whilst political opponents will face severe punishment. We do not consent to such misuse of legal proceedings'- English-language statement of Krystian Markiewicz, President of Iustitia, regarding the mass demonstration, March of 1.000 Robes (Markiewicz, 2020).

In the first month of the year, the independent judges left on Poland's Supreme Court warned against the loss of judicial independence in the country's Disciplinary Chamber, whose rulings they urged should be voided (Pech, 2023a; "Resolution of the Civil, Criminal and Labour & Social Insurance Chambers of the Supreme Court of 23 January 2020," 2020). The Muzzle Law, adopted by Poland the previous year, officially entered into force on St. Valentine's Day of 2020, amending three acts- the Act on the Organization of Ordinary Courts, the Act on the Supreme Court, and the Act on the National Council of the Judiciary (Gajda-Roszczyńska and Markiewicz, 2020). It extended the powers of the neo-KRS to punish judges for questioning the independence of neo-courts and neo-judges— this included punishments for referring questions to the ECJ (Gajda-Roszczyńska and Markiewicz, 2020; Pech et al., 2021a). In addition, it created new disciplinary torts for judges, restricted the self-governance actions of many judicial bodies, required judges to disclose their membership with associations, opened the door to potentially nullifying past judgements which were already finalised, and restricted the right to determine the independence and impartiality of judges in the Extraordinary Chamber (among other changes) (ibid). Even if independent judges or courts attempted to make decisions about the (non-)independence of a judge, they had to refer such cases to the Chamber of Extraordinary Control, effectively eliminating judicial oversight (Sitnicka, 2020).

Under the new disciplinary measures, critical judges would become vulnerable to serious disciplinary offences, which could end in punishments as serious as 'expulsion from the profession,' a serious threat to judicial independence (Mazur, 2020; *Newsletter: Close to the Point of No Return*, 2020; Tilles, 2019b). Even complying with the judgements of the ECtHR and CJEU undermining the status of the neo-KRS due to irregular judicial appointments meant that judges faced reprimand since recognising such judgements counted as questioning the legality of the neo-KRS as well (Jaloszewski, 2022a). That year, the first judges were suspended by the Disciplinary Chamber, starting with judge Paweł Juszczyszyn from the District Court in Olsztyn, suspended in the second month of the year for implementing the CJEU's 2019 judgement which allowed Polish judges to 'assess the legality' of the Disciplinary Chamber and the revamped 'KRS' (Jaloszewski, 2022b). Disciplinary actions included suspension, including judges losing immunity (De Búrca, 2022; Markiewicz, 2021; Pech, 2022c). Other punishments ensued, such as transfers to undesirable locations or other courts (Bober et al., 2020; *Independence of judges and lawyers: Note by the Secretary-General*, 2020; Markiewicz, 2021), significant salary

reduction, and criminal proceedings (Taborowski, 2022). Judges were disciplined for their rulings, for their participation in judges' associations or other CSOs (including providing services and leading events like mock trials and other civic education activities), for statements made to the press, for advocating for other illegally suspended judges, and even for statements made on social media (Bober et al., 2020; Jałoszewski, 2020a; Markiewicz, 2021).

The 'Muzzle Law' did not go unnoticed, however. It was passed amongst significant international outcry, including from EU institutions like the European Commission, which eventually launched an additional infringement procedure against Poland in the spring of 2020 (Wahl, 2020a). Legal repercussions followed this international denunciation. For instance, the Higher Regional Court of Karlsruhe (Baden-Württemberg, DE) reached an 'unprecedented decision,' suspending the execution of the European Arrest Warrant issued by Poland due to the risk that the 'Muzzle Law' posed to the right of defendants to have a fair trial (Wahl, 2020b, 2020a). Although this decision was just made in the German national court, other countries raised similar concerns surrounding potentially returning individuals to face justice in Poland due to the compromised state of the Polish judiciary. In 2018, the High Court of Ireland approached the CJEU about the case of a Polish drug smuggler who they were concerned about turning over to Polish courts due to the condition of the judiciary there (Wójcik, 2021). A similar concern arose in other member states like the Netherlands (Court of Justice of the European Union, 2022). The Venice Commission considered the 'Muzzle Law' a serious threat to judges' freedom of speech, freedom of association, and their ability to aid in judicial oversight and protect the rule of law ("Venice Commission opinion on the 'muzzle law' – Rule of Law," 2020). Global civil society also reacted.

Upon the Law's proposal, the so-called March of 1.000 Robes took place in Warsaw (*A Thousand Robes*, 2020). This March, organised by Polish judges associations and CSOs Themis, the Pro Familia Association of Family Judges, Wolne Sądy (Free Courts), Iustitia, Stowarzyszenie Adwokackie Defensor Iuris, and "Lex super Omnia," featured judges from all over the world who marched the streets in solidarity with Polish judges and also hoped to raise awareness about the seriousness of the situation (*A Thousand Robes*, 2020; Markiewicz, 2020a). As a result of these consistent threats to the rule of law in Poland and Hungary since 2015 and 2010, respectively, the European Commission finally issued a proposal for a regulation to bind adherence to their rule of law norm with the receipt of European funds (Pech and

Bárd, 2022; Philoleau, 2021). This Rule of Law Mechanism was based on Article 322 TFEU, among other acts, which bind access to the EU budget to respect for its shared norms (ibid). In November 2020, Prime Ministers Mateusz Morawiecki and Viktor Orbán tried to stop it (Morawiecki and Orbán, 2020). However, it was eventually passed in the summer and went into effect on 1 January 2021, albeit lacking the initial level of protection for the rule of law proposed in previous drafts and significantly watered down (Pech et al., 2020; Tatała et al., 2020). The mechanism was used to restrict the dissemination of funds from Next Generation EU (NGEU or the European Union Recovery Instrument), a €806.9 billion economic recovery package designed to help EU states recover from the COVID-19 pandemic. Any EU state not only violating EU law but also doing so in a way that may jeopardise the use of the EU budget would have to make necessary changes before the request for funds could be improved.

2021

'After 20 years, the court directors, nominated by the Minister of Justice, transferred her [Judge Agnieszka Niklas-Bibik] to a lower division of the court, took away all her cases, closed her access to files and refused to allow her to set up an E-curia account to ask a preliminary reference to the CJEU. She herself has been suspended. Now she faces disciplinary and criminal sanctions. This will be decided, among others, by the DC [Disciplinary Chamber], which is entirely packed with defective "new" judges' (Taborowski, 2022).

2021 continued along in much the way that prior years did—judges continued to be targeted by politicised judicial bodies, supranational courts continued to find these activities problematic—raising concerns about compromised Polish 'courts' lacking independence, and civil society and individual judges continued to resist (Gregorczyk-Abram et al., 2021). In the Spring of the year, on 7 May 2021, the ECtHR ruled that Poland's 'CT,' the institution where the rule of law breakdown began, may no longer be considered a 'tribunal established by law' due to the irregularities in the appointment of its judges and its functioning (Marcin Szwed, 2021; Matthes, 2021b). The ECtHR likewise cited a lack of independence of the neo-KRS (*Dolińska-Ficek and Ozimek v. Poland*, 2021) and Extraordinary Chamber (Borowska, 2021). Both the CJEU and the ECtHR ruled that the Disciplinary Chamber could not be considered an independent and impartial tribunal established by law (*RECZKOWICZ*

v. *POLAND*, 2021). Thus its decisions, including the suspension of critical judges, were not to be considered rulings (Jałoszewski, 2022a). The ECJ issued an interim measure calling for the Disciplinary Chamber of the Polish Supreme Court to suspend its activity (Cabral, 2021; *Interim relief – Article 279 TFEU*, 2021). In the mid-summer, the CJEU suspended (through an interim measure) the provision in the Muzzle Act that prohibited judges from questioning or examining the legality of neo-judges and compromised courts (Jałoszewski, 2023b). In addition to reversing this provision, the Court ruled for the judges suspended under this provision of the Muzzle Law to be reinstated (Jałoszewski, 2022a) as the Disciplinary Chamber which suspended them was 'incompatible with EU law' ("Poland," 2021b).

By this time, in the summer of 2021, the ECtHR had 57 applications against Poland regarding the 'reorganisation of the Polish judicial system' since 2017 ("Poland must take rapid action to resolve the lack of independence of the National Council of the Judiciary," 2021). Despite this, state authorities continued to refer cases to the 'CT,' now a friendly court which could be instrumentalised to challenge rulings by the CJEU. In the Autumn of 2021, the 'CT' ruled that Polish law has primacy over EU law, ruling some parts of the EU treaties unconstitutional (*Poland*, 2022a). Around the same time, in November 2021, the 'CT' ruled that Article 6 of the ECHR was incompatible with the Polish Constitution; the 'Court' was especially not keen on the ability of the ECtHR to determine or review the legitimate composition of Polish courts (Ploszka, 2022). The 'CT' also challenged the CJEU's interim measure, considering it incompatible with the Polish Constitution (Cabral, 2021). This decision was labelled by legal scholars as a 'legal Poxxit,' as it challenged not only the supremacy of EU law over national law but confirmed that the Polish government was ready to operate outside of the legal and normative bounds of the EU treaties (Henley and correspondent, 2021; Stafford et al., 2022). Additionally, it indicated that the United Right Coalition, especially PiS was ready and willing to weaponize compromised, friendly 'courts' to renege on the legal conditions it had agreed upon when accepting EU membership (Cabral, 2021). Polish authorities turned such concerns into discussions over matters like sovereignty, saying:

'The constitution is the highest law in our country. If it were otherwise, it would mean that we are not a sovereign state. We did not agree to this in the EU treaties'- Polish Deputy Minister of Justice Michal Wojcik (cited in Cabral, 2021)

The Commission, under Commissioner of Justice Didier Reynders, gave Poland until 16 August to comply with the July 2021 CJEU ruling and state how it had complied with it; failure to do so would be met with fines (“EU gives Poland until Aug 16 to comply with EU court ruling or face fines,” 2021). In the same month, 4,000 Polish judges and prosecutors wrote a letter expressing their desire for the ruling’s implementation (Gregorczyk-Abram et al., 2021). The following Autumn, after failing to comply with the European Commission’s request to obey the CJEU ruling, the Luxembourg Court hit Poland with a fine of €1 million a day until it complied with the CJEU ruling to, among other things, liquidate the Disciplinary Chamber (Wanat, 2021). In October, the Parliament held a debate on the decision of the compromised ‘court’ to challenge the primacy of EU law, calling upon Prime Minister Mateusz Morawiecki to chime in (*The Rule of Law crisis in Poland and the primacy of EU law*, 2021). Morawiecki stressed, among other things, that Poland (like Hungary) had been unfairly targeted for behaviour that could also be seen in other, Western member states and that the EU’s competencies did not extend to the issues at hand (ibid). Despite the initial reaction of the Commission, this decision did not appear in its annual Rule of Law Report (Stafford et al., 2022).

Additionally, judges suspended under the Muzzle Law had not been reinstated and potential reinstatements were subject to the whims of others in power, appointed and/or supported by the ruling coalition. As just one example, Przemysław Radzik vice-president of the Court of Appeal in Warsaw blocked the unsuspension of the persecuted judge, Igor Tuleya (Jaloszewski, 2022c). The Commission did, however, open legal actions against Poland before the end of the year, although these were only followed up in 2023, after fruitless negotiations with the Polish government (Rankin, 2023, 2021). Scholars continued to highlight the seriousness of Poland’s unconstitutionally composed ‘courts,’ Professor Laurent Pech (2023a) nicknaming the situation a ‘legal black hole’ as:

‘all of [Poland’s] top courts are now unlawfully composed...every single judicial appointment procedure since 2018 is inherently defective due to the involvement of an unconstitutional body and...core EU and ECHR requirements relating to effective judicial protection and the fundamental right to an independent court established by law have been held “unconstitutional”...by the body masquerading as Poland’s Constitutional Tribunal’ (ibid).

Similarly, the European Commission in a case it brought against Poland for court changes which worsened the state of the rule of law in the country stated that:

'the combination and simultaneous introduction, in Poland, of various legislative reforms have given rise to a structural breakdown which no longer makes it possible either to preserve the appearance of independence and impartiality of justice and the trust which the courts must inspire in a democratic society or to dispel any reasonable doubt in the minds of individuals as to the imperviousness of the Disciplinary Chamber to external factors and its neutrality with respect to the interests before it' (JUDGMENT OF THE COURT (Grand Chamber), 2021).

It cited changes, such as the irregular appointment of judges to several legal bodies, the Disciplinary Chamber and its role in punishing dissident judges, and the lack of independence of several legal bodies. By this time, the ECtHR already concluded that the 'CT' could no longer be considered a tribunal established by law, a conclusion also reached by the Polish Supreme Court (Pech, 2023a; Wilczek, 2021a). It likewise, ordered Poland to pay €20.000 to each of the almost 150 common court judges dismissed from their positions with no way to appeal the decision (Gregorczyk-Abram et al., 2021). Resistance persisted throughout Polish courts as well. 78 current and retired Supreme Court judges issued statements against disciplinary measures introduced against judges (Gregorczyk-Abram et al., 2021), over 60 Supreme Court judges issued a statement against waiving judges' immunity via the Disciplinary Chamber, which the CJEU ruling had already delegitimised, the Olsztyn Regional Court⁹¹ ruled to reinstate Judge Paweł Juszczyński as it did not recognise the Disciplinary Chamber as a real court, and the Supreme Administrative Court overturned rulings from the neo-KRS (ibid).

2022

This year, to meet the rule of law milestones set by the Von der Leyen Commission in order to access EU Recovery Funds and to stop the €1 million/day fine, ZP proposed and adopted a series of superficial changes to address serious concerns about the rule of law. The Polish parliament passed an amendment to the Act on the Supreme Court to, among other things, dissolve the problematic Disciplinary

⁹¹ A similar decision was reached by the regional court in Warszawa-Śródmieście.

Chamber (Tilles, 2022b; Wądołowska, 2022). The Disciplinary Chamber was replaced by the Chamber of Professional Responsibility, featuring 33 randomly selected judges from the Supreme Court (some of whom were appointed by the neo-KRS) (Gregorczyk-Abram et al., 2021). In the version of amendments which passed, several amendments proposed by the opposition-controlled upper-house Senate, such as one that would have invalidated all rulings by the Disciplinary Chamber and one that would have required all candidates for the Chamber of Professional Responsibility to have at least seven years' experience ruling in the Supreme Court, were removed (Wądołowska, 2022). This is not to say that the ruling coalition was united, however, as significant infighting occurred between PiS and Solidarna Polska (United Poland), the latter of which is 'a hardline Eurosceptic party' and did not want to back down to Brussels and accept proposed compromises (Ptak, 2022). Despite infighting, it appeared that both Poland and the Commission reached an agreement to unlock European Recovery Funds, as on 1 June, the Commission gave a positive assessment of Poland's Recovery and Resilience Plan ("Commission endorses Poland's €35.4 billion RRF plan," 2022; Ptak, 2022).

According to the Commission, the required reforms for Poland were to include stipulations such as the adjudication of disciplinary cases against judges by a court other than the Disciplinary Chamber, which satisfied CJEU requirements for a tribunal established by law and the end of disciplinary proceedings for actions like judges submitting requests for preliminary rulings to the CJEU ("Commission endorses Poland's €35.4 billion RRF plan," 2022). Despite the proposed changes, no improvements were made to the 'Constitutional Tribunal,' the compromised court where PiS's takeover of Polish courts began. Likewise, there were not changes regarding the persecution of independent judges, the neo-NCJ, the non-implementation of ECtHR rulings, or any of the other egregious threats to the rule of law (Pech, 2023a). These changes were ruled insufficient by the Council of Europe, which later said that they:

'did not constitute adequate remedial action, inter alia because they: failed to introduce rules for judicial members of the NCJ to be elected by their peers; did not address the status of judges appointed in deficient procedures and of the decisions adopted with their participation; did not introduce an adequate framework for examining the legitimacy of judicial appointments and did not remove all risks of disciplinary liability for judges who implement the

requirements of Article 6' ("H46-25 Reczkowicz group (Application No. 43447/19), Broda and Bojara (Application No. 26691/18) v. Poland," 2022).

Although the provisional approval was conditional upon Poland fulfilling these requirements 'before any actual payment can be made' (Von der Leyen quoted in *ibid*), legal scholars, CSOs, and politicians warned that such a 'compromise' ignored serious threats to the rule of law (and consequently human rights by violating articles in the ECHR like 6(1) — The right to a fair trial). This was due to, among other things, the existence of unconstitutional neo-courts which according to the ECtHR could not be called proper courts ("Committee to Defend Justice KOS urges President of the European Commission not to give up on implementation of CJEU judgments on judicial independence in Poland," 2022; Pech, 2022a). Polish CSOs stressed that the new amendments were also concerning as the Chamber of Professional Liability, due to replace the Disciplinary Chamber, maintained similarly problematic appointment and operation procedures, which could not guarantee independence and impartiality. Further, the amendments did not require a sufficient provision to reinstate judges unlawfully suspended by the Disciplinary Chamber ("Committee to Defend Justice KOS urges President of the European Commission not to give up on implementing CJEU judgments on judicial independence in Poland," 2022). These concerns notwithstanding, the first fund transfers were slated to take place as soon as the bill was passed (Pech, 2022a).

However, four international judges' associations- the Association of European Administrative Judges (AEAJ), the European Association of Judges (EAJ), Judges for Judges (R4R or Reichters voor Reichters), and the European Judges for Democracy and Freedom (Magistrats Européens pour la Démocratie et les Libertés – MEDEL), filed a lawsuit with the CJEU against the EU Council for its plans to unblock recovery funds earmarked for Poland ("Four European organisations of judges sue EU Council for disregarding EU Court's judgements on decision to unblock funds to Poland," 2022; Gregorczyk-Abram, et al., 2022). They argued that the approval had several significant flaws, endangering human rights and the rule of law, such as the absence of the immediate reinstatement of unlawfully suspended Polish judges (*ibid*). Subsequently, Von der Leyen backed down and it appeared that Poland would have to sufficiently satisfy the milestones before any funds would be dispersed. The 30 June deadline for Poland to meet the milestones came and passed without the country satisfying the milestones and no funds were made available to Poland even after amendments passed (Gregorczyk-Abram, et al., 2022). Thus, it appeared that

another mechanism was available for the defence of EU values, specifically in cases in which political intervention from EU institutions failed. In this case, the mechanism was civil society (Alemanno, 2022), namely judges associations, with scholars saying:

'While the immediate goal of the judges' associations is to express solidarity—particularly with the Polish judges suspended and subject to disciplinary actions for applying EU law—their ultimate intention is to enable the court to reclaim its authority vis-à-vis the non-compliant member states and the council' (ibid).

In the meantime, civil society and opposition parties proposed a draft law to restore the rule of law in the country by taking actions such as dissolving the neo-KRS and correcting its selection procedures, invalidating neo-judges, liquidating both the Disciplinary Chamber and the Chamber of Extraordinary Control and Public Affairs, and refusing to accept judgements from neo-courts (Rebelianty Podkarpackie, 2019; Stowarzyszenie Adwokackie Defensor Juris, 2022). In addition, Polish judges referred almost 40 requests for preliminary rulings to the ECJ (the European Commission, in comparison, lodged four such requests) (Pech, 2023a). In their efforts to rescue the rule of law, Polish judges risked their careers and became targets of the government (ibid). They continued to be disciplined for questioning neo-judges and courts and/or applying CJEU and ECtHR rulings— in fact, such disciplinary measures intensified in 2022 (Gregorczyk-Abram et al., 2021). After the appointment of Judge Bogdan Świączkowski to the 'CT,' there were no longer any judges on the 'Court' who were not appointed by ZP (ibid). The Polish president, likewise, continued to appoint judges who were appointed under the neo-KRS to judicial positions, defying CJEU and ECtHR rulings. Supranational courts continued to communicate cases to Poland and provide interim measures due to threats to judicial independence (ibid). Resistance also continued within Polish courts themselves.

For instance, the Criminal Chamber of the Supreme Court ruled that the neo-KRS was not a judicial body according to the Polish Constitution (Gregorczyk-Abram et al., 2021) and independent judges refused to adjudicate with neo-judges ("30 legal judges of the Supreme Court refuse to adjudicate with neo-judges: We want to faithfully serve Poland – Rule of Law," 2022; Zakrzewskiego, n.d.). Within EU institutions, the European Commission published its third Annual Rule of Law report, which dedicated an extended section to serious concerns about the rule of law in Poland (2022 Rule of Law Report: The rule of law situation in the European

Union, 2022; Gregorczyk-Abram, et al., 2022). The Commission also announced that it would continue with its infringement procedures against Poland and the ECtHR communicated almost 40 new applications of cases against Poland related to the independence of Polish courts and Polish judges (Gregorczyk-Abram, et al., 2022). Despite these combined efforts, the rule of law crisis showed few signs of abating. Even the few measures implemented by ZP, such as reinstating some Polish judges, did not restore all illegally suspended judges (“Interim measure in cases concerning transfers of Polish judges,” 2022). The system in which lawful judges were suspended was, similarly, not removed and there was no guarantee that more judges would be suspended for the same behaviour (Jaraczewski, 2022; Pech, 2023a).

This section detailed some of the ways that Polish judges began to speak out about threats to judicial independence and checks and balances both on-bench while acting in their official capacity as judges and off-bench, outside of their roles as judges. Polish judges who raised the alarm about threats to the rule of law in Poland have, since 2021, been subjected to several acts of retribution. These include retaliatory transfers to undesirable locations or other courts (2022 *Rule of Law Report: Country Chapter on the rule of law situation in Poland*, 2022; Jałoszewski, 2022a; Łętowska, 2022), harassment and intimidation (including the harassment of their family) (*Judges Under Pressure*, 2021; *Poland: Free courts, free people, judges standing for their independence*, 2019; Łętowska, 2022), smear campaigns via government-controlled media (Grabowska-Moroz and Śniadach, 2021; *Poland: Free courts, free people, judges standing for their independence*, 2019), being passed up for opportunities or ‘blacklisted’ (A country that punishes: Pressure and repression of Polish judges and prosecutors, 2019), disparaging remarks from high-level ruling politicians (IUSTITIA Stowarzyszenie Sędziów Polskich, 2016), disciplinary proceedings (and SLAPPs⁹²) (Jałoszewski, 2022b; *Judges Under Pressure*, 2021), obstruction of justice (e.g. by denying fair hearings) (“ECHR gives notification to Poland of case concerning complaint by well-known judge about disciplinary proceedings brought against him,” 2020; Wilczek, 2021 b), loss of immunity (Jędrzejczyk, 2022c; “Poland,” 2022b), and even being spied on by the infamous Pegasus Software (Jałoszewski, 2021).⁹³

⁹² SLAPPs stands for strategic lawsuits against public participation, this described litigation used to deter activists, media, and others from various activities by financially exhausting their resources. Here the aim is not to correct deviation from the law but rather to use the law as a tool to punish criticism (Zabrocka et al., 2022).

⁹³ A full list of the ongoing persecution of judges, prosecutors, lawyers, and others in the legal profession can be found in the archive of Komitet Obrony Sprawiedliwości (KOS) (“Archiwum represji,” n.d.).

6.3.2. Further Threats to Human Rights 2015-2022

2015

Since 2015, human rights NGOs like Amnesty International have noted an increasingly hostile environment for LGBT+ persons in Poland, as PiS' 'numerous anti-LGBTI statements' created 'an atmosphere that foster[ed] discrimination and afford[ed] a social licence for hostility towards LGBTI people in wider society' (*Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022; Damshenas, 2021; Garrison, 2021).⁹⁴ Likewise, NGOs like Human Rights Watch have reported that women's sexual and reproductive health rights have declined since 2015 (Margolis and Bielecka, 2019; Van Raemdonck et al., 2018). This result is far from surprising. From the beginning of their time as the ruling coalition, it was clear that ZP had specific plans for shaping demographic policies and reproductive rights in the country, which has, for several years, been struggling with a declining birthrate. In 2015, ZP had already announced its efforts to end funding for IVF (long viewed as problematic by the Catholic Church), alongside the launch of their Family 500+ (or Rodzina 500+) Programme, aimed at encouraging couples to have children by providing a child-raising benefit of PLN 500 (EUR 114) a month until the child reaches 18⁹⁵ (Kongres Kobiet, 2015a; Nelson, 2017; Sowa, 2016). As it regards civil society:

'Since PiS gained power, the government has targeted women's rights activists and organizations through raids, denial of funding, and disciplinary action against public employees. High-level PiS leaders and politicians have taken no action to counter smear campaigns vilifying women's rights groups and activists' (Margolis and Bielecka, 2019).

⁹⁴ Despite this, LGBT+ persons did have some political allies in other parties like Robert Biedroń, Anna Grodzka, and a host of local politicians (ibid).

⁹⁵ More funds can be provided for special situations like children who are disabled (Sowa, 2016).

This is not to say that PiS or ZP is primarily responsible for the poor situation of reproductive and LGBT+ rights in Poland— Poland already had one of the most restrictive abortion laws in Europe and lacked many LGBT+ rights, such as laws granting access to civil unions for LGBT+ couples (Ayoub, 2014; Heinen and Portet, 2010; Van Raemdonck et al., 2018). However, this situation was exacerbated by ZP's coming into power (Margolis and Bielecka, 2019; Van Raemdonck et al., 2018). In their first year in office, in October, ZP approached the CT to de facto restrict abortion access by issuing a judgement that resulted in the loss of a 'reliable referral mechanism' for women denied an abortion due to doctors invoking the conscience clause⁹⁶ (*Human Rights Committee Concluding observations on the seventh periodic report of Poland*, 2016). With this change, doctors who refused women abortions due to the conscience clause were no longer required to refer them to a new medical provider who could provide such care (Margolis and Bielecka, 2019). The conscience clause was already a point of difficulty for women seeking legal abortions in-country, costing time and resources as they searched for another doctor who would perform the procedure but with this change, access to legal abortions was made even more difficult. In the same month, a draft citizen's bill introducing a near-total abortion ban was tabled. It was supported by the ruling party and passed easily through the first stages before being rejected the following year (Van Raemdonck et al., 2018).

Though similar draft bills had been introduced before ZP, the presence of an ultra-conservative coalition in power increased proposals, as they were more likely to succeed than under previous governments (ibid). In the civic realm, concerns about the potential restricting of reproductive rights led even non-party movements such as Kongres Kobiet (The Congress of Women), a CSO centred on women's rights and women's advancement in society, to issue statements expressing concern about the implication that the new government could have for human rights (Kongres Kobiet, 2015b). Wide protests would not begin until threats to LGBT+ and reproductive rights intensified the following year, although some newly formed organisations like KOD and long-time CSOs like Kongres Kobiet were already sounding the alarm that the election of the new coalition could have negative consequences for the rights of various minorities and even democracy itself.

⁹⁶ This clause allows healthcare providers to refuse an abortion 'on grounds that it conflicts with personal values or beliefs' (Margolis and Bielecka, 2019). The clause is commonly used to obstruct abortion access, as women, especially in rural areas must travel to multiple hospitals in the hope that someone will perform their abortion.

2016

'...women's sexual and reproductive rights, including the right to sexual and reproductive health, are not separate or distinct from human rights. On the contrary, as widely recognised by human rights mechanisms, they are intrinsic elements of the human rights framework. Likewise, member states' obligations to advance and protect women's sexual and reproductive health and rights are core components of their obligation to respect and guarantee women's human rights and advance gender equality' (Women's sexual and reproductive health and rights in Europe, 2017)

In the summer of 2016, members of parliament (MPs) from PiS expressed their support for the anti-abortion bill introduced in 2015, which had by then made it to the parliament. The bill, if passed, would have resulted in a near-total ban on abortion (Gall, 2017b). It was crafted by the PRO Committee (whose slogan was 'Stop Abortion') with legal preparation from the legal staff at ultra-conservative CSO and think-tank, Ordo Iuris (Davies, 2016b; *Foundation Ordo Iuris Institute for Legal Culture: EPF Intelligence Briefing*, 2021). In addition to a near-total ban on abortion (including for women who had been the victims of sexual crimes or whose foetuses could not survive birth), the bill would have included criminal charges (leading to up to five years in prison) for women who sought abortions and the doctors who helped them⁹⁷ (Korolczuk, 2016a). As a result of the proposed Stop Abortion bill, women's rights organisations in Poland and a host of allied CSOs led massive protests across the country called the Czarny Protest (or Black Protests), in which thousands filled the streets, all dressed in black. Protests even took place in small areas outside of the main cities (Muszel and Piotrowski, 2022) and eventually in international spaces, as hashtags like #CzarnyProtest and posts on social media grew. In the end, these protests took place across 130 Polish cities and villages, involving CSOs and individual women from around the world who protested in Poland, online, or in their own countries, showing solidarity with Polish women and Polish CSOs by wearing black and sharing the hashtags of the Polish Women's Strike on their social media (Korolczuk, 2016a; Şerban, 2022).

After these protests, the bill was dropped from parliament and the ruling party distanced itself from it (Korolczuk, 2016a), however, this was not the end of

⁹⁷ This was a polarising proposition, even for anti-abortion activists and groups. While many did want an abortion ban, there was disagreement over punishing those seeking or aiding abortions with jail time (ibid).

(proposed) restrictions on reproductive rights. The following year a restriction on emergency contraception, such as the 'morning-after-pill' passed the lower house of the Polish Parliament (the Sejm) (Gall, 2017b). These events did not go by unnoticed in the EU either. In the European Parliament, two debates were held in the Autumn, both titled 'Women's rights in Poland,' in which MEPs from across the EU expressed concerns that draft bills proposing the liberalisation of abortion were not offered as much support by the ruling party when compared to draft bills which would impose greater restrictions on abortion. The voices of Polish CSOs were not absent from these discussions. In fact, MEPs like Germany's Terry Reintke read the demands of Polish activists during one of the debates (Women's rights in Poland, 2016). On the domestic scene, the ruling coalition seemed unbothered by growing international attention to the gender and demographic policies of their coalition. High-level politicians from the ruling coalition such as Plenipotentiary for Civil Society and Equal Treatment, Wojciech Kaczmarczyk (who eventually became Director of the National Institute of Freedom) worked to discursively position traditional gender roles as the norm, making it clear that expanding reproductive and gender rights were not a concern for the ruling coalition (Margolis and Bielecka, 2019). As the summer of 2016 moved on, Pride became a political battleground as local leaders tried to ban the events in their municipalities and regional courts worked to dismiss these bans.

This repeated itself in subsequent years, with organisations like Kampania Przeciw Homofobii (Campaign Against Homophobia) launching campaigns to combat local authorities' bans or restrictions of Pride Marches and other events related to the LGBT+ community (Kampania Przeciw Homofobii, 2018). In addition to the bans and other restrictions, March attendees were attacked during multiple Pride events throughout the summer (Darwish and Muhammad, 2019; "March for LGBT rights in Warsaw after Pride attack in Poland," 2019). Attacks on LGBT+ activists sparked international attention, with world leaders speaking out about the state of human rights in Poland (*Helsinki Foundation for Human Rights Opposes Attacks on LGBTQI in Poland*, 2019; "MOTION FOR A RESOLUTION on public discrimination and hate speech against LGBTI people, including LGBTI free zones," 2019). From this point forward, debates in the European Parliament regarding LGBT+ rights and/or human and fundamental rights began to centre around Poland (and Hungary) and reiterated MEPs' concerns about the condition of sexual minorities in both

countries. By the end of the year, the Polish parliament had passed⁹⁸ amendments to the Public Assemblies Act, which required CSOs⁹⁹ to announce events 'no earlier than 30 days and no later than six days before the planned date of the assembly' (*Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022; Szuleka and Kalisz, 2021).

This was problematic because CSOs, especially LGBT+ organisations often had to keep news of their gatherings secret until a few days before the event to avoid the organisation of (often violent) counter-protests in response to their planned mobilisations (ibid). In addition to this challenge, the amendments also made reporting more onerous for CSOs. In addition, even after the extra reporting, local authorities were notorious for arbitrarily declining Pride Marches and similar gatherings (ibid). To the dismay of women, LGBT+ individuals, and other minorities, ZP also cut the budget of the Office of the Ombudsman for Human Rights this year (Margolis and Bielecka, 2019). The office had a separate budget for issues related to equality, which was similarly cut (ibid). In the legal realm, the Prosecutor General (who, as a reminder is also the Minister of Justice) also intervened inappropriately in several cases involving issues like LGBT+ rights. One such example is the June 2016 case of a print shop employee who refused service to an LGBT+ organisation because they did not support LGBT+ businesses or organisations. The ruling was appealed with the case being personally overseen by the Prosecutor General who expressed that he saw it only as a matter of free speech even though the print shop employee was originally found guilty of a misdemeanour (Warso et al., 2016). Ziobro made significant efforts to try to guarantee the print shop employee a positive outcome in the appeal, an extremely unusual position for a justice minister.

This case was no outlier, sadly. Many LGBT+ CSOs which turned to the courts and police faced insufficient protection. When these CSOs were victimised by vandals and others, they often found their cases dropped with prosecutors and the police seemingly disinterested in pursuing attacks of acts of vandalism further (ibid). Pressure on these and other CSOs also picked up in 2016. Before the end of the year, CSOs working on issues like human rights and the rule of law, which also

⁹⁸ NB: These amendments were in effect as of 2017.

⁹⁹ Although this amendment is technically enacted for all CSOs, it was used by local authorities to specially target LGBT+ organisations and Pride/Equality Marches (*Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022).

received public funding, found themselves at the centre of a public media¹⁰⁰ smear campaign (Szuleka, 2018b). In this campaign, also aided by right-wing media, the suggestion was made that these CSOs received funding in a dubious or possibly illegal manner (ibid). There were also legal attempts to reshape the civic space. In the last month of the year, the Polish parliament passed amendments to the Law on Public Assemblies, which restricted some counterdemonstrations and privileged some demonstrations (e.g. religious or patriotic demonstrations) over others (Gall, 2017b; Helsińska Fundacja Praw Człowieka, n.d.).

2017

On Women's Day (8 March), in commemoration of the Black Protests of 2016, the International Women's Strike took place across 80 cities in Poland (Zakrzewskiego, n.d.). It also took place worldwide as women globally called for a better economic situation and a better situation for reproductive rights (such as access to contraception and IVF) (ibid). Although the turnout was impressive, the situation for reproductive rights in Poland was about to get worse. In June of 2017, 104 parliamentarians applied to the 'Constitutional Tribunal' to have sections 4a(1)2 and 4a(2) removed from the Family Planning Act of 1993, eliminating the option in Poland's abortion law that allows for abortions in the event of suspected foetal abnormalities ("Notification of 12 applications concerning abortion rights in Poland," 2021). Although these proceedings were discontinued ("Notification of 12 applications concerning abortion rights in Poland," 2021), it was concerning both to CSOs and international audiences keeping watch on the situation of reproductive rights in Poland. Some bills restricting reproductive rights *were* passed, however, such as a bill to end access to over-the-counter emergency contraception and one significantly restricting access to information about contraception and sexual and reproductive health (*Poland*, 2022a). With these bills and the increasing hostility of the ruling coalition, Poland became the worst country in Europe for contraception (ibid). Politicians also attempted to discursively delegitimise some reproductive rights. In the Autumn of 2017, President Duda made statements to a Polish radio station expressing dissatisfaction with the current abortion laws and arguing that

¹⁰⁰ As a reminder, public media had been under significant government control since 2015/16 ("Polish media bill triggers concern for freedom," 2015; "Polish media laws," 2016).

so-called 'eugenic abortion'¹⁰¹ ought to be banned ("President says abortion laws are abused in Poland," 2017).

Around the same time, a group of parliamentarians, mostly coming from PiS, submitted a motion to the 'CT' in which they questioned the constitutionality of provisions in the 1993 Family Planning Act which gave access to abortion in the circumstance that the foetus was severely damaged (Van Raemdonck et al., 2018). The following month, the Stop Abortion Civic Committee submitted a citizen's draft law, supported by the Polish Catholic Church and PiS (affiliated) politicians such as then Prime Minister Beata Szydło, President Andrzej Duda, de facto party leader Jarosław Kaczyński, and the Science Minister and Deputy Justice Minister (ibid). In response to this proposal to end so-called 'eugenic abortion,' the civic initiative called the Save Women Civic Committee, produced their own citizen's draft bill. This bill would liberalise abortion law, introduce sexual education in Polish schools, provide free and easier access to contraception, and end the conscience clause for gynaecologists (FEDERA, 2017a). In addition to competing citizen's draft bills regarding SRHR, many 'liberal' CSOs, such as those seeking to liberalise abortion and access to contraception, experienced significant financial pressure from the government from this year onward. Financial pressure came in the form of ZP moving to centralise funding for CSOs. This would lead to greater government control over which organisations received government awards and make it more difficult for organisations labelled 'liberal' or 'left' to receive funding. ZP could then strategically support independent CSOs pursuing shared goals while deliberately defunding and incapacitating those which could or did challenge them- leading to what is often called the 'shrinking' of the civic space (Dempsey, 2017; Henckes and Godfrey, 2020; Pospieszna and Pietrzyk-Reeves, 2022).

ZP, using the Center for Civil Society Development could then decide which CSO were worthy of government funds (2020 *Rule of Law Report Country Chapter on the rule of law situation in Poland*, 2020; Grabowska-Moroz and Śniadach, 2021; Helsińska Fundacja Praw Człowieka, n.d.). Government influence is built into the setup of the National Freedom Institute, as it is director and most of the director's council is appointed by the Committee for Public Benefit Activity, which is chaired by a member of the Council of Ministers. After the centralisation of funding, groups centred around topics like refugee rights or LGBT+ rights or those deemed to be

¹⁰¹ This term typically refers to the abortion of defective foetuses, including those which will not survive birth, will only survive shortly after birth, or may be severely handicapped.

'unpatriotic' were subject to state disinvestment (Ekiert, 2019a; Grabowska-Moroz and Śniadach, 2021). Government offices, like the Ministry of Foreign Affairs, seemed to be awarding grant funds dubiously, skipping over organisations that appeared to meet the requirements for funding and funding organisations which did not appear to meet funding requirements (Warso et al., 2016). At the same time, the government began cutting ties with organisations which had previously monitored the meetings of the committee which evaluated project proposals of NGOs seeking funding (ibid). PiS justified these changes by positioning the act as aligned with efforts to equalise opportunities for CSOs and dislodge stubborn post-communist elites who sought to influence the civic space (Korolczuk, 2022; Ślarzyński, 2022).

The selective legitimization of government-friendly CSOs as 'from the people' and authentic and government-antagonistic CSOs as 'foreign-funded' and 'elitist' was unsurprising (Bill, 2022; Korolczuk, 2022). It fit the overall agenda of PiS, which rested on the claim that their ruling coalition would uproot aloof elites and reinstate policies that represented the needs and wants of 'the people' instead (Bill, 2022). As a result, the divide which had existed in civil society before between traditional 'community organisations' and professionalised NGOs transformed into a divide between right and left (Ślarzyński, 2022). As one scholar reported:

'the PiS-led government is building on this phenomenon, transforming the compartmentalization of Polish civil society into a political division by favoring right-wing organizations while marginalizing and scapegoating, through media campaigns and a denial of funds, those NGOs whose stance on policy issues differs from that of the ruling majority.'

Obtaining funding for Polish NGOs has historically been problematic, however, these changes put organisations in an even more dire situation (Chrzczonowicz, 2021). For NGOs in Poland, national and local government funding were and are the main sources of income, with 65% of these organisations relying on public funding (ibid). The politicisation of some CSOs, combined with other issues (for instance, the financial issues associated with the COVID-19 pandemic three years later, which diverted local resources away from CSOs) put them in a precarious space. Some of the CSOs which supported PiS and/or ZP after 2015 and reaped the rewards of discursive and/or financial support from the ruling coalition also supported PiS before their 2015 victory (Ślarzyński, 2022). This demonstrated yet again how the

relationship between civil society and political parties in Poland challenges the civil society-formal politics binary and exposes the porousness of this boundary, with figures from politics and civil society straddling or crossing the boundaries of both sides¹⁰² (ibid).

2018

In January 2018, yet another citizens' draft bill was passed to the parliament by the Sejm. This bill, called the 'Stop Abortion Bill' enjoyed the support of both conservative CSOs and the Catholic Church¹⁰³ (Margolis and Bielecka, 2019). At the same time that the draft bill to liberalise abortion by the Save Women Committee was rejected, the restrictive abortion bill proposed by the Stop Abortion Committee moved forward, being discussed in the Parliamentary Commission of Social Politics and Family in the first month of the year (Van Raemdonck et al., 2018). In reaction to this bill, Nils Muižnieks, Council of Europe Commissioner for Human Rights urged the Polish parliament to reject the bill and cited concerns that disallowing abortion in the case of a severely damaged foetus would 'endanger women's right to freedom from ill-treatment and go against the principle of non-retrogression prohibiting any measures that diminish existing rights in the field of health' ("Commissioner urges Poland's Parliament to reject bill which restricts access to abortion care," 2018). Several international organisations, such as the UN Working Group also called upon the ruling coalition not to encourage or pass acts that would lead to the 'forced continuation of pregnancy in any circumstance violat[ing] human rights' ("Poland must not further restrict sexual and reproductive health and rights, say UN experts," 2018).

The Spring of 2018 brought with it increasing threats to LGBT+ persons and it was from this year forward that Amnesty International noted the increasing use of criminal law against LGBT+ activists (*Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022). Thus, law was not only weaponised against judges but against activists as well—with LGBT+ activists being one of many targets. Even threats of reprimand which ended in dropped charges,

¹⁰² Of course, there were CSOs which tried to maintain an apolitical presence and avoid endorsing a political party or directly engaging in politics (Jeziarska, 2018).

¹⁰³ It is worth noting that several key figures from PiS were said to also provide support to this bill, although there does not seem to be confirmed information on this support (ibid).

such as those brought against teachers who wore all black to work during the 2016 Black Protests (Zakrzewskiego, n.d.) were cause for concern as those targeted experienced the stress of potential financial losses or damage to their careers. These charges could also have a chilling effect on others considering even mild forms of activism or displays of support. The situation for particular groups, like LGBT+ activists and persons were, further, affected by events in the political sphere such as the local elections set to take place this year and the runup up to the 2019 Polish parliamentary elections not far behind. In this context, Poland saw the first high-profile use of 'political hate speech' against LGBT+ persons, as the de facto leader of PiS, Jarosław Kaczyński spoke out publicly against gay marriage in Poland (*Poland Anti-LGBT Hate Timeline, 2021; SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022*). LGBT+ persons were once again positioned as a looming threat against which the ruling coalition could defend the Polish people. Subsequently, LGBT+ persons and rights became the most polarising topics leading up to the 2019 elections, especially as third-party actors (e.g. the Ministry of Education, Ministry of Justice, and public media) followed Kaczyński's lead in taking up anti-LGBT+ rhetoric (*SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022*).

In September, for instance, PiS regional authority Przemysław Czarnek (who would become the Minister of Education in 2020) released material on the news called 'Czarnek v. Perversions, Deviations and Degeneracies' in which he called the behaviour of Equality March participants 'disgusting and unhealthy' (*Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists, 2022*). The same month, another PiS regional authority went further by accusing the Equality March in Lublin of promoting paedophilia (*ibid*). 2018 and 2019 also featured a marked increase in pre-emptive assembly bans for demonstrations related to LGBT+ rights and although United Right did not conduct these bans at the national level, their discourse emboldened the growth of such sentiment. These bans¹⁰⁴ were orchestrated at the local level by local politicians in individual municipalities (*ibid*).

¹⁰⁴ Of the 8 pre-emptive bans identified by Amnesty International, then Ombudsman for Human Rights, Adam Bodnar, was able to oppose and help reverse all bans, although this still had negative effects on the CSOs themselves, who in some cases needed to change the date of the planned events (*ibid*).

2019

Years 2019 and 2020 saw the introduction of the so-called 'Zones Free of LGBT Ideology' in which up to 100 voivodeships (the highest level of Polish administrative divisions, comparable to a province) at one time declared themselves free of so-called 'LGBT ideology' and defenders of 'traditional' families (Asszony et al., 2019; Kampania Przeciw Homofobii, 2021a; Korolczuk, 2020c). According to Jarosław Kaczyński, LGBT Ideology¹⁰⁵ was an 'imported movement' in Poland which threatened both the country and its identity (Tilles, 2021b). This and other discriminatory statements from leading figures of United Right (Pacewicz and Szymczak, 2019a) make clear the link between the discourse and behaviour of the national government and the restrictions of rights on the local level (Ploszka, 2022). In addition to declaring themselves Zones free of this so-called ideology, some voivodeships passed family charters instead, which did not directly reference LGBT 'ideology' or persons but did reject the idea of same-sex marriage and express the need to protect children against 'moral corruption,' a phrase associated with anti-LGBT+ rhetoric, which positions LGBT+ persons or 'ideology' as a threat to children (Tilles, 2021c). The Zones were first announced in the summer of 2019 when far-right weekly *Gazeta Polska* printed and distributed up to 70.000 stickers bearing the remark 'LGBT-free Zone' (Ash, 2020; Poland Anti-LGBT Hate Timeline, 2021). This was the start of a campaign in local areas, in which voivodeships made the symbolic step (there are no enforceable laws or other acts associated with labelling one's area one of these Zones) of announcing themselves Zones free of LGBT Ideology.

Although these actions were undertaken on the local level, national discourse espoused by the ruling coalition aided in justifying this rhetoric, presenting the use of the threat of LGBT 'ideology' as appropriate political discourse (Bucholc, 2022b). As just one example, President Duda, while campaigning, called LGBT+ rights an 'ideology' that is 'even worse than communism' (Ash, 2020). Additionally, ZP failed to comply with the European Commission during its investigation into whether or not the Zones violated non-discrimination laws found in the Treaties and the Charter ("Commission takes legal action for discrimination LGBTIQ," 2021). A variety of religious and political leaders reacted negatively to the first Zone which appeared in Świdniki county, as did international media (Ciobanu, 2020a; Miłość Nie Wyklucza,

¹⁰⁵ The use of LGBT instead of LGBT+ here is meant to mirror the terminology used by Kaczyński and others (more about the use of this term in anti-gender policies and discourse in Poland can be found in Bucholc, 2022b).

2019a). In addition, CSO Atlas nienawiści (Atlas of Hate) launched an online, interactive map tracking (see figure 5¹⁰⁶) voivodeships which had declared themselves 'Free of LGBT Ideology' ("Atlas nienawiści (Atlas of Hate)," n.d.). Unfortunately for them, this brought unwanted legal attention and they were hit with 7 court cases, considered by many to be SLAPPs (Bourke, 2022; Zabrocka et al., 2022). SLAPPs, which also create a chilling effect on others by punishing groups for speaking out on particular issues, are commonly used to curb outspoken judges (Batko-Tołuć, 2022a; Jałoszewski, 2023a), critical media (Press-ECPMF, 2021; "RE: NGO letter to EU Ministers on rule of law and human rights situation in Poland," 2022), and activists in Poland (Byliśmy traktowani jak przestępcy, 2022; Jędrzejczyk, 2021b) (and beyond (Mhainin, 2021)). In Poland, in these lawsuits, it is not uncommon for voivodeships and other parties suing activists to be represented by conservative CSOs like Ordo Iuris and the Polish League Against Defamation (*SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT*, 2022).

¹⁰⁶ The photograph shows one of the first images published on the website of Atlas nienawiści in 2019, featuring the voivodeships which had enabled, rejected, or in some way lobbied for Zones. ("Atlas nienawiści (Atlas of Hate)," n.d.). This map was created by Atlas nienawiści using OpenStreetMap, an open data map interface licensed under the [Open Data Commons Open Database License](#) (ODbL) by the [OpenStreetMap Foundation](#) (OSMF).

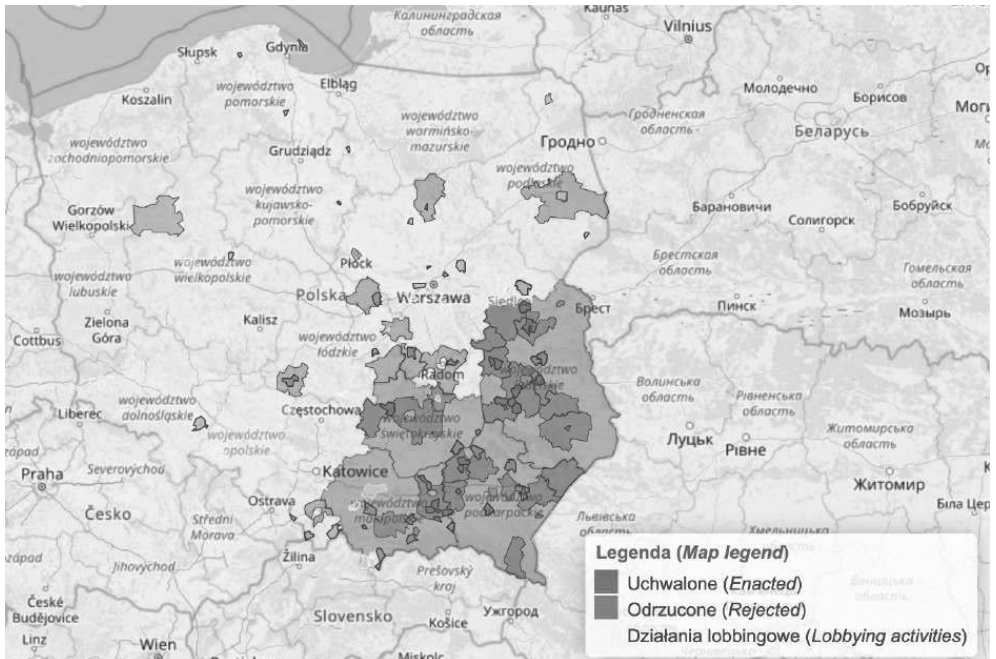


Figure 5. Mapping Hate ("Atlas nienawiści (Atlas of Hate)," n.d.)

Others protesting or speaking out against the Zones found themselves in a similar situation. In the Summer, LGBT+ Activist Bart Staszewski who had been travelling to Polish voivodeships that had labelled themselves 'Zones free of LGBT Ideology' and erected signs reading 'LGBT Free Zone' was accused by the Minister of Interior of insulting state symbols and later became the subject of several SLAPPs alleging defamation ("Poland: Bart Staszewski facing SLAPPs for legitimately defending LGBT rights (joint communication)," 2022; *Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022). Along with threats to LGBT+ rights, attempts to improve the situation of LGBT+ persons were stymied, and they were once again positioned as political boogymen during electoral campaigns. For instance, acts accepted by the previous parliament, such as the gender reassignment act, which would simplify the gender reassignment process for trans people, were later vetoed by politicians in or aligned with the United Right Coalition, like President Duda (Miłoś Nie Wyklucza, 2019b). Leading up to the October elections, Jarosław Kaczyński positioned LGBT+ persons as threats to the traditional family (Amnesty International Polska, 2019a; Darwish and Muhammad, 2019), using the opposition's support for LGBT+ persons to create the politically charged

narrative that a win from the opposition would be a loss for traditional, Catholic Poles. Local activists feared that taking such a stance made anti-LGBT+ sentiment and hate more acceptable by mainstreaming such discourse and normalising its use, especially for political purposes (Kampania Przeciw Homofobii, 2022a; Mujagić, 2019; "Panie Prezesie Kaczyński, piszemy do Pana list otwarty...", 2019).

Just days before the election, Polish public television aired a documentary called 'LGBT Invasion,' which painted LGBT+ persons as a foreign, ideological invasion in Poland (Kampania Przeciw Homofobii, 2022b; *SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT*, 2022). It further socialised the idea that NGOs working towards LGBT+ rights were foreign agents, paid and supported by non-Polish parties (ibid), a common claim of leading politicians as well (Legutko, Declaration of the EU as an LGBTIQ Freedom Zone, 2020). From this year Poland was ranked as the worst country for LGBT+ persons in the EU¹⁰⁷ (Tilles, 2021d). The disdain for LGBT+ persons was palpable also in the government. Unsurprisingly, anti-LGBT+ articles, which appeared in government-supported, conservative media were also directly financed by the Ministry of Justice (Sally, 2020). LGBT+ persons and CSOs found themselves fighting these narratives as well as anti-LGBT+ counter-protestors and even local authorities. The LGBT+ Equality March in Białystok was especially of note, as it was the city's first Pride Parade (Darwish and Muhammad, 2019). Rather than the celebratory tone that many Equality Marches feature, it was met with strong counter-protests and violence (Komitet Obrony Demokracji, 2019). Marchers were attacked with objects like rocks and glass bottles by approximately 4.000 counter-protestors claiming to defend Poland against 'perverts' (Darwish and Muhammad, 2019)).

Counter-protestors were from religious groups and circles, such as the city's Archbishop, Tadeusz Wojda, CSOs like the Podlasie Institute of the Sovereign Republic (Podlaski Instytut Rzeczypospolitej Suwerennej)¹⁰⁸ (Cholodowski, 2019; Romik, 2019), hooligans (Deja, 2019), and even politicians like PiS's Artur Kosicki, the marshal of Podlasie who planned a counter-protest picnic (Darwish and Muhammad, 2019). In addition to counter-protestors, LGBT+ activists struggled for adequate police protection during the 2019 Białystok Equality March and similar events (*Poland*, 2022a). While laws like the Code of Petty Offences were often

¹⁰⁷ Unfortunately, Poland would keep this title every year going forward (Camut, 2023).

¹⁰⁸ Perhaps unsurprisingly, this CSO received handsome funding from the National Freedom Institute, as did several 'anti-LGBT' CSOs (Baginski, 2019; Romik, 2019).

weaponised to inequitably charge protestors engaged in LGBT+ rights events, the law and agents of the law did not seem to be available to these groups for protection against violent threats (ibid). The law and legal institutions often represented more of a threat to liberal CSOs. For instance, it was also this year that human rights activist Elżbieta Podleśna, whose home was found to have contained images of a digitally created photograph of the Virgin Mary, which was modified to include a rainbow halo, became a target. Podleśna was hit by several SLAPPs, her home was raided by police, and she endured police detention under the accusation that she broke the law of offending religious feelings (*Poland: Stop harassment of human rights activist: Elżbieta Podleśna*, 2019). CSOs fighting for LGBT+ and reproductive rights in Poland commonly found themselves on the other end of the extraordinary appeal processes, which had been weaponised by the General Prosecutor's Office to reopen cases against activists ("Poland: A Year On, Abortion Ruling Harms Women," 2021; *Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022).

Courts were just one apparatus used to control and punish some CSOs. In a 75-page report compiled by women's rights groups in Poland called *The Breath of the Government on My Back*, groups outlined how extensive attacks on women's rights groups were the result of pressure put on these and other CSOs from ZP, together with the police and Polish Courts (Margolis and Bielecka, 2019). Unfortunately for these CSOs, after a tumultuous summer and an intense campaign peppered with troubling rhetoric by PiS elites like President Duda and Jarosław Kaczyński about the threat of LGBT+ and gender 'ideology' to Poland, PiS again secured a majority in the parliamentary election. In the October 2019 parliamentary elections, PiS maintained control of the Sejm but lost control of the Senate, leading to a slight loss of power but not a significant one and thus business continued as usual.

2020

2020 was the year of the Polish presidential elections. Here, 'ideological concerns' quickly became a point of focus for political elites and a primary theme in the elections overall (Szczęśniak 2019). Part of President Duda's re-election campaign included the public signing of the 'Family Charter,' guaranteeing, among other things, a commitment to 'defending the institution of marriage' (Tilles, 2020a). This Charter included a conservative understanding of marriage, as an institution

between a man and woman and the condemnation of so-called 'LGBT ideology,' which Duda, who is strongly aligned with PiS (Ayoub, 2020; Gill and Murray, 2020), earlier described as being 'worse than communism' (Kampania Przeciw Homofobii, 2020a; "Polish election," 2020). During his campaign, Duda also made several statements about the 'danger' of LGBT+ persons, who he described as 'not people...[but] ideologies' (Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists, 2022). He was not alone; prominent figures from the United Right Coalition also made statements stigmatising LGBT+ persons and their place in Polish society (Brudziński, 2020; Koschalka, 2022; Tilles, 2021e, 2021a; Legutko 2021). Rather than being the brainchild of the United Right Coalition or local authorities themselves, the Charter was developed by the conservative, think-tank, Ordo Iuris (Foundation Ordo Iuris Institute for Legal Culture: EPF Intelligence Briefing, 2021; Ordo Iuris, 2019).

Supporters of the Charter, including high-level political figures and conservative CSOs, asserted that the LGBT+ Declaration (signed by Warsaw mayor and presidential hopeful Rafał Trzaskowski), which triggered the creation of the Charter, posed a number of ideological threats to Polish families, children, and to the 'impartiality of public authorities' (Ordo Iuris, 2019). The LGBT+ Declaration for Warsaw included increased measures to combat discrimination and hate crimes against LGBT+ persons, plans to better relationships with NGOs functioning in the area of LGBT+ rights, and efforts to better provisions aimed at improving hiring outcomes of LGBT+ persons (Bucholc, 2022b; "DEKLARACJA WARSZAWSKA POLITYKA MIEJSKA NA RZECZ SPOŁECZNOŚCI LGBT+," 2019). Both the signing of the Declaration and the activities of LGBT+ organisations, such as social campaigns to increase societal acceptance of 'Rainbow Families' were linked by politicians and others to the threat of so-called 'LGBT ideology' (ibid). The Charter, on the other hand, called for, among other things, greater parental control over children's educational programmes— especially programmes or curricula related to 'sexuality and psychosexual development,' detailed reports of the materials provided to schools by NGOs interacting with schools¹⁰⁹ and students (as well as reports on the content of their visits), the disruption of public financing for 'projects undermining constitutional identity and autonomy of marriage and family,' the promotion of

¹⁰⁹ Efforts to limit the visibility of LGBT+ topics in schools, especially in the form of sex education and anti-discrimination education or trailing, mirrors educational reform laws which would later be promoted by the Minister of Education, Przemysław Czarnek numerous times (more about this law and its various iterations in the following section) (Batko-Toluć, 2022b; Bault, 2022; Lubnauer, n.d.).

'traditional' families and conservative forms of childhood development and sex education, and more parental control over local acts which relate to families or children (Bucholc, 2022b; Ordo Iuris, 2019).

The focus on schools in a Charter is no accident—ZP politicians and others have frequently positioned LGBT+ rights and 'ideology' as a serious threat not only to the family but to children as well. By May 2020, two EU Commission representatives, Joost Korte, Director-General of the Directorate General for Employment, Social Affairs and Inclusion and Marc Lemaître, Director-General of the Directorate General for Regional and Urban Policy of the EC penned a letter to two Polish voivodeships about their concerns that the signing of these Charters was consistent with discrimination against LGBT+ persons (Ordo Iuris, 2020a, n.d.). Their concern was that by promoting 'traditional families' with two, heterosexual parents over 'rainbow' or 'non-traditional families' and positioning LGBT+ persons as an 'ideology,' non-traditional (e.g. single-parents) families and LGBT+ persons would be othered and discriminated against (*SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022*). Resolutions against 'LGBT ideology' further included a call to exclude projects and initiatives that 'undermined' the traditional family, which could be aligned with restricting funding to LGBT+ organisations especially (*ibid*). Local courts seemed to share similar concerns, later ruling that such Charters 'unlawfully interfere with the rights and freedoms of individuals' and 'violate civil rights, including the right to protection of honour and good name, freedom of expression, the right to education and learning' (*ibid*). The two commissioners likewise expressed concerns that the voivodeships, as beneficiaries of EU cohesion policy funds, were violating parts of Article 2 TEU, specifically related to discrimination against minority groups (Bodnar, 2021). In particular:

'the letter pointed out that the adopted resolutions against the "LGBT ideology" as well as the Local Government Charters on the Rights of the Family are contrary to the values set out in Article 2 TEU and may violate the prohibition of discrimination and harassment in employment on the grounds of sexual orientation' (ibid).

Likewise, the Polish Commissioner for Human Rights Adam Bodnar penned a letter a month later to all Polish voivodeships that had adopted the Charter or similar actions against 'LGBT ideology' asking how they planned to ensure non-

discrimination against sexual minorities as guaranteed in Article 2 TEU (Derda, 2020). At the same time, Bodnar was busy filing cases in administrative courts to have these acts revoked (Bodnar, 2021; Kampania Przeciw Homofobii, 2022c). On multiple occasions regional administrative courts did not take any action on the cases, forcing Bodnar to reach out to the Supreme Court which then ordered regional courts to review the cases (SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022). The effects of these Charters and Declarations against 'LGBT Ideology' differed across voivodeships; with LGBT+ persons and CSOs in some voivodeships experiencing hostile reactions from local authorities and CSOs in other voivodeships encountering little change (Bodnar, 2021; Kampania Przeciw Homofobii, 2022c). Despite public uproar about the use of LGBT+ persons as a threat to secure Duda's electoral success and elites' laser focus on the dangers of 'gender ideology,' Duda won the majority in the Polish presidential election (Kampania Przeciw Homofobii, 2019a), although by a narrow margin (Easton, 2020). Pressure on LGBT+ groups did not stop after the election, the summer of 2020 was marred by human rights concerns for LGBT+ activists as well (*Poland Anti-LGBT Hate Timeline*, 2021).

Large protests were sparked across Poland as a response to the arrest and unusual detention of well-known LGBT+ rights activist Margot Szustowicz who was arrested along with other activists over the summer and held for months without access to legal counsel. The EU again took notice of this and other instances of repression against LGBT+ activists and groups, for instance, during debates in the European Parliament focused on the situation of LGBT+ rights and persons in Poland. In these debates, PiS MEPs, suggested that certain claims of human rights violations (related to LGBT+ rights) were 'fake news,' insisting that the rights of LGBT+ persons weren't being attacked but rather, the so-called 'LGBT ideology' was their target (Szydło, State of the Union, 2020). The Union's concerns did little to stop restrictions on LGBT+ rights and groups. It was also this summer that President Duda also signed a bill into law disallowing LGBT+ couples from adopting children in Poland (*Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022). Potential legal changes were also introduced by other actors in the civic space, such as the Stop Paedophilia Bill drafted by Ordo Iuris to restrict sex education, under specific concerns that sex educators were grooming children with harmful (homosexual) content (Ordo Iuris, 2020b). LGBT+ persons and CSOs continued to face such legal challenges as well as the challenge of uncooperative police. Concerns that Polish police were being instrumentalized to target LGBT+

activists and persons were especially raised after the so-called 'Rainbow Night.' The Night referred to 7-8 August when the police detained 48 LGBT+ activists (Douglas, 2020), many of whom reported suffering 'degrading and inhumane treatment' (Bodnar, 2020a). In addition, it appeared that individuals were targeted regardless of whether or not they appeared to be breaking any law (ibid).

Later it was revealed in court (as reported by a police officer on the scene) that police were instructed to detain 'LGBT labelled people' regardless of their behaviour (*SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022*). By the time the European Parliament gathered to discuss the status of LGBT+ persons in Poland, the Commission had already received more than 400 complaints by LGBT+ people living in Poland and Polish CSOs, like KPH and the Fundacja Równości (Equality Foundation) (Kampania Przeciw Homofobii, 2020b). These complaints referenced not only the 'Zones Free of LGBT Ideology' but also the escalating state of hate speech instrumentalized by ruling politicians in the country (ibid). The Commission would eventually take action against Poland for its Zones but not until the following year. After an eventful summer and early Fall mostly focused on LGBT+ rights, came the most serious threat to reproductive rights. On 22 October 2020, a new abortion law was passed in Poland which all but eliminated the options for legal abortion. In late 2019, an application to restrict abortion was once more brought before the 'Constitutional Tribunal' and, although quite similar to that application which was discontinued two years previously, this one was passed ("Notification of 12 applications concerning abortion rights in Poland," 2021).

Under the old law, abortion was not allowed except when 'the foetus was damaged, [it] posed a threat to the life of its mother, or [it] was produced as the result of a crime' (McGee, 2020). The ruling eliminated the first condition, which was responsible for some 96% of all legal abortions in Poland, effectively eliminating it country-wide (Davies, 2020). This led to the largest protests in Poland since communist times (McGee, 2020; "Poland enforces controversial near-total abortion ban," 2021; Şerban, 2022). Protests were sparked not only because of the restrictive nature of the law but also due to the clandestine manner in which it was passed and later officially put into place (McGee, 2020). International and national onlookers also expressed concern that it had been passed by a 'court' which was no longer independent and was packed with government-friendly judges (Bucholc and Komornik, 2020; McGee, 2020). The timing of the bill's passing was also crucial as by

then the COVID-19 pandemic was in its second wave, with the country reaching 1 million cases by the end of the year. Many, including activists, believed that the bill was announced during this time in hopes that people would not come out to protest due to COVID-19-related restrictions on public gatherings. Additionally, PiS, under the pretext of reducing crowds to stem the transmission of the novel coronavirus, attempted to repress protest movements across the country (McGee, 2020; Muszel and Piotrowski, 2022). Despite these attempts, crowds continued to swell, growing not only in the big cities but also in the villages and attracting not just the usual CSOs but also women and girls who had never protested before (Bill, n.d.). EU institutions in turn responded, raising concerns during Parliamentary debates about the 'de-facto abortion ban' in Poland. MEPs discussing the ban, likewise, invited both those (potentially) affected by the ban and CSOs focused on sexual and reproductive health rights to share their experiences and concerns in the EP ("Abortion in Poland: MEPs to discuss consequences of the de facto ban," 2022).

2021

In July, the ECtHR announced that it would take cases from Polish women who felt their human rights, guaranteed under the ECHR, were being violated or were at risk of violation due to the abortion ruling of the 'CT' ("Poland: A Year On, Abortion Ruling Harms Women," 2021). By the summer of 2021, over 1.000 such cases had been filed with the ECtHR regarding restrictions on abortion rights in Poland ("Notification of 12 applications concerning abortion rights in Poland," 2021). Cases often alleged both that the prospect of carrying a deceased or ill foetus to full-term was distressing and that the 'court' that passed the so-called de facto abortion ban of October 2020 was unconstitutionally composed, which should weigh on the ruling itself (ibid). CSOs focused on reproductive rights like Federacja na rzecz Kobiet i Planowania Rodziny (Federation for Women and Family Planning or FEDERA) led strategic litigation¹¹⁰ campaigns for women who felt they may be affected by the abortion ban to advance their concerns to the ECtHR (FEDERA, 2021a). In addition, a group of CSOs focused on reproductive rights as well as politicians from Lewicy (the Left), Nowa Lewica (The New Left), and Zieloni (The Green Party) created the citizen's draft bill 'Legalna aborcja. Bez kompromisów' (Legal Abortion. Without

¹¹⁰ Strategic litigation refers to litigation for the purpose of 'consciously...advanc[ing] the clarification, respect, protection and fulfilment of rights' with the goal of 'chang[ing] laws policies and practice, and to secure remedies or relief following [human rights] violations' ("Strategic Litigation," n.d.). More on this in the following chapter.

Compromises), which proposed, among other things the legalisation of abortion up to 12 weeks, the decriminalisation of abortion, and sanctions against medical facilities refusing to provide abortion services unjustly (Chrzczonowicz, 2022a). It was presented to the Sejm the following year.

In the meantime, CSOs continued to speak out. For instance, FEDERA presented a statement during the debate on Universal Periodic Reviews at the 48th Session of the UN Human Rights Council regarding the abortion ban (*Item:6 General Debate - 32nd Meeting, 48th Regular Session Human Rights Council*, 2021). In their statement, they urged the Human Rights Council, as well as member states to 'hold [the Polish] government accountable for obligations to ensure the right to safe, legal and accessible abortion, modern contraception and comprehensive sexuality education' (FEDERA, 2021b). They further expressed concern over the 'devastating human rights consequences' that the ban would have on women and girls in Poland, stressing that, according to UN experts' statements, abortion is an 'essential health care and a human right,' which ought not to be politicised (ibid). Representatives from international institutions like the Committee of Ministers of the Council of Europe likewise urged the Polish government to adopt procedures which restored access to lawful abortion ("COUNCIL OF EUROPE COMMITTEE OF MINISTERS URGES POLAND TO ENSURE ACCESS TO LAWFUL ABORTION CARE," 2021; "H46-25 Tysiąc and R.R. (Applications Nos. 5410/03, 27617/04), P. and S. (Application No. 57375/08) v. Poland," 2021). Reproductive rights activists were targeted as they reacted to the challenges posed to women and girls due to the abortion ban. For example, Justyna Wydrzyńska of Aborcynjny Dream Team (Abortion Dream Team) received a distressing message from a woman in an abusive relationship who wished to terminate her pregnancy but who was prevented from doing so by her partner ("Poland: Trial drags on of rights defender accused of helping abuse survivor to access abortion," 2022).

As a result, Wydrzyńska tried to provide the woman with her own personal abortion pills. Unfortunately for both women, this attempted transaction was exposed and Wydrzyńska became the first activist in Europe to ever be prosecuted for helping someone access abortion care by providing abortion pills (although it appears that the abortion never took place), a charge that could have led to up to three years in prison ("Justyna," 2022). Since the police seized the pills, many called this a case of judicial overreach as efforts to prosecute seemed to outweigh the evidence of an actual crime (ibid). This claim was further aroused by the fact that *Ordo Iuris* was

allowed to interfere in the case, representing the rights of the foetus which, even under Polish law, has no legal rights (ibid). As it regarded LGBT+ rights, LGBT+ persons were still being equated to a dangerous, foreign ideology by politicians from ZP with some, like Jarosław Kaczyński warning against LGBT+ ideology and its danger to the freedom of others on public television (*Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022). It was also this year, that the Minister of Education, Przemysław Czarnek proposed the infamous 'Lex Czarnek' 1.0,¹¹¹ which proposed various restrictions on Polish schools as well as the exclusion of CSOs focused on anti-discrimination training, reproductive health, or LGBT+ rights in Polish school classes (Batko-Tołuć, 2022b; Bault, 2022). Its primary purpose was to 'protect' students from 'LGBT Ideology' and, if passed, the law would have also expanded the power and reach of PiS-affiliated superintendents in Polish schools (these superintendents are appointed by the Ministry of Education) (Skolimowska, 2022).

In Polish schools, anti-discrimination classes as well as sex education were formerly part of the teachers' curriculum but offered voluntarily; they were all but pushed to the margins, to begin with, even before PiS began opposing them. However, with the appointment of an openly anti-LGBT+ and ultra-conservative Minister of Education (Tilles, 2021e, 2021d), these programmes found themselves in PiS's crosshairs. In response, school staff and education NGOs planned street protests (Protest z Wykrzyknikiem, n.d.; "Wolna szkoła, wolni ludzie, wolna Polska," 2022), penned letters to politicians like the Secretary General of the Council of Europe ("Letter to the Secretary General of the Council of Europe of 27 July 2020," 2020), and created alternative after-school sessions for students to interact with 'controversial' CSOs. By doing so, staff and students hoped to raise awareness, not only of these proposed laws and their current challenges but of the wider attacks on sexual minorities, restrictions against reproductive rights, and the shrinking of the Polish civic space. CSOs focused on specific issues, like LGBT+ rights or education, found themselves operating in precarious territory, often shunned by schools and other institutions with which they had worked before. In the summer, Marta Lempart, Klementyna Suchanow, and Agnieszka Czerederecka-Fabin, all from OSK, the CSO which primarily organised the October 2020 protests were indicted for 'causing an epidemiological threat' by encouraging others to protest during COVID-19 lockdowns that restricted gatherings to groups of five (Tilles, 2022c). The human

¹¹¹ Two more versions ('Lex Czarnek' 2.0 and 3.0) of this law were proposed in 2022 and 2023.

rights NGO, Human Rights Watch urged the Polish government to drop these charges (and charges against other participants), which carried terms of up to eight years in prison (ibid).

This year, the draft 'Stop LGBT' bill was also introduced to the Sejm. Drafted by Ordo Iuris and Fundacja Życie i Rodzina (Life and Family Foundation), this bill proposed the banning of demonstrations and other public events which 'promote non-heterosexual sexual orientations and diverse gender identities' ("Poland," 2021a; *SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022*; Tilles, 2020b). Despite the serious threats that such a bill would pose to LGBT+ rights, including restricting the freedom of expression and freedom of assembly of LGBT+ CSOs, it was not condemned by the government (Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists, 2022). It was also this year that the Minister of Justice, Zbigniew Ziobro announced a draft bill to restrict the right of same-sex couples to adopt children and mentioned further plans to ban gender recognition, making it clear that the ruling coalition was not simply acquiescing to the degradation of LGBT+ rights but contributing to it as well (ibid). Ziobro had also 'interfered' with court cases related to LGBT+ rights and persons, such as in March, when three activists were on trial for 'offending religious feelings' due to a modified image of the Virgin Mary which featured her with a rainbow halo (Koschalka, 2020; *Parada Równości, 2021*).

Although dismissed under the premise that this was freedom of expression (Tilles, 2021f), an appeal was launched by the prosecutor's office, which, after losing the appeal in the first year of 2022, announced its intent to seek annulment of the appeal (*SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022*). This case and others raised concerns over activists' freedom of expression and as well as concerns that the law would increasingly become a tool to threaten ZP's (political) rivals instead of a tool for justice. Similarly, LGBT+ persons who had won cases related to their gender expression, identity, and/or discrimination faced what they believed to be politically motivated pressure from the Polish judicial system (*Kampania Przeciw Homofobii, 2021b*). For example, Zbigniew Ziobro used a new chamber (composed of judges who do not meet the criteria for judicial independence), the Supreme Court's Chamber of Extraordinary Control and Public Affairs to file an extraordinary complaint in a case concerning gender identity discrimination, which was won in

2020 (ibid). Ziobro pursued a similar course of action in the case of *X. v Poland* which was brought before the ECtHR the following year (*X v. Poland*, 2021), proving that his first act of interference was no isolated incident. The threat of non-independent courts potentially being instrumentalised to roll back or challenge rights for LGBT+ persons made clear the role that rule of law backsliding could play in threats to human rights beyond rights associated with a fair trial.

In addition to tactics to legally challenge the expansion or maintenance of LGBT+ rights, important figures in the Polish judicial system attempted to discursively delegitimise court decisions in favour of LGBT+ persons or organisations. Deputy Justice Minister Marcin Romanowski regularly made public statements revealing his disagreement with various national courts on LGBT+ topics (“Postępowanie ws. drukarza będzie wznowione. Jest decyzja Zbigniewa Ziobro - Wiadomości -,” 2019; *SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT*, 2022), like those related to the resolutions against ‘LGBT ideology’ and the acquittal of the activists behind the Atlas of Hate (“Atlas nienawiści (Atlas of Hate),” n.d.). There was some positive news for LGBT+ persons this year, however, regarding the so-called ‘Zones Free of LGBT ideology’ and Family Charters. In 2021, the European Commission¹¹² introduced a provision to the Partnership Agreement held with Polish voivodeships receiving EU funds, restricting funds to voivodeships that did not comply with the provisions of the Charter of Fundamental Rights. This specifically focused on Article 21 of the Charter (non-discrimination of minority groups) (EU Charter of Fundamental Rights, 2000; “Zakaz finansowania stref anty-LGBT w Umowie Partnerstwa,” 2022). This provision was especially damaging for voivodeships¹¹³ which had signed discriminatory Family Charters or declared themselves ‘Zones free of LGBT Ideology.’

In addition, text calling for the protection of LGBT+ persons was included in the new funding agreement, which was drafted together by provinces and some Polish LGBT+ organisations, such as KPH, Stowarzyszenie na rzecz osób LGBT „Tolerado” (Association for LGBT people ‘Tolerado’), Stowarzyszenie Pracownia Różnorodności (Diversity Workshop Association), Fundacja Cicha Tęcza (The Silent Rainbow Foundation), Stowarzyszenie Marsz Równości w Lublinie (Equality March Association

¹¹² The Norwegian government, which had given money to many provinces via the Norwegian Funds scheme, similarly proposed cutting funds to any provinces which had declared themselves ‘Zones Free of LGBT Ideology’ (Tilles, 2021a).

¹¹³ It is of note that this act does not cover communes and poviats (gmin i powiatów).

Lublin), Stowarzyszenie Tęczówka, and Fundacja Równości (Equality Foundation) (ibid). As a result, September 2021, saw the withdrawal of many¹¹⁴ Charters and other resolutions in efforts to ensure the flow of EU funds (ibid). Outside of the threat of the loss of funds, the European Commission also started legal action against Poland (and Hungary) due to the 'violation of fundamental rights of LGBTIQ people,' referencing Poland's Zones specifically (Tilles, 2021b). The Commission stated that rights like equality and respect for human rights were not only core values for the EU but enshrined in Article 2 TEU; they further raised concerns that Poland's Zones may violate EU law regarding non-discrimination on the grounds of sexual orientation (ibid). The Commission gave Poland two months to respond before the case would be brought to the ECtHR and at the time, politicians like PiS's Witold Waszczykowski claimed such an action by the EU to be but an ideological 'attack' on Poland (ibid).

At the same time, the European Parliament passed a resolution declaring the entire EU an 'LGBTIQ Freedom Zone' in response to Poland's 'Zones Free of LGBT Ideology' (Tilles, 2021g; Zacarias et al., 2021). The symbolic resolution passed by 492 votes, with 141 votes against and 46 abstentions declaring that 'LGBTIQ rights are human rights,' explicitly mentioning Poland's problematic Zones and Family Charters ("MOTION FOR A RESOLUTION on the declaration of the EU as an LGBTIQ Freedom Zone," 2021).

2022

In the last year of the study, the human rights situation in Poland continued to be exacerbated by the introduction of draft legislation, attacks on CSOs and activists, and the effects of laws already passed, such as the October 2020 de facto abortion ban ("Poland: Rule of Law Erosion Harms Women, LGBT People," 2022). In addition, an external event, the 24 February full-scale invasion of Ukraine by Russia, impacted Poland, the Polish government, and civil society in various ways. Organisations across the civic spectrum, including those of interest for this research, began offering ad hoc services to accommodate refugees fleeing Ukraine (almost entirely women and children). From 24 February 2022 to May 2022, it was estimated that Poland had taken in 1,5 million refugees from Ukraine, as such an influx was

¹¹⁴ This is not to say that the Charters or Zones ceased to exist, some still do, in Poland as of time of this theses' writing (Tilles, 2023).

unprecedented and unexpected, it left many municipalities and CSOs suddenly working to provide housing, food, transportation, and other resources for refugees (Duszczuk and Kaczmarczyk, 2022). The European Investment Bank together with the Polish government created a fund to help organisations and programmes geared towards helping refugees and other state-supported infrastructure, which was put in place to support refugees and the organisations helping them (Fusiek, 2022). State aid notwithstanding, CSOs formed informal networks to ensure refugees immediately had housing and basics like food and supplies; these networks included some of the 50 organisations registered to work refugees but also liberal CSOs whose missions were quite different (“Helping Ukrainian refugees in Poland,” 2022; Listopad, 2022).¹¹⁵

Some CSOs, like those focused on LGBT+ rights, even organised special services for LGBT+ Ukrainians and others who may have different needs or journeys after the invasion (*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland*, 2021; “Jak KPH pomaga osobom uchodźczym LGBT+ z Ukrainy?,” 2022). This reaction was a testament to the strong, existing networks within Polish civil society which encouraged quick and reactive mobilisation. It also exposed the fact that once weakened by lack of government aid and, in some cases, direct attacks from the government, courts, and police, random events like the war in Ukraine or COVID-19 often leave CSOs struggling to shift their foci to sufficiently react to new crises. At the same time that these CSOs were stretched to their limits, they had to face the usual threats. For instance, as it regards draft legislation, a (later vetoed) bill was presented which would have banned ‘problematic’ NGOs in Polish schools— such as those which handle topics like sexual education, LGBT+ rights, the LGBT+ community, or reproductive rights (*Poland*, 2022a). This was also a citizens’ draft bill submitted by an organised group of Polish citizens seeking to restrict reproductive health and LGBT+ rights which found sympathy with the ruling coalition (“Poland: A Year On, Abortion Ruling Harms Women,” 2021). Another such threat to CSOs and potentially to human rights was the so-called Lex Woś. The bill, introduced on 30 March by MPs from Solidarna Polska (with Michał Woś in the lead) would have increased reporting requirements for CSOs receiving a certain amount of funds and significantly increased the reporting burden for those CSOs receiving

¹¹⁵ CSOs focused on LGBT+ rights also made efforts to accommodate LGBT+ Ukrainians, while women’s CSOs and those focused on reproductive rights reported helping Ukrainian refugees seek information about abortion procedures and drugs- thus expanding their services of expertise as vulnerable populations migrated to a potentially hostile environment for their rights and freedoms (Shevtsova, 2023).

foreign funds, even requiring that foreign donors be permanently displayed on organisations' websites ("Lex Woś adds pressure on NGOs already strained by the humanitarian situation," 2022).

This would be especially burdensome for liberal CSOs, which, due to the hostile attitude of the government and related difficulties securing government funding, often had to obtain foreign funders (ibid). It was presented as an act to 'deputinise' Polish NGOs¹¹⁶ by ensuring that none of them had been secretly funded by Russia, apparently something that had happened in Germany (Sitnicka, 2022). Critics found it to be an unfair exploitation of growing distrust for Russia and Russian influence following the recent invasion of Ukraine (ibid). Scholars also pointed out how discourse that encourages others to see some NGOs as potential foreign agents breeds distrust in civil society or at least in organisations which seek or rely on foreign funding. As in the previous years, liberal CSOs found more of their attempts to remedy the human rights situation in Poland thwarted and their daily lives plagued by hateful discourse by politicians. The citizens' draft bill, Legal Abortion Without Compromise was read in the Sejm in June and although 175 MPs did not reject the bill and 200.000 Polish citizens supported it, it was rejected by the Sejm in the first reading with 265 MPs voting for its rejection and four abstaining from the vote (FEDERA, 2022a). Despite setbacks in liberalising abortion law, liberal CSOs continued to champion reproductive rights. They commemorated the two-year anniversary of the de facto ban with protests and protested several instances in which pregnant women died, seemingly as doctors waited to treat their life-threatening illnesses for fear that their foetus would be harmed or killed (Shankar, 2022; Tayler, 2022).

In response to these demands and protests, NGOs like Human Rights Watch called upon Polish authorities to restore reproductive rights, drop charges against protestors, and ensure that authorities like the police and courts did not disrupt Poles' right to protest and freedom of expression (Tayler, 2022). In the EU, MEPs met with Poles whose lives had been affected by the abortion ban and representatives from CSOs focused on reproductive rights during a hearing held by the Women's Rights and Civil Liberties committees ("Abortion in Poland: MEPs to discuss consequences of the de facto ban," 2022). A delegation of the same committees also

¹¹⁶ It should be noted that none of the organisations targeted were funded by Russia or established by Russia and that experts identify such acts as consistent with placing undue pressure on the civic space and stigmatising some CSOs (Bodnar, 2023).

held meetings regarding the situation of LGBT+ and reproductive rights in Poland, meeting Adam Bodnar and Polish CSOs focused on LGBT+ and reproductive rights (“Warsaw: MEPs looked into state of sexual and reproductive health and rights,” 2022). During the three-day event, EU representatives met with representatives of the Polish Ministry of Health, members of the Polish Senat’s Human Rights Committee, Bogusław Świeży, the Deputy Mayor of Przemyśl,¹¹⁷ and of the Polish Ministry of Family, Labour and Social Policy (ibid). Other EU representatives, like the European Commissioner for Equality, Helena Dalli and Robert Biedroń, chair of the European Parliament’s Women’s Rights and Gender Equality Committee (and Polish politician) continued to criticise the Polish abortion law, although the EU officially had no competency in areas like healthcare to force change (Shankar, 2022).

Others, such as Caroline Hickson, regional director of the International Planned Parenthood Federation European Network were critical of the way that the Polish legal system and authorities had been used to silence activists and protests surrounding reproductive and other rights (ibid). Thus, both within Poland and in the international community, various groups continued to speak out about the situation of reproductive rights. As the 2023 parliamentary elections drew near and politicians began to campaign, hateful dialogue about LGBT+ persons also resurfaced as a campaign tactic (Ciobanu, 2022). For example, Jarosław Kaczyński made transphobic statements in which he called trans persons 'abnormal' (*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland*, 2023). Kaczyński also made disparaging comments about teens with non-heteronormative gender identities (ibid). At the same time, Ordo Iuris created a petition to stop trans youths from using so-called puberty blockers (ibid) and other ZP authorities made jarring statements about LGBT+ persons and some liberal CSOs. Mikołaj Pawlak suggested that CSOs working on LGBT+ rights and women's rights could be paedophiles and should suffer penalties unless they register themselves on the Sex Offenders Registry (*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland*, 2023). There were, however, some positive developments for CSOs and activists this year. For instance, a case against the Atlas of Hate group filed by the Opoczno district was dismissed on the grounds that the information spread by the CSO was true (Ordo Iuris, 2022). The District Attorney’s Office also dropped charges for almost all of the 48 persons arrested during 'Rainbow Night' in 2020, acknowledging that these

¹¹⁷ This town borders Ukraine; part of the delegation’s focus was also the rights and experiences of Ukrainian refugees, especially LGBT+ Ukrainians and those potentially in need of reproductive healthcare.

persons had been 'illeg[ally], unjust[ly], or irregular[ly]' detained (*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland, 2023*; Poland: *"They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists, 2022*).

After three years, the Warsaw District Court ordered Polish National Television to issue an apology and pay a fine for producing anti-LGBT+ content which not only introduced harmful narratives about LGBT+ persons but was unbecoming of the ethics required of a news agency ("Aktywiści i aktywistki wygrywają z TVP ws. „Inwazji”, 2022; *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland, 2023*). Likewise, a Warsaw court dismissed the claim brought by Stowarzyszenie Rodzin Wielodzietnych Warszawy i Mazowsza (the Association of Large Families of Warsaw and Mazovia) that anti-discrimination education in schools would affect children's sexual orientation (*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland, 2023*; "Marta Konarzewska wygrywa w sądzie! Przełomowy wyrok dla edukacji antydyskryminacyjnej," 2022). Not only did the court deny this claim but it reaffirmed the importance of such education in schools and the role that civil society played in providing such needed services (ibid). International institutions, like the UN, continued to advocate for the liberalisation of abortion laws in Poland (*Amnesty International Report 2022/23: The State of the World's Human Rights, n.d.*) and the new Human Rights Commissioner, Marcin Wiącek penned letters to the last Zones Free of LGBT Ideology demanding they rescind any anti-LGBT+ resolutions (Starzewski, 2022). The aforementioned Lex Czarnek 1.0 and 2.0¹¹⁸ were vetoed by President Duda (although, as earlier stated, other versions of the bill continued to be introduced) (Tilles, 2022d).

Both vetoes were achieved through the concerted efforts of multiple liberal CSOs as well as mounting international pressure (*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland, 2023*; "Poland," 2022c). The 'Stop Abortion' bill, in which abortion would be considered akin to murder, was also rejected by the Polish Parliament in the summer (Sieniawski, 2022). Even after previous summers in which Pride Marches suffered from pre-emptive bans and various controversies, this year several successful

¹¹⁸ Lex Czarnek 2.0 had just cleared the Sejm, was rejected in the Senat, and then the Sejm rejected the Senat's veto before the bill was ultimately vetoed by President Duda (*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland, 2023*).

Prides took place, also involving Ukrainian refugees and organisations. Despite the positive signs, international CSOs and institutions continued to take notice of the human rights situation in Poland and raise the alarm about potential abuses. NGO Human Rights Watch, which had, since 2020 been following escalating threats to women, girls, and LGBT+ persons due to the political choices of the government and their undermining of the rule of law, sent a letter to the Ministry of Justice and the Ministry of the Interior about their concerns (Human Rights Watch, 2022). As of the close of 2022, they received no response (ibid). Alongside these efforts, NGOs like Amnesty International and ILGA International also continued to monitor growing concerns related to human rights (Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Poland, 2023; Poland, 2022a; *Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022).

Conclusion

This chapter was designed to better contextualise the way that the United Right coalition and/or its main party, Law and Justice, interacted with civil society during periods when PiS/United Right was in power. The first half of the chapter focuses on the interactions between PiS and Polish civil society during PiS's short run from 2005- 2007, to show how, even before the intensive engagement with civil society seen in the study period, PiS engaged meaningfully with civil society. It outlines PiS's early efforts to delegitimize some CSOs while engaging closely and working collaboratively that others which shared its goals and ideals. It further discusses the consequences of PiS's short time in office for Polish (civil) society. The latter half of the chapter explains the interactions between the United Right coalition and civil society in the study period (2015- 2022). It particularly focuses on the significant changes to Poland's political climate brought about as a result of the coalition coming to power, the dramatically altered state of the rule of law and human rights (with a focus on LGBT+ rights, reproductive rights, and the right to a fair trial), and the initial reactions of the Polish civic space. This in-depth overview is designed to acquaint the reader with the developments related to the norms of focus for this research and elucidate concerns regarding so-called rule of law and/or human rights backsliding by detailing problematic developments related to these norms and providing a factual basis for assessing claims of norm violation.

Amongst the backdrop of these interactions with civil society, the reader's attention is drawn to the slow polarisation of Polish society since the mid-2000s. This chapter introduces the beginning of the liberal-conservative and/or PiS/PO divide that came to define Polish politics and even the Polish civic space for almost two decades. In this period of intensifying polarisation, this chapter briefly discusses how civic engagement began to grow and involve more stable groups and activities. This growing political polarisation is important to understand the environment that contemporary Polish CSOs operate in, which in turn is important to understand both the strategic interactions employed by CSOs and the barriers that they faced. For instance, 'opposing' CSOs came to be a major barrier for the CSOs of study in this work (see **Chapter 7**, section **7.22.5 Barrier: Opposing Civil Society Organisations**) due to the polarised state of Polish civil society and the extent in which the government worked to tilt the civic space.

Chapter 7: Data and Results

In this research 797 documents were reviewed, and additional data was collected from 18 semi-structured interviews with 21¹¹⁹ Polish CSOs. This was used to uncover the strategic interactions used by a total of 206¹²⁰ CSOs to contest United Right's standards for the rule of law and human rights. Interviewees were in positions such as board member, committee member, lawyer, advocacy officer, (vice) president, (co)founder, and, analyst, as well as ordinary members. These CSOs worked to bring attention to events they assert represented instances of rule of law and/or human rights norm violations from 2015-2022 in Poland and contested the standards of these norms set forth by the United Right Coalition. Organisations (See **1g. List of Studied Organisations**) were based throughout the country, represented various registration statuses, and employed diverse strategic interactions in service of furthering their goals. Care was taken to include not only large or well-known NGOs, which are often the focus of research on civil society (Grabowska-Moroz and Śniadach, 2021) but also small and unregistered groups. Out of the 206 CSOs, 88 were unregistered, 80 CSOs were partially or primarily focused on the rule of law, 66 focused partially or primarily on LGBT+ rights, and 87 focused on reproductive rights— several CSOs focused on multiple causes, like LGBT+ rights and reproductive rights. In total, 21 strategic interactions (some with sub-strategies) were uncovered as were the complex, international networks formed amongst liberal CSOs worldwide with similar goals and foci. Each group participated in multiple strategic interactions simultaneously.

Strategic Interactions

The 21 strategic interactions uncovered in this research project ranged from discursive strategies to physical (and digital) manifestations, to legal strategies. Through these strategies, CSOs elucidated the standards for the rule of law and human rights they believed ought to govern them and shape their lived realities in Poland. The same time, they expressed disapproval of United Right's standards of these norms, detailed how these norms were being violated by United Right, and proposed solutions to actualise the normative standards they envisioned. The sections below detail the various interactions employed to contest United Right's

¹¹⁹ During three separate interviews, participants spoke on behalf of two CSOs that they were members of, as a result, data was collected on an additional three CSOs without the need to conduct three additional interviews.

¹²⁰ In total, 206 CSOs were researched, 21 CSOs were researched in interviews and document analysis and 185 were researched via document analysis alone.

normative standards and also to support those directly affected by government activities and influence public perception of particular groups and issues.

7.1 Demonstrations

Demonstrations are defined in a classical sense as 'gathering deliberately in a visible, symbolically important place, displaying signs of shared commitment to some claim on authorities, then dispersing' (Tilly, 1993). They may also be called mobilisations or protests and are 'sites of contestation in which bodies, symbols, identities, practices, and discourses are used to pursue or prevent changes in institutionalised power relations' (Taylor and Van Dyke, 2007). Just one addition can be made to these classical definitions to also include online demonstrations next to physical demonstrations as their existence could not have been anticipated by Tilly who is quoted here, yet their impact in many ways mirrors that of physical demonstrations. Through such organised displays, social movements prove their right to exist; they are legitimate, they have the numbers, CSOs, even well-resourced and long-established ones, march alongside them, and they can articulate their reasons for contestation, the actions against which they contest, their grievances, and their demands for change into a coherent series of messages. Large, widespread demonstrations also put pressure on the government as it becomes difficult to obscure contestation or frame it as the opinion of a small minority (Interview 158) and they put officials on notice that their behaviour will not proceed without contention (Gee, 2011). Demonstrations were the most common form of interaction for CSOs focused on reproductive rights and LGBT+ rights but they were used by all three kinds of CSOs. They are likely one of the most conspicuous forms of interaction as they are highly visible.

In this research, manifestations, like street protests (A Thousand Robes, 2020; "Poland protests," 2015), rallies (A Thousand Robes, 2020; Wolne Sądy, 2017a), and online demonstrations (IUSTITIA Stowarzyszenie Sędziów Polskich, 2020) often drew (inter)national attention and widespread news coverage towards highlighting the concerning actions of the government being contested as well as the strategic interactions of CSOs concerned about this behaviour (Matthes, 2022; "Poland," 2019). CSOs contested government standards with their bodies and physical presence but also with the banners, slogans, memes, hashtags, and the discourses of their event communications. Their signs bore the faces of the judges that ZP tried

to silence (Iustitia Oddział w Krakowie, 2022b), CSOs confronted ZP with the word *Konstytucja* (Constitution) in huge letters (IUSTITIA Stowarzyszenie Sędziów Polskich, 2018) to make clear that the actions of the government violated the constitution, and protestors clothed their bodies, signs, and posters with the symbols and words of their respective movements (e.g. the red lightning bolt, the rainbow, and phrases like 'Wolne Sądy' (Free Courts)). Many mobilisations took place at the 'scene of the crime' so to speak, targeting institutions like compromised or threatened courts (Obywatele RP w Bydgoszczy, 2020; Obywatele Stargard, 2019), PiS headquarters (Konferencja Episkopatu Polek, 2016), churches ("Słowo Na Niedzielę - Wieszak dla Biskupa w Toruniu. Protest zwolenników prawa do aborcji pod kurią [ZD]ĘCIA," 2018), local courthouses (Gawle, 2017; Iustitia Oddział w Krakowie, 2022a), and the Sejm (Ratujmy Kobiety, 2018).

For example, mobilisations for reproductive rights after the October 2020 abortion ban focused on the building housing the 'Constitutional Tribunal' (after the compromised 'court' ultimately passed the de facto abortion ban of 2020) (Manifa Bydgoska, 2021) and PiS headquarters ("3.11 - TO JEST WOJNA!," 2020). In addition, demonstrations like those focused on reproductive rights often took place in public areas with a lot of foot traffic (BABA Lubuskie Stowarzyszenie na Rzecz Kobiet, 2017) to increase visibility. Likewise, CSOs focused on LGBT+ rights often planned demonstrations at strategic locations, such as police stations (as many protesters are summoned to the police for their activities) (Szczęśniak et al., 2020), PiS's offices (Manifa Bydgoska, 2020), large popular streets and squares (Marsz Równości w Lublinie, 2020; Queerowy Maj, 2020a), and the presidential palace (Kubis, 2020a). These mobilisations centred on supporting of beset activists (Fundacja Równość, 2021a), advocating for more tolerant attitudes towards LGBT+ persons, contesting anti-LGBT+ discourse by the government (Stowarzyszenie Pracownia Różnorodności, 2020), and pushing back against various acts with threatened the human rights of LGBT+ persons, such as restrictions on LGBT+ organisations or events (Stowarzyszenie Pracownia Różnorodności, 2021). The scene of these demonstrations made visible the culprits of the norm violations and forced them to confront protestors and confirm (or deny) their role in the acts highlighted by CSOs.

Organisations focused on the rule of law often demonstrated on behalf of oppressed judges — in favour of judicial independence and in support of besieged judges (Iustitia Oddział w Krakowie, 2022b, 2022c), against government attempts to take over independent courts (Gawle, 2017), and against the violation of the

separation of powers (MEDEL, 2020). While some protests were predicated upon specific events, such as the persecution of independent judges through disciplinary proceedings (Rutkiewicz, 2021), other protests occurred regularly (e.g. monthly) (Iustitia Oddział w Krakowie, 2022d). CSOs focused on reproductive rights for instance, often demonstrated on behalf of 'all women,' women who died in circumstances in which it is believed they were denied a life-saving abortion as a result of the de facto ban (Ogólnopolski Strajk Kobiet, 2022b), or on the occasion or anniversary of important decisions made by United Right regarding abortion access and other matters important for reproductive rights (i.e. the October 2020 de facto ban) (Ciobanu, 2020b). These demonstrations, thus, occurred both after trigger events (e.g. the death of a pregnant woman which resulted from a denied abortion or the presentation of draft laws to restrict abortion access) ("Eksperci ONZ wzywają polski parlament do odrzucenia ustawy 'Zatrzymaj aborcję,'" 2018) and during regular cycles (e.g. the yearly women's manifa¹²¹) (Łódzkie Dziewuchy Dziewuchom, 2018a).

In these manifestations, CSOs not only expressed their solidarity with those who had been affected directly by rule of law violations (e.g. reprimanded judges and the Polish people in general whose rights were threatened by compromised courts) but they boldly spoke out against the way that the United Right Coalition tried to re-shape the concept of the rule of law and downplay activities which endangered it. Photographs of beset judges brought a human face to a concept that may feel foreign to the average Pole and made familiar the judges who were victimised by the disciplinary system. While the rule of law may be abstract and judges may seem aloof, the likeness of a judge who could be one's neighbour or colleague plastered on posters and featured in digital images, made their reality of Poland's rule of law breakdown more palpable and human. Online, the names and faces of these judges were memorialised in digital images and familiar hashtags. Often, judges beset by the disciplinary measures were also involved in these demonstrations, speaking out about their case(s), experiences, and dangers to judicial independence in Poland (Sidorowicz, 2022). Similarly, CSOs focused on reproductive rights attempted to put a 'human face' on decisions like the de facto ban, both through their own presence and by showing banners and posters with the faces of women who allegedly passed

¹²¹ Manifas are feminist demonstrations which take place on 8 March, National Women's Day and have for years been an opportunity for international CSOs to bring attention to women's rights and issues affecting women's rights.

away in circumstances where restrictive Polish abortion laws influenced their access to life-saving abortion care.



Figure 6. PUBLIKACJA pseudoWYROKU TK (Łódzkie Dziewuchy Dziewuchom, 2021a)¹²²

Manifestations have also become venues to express the raw emotions experienced by Poles, from outrage to fear to sorrow to anger (Bill, n.d.; Wądołowska, 2020). These emotions are expressed through chants but also by protest signs and symbols themselves. For instance, the now famous red lightning bolt became the symbol of OSK and protests about reproductive rights in Poland, especially abortion. According to the artist who created it, Ola Jasionowska, the symbol means 'watch out, beware, we won't accept that women are being deprived of their basic rights' (Wądołowska, 2020). The lightning *strike* and women's *strike* pay homage to decades of international women's movements featuring the familiar strike motif in which women made visible the cost of domestic labour by 'going on strike' but it also arms CSOs with a symbol that is jarring, hot, intense, and powerful- perhaps exteriorising the emotions carried by many of the Polish women (and others) marching for

¹²² In this Facebook photo for the event 'PUBLIKACJA pseudoWYROKU TK' (or 'PUBLICATION of the pseudoJUDGMENT of the Constitutional Tribunal'), Łódzkie Dziewuchy Dziewuchom called upon protesters to assemble outside of the 'Constitutional Tribunal' in opposition to the publication of the judgement on the de facto abortion ban. Here, LDD makes clear the connection between attacks on Polish courts and attacks on reproductive rights by denouncing the compromised 'Tribunal.'

reproductive rights. Other symbols, like '***** ***' were coded¹²³ messages expressing discontent with ZP. Symbols like the coat hanger (sometimes literal coat hangers were incorporated into signs or brought to demonstrations) were also important in these marches. This symbol stands out for its importance concerning reproductive rights, not only in Poland but globally. The coat hanger is a reminder of the dangerous, deadly, and clandestine procedures women were subjected to due to lack of access to legal abortion and other forms of reproductive care ("Why is the wire coat hanger a symbol of abortion rights?," 2022).

It brings attention to the desperation women feel when there are no or few suitable, legal options to terminate a pregnancy and reminds ZP and others that the threat to women's rights, human rights, and women's health are consequences of such a de facto ban. Interestingly, just as older figures like the coat hanger made an appearance as symbols of reproductive rights protests, many protest symbols paid homage to the longer history of civic engagement with women's rights in Poland. Such was the case for the image of the Solidarność symbol which had been edited to include the silhouette of a woman with her black umbrella standing before the print.¹²⁴ Common slogans used in protests for abortion rights after the October 2020 de facto abortion ban included 'To jest wojna!' (This is war!) which expressed both the anger of the protestors but also the seriousness of the challenges women were facing, likening the tightening of abortion law to going to or fighting a war ("3.11 - TO JEST WOJNA!," 2020). Demonstrations for LGBT+ and reproductive rights also featured slogans like 'Nigdy nie będziesz szła sama' (you will never walk alone) to impress upon LGBT+ persons, activists, and women in precarious situations due to restrictions on reproductive rights that even as they may face challenges like arrest or legal proceedings alone, the community of (LGBT+ and/or reproductive rights) activists stand metaphorically behind them (Szczęśniak et al., 2020). As in communist times, when CSOs focused on democracy worked together with judges' associations and LGBT+ and women's groups worked together, it was common that CSOs with different foci demonstrated together.

For example, demonstrations for one cause, such as calls to end discriminatory discourse by the government, media, and others against LGBT+ persons, regularly included CSOs with varied causes, such as those focused on women's rights,

¹²³ ***** *** stands for 'fuck PiS' (ibid).

¹²⁴ The re-appropriation of this symbol and its use in stickers and other banners ignited a lawsuit in which the Solidarność trade union sued groups using this modified image, the feminist groups won the lawsuit (Graff, 2019).

reproductive rights, the rule of law, and democracy (Queer UW, 2020; Stowarzyszenie na rzecz osób LGBT „Tolerado”, 2020a).

Not only could organisations with different foci be seen at the strategic interactions of other CSOs but often causes were combined in the discourse and art of various events, like mobilisations. As one example, in Figure 7, one can see the combination of the lightning bolt, popularised by OSK and used by various CSOs focused on reproductive rights and women’s rights more broadly, combined with a rainbow background, the rainbow being a common symbol for LGBT+ rights and groups. The lightning bolt on a rainbow background was used as the symbol to represent a ‘walk’¹²⁵ for women’s and LGBT+ rights that was hosted by CSOs focused on LGBT+ rights and reproductive rights such as Queer UW, OSK, HomoKomando, Warszawski Strajk Kobiet, and others. This was unsurprising considering CSOs’ level of political awareness— organisations were regularly able to clearly articulate the links between struggles for some rights, like access to contraception or the liberalisation of abortion to struggles for other rights, like LGBT+ rights. Here, both groups of rights are united by their position in the crosshairs of ZP and the fact that these rights often come under attack by figures employing anti-gender discourse (Sosa, 2021).



Figure 7. Lightning bolt in Rainbow (Queer UW, 2020)

¹²⁵ Such ‘walks’ were common during the height of intense COVID-19 restrictions on gatherings, which hampered efforts to mobilise physically (see section **7.22.9 Barrier: The COVID-19 Pandemic** for more details). These walks allowed individuals to meet up in a distanced manner (which complied with existing restrictions on gatherings) and continue to mobilise for their specific cause.

Another occurrence which was not unlike the development of civil society in communist times was the sometimes-close association between CSOs and political parties. It was not uncommon in demonstrations for reproductive and LGBT+ rights that politicians were present as supporters or speakers, especially local politicians and politicians from Lewica (The Left) (Stowarzyszenie na rzecz osób LGBT „Tolerado”, 2020a) and Razem (Together) (Queer UW, 2020). This is reminiscent of how, like in earlier periods of Polish history, such as the communist period and the late 1990s and early 2000s, various civic groups came to support politicians, regularly interacted with political parties, or became political parties themselves. It also reveals just one way that some CSOs sought to establish relationships with opposition parties and collaborate with them on strategic interactions (for another example of such collaboration, see sections **7.20** and **7.22.3** of this chapter).

7.2. Equality or Pride Marches¹²⁶

Pride or Equality marches find their origins in the events of 27 June 1969 (Wennerhag, 2018). It was this day at midnight in Greenwich Village (New York City, United States) that New York City Police raided a gay bar called the Stonewall Inn. The occupants of the bar, instead of dispersing as was the normal course of action, countered with violence, throwing stones and other readily available objects (ibid). Other local gays and lesbians joined in, and the skirmish quickly became a two-night riot. For LGBT+ activists, this was considered a major moment in their movement, as what later became known as the ‘Stonewall Riots’ was not only a significant role reversal between LGBT+ persons who had been used to running away from police but also because it was a pushback against the raid and closure of one of the few spaces where LGBT+ persons could be themselves in the United States (Geoghegan, 2019). Just a year later, the first Pride Parades were organised to commemorate the Stonewall Riots but the content of these Parades was not so much about the Riots themselves but rather the need to contest biased social attitudes about gays and lesbians which confined them to unsavoury categories like that of social deviants (Bruce, 2013). Pride was supposed to usher in a ‘new era of activism, characterised by the joyous and unashamed public declaration of gay and lesbian identity’ (ibid).

¹²⁶ Pride and Equality marches, terms that can be used interchangeably, are put in a separate category because they have a unique history amongst the various mobilisations mentioned and were a regular activity for every CSO focused primarily on LGBT+ rights (this is not the case for CSOs focused on the rule of law and reproductive rights), although some seemed to attend marches more than they organised them.

Before long, it was exported overseas with the help of the US-based NGO InterPride and it became a way in many countries to challenge homophobic laws, and discriminatory treatment against LGBT+ persons and a manner for LGBT+ people to celebrate themselves in public unabashedly (Wennerhag, 2018).

In addition, Pride extends visibility to LGBT+ persons and communities, commemorates previous and ongoing struggles to catalogue LGBT+ rights under extant norms, like human rights, and has entertainment, economic, and social components (Wahlström, 2018). Participants and activists cited Pride as an opportunity to lend visibility to the LGBT+ community in Poland, to celebrate surviving the harsh social and political situation LGBT+ Poles find themselves in, and as an opportunity to feel visible, included, accepted, and proud in an environment that 'does not want [them] as [they] are'¹²⁷ (Chutnik et al., 2021). It was also a chance for young queer people especially to have a safe place to openly be who they were and embrace their queerness while enjoying their free time in a happy atmosphere (Interview 20). Pride is an important annual event throughout Poland, mostly hosted by LGBT+ organisations. For the organisations participating in Pride and Equality marches, the marches seemed to serve the aforementioned purposes. In addition, some CSOs used Pride to contest hate speech by political figures, for instance, using it as an occasion to share and collect signatures for their actions against homophobia and hate speech (Stowarzyszenie Amnesty International, 2018). Łódzkie Dziewuchy Dziewuchom and Stowarzyszenie Fabryka Równości (Equality Factory Association) staged a 'spontaneous' Pride march to contest forthcoming threats to their human rights (e.g. the right to mobilise but also further threats to LGBT+ persons themselves).

These threats included the 'Stop LGBT' project (a citizens' draft bill), which would have, among other things, banned Pride and Equality parades (Łódzkie Dziewuchy Dziewuchom, 2021b). In the Facebook event information, Fabryka Równości wrote:

'We will not let our dignity be taken away! We will not let our rights and freedoms be taken away from us! We will not give up the Equality Marches! We are going tomorrow in a spontaneous Equality March, because we are pissed off by the propaganda and hatred flowing from everywhere in our country. The state MUST provide us with protection, security and equal access to the rights and freedoms

¹²⁷ Machine-translated quote from the cited article.

that are due to everyone. Take the rainbow and white and red flags with you, take candles. Let them see us. WE ARE NOT GOING BACK TO THE CLOSET!

Here, it is clear that the purpose of the Pride march was less about the celebratory components and more about the visibility component and activism against the proposed bill. As was seen with other kinds of mobilisation, Pride and Equality parades were sometimes (co-)hosted by women's CSOs as well. Here featured themes focused on restoring and liberalising reproductive rights in the country in addition to the traditional messages related to Pride (KOD Mazowsze, 2022). The Equality parade jointly hosted by OSK, Euromaidan-Warszawa¹²⁸, KOD Mazowsze, and Warszawski Strajk Kobiet for instance, aimed at contesting the current state of reproductive rights in the country. These CSOs marched for the 'legalisation of abortion and full women's rights...' and demanded that the government 'stop trampling on human rights,' which included calls for protections against gender-based and gender-identity-based discrimination and the special recognition of Ukrainian refugees in Poland, which OSK had been helping (especially LGBT+ Ukrainians) (ibid). Many Pride and Equality marches featured similar dual claims for LGBT+ and reproductive rights, making the connection between attacks on both rights in the wider landscape of threats to liberal democracy and the rights of minorities in Poland (Ogólnopolski Strajk Kobiet, 2021a).

7.3. Hashtag Protests and Online Demonstrations

Hashtag protests can be described as participating in, beginning, and/or spreading hashtags in strategic campaigns to promote activism. These campaigns took place mostly through social media (especially Twitter, Facebook, and Instagram), although hashtags were also repeated in blog posts and articles. Online demonstrations can be defined in a similar way as traditional demonstrations, only the corporal presence of CSOs is replaced by an online presence during online events and other virtual acts designed for protest. Hashtag and online protests occurred mostly or entirely in the online space and involved CSOs sharing hashtags or photos related to the rule of law, reproductive rights, LGBT+ rights, and/or the names and faces of judges and activists involved in these fields. In these posts, CSOs asked others to circulate such content. Just one example includes the multiple images and hashtags related to activist Justyna Wydrzyńska of Aborcjny Dream Team (Abortion Dream

¹²⁸ Not analysed for this study.

Team) (#jakJustyna being the most popular hashtag) to spread the word of her case and disseminate messages of support for the besieged activist. With the internet and often social media in particular, CSOs were then able to demonstrate to activists that they were not alone and encourage participation and support globally. The value of online protests and hashtag movements was their ability to make events and the stories of activists or CSOs go viral, reaching not only wider activist circles but potentially everyday people who may know little about the events at hand or the status of the rule of law, reproductive rights, or LGBT+ rights in Poland.

In this way, the decisions, cases, acts, and other behaviours contested reached (inter)national audiences. Importantly, online activities did not exclude offline mobilisation— in fact, the two were regularly combined. As Figure 8 shows, online images were created by artists and activists with the expressed purpose of individuals not only downloading them and sharing them online but also printing them and bringing them to physical protests and other offline events (e.g. hanging a poster with a hashtag and image in one's window).



Figure 8. Drop the Charges¹²⁹ by Aleksandra Herzyk (Herzyk, 2022)

¹²⁹ This open-source, English-language art is just one example of the various images artists were invited to print or download and share for online and offline activities in defence of Justyna Wydrzyńska.

In another case, CSOs invited others to share and reshare/retweet/repost the image of the modified *Our Lady of Czestochowa* digital image which bore a rainbow halo. It was because of this image that three activists were charged with offending religious feelings (namely, for its creation and distribution). Since authorities had punished the women (in a politically motivated case, in which the Minister of Justice also became involved), in efforts to stop the image's circulation, CSOs asked that the image be shared as widely as possible on- and eventually offline (Warszawski Strajk Kobiet, 2021). Some CSOs even produced special graphics and memes for sharing on one's social media, asking the public to publish the graphic or take pictures with the graphic and include the hashtag #TęczaNieObraż (Roughly #Rainbow Doesn't Offend- expressing the fact that there is nothing offensive about the rainbow). In doing this, they both contested the infamous case of offending religious feelings but also the idea that there was something inherently offensive or profane about the rainbow (as a symbol of the non-heteronormative). Participants were also asked to share with (other) social media influencers, fan pages, journalists, and personal contacts to spread the picture and hashtag as far as possible in a bid to resist efforts to repress the image's existence.

Likewise, FEDERA, who on Human Rights Day ran a campaign against 'state violence' regarding (the lack of) reproductive healthcare options and attacks on SRHR called upon other CSOs to post stories and experiences related to restrictions on reproductive rights (such as complications obtaining an abortion in Poland) using the hashtags #SRHRvoices and #SRHRheroes (FEDERA, 2018a). Such activities, further, served to bring attention to their campaign (ibid). Such a campaign adds visibility to a problem that may otherwise be invisibilised by other actors and shows just how pervasive the denial of reproductive rights was, even for the rights that are (supposed to be) legally available. In addition, FEDERA contested such a lack of reproductive care, framing it as a distinct form of 'violence' from powerful actors (here the state). It was not only through sharing hashtags that CSOs sought to lead actions online. When a draft bill to liberalise abortion did not pass the Sejm, several CSOs and even some political parties requested others to email all of the MPs who abstained or did not vote in the bill's favour. Participants who received a response from MPs were then asked to share the response on social media (mostly Facebook) and use their hashtag #AskWagarowicza (Łódzkie Dziewuchy Dziewuchom, 2018b). This, like other hashtag campaigns, brought attention to the issue at hand but it also put the metaphorical spotlight on those who denied protection or refrained from protecting Polish women's reproductive rights.

The standard email text, which was provided by FEDERA called upon these MPs to explain themselves and their refusal to 'fight for democracy' as a member of the opposition. In another example, various *Lustitia* chapters organised an action on 9 June 2020, when the Disciplinary Chamber was set to gather and discuss the waiver of immunity against Judge Igor Tuleya (*Lustitia Oddział w Płocku*, 2020). Polish judges were asked to, within the same 30-minute period, go and take a photograph of themselves and use the hashtags #freedomforjudges and #muremzalgorem to express their support of Tuleya. On their Facebook event page, the *Lustitia* chapters further explained the legal basis for their action both for Tuleya and to contest the actions of the government, writing:

'On June 9, 2020, a meeting of the Disciplinary Chamber will be held in Warsaw regarding the lifting of the immunity of judge Igor Tuleya. The proceedings against the judge are an example of flagrant disregard of the judgement of the Court of Justice of the EU, which ordered the suspension of the activities of the Disciplinary Chamber. This Chamber consists of persons appointed by political procedure. Judge Igor Tuleya is being prosecuted in connection with his ruling in which he ordered the prosecutor's office to explain irregularities during the parliamentary vote in December 2016, committed by members of the ruling party in Poland' (ibid).¹³⁰

A similar action was planned for Gdańsk District Court judge Dorota Zabłudowska who was harassed by PiS officials and faced disciplinary proceedings for her efforts to defend judicial independence (Zabłudowska, 2019), however, this appeared to be a strictly online action (*Lustitia Oddział Toruński*, 2022). By orchestrating such an online mobilisation, these CSOs were able to communicate their support for besieged judges, outline the legal basis for their claims, and make visible the extent to which judges were raising the alarm about threats to judicial independence. The collage format not only made clear to Judge Tuleya and others that they were not alone but left a visible impression that expressions of concern from the legal and civic communities were widespread. The effect of seeing so many images with the same paper and hashtag duplicated innumerable in a short period of time was powerful.

¹³⁰ Machine-translated by Google Translate.



Figure 9. #Muremzaigorem (Iustitia Oddział w Płocku, 2020)

Another example is an online event organised by Nowa Fala Aktywizmu (New Wave of Activism), which the CSO organised to contest politicians' ill-treatment of LGBT+ persons (e.g. anti-LGBT+ discourse, 'Zones free of LGBT,' and government attempts to limit sex education) and demanded sex education, anti-discrimination education, the normalisation of non-heteronormativity (Nowa Fala Aktywizmu, 2020). Nowa Fala Aktywizmu expressed their condemnation of hate speech and discursive disagreement with the anti-LGBT+ rhetoric which has become a growing political discourse and asked all participants to take a photograph of themselves and share the hashtag #FalaDumy (Pride Wave) (ibid). The phrase 'wave' is an appropriate description for the campaign as it gave the impression that there was a 'wave' or in any case a pronounced number of individuals ready to support the aforementioned causes throughout Poland and contest the discourse of political figures and others. Hashtag campaigns were also used to challenge and suggest alternatives for commonly held views of particular groups. For instance, activist Mariusz Kurc (board member of KPH and editor of queer magazine *Republika*), initiated a social media campaign using the hashtag #jestemLGBT (or #I'mLGBT) to present Poles with a

different image than the negative, ideologically charged descriptions of LGBT+ persons that they are used to seeing in the media, hearing about from conservative CSOs, and seeing portrayed in political discourse (Pacewicz, 2019). The purpose of the online demonstration, which exploded all over the social media site Twitter¹³¹, was to contrast politicised images of LGBT+ Poles (Pacewicz and Szymczak, 2019b) with images of everyday Poles. In this way, stigmatised individuals who had been dehumanised through hateful speech which painted them as ideologies and not people could be re-presented as one's neighbour, one's daughter, one's colleague, etc., showing that they were normal people and not an ideology (Pacewicz, 2019).

7.4. Education

Education was an important long-term strategy for CSOs. It was important to help others establish a baseline of knowledge about CSOs' areas of interest, such as the rule of law and LGBT+ rights such that the importance of factors like the separation between powers and open-minded social attitudes towards sexual minorities became evident. Interviews revealed that one of the struggles CSOs faced was getting others motivated to act when they did not yet appreciate the potential seriousness of events taking place in Poland. This was especially problematic for more intangible norms, such as the rule of law; civic action was easiest to arouse when actors felt they would be directly affected (Interview 36, Interview 86; Interview 158). For instance, PiS's early challenges to judicial appointments on the Constitutional Tribunal were immediately concerning for CSOs like KOD and Kongres Kobiet (Kongres Kobiet, 2015b; "Poland protests," 2015). However, involvement in manifestations and other activism only peaked when conspicuous threats to these norms appeared, such as during the 2016 Black Protests. In the same manner, everyday people may fail to realise why attacks on apex courts with which they have little to no contact, may directly affect their lives and rights in any way. Therefore, general knowledge not only about attacks on norms like the rule of law but also about the basics that underline their functioning, such as the separation between powers and respect for the rights memorialised in EU treaties and the Polish constitution, were essential background information. Other CSOs focused on education to track the changes that had been occurring in Poland since 2015, providing the public with an accurate, digestible record of

¹³¹ By the evening of the second day, there were already reportedly 23.000 posts made on Twitter (now X) as per *ibid.*

backsliding. Finally, some CSOs focused on education for the purpose of better understanding groups or organisations that had been continuously cast in a negative light by bad press, acrimonious political discourse, and negative social attitudes, such as LGBT+ persons. In this case, education efforts served to increase understanding of these groups and to counter popular discourse shaping public perception of them. The different kinds of education observed in this research and the roles they played are recounted in the sub-sections below.

General Education and Awareness-raising

*'People are scared when we say we are feminists, they are thinking that we are from hell'-
Activist (Interview 6)*

Some education efforts focused on aggregating information in a digestible form for the Polish public (e.g. the searchable database of neo-judges) to share information about the development of backsliding in Poland. This information was frequently accompanied by tips on how to get involved in activism or social movements and explainers of key events (e.g. why reported events were serious or concerning). In this way those who may not otherwise contest the actions of the government could see explainers for why CSOs were contesting, why government actions were inappropriate, and get background on the events surrounding the topic in question (i.e. what happened, who it happened to, what rights it effects etc.). For example, some CSOs focused on explainers detailing why proposed draft laws or legal changes were harmful to the groups they represented, such as LGBT+ persons. Bank Równości created information posters for the public to shed light on why the recent 'Zones free of LGBT ideology' were concerning and potentially harmful for LGBT+ people in Poland (Bank Równości, 2020a). In this message, they informed others that LGBT+ persons are just persons and not an ideology, that there was nothing pathological about homosexuality, that (despite pervasive government discourse) homosexuality was not incompatible with Christianity or Polish tradition, and that measures adopted by local governments were unfair (Bank Równości, 2020b).

Other CSOs aimed at fighting disinformation, for instance, disinformation about abortion, which was especially rampant following the de facto ban of October 2020. As abortion rights came under threat in Poland, misinformation spread from the media and political elites regarding legal access to abortions and other forms of

reproductive healthcare (Koalicja Antyfaszystowska, 2020). CSOs like FEDERA posted guides online to help those seeking abortion for themselves and others and who wished to pursue legal options in the country or travel abroad for abortions (FEDERA, 2022b). This included an overview of the current law, a list of the necessary forms to pursue an abortion in Poland, a step-by-step guide, and a list of support organisations in Germany, Austria, The Netherlands, Czechia, Poland, and Sweden that help Polish women obtain abortions abroad. Similarly, Marsz dla bezpiecznej aborcji (March for Safe Abortion) started their 'abortion guerrilla' initiative to spread correct information about abortion (Koalicja Antyfaszystowska, 2020). The information was printed on flyers or stickers and placed in various locations like women's toilets or activists wrote it out in chalk in public places; they also left the CSO's contact information. Some CSOs used education to improve social attitudes about groups that were often stigmatised by politicians (Pacewicz and Szymczak, 2019a). For example, Fundacja Trans-Fuzja (Trans-Fusion Foundation) created a series of educational materials aimed at parents hoping to better understand non-heteronormativity and to de-stigmatise non-heteronormativity in a social and political environment that was hostile to LGBT+ persons (Fundacja Trans-Fuzja, 2019).

CSOs mentioned the importance of providing basic education about LGBT+ persons due to the political environment which often made them the target of negative rhetoric (Interview 19). To some extent, passive educational activities were carried out by all of the CSOs examined, as they used their social media pages and websites to make short posts for the wider public about their activities and developments in their area(s) of interest. These sites, especially on social media, became, for those who followed them, a constant source of updated information about the rule of law, reproductive rights, and/or LGBT+ rights in one location.

Civic Education

Civic education has been defined in many ways depending on the diverse contexts in which it exists (e.g. in formal, informal, or non-formal educational settings) and the social and political elements at play. For this reason, this research adopts an understanding of civic education that is also widely endorsed by diverse sectors as, 'the provision of information and learning experiences to equip and empower citizens to participate in democratic processes,' which may 'promote civic

engagement and support democratic and participatory governance' (Rietbergen-McCracken, 2018). This definition does not limit such education to a classroom, nor is it restricted to a particular age group. However, for the purpose of this work, it is most important to look at the role that civic education played in increasing citizens' awareness of their own rights and obligations, the law, and the legal protections that exist for their rights. Civic education activities were especially important to organisations focused on the rule of law, like judges' associations. The rule of law is an abstract concept for many and the majority of citizens, especially those not politically inclined, struggled to see the importance of Poland's rule of law crisis in their everyday lives (at least initially) (Iustitia Oddział Opolski, 2021). CSOs recognised the need to engage with the public and the importance of building a positive rapport with the public (Ł. Bojarski, 2018a). Demystifying the importance of the rule of law, citizens' rights and obligations (as memorialised in the Polish constitution and EU law), and the standards to which courts and other institutions ought to be held helped others appreciate the importance of the law, the rule of law, the constitution, and the recent events taking place in Poland (Interview 111).

It was especially important that judges, who had to learn how to interact with the public and adopt a vocabulary for speaking colloquially with them (Interview 111), engaged directly with the public. In this way, judges could combat disinformation and distrust. Judges in Poland, as in many legal cultures are expected to be apolitical or in any case refrain from politics and politicised discourse (Matthes, 2021). As a result, they did not commonly speak directly with the public or engage in public discourse widely (Interview 111). For this reason, judges often had a professional 'distance' between themselves and the general public (ibid). This made it easier for ZP to politicise the judiciary, through smear campaigns (Szuleka et al., 2022; Wójcik, 2019a) but also through official narratives about judges' unsuitability (Pacewicz, 2018; *White Paper on the Reform of the Polish Judiciary*, 2018) which challenged the reputation of judges. Once this developed, it was difficult for judges to remain silent and aloof from the public. The use of such tactics by ZP resulted in the deterioration of public trust in judges and the judiciary, which made it easier to attack the judiciary without mass public outcry. It also cast doubt on the claims made by judges and others concerning the actions of the government. For instance, those not keeping abreast of the situation may have questioned whether the claims of judges' associations or other CSOs were just politically motivated and not related to concerns about the rule of law.

Therefore, events where these groups met directly with the public, especially those where they talked about their roles and duties as legal professionals went a long way to socialise and popularise legal professionals with the public and help change public perception of them. In fact, the judges' association Themis cited this as an integral reason behind their educational activities, especially with young people (Stowarzyszenie Sędziów THEMIS, n.d.). Judges' associations and other CSOs focused on the rule of law mostly conducted outreach through events held in schools or at popular venues like the Pol'and'Rock Festival. The Pol'and'Rock Festival, which has been held since 1995 (previously under the name of Przystanek Woodstock or Woodstock Station) is one of the biggest music festivals in the world and the 'biggest non-commercial event in Europe,' allowing festivalgoers to participate free of charge ("Our mission | Pol'and'Rock," n.d.). A unique feature of the Festival is that it has dedicated space for NGOs who wish to meet with the public, where interested festival-goers can stop by an organisation's tent and hear the messages of CSOs focused on themes like democracy, environmentalism, animal rights, women's rights, the rule of law and more ("Crowds of Festival-goers visit NGO Zone," 2023). Through venues like Pol'and'Rock CSOs thus came directly 'to the people' by targeting popular venues where many people would be gathered instead of expecting the public to come into their spaces (like traditional court venues) and seek them out.

CSOs like judges' association Lex Super Omnia staged several events at Pol'and'Rock featuring discussions by legal professionals about topics like how the Polish constitution protects minority groups and the fact that the 'Constitutional Tribunal' is not functioning correctly in Poland (Stowarzyszenie Prokuratorów "Lex Super Omnia," 2022). While this may have been a new activity for some CSOs focused on the rule of law and human rights, for judges' associations, such as Iustitia, civic education initiatives, especially those taking place inside of classrooms or with school-aged children (e.g. moot courts for children) harken back to the strategic interactions engaged in the 1990s to bring the public closer to judges and increase public trust of legal professionals (see **Chapter 5**, section **5.2.2.3: The Rule of Law**). While CSOs took advantage of events where large numbers of the public were gathered, they also created such opportunities themselves through their own custom events. For example, multiple CSOs focused on democracy and the rule of law participated in a multi-month country tour to talk about the Polish constitution, which they called Tour de Konstytucja (Tour of the Constitution), much like the well-known Tour de France. Here, CSOs toured the country, even small towns that are

not normally the focus of strategic interactions, to talk about the constitution. Events featured Polish judges famous for their resistance against government repression and covered topics like citizen's rights under Polish law and The Charter, civil rights, European values, and the rule of law; they also worked to bring the law closer to everyday people (Klauziński and Sitnicka, 2021; "Tour de Konstytucja w Białymstoku i Augustowie. Rozmowy o naszych prawach i Polsce, której z Europą po drodze," 2022).

Events like Tour de Konstytucja also bring judges closer to the people, demystifying their profession and making clear that they are regular individuals and want to protect the rights of Polish citizens regardless of what government and public media write about judges (Klauziński and Sitnicka, 2021). The Tour's main organisers are the Helsinki Foundation for Human Rights, Stowarzyszenie im. Prof. Zbigniew Hołdy, KOD, OSK (All-Poland Women's Strike), Defensor Iuris Bar Association, Lex Super Omnia, Radomianie dla demokracji (Radomians for democracy), the various chapters of Iustitia, Themis, and Wolne Sądy.



Figure 10. Tour de Konstytucja Map (Fundacja Kongres Obywatelskich Ruchów Demokratycznych, n.d.)

Some civic activities were conducted on a smaller scale, based in local areas where activists could meet well-known judges and others to talk about the constitution and the rule of law (Jędrzejczyk, 2022d). These meetings had the added benefit of introducing socially active citizens to each other and helping them network for other interactions (ibid). While civic education did not generally have a specific audience (i.e. by age or region), some CSOs were especially concerned about reaching special target groups, like young people, who often find politics anathema (Interview 15) and may struggle to see attacks on their rights for what they are until much later

(Interview 86). Równik and Stowarzyszenie Pracownia Różnorodności (Diversity Workshop Association) conducted legal workshops for LGBT+ persons wishing to achieve a greater understanding of their rights under Polish law (Równik, 2021a; Stowarzyszenie Pracownia Różnorodności, 2018). Such events were important for minority groups (e.g. sexual minorities) to understand their rights in a context where the legal and political circumstances remain rigid to their rights and in which LGBT+ CSOs and activists often find the law weaponised against them (Bourke, 2022; Poland: “They Treated Us Like Criminals”: From Shrinking Space to Harassment of LGBTI Activists, 2022). It may be unclear to activists and LGBT+ persons not involved in activism what rights and protections are available to them. CSOs focused on reproductive rights also staged events around increasing legal awareness of one’s rights to access reproductive healthcare. These kinds of events were especially important when laws on access to reproductive healthcare passed, as they could make it confusing to those seeking care what their rights were (Manifa Toruńska, 2021a; FEDERA, 2020a).

7.5. Research and Reports

Some CSOs produced research, data, and/or reports related to worsening standards of the rule of law, reproductive rights, and/or LGBT+ rights in Poland. In this way, they not only expressed disagreement with government actions but also clearly and accurately outlined why ZP’s actions were problematic for the rule of law or human rights. While some CSOs had specific departments dedicated to research (Interview 36) or outsourced this research to organisational partners (Interview 111), others only had the capacity for a few ad hoc reports¹³² (although many of the latter CSOs expressed the desire to do more research in the future if they acquired the resources to do so). These research and reports, especially when translated into various languages and/or written for non-legal or non-professional audiences, had the effect of internationalising issues in Poland and widening the source of dependable, accurate, and clear information available on the aforementioned topics. Reports were also used by international institutions and supranational courts like the European Union and the ECtHR. For instance, contributions to the stakeholder engagement data contained in the European Commission’s Annual Rule

¹³² For many CSOs, conducting (regular) research was difficult because of the funding, time, and expertise (e.g. research and writing skills) required to consistently produce reports of quality (Interview 183; Interview 162).

of Law reports referenced information contained in such reports and data from Polish CSOs (Interview 36; Anonymous, 2022). Reports were also referenced in important judgements, like the *Juszczyszyn v. Poland* ruling, in which the ECtHR referenced the report, *Judges Under Pressure* from Lex Super Omnia in their ruling (*Juszczyszyn v. Poland*, 2022).

They, further, mentioned the reports of Amnesty International Poland, Themis, the Polish Helsinki Foundation for Human Rights, and Wolne Sądy in their opinion (OPINION OF ADVOCATE GENERAL TANCHEV delivered on 6 May 2021(1) Case C-791/19 European Commission v Republic of Poland, 2021). The ECtHR quoted large sections of the report to reflect the manner in which Polish judges had been subject to disciplinary measures in the politicised Disciplinary Chamber. While this is a positive example of the impact that such research and reports may have on the activities of powerful actors, like international courts, it remains difficult to assess the overall impact of such strategic interactions beyond anecdotal examples, such as the two cited. Such outcome tracking would require a different course of research but presents an interesting opportunity for future research projects (see **8.4. Recommendations for Future Research**). Reports and research made reliable data accessible and helped track developments in Poland, which is especially important in an environment where the government, public media, and others can spread fake news and incorrect details, taking advantage of confusing and fast-changing events. CSOs also submitted reports to international institutions outside of the EU such as the United Nations and the Council of Europe. KPH, for instance, visited UN headquarters to present a report about the violations of LGBT+ rights in Poland and as a follow-up met with UN representatives from 30 countries (Kampania Przeciw Homofobii, 2017). About their participation, they wrote:

'The government report sent to the UN presents the narrative of the authorities and silently ignores issues related to the failure to respect the rights of LGBT people. The UN must learn the full picture of the situation of LGBT people in Poland in order to respond appropriately to the actions of the Polish government' (ibid).

On their Facebook event page, KPH described such reporting as a measure to 'hold the government accountable' and to 'put pressure on the government' (Kampania Przeciw Homofobii, 3-10 April). This was all ahead of a report that PiS was due to submit regarding the situation of human rights in Poland and done to ensure that

the world would 'hear the truth about the situation of LGBT people in Poland, not the PiS version' (ibid). This 'shadow report' was created through the joint efforts of several CSOs focused on LGBT+ rights and related issues, although presented by KPH (Kampania Przeciw Homofobii, 2017). In these ways, it can be seen that a primary value of research and reports produced by CSOs is that they provided multiple audiences, from courts to policymakers with a useful analysis of the challenges to the rule of law and reproductive and LGBT+ rights in Poland. When properly assessed for accuracy, these reports can be a reliable source of data concerning these issues, which are often politicised and may, thus, be reported inaccurately by the government. The spread of reports and research was accentuated by the use of online tools like social media, which CSOs used to share news of their reports' releases and truncated details about reports' findings. Judges' associations and other CSOs focused on the rule of law typically published reports detailing the takeover of Polish courts, threats to judicial independence, and government attempts to subjugate courts since 2015, providing context in plain language about the changes happening in courts, why they contested them as a violation of the rule of law, and why they were problematic for the rule of law (Komitet Obrony Sprawiedliwości, 2019a; Report on the State of Rule of Law in Poland in 2018, 2019; Szuleka et al., 2022).

Many CSOs went further than collecting information on the changes that had taken place since 2015 and offered analyses on these issues, specifically the link between rule of law backsliding since 2015 and other threats in the country, like the deteriorating environment for reproductive rights (Van Raemdonck et al., 2018) or how developments in Polish courts, exacerbated by changes in other sectors, contributed to a tilted civic space (Batko-Tołuć, 2022c). Others wrote about how the influence of powerful conservative groups like the well-known *Ordo Iuris*, in addition to negative pressure from United Right has exacerbated the deterioration of reproductive, LGBT+, and other minority rights in Poland (*Cultural and Religious Counterrevolution*, 2020). This shed light on the complexity of the Polish civic and political spaces as well as the non-institutional challenges faced by CSOs operating in specific spaces and advocating certain causes. An important step towards internationalising concerns about the norms of focus in this research was providing (English- and other-language) translations of data, reports, and findings for international audiences (Interview 159). Indeed, CSOs like *Lex Super Omnia* regularly produced English-language versions of their opinions and reports (Pik et al., 2021). These reports featured the results of years-long observations into the

daily functioning of Polish courts, methods of exerting political pressure on independent judges, and analyses of the activities, laws, and acts that influenced the deterioration of the rule of law in Poland since 2015 (ibid).

Wolne Sądy's living report *2500 Days of Lawlessness* provides an English- and Polish-language day-by-day timeline of the events in Poland that threatened the rule of law, accompanied by an analysis of why certain acts or decisions were a threat to the rule of law (Gregorczyk-Abram, et al., 2022). This detailed report takes readers through every significant event contributing to Poland's rule of law breakdown, requiring no or close to no previous or professional knowledge of the topic.

7.6. Research Collaborations and Providing Expert Testimony

Unsurprisingly, CSOs dealing with the issues of focus for this research 'on the ground' had a significant amount of lived experience in these fields and some had been documenting their experiences, documenting developments in Poland, conducting research, and collecting data. This information, whether in the form of data or reports was used by and presented to various external audiences, the different venues for doing so are recounted below.

Providing the EU with Expert Data and Recommendations

Some CSOs, like the Stefan Batory Foundation regularly produced research on the rule of law in Poland (Czaja et al., n.d.; Onyszczyk and Kwiatkowska, 2019), some of which also contained recommendations for the EU and member states on how to address rule of law violations. For instance, their joint report with the European Stability Initiative, *The deepening crisis in Poland. When the Rule of Law Dies in Europe*, outlined the serious issues with the rule of law in Poland to date, explained the seriousness of the situation for the rule of law in Poland and for the EU's own political order, and ended with a series of recommendations for the European Commission and member states (Buras et al., 2019). Similarly, in their report on the rule of law breakdown in Poland, the Helsinki Foundation provided the EU with a series of recommendations 'to restore the complete protection of judicial independence' in Poland (Szuleka et al., 2019). The report additionally featured an

analysis of the steps taken by the United Right Coalition to subjugate (once-) independent courts and endanger judicial independence, making clear the basis of the CSO's concerns (ibid). In addition to including recommendations in their reports, some CSOs were also invited by the EU to contribute their knowledge to EU reports as stakeholders 'close' to issues related to the rule of law, reproductive rights, and/or LGBT+ rights. For example, the European Commission sourced information and data for their annual Rule of Law Reports from Polish CSOs, such as in their 2022 Rule of Law Report, in which data was sourced from Polish CSOs like the Batory Foundation, the Helsinki Foundation, and the Civic Development Forum (FOR) (*2022 Rule of Law Report: Country Chapter on the rule of law situation in Poland*, 2022).

Similarly, when the EU conducted a country visit to collect data on the situation of the rule of law in Poland 'on the ground' for their 2020 Rule of Law report, they collected data from a number of Polish CSOs like Lex Super Omnia, Wolne Sąd, and the Helsinki Foundation of Human Rights (*2020 Rule of Law Report Country Chapter on the rule of law situation in Poland*, 2020). The EU, thus, on several occasions, recognised the importance of CSOs lived experiences and expert knowledge on the topics at hand. There remain, however, suggestions on how the EU can improve collaboration with civil society (see **Chapter 8**, section **8.3. Recommendations for Practice**).

Providing Expert Information, Testimony, or Research to International Institutions (e.g. UN)

CSOs, including the Polish Helsinki Foundation for Human Rights and the Lambda Warsaw Association prepared a report for the United Nations Special Rapporteur which summarised the plight of human rights CSOs focused on topics like LGBT+ rights, elucidating the steps taken by the government toward the tilting of the civic space and the effects of increasingly hostile anti-LGBT+ discourse (Warso et al., 2016). At the end of the report, both CSOs provided recommendations to the UN for improving the situation of CSOs and the groups they represent. This is just one example of the opportunities that CSOs had to provide expert information or research to other IOs. CSOs also had the opportunity to share their experiences in the field and with the issues at hand during various meetings at international institutions. FEDERA's participation at the 48th session of the UN Human Rights Council was already mentioned for instance. Here the CSO provided information on

the situation of reproductive rights and abortion access in Poland, analysing the consequences that the act to restrict access to legal abortions had on Polish women (FEDERA, 2021c). FEDERA, further, submitted a substantial report to the Committee of Ministers of the Council of Europe regarding the Polish government's enforcement of various judgements protecting access to legal abortion as well as the deteriorating situation for abortion access and reproductive rights in the country (Communication under Rule 9(2) of the Rules of the Committee of Ministers in the cases *Tysi c v. Poland* (App. No. 5410/03), *R.R. v. Poland* (App. No. 27617/04) and *P. and S. v. Poland* (App. No. 57375/08), 2021). The effect of providing such information is that CSOs can share their experiences and data with powerful IOs, which have the tools and power to put pressure on Polish authorities and/or hold them to the legal and normative standards that their membership in such organisations entails.

7.7. Social Campaigns

In this work social campaigns refer to any campaigns designed to change the public's perception of a certain group. For instance, LGBT+ organisations held events where locals met homosexuals and asked them candid questions in an effort to demonstrate that LGBT+ persons are normal people and no different than others. These campaigns humanise the groups that Poles are often used to hearing talked about as 'ideologies' or as dangerous forces to the Polish state, showing that behind these terms are ordinary people and that these people are negatively affected by the changes happening in Poland. Some CSOs visited areas which labelled themselves 'Zones Free of LGBT Ideology' and met with locals there to show them that they were friendly and that behind the guise of an 'ideology' were regular people like everyone else (Interview 20). CSOs did this to 'normalise' LGBT+ people, which was especially important in small towns where many had never met a queer person before (that they knew of) (ibid). As another example, *Mi o  Nie Wyklucza* (Love does not exclude) published an interview about two married Polish men (they were married in Scotland, as Poland does not recognise gay marriage or partnerships) in which they described intimate details of their lives, like how they fell in love (*Mi o  Nie Wyklucza*, 2019c). In the article, they described themselves like any other couple and shared the happiest details of their new life together. They also expressed how the sustained homophobic attitudes in Poland, especially what

is written about gay Poles had negatively impacted their quality of life in their own country (ibid).

Similarly, KPH launched a social campaign online using a series of videos on YouTube in which transgendered Poles spoke about their lives and experiences (Kampania Przeciw Homofobii, 2021c). Participants wore t-shirts during the video which were later made available for sale for those wanting to support the campaign; these t-shirts read #JestemPrzeciwTransfobii (#IamagainstTransphobia). Their online campaign was aligned with Transgender Visibility Day but it was also a reaction to transphobia in Poland and the increasing threat of anti-trans discourse and behaviour including the 'Zones Free of LGBT Ideology,' trucks driven by other CSOs condemning and spreading hateful slogans about LGBT+ persons, the activities of the government to block expansions of LGBT+ rights, and United Right's refusal to condemn attacks on LGBT+ persons and CSOs (ibid). For CSOs focused on reproductive rights, social campaigns were often dedicated to normalising reproductive care options like abortion. For example, Łódzkie Dziewuchy Dziewuchom hosted 'Coming Out' events in which women who had abortions from various backgrounds shared their experiences and their reasons for having abortions and impressed upon the audience (whoever attended or happened to be walking by during the public event) that a range of everyday Poles have sought and/or obtained abortions (Ogólnopolski Strajk Kobiet, 2021a). This created the feeling that not only is there nothing to be ashamed of but also that since there are common, everyday women who sought abortions, a family member, friend, neighbour, or passerby could also have pursued an abortion. In other words, 'it could be someone you know!'

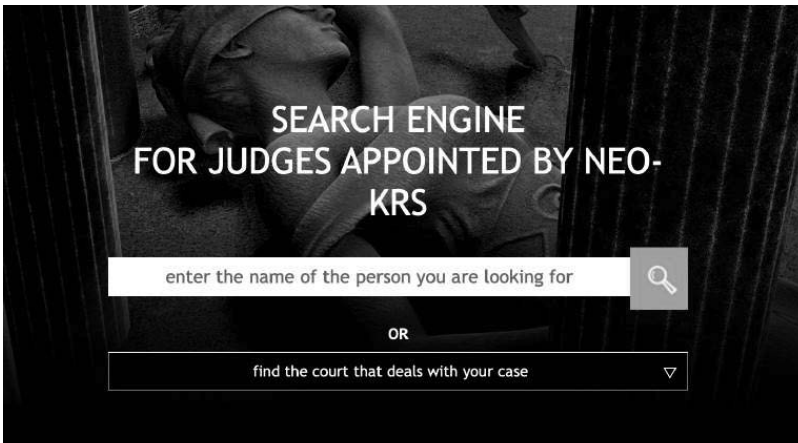
These kinds of campaigns had the added benefit of humanising those whom the government and others tried to barbarise. In the public, 'Coming Out' events, the goal was to de-stigmatise the decision to obtain an abortion. While organisations focused on the rule of law did not appear to engage in events that were purely social campaigns, their civic education activities and participation in demonstrations potentially had a similar effect of de-stigmatising judges who are otherwise presented in a negative light in some media and by the government (see section **7.1.4. Education**, subsection **Civic Education**).

7.8. Archiving, Documentation, and Watchdog Activities

In this research archiving, documenting, and watchdog activities involved using documentary evidence (i.e. court documents and official government statements) to keep track of the changes related to the backsliding of the rule of law and worsening standards of reproductive and LGBT+ rights in Poland. In addition to these activities, it also includes efforts made by CSOs to record accurate details of these events for preservation in archives or other (online) spaces where they can be memorialised for the foreseeable future. In some ways, these activities harken back to strategic interactions carried out by CSOs in communist times, for instance, those of KOR, which also challenged the state's monopoly over information by archiving the state's activities and publishing them uncensored (Kotkin, 2010). A key difference here is that United Right did not represent a totalitarian power capable of limiting all media, even if it did control public media and restrict the free press ("Freedom of expression in Poland," 2022; Wądołowska, 2021). In a world of post-truth unrealities, however, it is important not only to preserve records of events but to ensure that these records and information are accurate since the government and others can always deny facts, obscure past activity, and use public media to distort events. Documenting, then, gives those interested access to a sort of counter-narrative to what mainstream media and government narratives report (Interview 159). Documenting the reaction of civil society to the actions of the Polish government was not only important for helping CSOs reflect on political developments and their reactions to them but it was hoped that this could also help others responding to similar issues, even in different countries (Interview 159).

It was also important for CSOs to document the extent of the changes happening in Poland both for the general population and also for future generations of lawyers, academics, and activists (Interview 159). CSOs also put these important details in one location, making it easy to locate the data of interest. For instance, KOS created a repression archive where anyone, anywhere can search the name of judges, prosecutors, attorneys, and legal advisors to see if they have been the victim of government oppression and read articles about their experiences (Komitet Obrony Sprawiedliwości, n.d.). Likewise, KOD created a searchable archive of neo-judges so that anyone interested can search to see if their judge or any other judge is a neo-judge (Komitet Obrony Demokracji, n.d.). These search engines put important information at the fingertips of interested parties, making everything from curiosity

to research easier — users can always verify information but the hard work of compiling updated information on these legal professionals, as well as articles and other data about them, has been done for them. This interaction improved with time and experience. Some CSOs noted how, in the beginning, though they saw a role in such documentation and archiving work, they often struggled with how to present the information and develop an organised display of such information for external audiences (Interview 159). In some cases, this interaction started as a private collection of articles and documents and only later grew into an actual archive as they began to realise that other parties were hungry for access to such information and/or were much more likely to come across disinformation in the absence of such sources of factual details (ibid).



In the light of the judgment of the Court of Justice of the European Union of November 19, 2019 and the resolutions of the joint chambers of the Polish Supreme Court: Civil, Criminal and Labor and Social Insurance of January 23, 2020

SOME OF THE JUDGES ADJUDICATING IN POLISH COURTS HAVE BEEN INCORRECTLY APPOINTED.

JUDGMENTS RENDERED WITH THEIR PARTICIPATION MAY BE VOID.

IF YOU HAVE A CASE IN A COURT, IT MAY AFFECT YOU AS WELL!

USE THE [SEARCH ENGINE](#) TO CHECK WHETHER THE JUDGE WHO IS PRESIDING OVER YOUR CASE WAS APPOINTED BY NEO-KRS . IF YOU FIND ONE HERE, BE AWARE THAT

THE RULING IN YOUR CASE MAY BE DISPUTED, EXPOSING YOU TO LEGAL COMPLICATIONS AND ADDITIONAL COSTS.

FOR MORE INFORMATION [CLICK HERE](#)

Currently, the database contains 2694 judges and assessors appointed by neo-KRS. You may meet them in the courts of 287 Polish cities

Figure 11. Neo-judge Search Engine (Komitet Obrony Demokracji, n.d.)

It was not only in online archives that CSOs made such details available. CSOs, like Fundacji Ośrodek Kontroli Obywatelskiej (Citizens' Control Center Foundation) launched a newspaper, publishing regular updates about the rule of law, reproductive rights, and LGBT+ rights (amongst various other topics) in Poland. One of their many projects, 'In the Crosshairs' followed the stories of activists who had been the targets of discriminatory legalism for their activism (Wójcik et al., 2021). The Project was designed to better track and understand attempts of authorities to silence dissent and the kinds of pressure that activists and CSOs experienced (ibid). The Project was also designed to help activists discuss things like strategies for resistance against political pressure and involved the input of Adam Bodnar and attorneys from CSOs like Wolne Sądy. Before 'In the Crosshairs,' OKO.Press also ran a project that more closely followed the personal stories and difficulties of activists, called 'Alphabet of Rebellion' (Archiwum Osiatyńskiego, n.d.). Osiatyński Archive (ArchiwumOsiatyńskiego), which co-initiated the 'In the Crosshairs' and 'Alphabet of Rebellion' projects, started as a small, informal project in a beginning to keep track of changes happening with the rule of law in Poland since 2015.

However, over time, it became a public-facing, professionally developed archive of updates on the rule of law in Poland, complete with expert commentary in the form of academic blog articles, a repression archive with short articles about various instances of judicial repression, a timeline of civil society resistance actions from 2015-2017, and a news section (ibid). In their documents section, site visitors can also find a list of articles about democracy and the rule of law in Poland according to document type (e.g. reports, opinions of CSOs, and pleadings) and author (i.e. certain CSOs, certain courts, or certain branches of the government) or just search in relation to particular tags (Archiwum Osiatyńskiego, n.d.). The data on their website are made more easily searchable by the search feature on their website, which allows users to easily navigate to a topic of their choice. Other CSOs like Atlas of Hate (Atlas nienawiści) monitored developments like the growth (and decline) of the 'Zones free of LGBT Ideology' across Poland (Atlas nienawiści, 2019). Such visualisations are valuable to wide publics as they make it easy to find data on the voivodeships (during various points of time) regarding their status as signatories of such 'Zone' Declarations and/or Family Charters. In addition to their value to the general public and researchers, such archiving and documentary activities have the propensity to act as a valuable source of knowledge for institutions like the EU (see **Chapter 8**, section **8.3.2. Advice to the EU**). In some cases, CSOs began to

extensively track, and record changes related to the rule of law and human rights long before the point at which international attention turned to states like Poland and Hungary.

Monitoring Judicial Appointments

Due to concerns about the constitutionality of elections on compromised or threatened courts, several CSOs participated in monitoring the election of judges. For example, the Helsinki Foundation and INPRIS monitored the election of judges to the 'Constitutional Tribunal' in 2018 (INPRIS, 2018a). They also monitored elections on other judicial bodies such as the KRS and while this activity has been a task of the two CSOs since 2006, it took on new importance due to 'many doubts' which have arisen regarding the election of judges to the KRS (ibid). CSOs monitored elections, provided easy-to-follow information to the public, and allowed candidates to declare their positions on a number of topics during meetings they organised. As appointments to Polish courts became more politicised, CSOs like the Stefan Batory Foundation shared their findings and issued statements regarding their concerns about the composition of certain courts (in this case the 'CT') and the unlawful appointment of judges, such as Judge Julia Przyłębska, the President of the 'CT' (Balicki et al., 2018; INPRIS, 2018b). Several CSOs also came together to share the findings of their monitoring with authorities such as the Speaker of the Sejm, the Chairman of the Sejm Committee on Justice and Human Rights, and the members of that Committee (Bojarski and Przywara, 2017). The Stefan Batory Foundation, The Polish Helsinki Foundation, and INPRINS, likewise, monitored the appointments to high-ranking positions, later producing a report reflecting their findings as well as a 'catalogue of standards' to improve nomination procedures appointing people to important public positions (Bojarski and Wiaderek, 2017).

In this report, the CSOs monitored the election of judges to the 'Constitutional Tribunal,' the Inspector General for Personal Data Protection, the Ombudsman, and the Prosecutor General. Such coalitions monitoring high-level or politically impactful appointments is not new, although the urgency to monitor these elections, especially those on courts that the government had sought to subjugate took on new importance after 2015 (INPRIS, 2016). Such reports, with their comprehensive coverage and clear articulation of the standards to which appointments ought to be measured, were especially important in an environment in which such appointments have been politicised. Through these reports, CSOs can confront

claims that concerns about judicial appointments and the rule of law are politically motivated by clearly demonstrating how they did not meet (inter)national standards. Further, the longevity of this interaction shows that these CSOs did not recently become engaged with appointments as they came to be politicised but rather, saw it as their duty to report on such matters and through the year developed significant expertise in this area.

7.9. Debates

Debates are defined here as a discussion held in person or virtually in which participants (which may include the public in general) exchanged ideas about specific topics and were encouraged to challenge each other's viewpoints. Even in 'closed' debates which were not open to the public, guests could benefit from exchanging ideas and learning from each other's expertise, they too might even find that common ideas can be dispelled as misconceptions during the debate. The CSOs examined for this study used debates as occasions to challenge and explain common misconceptions related to their areas of focus. Stowarzyszenie Obywatele Solidarnie w Akcji (Solidarity Citizens in Action Association or OSA) hosted a street debate (open to the public) about the state of abortion and abortion law in Poland as well as the citizen's draft bill to liberalise abortion (Stowarzyszenie Obywatele Solidarnie w Akcji, 2016). During this debate, the public was invited to ask questions about the draft bill, abortion law in Poland, and related issues. In this way both news of CSOs' initiatives and general knowledge about their issue areas could be shared with the public. Yet another debate was held by various CSOs about the challenges faced by CSOs in Poland and attacks against the rule of law in the country, with CSOs like KOD and Obywatele RP w Bydgoszczy (Polish citizens in Bydgoszcz) (Serwisu, 2017). Unlike the previous debate, it was a closed event, taking place at the 2017 Human Dimension Implementation Meeting held during an OSCE Office for Democratic Institutions and Human Rights (ODIHR) event.

The tailored audience featured a group of representatives from various CSOs and private media. According to the Open Dialogue Foundation, there was an attempt to also invite the Polish government (namely, the Prime Minister's Chancellery, the Ministry of Internal Affairs and Administration and the Ministry of Foreign Affairs) to the debate in order to converse with 'the other side,' unfortunately, they did not attend (ibid). Such a debate had the added value of informing others about the

situation of the rule of law and, if it had managed to include officials from ZP, would have also given an opportunity to the government to defend their policies and explain how they did not violate the rule of law. During the Judges under Pressure debate, co-organised by the Office of the Commissioner for Human Rights and the CSO INPRIS, academics spoke on topics like how politicians tried to influence Polish courts, how courts can maintain independence, and other concerning developments related to the rule of law in Poland (Jędrzejczyk, 2019). This afforded the audience the opportunity to challenge these lived experiences and to clarify details about the then four-year process of steadily dismantling the rule of law in the country. Two academics (Prof. Hans Petter Graver from the University of Oslo and Prof. Klaus Bachmann from the University of Social Sciences and Humanities in Warsaw) also participated, ensuring that the comments were well-informed and backed by research in an environment where facts regarding politicised issues may be 'spun' by various parties (ibid).

Similarly, another debate organised by Stowarzyszenie im. Prof. Zbigniew Hołdy focused on challenges to constitutional democracy in Poland, the suspension of Polish judges, neo-judges, the refusal to reinstate judges, and the takeover of the Constitutional Tribunal (Stowarzyszenie im. Prof. Zbigniewa Hołdy, 2022). This debate made such content accessible to a general audience and featured a panel of experts (also non-lawyers) who spoke in 'clear language' about the issues at hand. Those who could not make it to the debate physically could watch from the CSO's Facebook page, although it is unclear if they could also participate through the features available on the site.

7.10. Lobbying EU Institutions for Litigation or Action

CSOs attempted to lobby EU institutions for action on several levels. This was especially important for pursuing venues like the CJEU (Nowicki, 2022), as the European Commission is one of two important access points to the Luxembourg Court (the other being domestic courts). Moreover, institutions, like the European Commission, are tasked with defending EU norms. The benefit of lobbying the Commission to launch infringement proceedings with the CJEU is especially evident in a context in which domestic courts face pressure from the government. CSOs know, thus, then that they need not rely on potentially compromised national courts to reach the CJEU (Gregorczyk-Abram, 2020; Matthes, 2022). The EU is also a larger,

more well-resourced actor with more tools (such as suspending the EU budget for any country which did not sufficiently uphold EU norms as per the Treaties) to enforce the rule of law and, due to its normative power, the ability to 'name and shame' undesirable behaviour, even when it does not have the competency to enforce certain behaviour. Strategic interactions included open letters (Markiewicz, 2020b), demonstrations (Łódzkie Dziewuchy Dziewuchom, 2018c), social media appeals ("Warszawskie Dziewuchy Pledge," 2020), and statements during presentations at the European Parliament ("Rule of Law in Poland," 2020).

Some CSOs requested that the Commission submit an application for interim measures regarding attacks on judicial independence ("Open Letter to the President of the European Commission," 2019). In their letter, Themis called upon the Commission to remember its own commitments and recounted the events in the Polish judiciary which constituted the violation of the rule of law, writing:

'As you yourself keep repeating, "there can be no compromise when it comes to respecting the rule of law." This is why we are asking you to promptly submit to the European Court of Justice an application for interim measures in the infringement case C-791/19 Commission v Poland now pending before the Court of Justice. Without interim measures in place, Polish authorities evidently feel free to openly persecute judges who seek to apply and enforce EU law via the two institutions they de facto control: the Disciplinary Chamber and the National Council of the Judiciary. The time has come to accept we are facing a situation in which EU law has broken down. Interim measures are called for before the situation gets worse and irreparable damage is done' (ibid).

The letter ended with a series of concrete recommendations for the next steps to remedy the rule of law crisis in Poland. Other CSOs called upon the Commission to show 'support for human rights and the rule of law in Poland' by opposing the newest proposed abortion restrictions handed down by the 'CT' (Łódzkie Dziewuchy Dziewuchom, 2018c). Still, others called upon the Commission to launch infringement proceedings regarding Poland's 'Zones Free of LGBT Ideology' (Kampania Przeciw Homofobii, 2021a). Some CSOs even named key officials by name, for instance, calling upon EU commissioners, such as Helena Dalli, Didier Reynders, and Věra Jourová to launch an infringement procedure regarding Poland's 'Zones Free of LGBT Ideology.' This appeal did not only attempt to summon these officials to act but also clearly outlined the justification for such action, claiming that

these Zones were 'discriminatory and are in conflict with the fundamental values of the European Union enshrined in Art. 2 of the Treaty on European Union, such as respect for human dignity and rights, freedom and equality' (ibid). Thus, CSOs still sought to use their discursive power to at least condemn activities consistent with the deterioration of, for example, reproductive rights. Some Polish CSOs came together with international CSOs to submit joint letters to the EU Council urging them to take action regarding the violation of the rule of law in Poland by 'adopting recommendations and/or holding a vote on whether Poland is at "clear risk of a serious breach" of EU values under Art. 7 sec. 1 TEU' ("Interweniujemy u Rady UE ws. naruszeń praworządności i praw człowieka w Polsce [TREŚĆ LISTU]," 2022).

In their letter, multiple Polish and international CSOs further stressed the connection between the deteriorating situation in Polish courts and worsening standards for reproductive rights, LGBT+ rights, and the tilting of the civic space (ibid). A group of CSOs focused on LGBT+ rights, including Równość and KPH worked together with international NGO ILGA-Europe to file a complaint with the Parliament linking serious concerns about the rule of law with LGBT+ rights in the county and urging the institution to act (Kampania Przeciw Homofobii, 2020b). The complaint highlighted issues such as threats to judicial independence and courts' failures to preserve fundamental rights. Complaints about these issues were also sent to the European Commission together with some of the aforementioned CSOs (ibid). CSOs working on women's and reproductive rights in Poland and across Europe also engaged with EU institutions to push for action. They called upon the European Parliament to condemn Poland's de facto ban ("Warszawskie Dziewuchy Pledge," 2020). CSOs were also adept at using their (social media) networks to fight for action. For example, some CSOs led campaigns asking each Pole to write a letter to Polish state representatives in the Council of the European Union urging them not to back down on efforts to link the state of the rule of law to Covid recovery funds (Akcja Demokracja, 2020a). Barriers to participation in such interactions, such as lack of knowledge of the correct representatives or confusion about what points to include in the letter were eased by CSOs posting such information and providing a pre-written form letter (ibid).

These different mechanisms of intervention make clear the myriad of ways that CSOs of varied sizes were able to intervene and use their resources to send messages to EU institutions. A simple form letter and a post on social media were

sufficient to (encourage others to) reach out to the EU, thus CSOs need not have access to significant resources to act. This specific strategic interaction also brings attention to CSOs' appetite to interact with EU institutions and their belief that such institutions play a key role in actualising their goals when domestic conditions make it difficult, a situation reminiscent of many social movements during Poland's pre-accession period (see **Chapter 5**, section **5.1: The Effect of Accession on the Development of Polish Civil Society**). Policymakers and representatives throughout EU institutions may be especially well-positioned to act on this appetite to collaborate with the EU (further discussion can be found in **Chapter 8** under section **8.3: Recommendations for Practice**).

7.11. Appeals

In addition to various EU institutions and leading figures, CSOs launched various appeals to both international and national audiences. A synopsis of these activities can be found in the sections which follow. Appeals are defined here as some statement or other communication from CSOs in which they call upon an audience to act in some way, using their privileged position, special rights, and/or various venues to enact change toward improving the situation of the rule of law, reproductive rights, and/or LGBT+ rights in Poland. Calls for action generally concretely spell out the steps CSOs are asking other audiences to take, one such example can be found in the quote which follows.

'Rather than viewing access to abortion simply as a health issue or one that affects only some people, our new position recognizes that safe access to abortion is essential to realising the full range of human rights and achieving gender, social, reproductive and economic justice...We call on governments to fully decriminalise abortion and ensure universal access to safe abortion services for all people who need them. This should include removing abortion from criminal law and abolishing penalties for people who perform or assist in having an abortion' (Statement of Amnesty International - quoted from their Polish chapter, regarding their new position on access to abortion) (Amnesty International Polska, 2020).

Appeals to International Institutions

On the front of reproductive rights, several CSOs petitioned the Council of Europe, targeting its Commissioner for Human Rights, Nils Muižnieks with an appeal which garnered almost 4.500 signatures. In the appeal, the CSOs expressed concerns for themselves and the women in their lives due to efforts making contraception, abortion, and sexual education difficult to obtain (Manifest Wolnej Polki, 2016). They demanded access to all of these things, explaining that such restrictions would push reproductive care like abortion underground and promote clandestine and dangerous procedures. They also called upon Muižnieks to sign the manifesto with them as an act of solidarity (ibid). The Polish branch of the Helsinki Foundation of Human Rights, similarly, provided information on the status of independent Polish judge Alina Czubieniak who was victimised by the Disciplinary Chamber (Helsińska Fundacja Praw Człowieka, 2019a). In their appeal, they asked UN Special Rapporteur Diego García Sayán to act. In response, Sayán, the UN Special Rapporteur pressed the Polish government to clarify the nature of the disciplinary sanctions against Judge Czubieniak and confirm to him that they are consistent with standards for judicial independence (ibid). Just a few months later, the Polish Helsinki Committee, along with other CSOs from across Europe, appeared before the UN again to express their concerns about the rule of law in Poland (CSOs from other countries spoke on the rule of law situation in their respective countries) (Helsińska Fundacja Praw Człowieka, 2019b).

They used the presence of threatened judges from other EU countries to express that issues in Poland are not isolated problems but rather that the EU is facing similar attacks to the rule of law across the Union (ibid). They, further, announced their report featuring interviews with several judges about the various forms of pressure they faced, a synopsis of recent and important developments in Polish courts, and recommendations (Szuleka et al., 2022). Like their previous appeal, this put powerful actors at IOs like the UN on notice about events taking place in Poland, identified the factual and legal claims which supported their concerns, and went a step further by listing concrete recommendations. The UN remained a popular target for the CSOs of study. In the realm of reproductive rights, FEDERA attended the 48th session of the UN Human Rights Council for World Safe Abortion Day, where they presented their statement discussing the situation of reproductive rights in Poland and lobbying for action (FEDERA, 2021c). Their position on such issues was read aloud as they urged the UN to act, framing such restrictions to sexual and reproductive health rights as non-compliant with UN human rights standards. They described the 2020 de facto ban as both the results of rule of law violations in the

country (as it was passed by a compromised 'court') and as a retrogression of human rights (Item:6 General Debate - 32nd Meeting, 48th Regular Session Human Rights Council, 2021). They explained the legal basis of their claims and further contextualised the main issue (e.g. the de facto ban) by describing its relation to wider attacks on reproductive rights and the country's poor record for contraception in comparison with other European states.

The Polish branch of the Open Dialogue Foundation, together with a member from Themis presented details about the deteriorating situation for the rule of law in Poland at the 2020 Winter Session of the Parliamentary Assembly of the Council of Europe (Melnychenko, 2020a). The purpose of this event was to amend the report on 'The functioning of democratic institutions in Poland' in a way that reflected the current threats faced by judges in Poland working to maintain judicial independence. It was here that these CSOs could also plead their case regarding the urgency of preserving judiciary independence in Poland during the side event, 'Law and Justice's Continued Campaign against the Polish Judiciary' (ibid). Thus, CSOs accessed a number of venues to raise awareness of the issues they faced, highlight how ZP had violated the rule of law and/or human rights, and call for specific interactions from IOs and member states.

Appeals to Polish Courts

Although it may seem counterintuitive, both because defendants must exhaust national options before approaching supranational courts (in many cases) and because national courts should and may still function properly, many CSOs launched appeals and pursued strategic litigation opportunities through national courts (see **7.17. Legal Mobilisation, subsection Legal Mobilisation via National Courts**). Addressing the courts directly was not uncommon for some CSOs like KPH, one of six NGOs that together appealed to the Attorney General and directly addressed prosecutors in efforts to have the charges filed against activists accused of offending religious feelings dropped (Kampania Przeciw Homofobii, 2020c; Tilles, 2021f). In their letter, they called for the Polish authorities to drop the 'baseless charges,' calling their provisions 'inconsistent with the international and regional human rights obligations adopted by the Republic of Poland' (ibid). They further cited Poland's obligations to maintain proper standards of human rights in this case (especially as it related to the freedom of expression) as per the ICCPR, the ECHR, and The Charter. Other CSOs, like Fundacja Widzialne (Visible Foundation) filed

applications to local courts in order to advocate for activists facing charges from their own organisation (Fundacja Widzialne, 2020). In this case, two activists from Fundacja Widzialne were charged for yelling 'fuck PiS' so the CSO filed an application to remove judges from the neo-KRS who were to adjudicate on the case.

Following the application, the hearing was cancelled¹³³ (ibid). In their communications, they were careful to link the rule of law breakdown, namely, the introduction of neo-judges, with increased charges brought against activists and others in highly political situations. They raised concerns that some defendants may face an unfair trial. The KOS coalition, made up of judges associations and CSOs focused on the rule of law, launched an appeal with the neo-KRS when public authorities, associated with the ruling coalition, refused to provide the information they were ordered to in a recent judgement issued by the Supreme Administrative Court (Amnesty International Polska, 2019b). In their appeal, KOS provided the legal basis for the appeal, the implications related to the failure to comply with the aforementioned judgement and put the neo-KRS on notice that it was being non-compliant with the law (ibid). In support of besieged judge Igor Tuleya, Akcja Demokracja sent a total of 31.722 emails to members of the Disciplinary Chamber (Akcja Demokracja, 2021a) in an action part of a larger strategy of AD to exert pressure on national and EU figures regarding attacks to the rule of law. The emails were not only designed to put pressure on the Disciplinary Chamber but also to express solidarity with Tuleya during the disciplinary measures filed against him. The Rule of Law Team of Rada Konsultacyjna przy OSK (Advisory Council at OSK) prepared a position on the judgement of the 'CT' to declare some parts of the Polish justice system as incompatible with the CJEU rulings and not implement some interim rulings (Rada Konsultacyjna przy OSK, 2021a).

In their letter, some figures like the president of the 'CT' Julia Przyłębska are called out and a series of demands are made including that any legal damages resulting from the ruling be repaired, that Przyłębska discontinue all proceedings regarding the compatibility of EU and Polish law, that Ziobro resigns immediately, and that the faulty 'CT' be disbanded (ibid).

Appeals to Other National Institutions and Politicians

¹³³ This case was rescheduled multiple times and eventually due to be adjudicated by the same, originally chosen judge. As of 21 July 2023, it was ongoing according to activist Julia Landowska (Landowska, 2023).

This category of appeals targeted national institutions other than courts, such as the Sejm as well as national politicians like MPs or the Prime Minister. Appeals focused both on taking action regarding long-standing issues related to the rule of law, reproductive rights, and/or LGBT+ rights and attempted to dissuade or encourage particular (voting) behaviour on upcoming legislation or an upcoming case. They also often called upon the target audience to remember their duties and the oaths by which they agreed to be bound when assuming their positions, such as in KOD's appeal to Polish MPs that they not continue to accept laws and amendments that destroyed the rule of law by further subjugating Polish courts (Komitet Obrony Demokracji, 2023). In another example, when the Stop Abortion citizen's draft bill to further restrict abortion was due to be voted on by the Polish Parliament, a coalition of various CSOs, such as the Polish branches of Amnesty International and the Helsinki Foundation, and FEDERA, together with the Council of Europe's Commissioner for Human Rights, Nils Muižnieks and international CSOs reached out directly to Polish MPs (FEDERA, 2020b). In their series of appeal letters, they urged Polish MPs to vote against the Stop Abortion bill and expressed their concerns that the proposed bill would have negative consequences on the health and human rights of many women in Poland (Muižnieks, 2018). They both cited statistics on the percentages of Polish women who would potentially be affected and the obligations of the Polish government according to human rights norms (Nadazdin, 2018).

FEDERA also shared a link to the personal stories of Polish women and girls in desperate situations (e.g. those suffering serious health issues for whom birth was dangerous or those pregnant while underage) who were initially denied access to abortion in Poland, despite all of their requests being legal (FEDERA, 2018b). Some stories detailed the extremely difficult time these women and girls had obtaining an abortion in Poland before being forced to go abroad. This was done in an effort to impress upon MPs how difficult and painful life had already been for Polish women and girls seeking abortions under current laws and that tightening laws would exacerbate such struggles.¹³⁴ Lastly, the package of various appeals contained some recognition that international audiences, such as the UN and some MEPs condemned the bill, impressing upon Polish MPs that the bill was also extreme according to international standards of human and other rights, not just according

¹³⁴ The purpose of publishing these stories on the FEDERA website was also to raise public awareness about the scale of the issue of women and girls being denied legal abortions in Poland (according to the announcement on their page), thus this action alone can also easily be classified as a social campaign (ibid).

to CSOs in Poland. A similar joint appeal was launched by a coalition of Polish and international CSOs also addressing Polish MPs concerning the 'Stop Abortion' bill ("Polish parliament must protect women's health and rights," 2018). They too stressed that adopting the bill could violate Poland's 'international human rights obligations' and that various human rights bodies, such as the UN Human Rights Committee, the Committee on Economic, Social, and Cultural Rights, the Committee on the Elimination of all Forms of Discrimination against Women, and the Committee Against Torture have called upon governments to remove barriers to abortion services, not create additional ones (ibid).

Similar reactions followed the 'Stop Paedophilia' bill as it approached the date of its first reading in the Sejm. Grupa Ponton launched an appeal to members of the Polish Parliament, asking them to reject the bill ("Ponton Group's Position on the 'Stop Paedophilia' Bill 2020," 2020). As in other appeals requesting that MPs and others reject bills or take other actions, the appeal clearly laid out the danger that the bill posed to its target population, including its likelihood to further restrict access to reproductive healthcare (including contraception) as well as access to knowledge about contraception, different sexual orientations, sex, and basic sexual education for young people (ibid). KPH launched a similar appeal to Polish MPs urging them not to pass the 'Stop LGBT' bill, which, as they outlined, would be inconsistent with Polish and EU law and would harm a minority group (LGBT+ persons) (Kampania Przeciw Homofobii, 2021d). Appeals often united CSOs with varied backgrounds and foci. For instance, a series of CSOs focused on democracy, the rule of law, and other issues (e.g. Greenpeace, which focuses on the environment and OSK, which focuses on reproductive rights) wrote an appeal requesting the 'immediate stoppage of parliamentary work on the Acts on the National Council of the Judiciary and the Supreme Court and demand[ing] the start of extensive public consultations on this' ("#FreeCourtsFreeElectionsFreePoland," 2017). In the appeal, CSOs expressed their concerns that United Right was using its parliamentary majority to pass amendments in efforts to enact de facto changes to the Polish Constitution since it could not do so otherwise (ibid).

Like with demonstrations, liberal CSOs often united to carry out a strategic interaction, even when their causes differed. This indicates that they realised both the importance of sharing resources and working together and that the actions of ZP and others posed a mutual threat to multiple rights. In addition to national institutions, CSOs also called upon national figures to take action regarding

concerns about the rule of law, reproductive rights, and/or LGBT+ rights. For instance, the coalition of CSOs focused on democracy and the rule of law, KOS launched a joint statement to national authorities to end acts in violation of judicial independence while expressing their concerns about recent developments related to the rule of law in Poland (“KRS zamiast chronić narusza niezależność sądów,” 2018). They outlined the basis for their concerns, namely that the neo-KRS issued a negative status to a candidate judge (Judge Marta Kożuchowska-Warywoda of the voivodeship administrative court) and prevented her promotion only because of her involvement in activities designed to uphold the rule of law. They claimed that this act violated the rule of law and made clear that the neo-KRS sees independent judges as a threat to them (ibid). As with other appeals, KOS made clear the moral and/or legal basis of their claims and concerns and explained how the events they described contributed to worsening standards for the rule of law. Akcja Demokracja launched an appeal to Marek Kuchciński, Speaker of the Sejm in an effort to encourage the resignation of Zbigniew Ziobro as Prosecutor General, sharing both their reasons for concern over Ziobro's occupying the position, as well as the legal basis for these concerns (“WYGAS MANDAT POSŁA ZIOBRY. NIEZWŁOCZNIE! --> Podpisz apel.,” 2016).

In addition to launching an appeal to the speaker of the Sejm with the position of their organisation, AD made the appeal into a petition, which was eventually signed by 7.511 people (ibid). Other CSOs addressed relevant local authorities en masse like Wielka Koalicja za Równością i Wyborem (The Grand Coalition for Equality and Choice) which wrote to 93 local government units in 11 voivodeships demanding the repeal of anti-LGBT+ declarations associated with the ‘Zones Free of LGBT Ideology’ (Ambroziak, 2020a). In their appeals, they expressed concerns that such Declarations could invite hate speech and violence by normalising the increasingly anti-LGBT+ discourse and expressed the desire that local leaders also adhere to protections against discrimination in the Polish constitution. Although the relationship between the CSOs of study and high-level figures aligned with United Right was acrimonious, CSOs still reached out to figures like the Prime Minister or the de facto PiS leader Jarosław Kaczyński. KPH, for instance, wrote an appeal to Kaczyński stating, that while they did not believe he would change, they wanted to express to him the human cost of his statements and actions regarding LGBT+ persons in Poland (“Panie Prezesie Kaczyński, piszemy do Pana list otwarty...,” 2019). In the letter, they linked the increasingly homophobic discourse of Kaczyński and others with increased hostility towards LGBT+ persons in Poland, asking him to

consider that his votes and actions can cost lives and do have a very real effect on the lives of LGBT+ persons in the country (ibid). Lex Q penned a similar appeal to the president of Poland about the state of LGBT+ rights in the country and Lex Czarnek, which had recently been passed by the Sejm ("Lex Q - Apel Lex Q do prezydenta RP Andrzej Duda Kancelaria Prezydenta RP," 2022). Like in KPH's letter to Kaczyński, Lex Q pointed out how President Duda's statements about LGBT+ persons resonated internationally and the fact that, despite his poor track record of respecting the Polish Constitution, he has the opportunity to 'make the right decision' (e.g. to veto the upcoming Lex Czarnek bill). A similar appeal was launched by FEDERA, also asking that the Polish president veto Lex Czarnek and explaining how it and other proposed bills would have a negative effect on youths and minority groups (Kacpura, 2022).



**Szanowny Panie Prezydencie
Rzeczypospolitej Polskiej**

W oparciu o badania, w ostatnich latach w Polsce ponad 68 procent osób LGBTQ+ doświadczyło przemocy na tle orientacji seksualnej. W obecnym stanie, szacuje się, że w Polsce 55 procent młodych osób LGBTQ+ dotykają myśli samobójcze, a prawie połowa mierzy się z objawami depresji. Jest to w dużej mierze spowodowane polityką prowadzoną przez obecny rząd.

Jesteśmy we wszystkich szkołach, jesteśmy polskimi rodzinami, jesteśmy obywatelami polskiego narodu. Mimo to, sytuacja naszej społeczności jest obecnie dramatyczna. Jesteśmy wykluczani. Rząd który Pan reprezentuje nie jest wolny od winy.

W dniu 9 lutego br. Sejm RP przegłosował ostatecznie projekt ustawy, potocznie zwanej „Lex Czarnek”, która będzie prowadziła do dalszego ograniczenia wolności konstytucyjnych i pogłębiła marginalizację społeczności LGBTQ+ w polskich szkołach. Ustawa jest ukierunkowana ideowo na promowaniu określonego modelu życia społecznego i rodzinnego. Narusza ona prawa gwarantowane przez Konstytucję RP, w szczególności prawo do równego traktowania i prawo rodziców do wychowywania dzieci zgodnie z własnymi wartościami i przekonaniami (art. 32 oraz art. 48 Konstytucji RP).

Pana niesławne wypowiedzi odbiły się echem na skalę międzynarodową. Ma Pan ostatnią szansę by udowodnić, że jesteśmy dla Pana ludźmi. Choć do tej pory nie często wyrażał Pan szacunek do Konstytucji, teraz apelujemy o podjęcie słusznej decyzji. Projekt tej ustawy i jej veto, bądź jego brak, zadecyduje czy jest Pan Prezydentem na miarę najbardziej homofobicznego kraju Europy.

W sierpniu ubiegłego roku, w wyniku naszych starań i udanej blokady Ministerstwa Edukacji i Nauki udało nam się doprowadzić do spotkania z przedstawicielami Ministerstwa Edukacji i Nauki, w tym z samym Ministrem Przemysławem Czarnikiem oraz Ministrem Tomaszem Rzymkowskim. Podczas spotkania poruszone zostały przez nas nasze priorytety, w tym brak zapewnienia ochrony godności wszystkich uczniów oraz przestrzeni do indywidualnego rozwoju w pochwałę różnorodności. Ubolewamy, że mimo zapowiedzi kontynuacji rozmów spotkanie było jednorazowe, a sprawa naszej społeczności po raz kolejny została wykorzystana jako element gry politycznej. Wraz z aktywistkami i aktywistami, naszą organizacją Lex Q i osobami walczącymi o dobrą edukację dla wszystkich, dalej czekamy na obiecane spotkanie.

Apelujemy!

Przyszłość Polski to my, młodzież. Wielokrotnie zapewniał Pan naród, iż chce być Pan „Prezydentem Wszystkich Polaków”. Niech chociaż raz Pan to udowodni.

**Z poważaniem,
Lex Q**



Figure 12. Lex Q Appeal to Polish President Andrzej Duda (“Lex Q - Apel Lex Q do prezydenta RP Andrzej Duda Kancelaria Prezydenta RP,” 2022)

The judges’ association Themis penned a letter to Prime Minister Mateusz Morawiecki asking him to dismiss judges engaged by the Ministry of Justice who had been involved in initiating improper disciplinary proceedings against independent judges (“Open letter to the Prime Minister Mateusz Morawiecki,” 2019). In their letter, they further explained the concerning behaviour of the judges working with the Ministry of Justice, who posted a series of tweets on Twitter in which they

exposed the personal documents and other files of independent judges who were facing disciplinary measures (for further context, see Gałczyńska and Jałoszewski, 2022). They also offered a solution for the current situation by suggesting the appointment of a parliamentary inquiry commission to investigate the actions of officials of the Ministry of Justice (“Open letter to the Prime Minister Mateusz Morawiecki,” 2019). The following year, the judges’ association Lex Super Omnia penned an appeal to the prime minister again, this time expressing their concerns about efforts of Ziobro to strengthen the position of the National Prosecutor and urging Morawiecki to act according to his competencies and responsibilities as Prime Minister (“List otwarty do Pana Mateusza Morawieckiego, Prezesa Rady Ministrów – Stowarzyszenie Prokuratorów ‘Lex super omnia,’” 2020). In this and other appeals, such as Lex Super Omnia’s appeal directly to Minister of Justice/Attorney General, Zbigniew Ziobro, CSOs not only laid out their concerns but also remind authorities of the oaths they took to assume their position and of their duties and responsibilities according to Polish law (Kwiatkowska and Korneluk, 2020).

For example, the appeal of several CSOs related to the rule of law to President Duda reminded Duda of his duties as the president of Poland, including that of maintaining the separation of powers and the rule of law more generally and urged him to take action regarding ongoing draft laws that endangered the independence of the judiciary (“Letter of Social and Legal Organizations to the President of the Republic of Poland - Association of Prosecutors ‘Lex super omnia,’” 2017). In the appeal, the CSOs give a list of changes that should be implemented to both improve the rule of law and make the process of implementing legal changes transparent for the public. The Stefan Batory Foundation expressed similar concerns and called for greater transparency in decision-making affecting the rule of law in their own appeal (Balicki et al., 2017). Other appeals were made on behalf of targeted groups, activists, or CSOs working on issues that frequently made them the target of local or national courts and government. For instance, several CSOs, particularly those focused on LGBT+ rights called upon Joachim Brudziński, Minister of the Interior to stop ‘exerting political pressure’ on the prosecutor’s office (“Panie Brudziński, tęcza nie obraża!,” 2018) regarding charges proposed against activists at an Equality Parade who brought a Polish flag containing a rainbow emblem in the backdrop of the Polish Eagle (Poland: *“They Treated Us Like Criminals”: From Shrinking Space to Harassment of LGBTI Activists*, 2022; “White Eagle over the rainbow. Minister wants investigation,” 2018). CSOs also called upon the Minister to drop his pursuit of

charges for flag desecration and declared their intention to organise demonstrations where the Polish Eagle with rainbow motifs would also appear ("Panie Brudziński, tęcza nie obraża!," 2018).

This appeal was also turned into a petition and signed by over 10.000 people, being sent directly to the Ministry of the Interior (ibid). Likewise, a group of CSOs launched an appeal to the Prosecutor General and the Ministry of Health requesting that charges be withdrawn against Justyna Wydrzyńska from Aborcynjny Dream Team (Abortion Dream Team) for allegedly assisting with abortion ("Apel Wielkiej Koalicji za Równością i Wyborem (WKRW)," 2022). Some CSOs also appealed to local governments directly, especially in cases where the local government's actions had negative effects on CSOs' target issues or groups. As one example, several LGBT+ CSOs issued a joint appeal to all local governments that had declared themselves 'Zone Free of LGBT Ideology' to repeal these Resolutions (Kampania Przeciw Homofobii, 2022d). Appeals were not only submitted online or by mail, CSOs creatively used several venues to address national figures. For instance, during a meeting between Lex Q and Minister of Science and Education Przemysław Czarnek, Lex Q made a number of appeals to Czarnek, including that he takes responsibility for homophobic statements he made, such as statements in which he called LGBT+ people ideologies, not people (Lex Q, 2021 a). Minister Czarnek was also pressed by a representative of the CSO to define the term 'LGBT Ideology' and to address direct quotes that he made about LGBT+ persons.

In the same manner, during her presentation of the citizens' draft bill Legal Abortion Without Compromise, Natalia Broniarczyk, a representative from and co-founder of Aborcynjny Dream Team made a direct appeal to MPs to take responsibility for their decisions and to understand that their vote on the citizens' draft bill was 'a matter of our lives,' pleading with them not to let their personal morality override the needs and reproductive rights of Polish women (Broniarczyk, 2022).

Appeals to Special Communities (e.g. Polish legal community, OBGYNs, Catholic Poles)

These appeals were made to particular communities, such as professional (e.g. those in legal professions) or religious communities (Catholic Poles). In defence of the Supreme Court judges who fought to stay independent and thwart multiple acts threatening the rule of law, several judges' associations signed an appeal to judges,

prosecutors, advocates and legal advisers, and members of legal associations and NGOs (“Sędziowie i Prokuratorzy apelują o obecność 3 i 4 lipca 2018r. pod Sądem Najwyższym,” 2018). In the appeal, the associations urged others to appear during an upcoming mobilisation on behalf of judges of the Supreme Court in which they planned to create a chain with their bodies and surround the Supreme Court building (ibid). Over the next two days after the appeal, demonstrations of (according to Iustitia) approximately 10.000 people took place, as planned, in front of the Supreme Court Building in Warsaw (IUSTITIA Stowarzyszenie Sędziów Polskich, 2018). Leading up to the planned selection of candidates for the new president of the Polish Supreme Court, a coalition of judges, experts, and CSOs launched an appeal to judges in the Supreme Court to keep fighting for judicial independence and continue resisting political pressure (Mycielski, 2020). It was directly addressed to judges of the Supreme Court from the Civil Chamber, the Criminal Chamber, and the Labor and Social Insurance Chamber and expressed both the importance of resisting and the recounted the devastating results of various threats to judicial independence over the last few years (ibid).

CSOs like Akcja Demokracja and Wolne Sądy even appealed to judges urging them not to apply to the neo-KRS due to the court’s compromised status (“Nie kandydujcie! Apel do sędziów,” 2019). Iustitia also called upon their fellow judges applying to the neo-KRS, shortly after the new law of the National Judiciary Council was passed and asked them not to apply or to rescind existing applications (“An open letter of the Board of Iustitia to the judges applying to new National Judiciary Council,” 2018).

In the appeal, they wrote:

‘In deciding to put forward your candidacy to an organ being thus formed you owe the society an answer to the most important question, a question which is posed to every judge daily and with every decision he or she makes: what do you want to serve? In the name of what values do you wish to make yourselves a part of the political machine, operating without respect for the culture of Polish parliamentarism and dialogue, introducing solutions within the National Judiciary Council that the People have not given their consent to in the Constitution?’ (ibid).

In the above appeal, legal professionals are asked to resist threats to the rule of law in a specific way and the rhetorical questions posed confront the reader with their

own responsibilities as judges in Poland. INPRINS created a similar appeal, explaining all the reasons why judges should not run for the new National Council of the Judiciary (Bojarski, 2018b) and one urging judges to boycott the elections for the neo-KRS for some of the same reasons. They highlighted that the neo-KRS was on a similar path as the once-independent 'CT' (Bojarski, 2018c). The letter, which also encouraged judges not to apply for the neo-KRS ended in a plea that the standards for judicial independence and impartiality which had been established over three decades not be lost (ibid). The appeal was appropriately titled *Judges - we count on you!* To those already elected to the neo-KRS, Iustitia appealed to them to refrain from adjudication on the grounds that their judgements may be considered invalid, which would have negative consequences for Polish citizens relying on the courts for decisions (Gmiterek-Zabłocka, 2021). As in the other appeals regarding Polish courts, Iustitia also expressed concerns about recent activities that threatened the state of the rule of law in the country. Appeals were not only directed at legal professionals, of course, Rada Konsultacyjna przy OSK appealed directly to journalists covering the mobilisations of OSK during Covid lockdowns.

In its appeal, Rada Konsultacyjna przy OSK urged journalists not to be subordinated by the government and become its tool by spreading false or otherwise, unconfirmed information about OSK, its demonstrations, or its leaders, who at that time had been charged with exposing participants to an epidemiological threat by staging demonstrations during a period with a high number of COVID-19 cases (Rada Konsultacyjna przy OSK, 2021b). In this appeal, they explained both the circumstances that led to the protests and the charges as well as the role that (government-influenced) media played in establishing the one-sided narrative of Ziobro in his allegations against the leaders of OSK. They explained the legal basis of their support, namely that the right to demonstrate existed even in these circumstances (ibid). They also discussed the role that the government itself played in instigating the protests in the first place, the fact that the pandemic raged on even before the protests, and contradictions in the way that activists like Martha Lempart were treated in comparison to religious leaders who continued to have services during the pandemic but had not faced charges (ibid). Akcja Demokracja launched an appeal to directors of hospitals in Poland on behalf of all patients, asking them not to withhold life-saving treatments, which they ought to provide according to the law ("*Apel do dyrektorów i dyrektorek szpitali,*" 2022). Specifically, this appeal called upon hospital directors to extend the same standard of care to

pregnant women as to others, therefore, performing abortions when the pregnancy was a danger to the mother's life (a reason still legal under Polish law).

AD also shared the stories of pregnant women who had died after being denied life-saving abortions to impress upon the professionals why they were making such an appeal (ibid). Lastly, appeals were also directed at communities of faith, such as Stowarzyszenie Europejska Demokracja – Nadzieja i Otwartość (SEDNO)'s appeal to Polish Catholics to cease projecting their value system and ideals on others (“APEL STOWARZYSZENIA EUROPEJSKA DEMOKRACJA – NADZIEJA I OTWARTOŚĆ (SEDNO) DO POLAKÓW-KATOLIKÓW,” 2021). Their concerns were specifically about access to abortion and other reproductive rights, which had been stifled under the context that life begins at conception and from that point forward must be protected — ideas consistent with the Catholic faith (ibid).

Appeals to the Catholic Church

Considering the powerful political influence that the Catholic Church has had historically and present day in Poland, particularly in matters of morality, such as LGBT+ and reproductive rights (Borowik, 2002; Heinen and Portet, 2010; Żuk and Żuk, 2020), it is perhaps unsurprising that appeals also targeted the Church. Still, it was rare that CSOs appealed to the Church directly. Fundacja Wiara i Tęcza (Faith and Rainbow Foundation) appealed to the Church in response to their position piece entitled, *Position of the Polish Episcopal Conference on the so-called LGBT+ Charter* which was published on 13 March 2019 (Fundacja Wiara i Tęcza, 2020). The authors of the appeal presented themselves as LGBT+ (advocates), who were baptised and practising members of the Roman Catholic Church (ibid). They expressed that they wished to remain affiliated with the Church and expected Bishops and others in the Church to maintain a 'respect for diversity.' They called for an end to homophobic and transphobic discourse in the Church more broadly. Their concern was that the position of the Church on the 'LGBT Charter' as well as homophobic and transphobic discourse would continue to create a hostile environment for LGBT+ persons in which their propensity to be oppressed, harassed, or victimised physically (or discursively, for instance in the media) would grow. They further called upon the Church to stand up for LGBT+ persons (ibid). It was not curious that a CSO like Fundacja Wiara i Tęcza would appeal directly to the Church over other CSOs considering their mission (from the English translation available on their website):

'We work for lesbian, gay, bisexual, transgender, non-binary, and intersex Christians, advocating full acceptance of LGBT+ people in Christian Churches and in society...we oppose any form of discrimination against LGBT+ people, particularly religiously motivated discrimination, and all forms of the so-called reparative therapy. We create a friendly environment where Polish LGBT+ Christians are fully accepted – their sexuality included – and where they can nurture their faith and spiritual lives. We strive to accelerate the change in the teaching of Christian Churches so that they will recognize the full value of marriages and other relationships of LGBT+ people, including rainbow families with children' ("Wiara i Tęcza – Materiały," n.d.).

KPH also launched an appeal to the Church (which could be signed by others), asking the Church to consider their activities' consequences for LGBT+ persons living in Poland (Kampania Przeciw Homofobii, 2019b). Others, like Manifa Toruńska, Toruńskie Dziewuchy (Toruń Girls), and Fundacja Nie Tylko Matka Polka Toruń (Not Only a Polish Mother Foundation Toruń) chose to stage a protest at the archdiocese and diocese of the Roman Catholic Church in Toruń (Manifa Toruńska, 2018). On their Facebook event page, they urged others to demonstrate in front of their local dioceses, presenting a list of where they could be found throughout Poland. The purpose of the demonstrations was to express to leaders the detrimental effects that political interference from the Church had on the standards of reproductive health in Poland. According to the CSOs, they targeted the Church to demand its officials drop their support for a bill proposing a total abortion ban and coerce politicians to pursue these CSOs' demands (ibid).

Appeals to General Audiences

CSOs also launched appeals to general audiences or the Polish people themselves. Akcja Demokracja created an appeal which was also a pledge for Poles to defend their rainbow peers, especially young people. The appeal began by describing stories of LGBT+ youths who had taken their own lives after being bullied and/or exposed to the increasingly hateful discourse against LGBT+ persons by politicians and the Church ("Nie będę przyglądać się obojętnie," 2020). After recounting these emotionally charged personal stories, AD drew attention to how Polish law does not protect LGBT+ people against hatred and aggression related to their gender identities and how leading politicians and figures from United Right continue to

speak ill of LGBT+ persons in political discourses. They then asked Poles not to be indifferent since Polish law does not protect LGBT+ persons and figures like PiS Ministers of Education Dariusz Piontkowski and Przemysław Czarne, Andrzej Duda, Jarosław Kaczyński, and Zbigniew Ziobro openly express their hate for LGBT+ persons (ibid). For AD, these factors together meant that Poles ought not to remain indifferent to the situation. The signing of the appeal was to be a demonstration of goodwill towards LGBT+ people of Poland and AD asked signatories to share the appeal with others.

7.12. Speeches and Presentations at EU Institutions

Both interview data (Interview 20) and document analysis revealed that the EU created a number of opportunities for representatives from various CSOs to present their data, share their experiences, or give a speech during EU sessions or country visits. For instance, Wiktoria Magnuszewska from Lex Q was invited to the European Parliament to share information about the situation of the LGBT+ community in Poland, which had experienced discrimination and was increasingly targeted by the laws and discourse of the ruling coalition (Lex Q, 2021b). During her speech, Magnuszewska expressed her concerns that the normalisation of discrimination against LGBT+ people would create a generation of young people who would fail to see discrimination against sexual minorities as problematic. In her statement, she expressed concern that she and her fellow activists 'may be the last generation that has the opportunity to take a stand against oppression' as the following generation would be 'taught contempt for human rights'¹³⁵ (ibid). Magnuszewska was not alone, other activists were also invited to the EP from CSOs like OSK. Their invitation was courtesy of MEPs such as Malin Björk (The Left group in the European Parliament-GUE/NGL), Terry Reintke (Group of the Greens/European Free Alliance), and Chrysoula Zacharopoulou (Renew Europe Group) (ibid), all who consistently spoke out about concerns over the rule of law, reproductive rights, and LGBT+ rights in Poland during Parliamentary debates.

The European Commission also created opportunities for CSOs to engage with EU institutions regarding their concerns in Poland. For instance, Stowarzyszenie Fabryka Równości (Equality Factory Association) and Tęczowe Opole (Rainbow Opole) were invited on a study trip to the Commission where they met with

¹³⁵ Machine-translated by Google Translate (for images).

Commissioner for Equality Helena Dalli and spoke on the challenges LGBT+ people faced in Poland (Stowarzyszenie Fabryka Równości, 2021). Among other issues, they spoke on the effect of the 'Zones Free of LGBT Ideology' and the 'Stop LGBT' draft bill. They also spoke on the effect of such acts and discourse on LGBT+ persons and the funding difficulties faced by CSOs that worked towards LGBT+ rights. Several CSOs focused on the rule of law participated in an online hearing, organised by the Open Society Foundation which included a mix of international academics, representatives from Polish CSOs, and MEPs who came together to speak about pervasive concerns about the rule of law in Poland (Serwisu, 2020a). The judges present from Themis shared the details of the 'deteriorating situation of the independent judiciary in Poland and highlighted the growing number of judges under constant pressure' during the online event, which was streamed on Facebook and reached more than 10.000 individuals (ibid). Likewise, interviewees (Interview 20) described receiving an invitation from the Commission to enlighten them about the realities of LGBT+ persons and rights in Poland and advise them on how to improve the situation.

This is not to say that such experiences were the norm, many others did not have regular communication with any EU institutions or feel that they were capable of influencing the Union. To improve the access of CSOs to the EU and make influencing the EU more equitable for various CSOs, the EU could work more proactively and consistently to collaborate with CSOs, especially smaller CSOs which may miss traditional opportunities to collaborate such as funding calls (more discussion can be found in **Chapter 8**, section **8.3.2: Advice to the EU**).

7.13. Conferences, Forums, and Congresses

Conferences, forums, and congresses can be understood in the traditional sense as meetings organised around certain topics or themes which bring individuals with shared goals or interests together. Often such events are organised with goals like disseminating information or developing an action plan or joint statement. They served several purposes, depending on the audience and participants. For instance, some conferences, such as that held by LGBT+ CSO Stowarzyszenie Queerowy Maj (Queer Association May), involved local authorities and focused on how minority groups targeted for discrimination (in this case, LGBT+ persons) could receive better

protection by local authorities as the local and national environment became increasingly hostile to them (Queerowy Maj, 2019). This not only involved making vulnerable groups aware of the protections available to them but also making local authorities aware of the threats facing LGBT+ persons and how they can help. Other events were hosted by CSOs for a targeted professional audience of non-activists. For instance, Krajowa Izba Radców Prawnych (National Chamber of Legal Advisers) and Iustitia hosted an event for lawyers to attend and think along with their peers and representatives from the organisation about the possible solutions to reform the judiciary in Poland after several serious threats to the rule of law (Krajowa Izba Radców Prawnych, 2017). Although the CSOs alluded to the role of politicians and the media in degrading the rule of law through time, the event was more about actively brainstorming solutions to these rule of law deficits amongst a group of professionals who were poised to do so because of their expertise and professional knowledge.

The Stefan Batory Foundation also regularly hosted conferences where legal experts from their CSO, other CSOs, and Polish universities brainstormed potential pathways out of Poland's rule of law crisis (Fundacja Batorego, 2020). Fundacja na rzecz Równości i Emancypacji STER (Foundation for Equality and Emancipation STER) also organised a congress focused on reproductive health rights and the future of reproductive health where medical professionals were invited to attend (Fundacja na rzecz Równości i Emancypacji STER, 2017). During the conference, STER presented the results of research they conducted in 2016-17, which featured interviews with gynaecologists in Poland in which they shared their attitudes on Poland's abortion law and their thoughts on potential changes to the law. Guests also discussed patient rights and offered advice to young medical professionals interested in reproductive rights (ibid). A third example of a semi-public, professional conference was the conference hosted by Iustitia Oddział w Lublinie. At this conference, the primary invitees were judges and members of the media. Bringing the two audiences together is hardly surprising, as there is much public mistrust of judges in Poland and the media has, on several occasions, published false or misleading information about judges which has harmed their public image. The purpose of the conference, thus, was to bring the two professional groups together to discuss repairing the public image of judges by publishing fair and correct information about them (Stowarzyszenie Sędziów, 2011).

It was also planned to overcome the lack of 'proposer cooperation' between the media and judges (ibid). Other CSOs like Miłość Nie Wyklucza came together with a group of other like-missioned CSOs in a congress for the expressed purpose of coming up with a joint declaration together (Miłość Nie Wyklucza, 2019b). In this case, the purpose of the LGBT+ Congress was to adopt a joint declaration reflecting on the 'neglect of equal rights for LGBT+ people in Poland,' the 'homophobic statements' by politicians, the media, and even other CSOs, and the intensification of hateful discourse against LGBT+ persons (ibid).¹³⁶ In this Declaration, they shared their vision of a Poland capable of ensuring the safety and dignity of LGBT+ persons, outlined the most important goals for their community, expressed solidarity with others working to bring about this vision, and implored others to support their endeavour.

7.14. Expert Interviews, Lectures, or Panels

CSOs also organised expert interviews, lectures, and panels during which legal experts, (former) judges, activists, and academics spoke on a variety of topics related to the rule of law, LGBT+ rights, and reproductive rights. They also answered questions, covered recent news, and explained complex issues. They clarified the reasons that CSOs and others were contesting government standards for these rights and also spoke on potential solutions. *Iustitia Oddział Gdański* for instance, held an online event featuring the well-known judge Paweł Juszczyszyn, who himself became the victim of multiple disciplinary proceedings (*Cafe Iustitia*, 2022). During the event, streamed live online, topics and questions related to the rule of law crisis in Poland were discussed such as how the rule of law could be restored in the country, the (il)legality of the Chamber of Professional Responsibility, and what the future could look like for Polish courts. *Iustitia Oddział Przemyśl*, *Rebelianty Przemyśl*, *Iustitia* (the main foundation), and *Rebelianty Podkarpackie* (Subcarpathian Rebels) held a similar meeting (in person, with Covid restrictions) with Judge Juszczyszyn as well covering some of the same topics (*Rebelianty Podkarpackie*, 2020). This meeting was open to the public who could present their questions and concerns to the Judge directly (ibid). Judges, representatives from CSOs, and others 'on the ground' were invited to share their lived experiences and speculate about the future of Polish courts and what the state of judicial

¹³⁶ Quotes are machine translated.

independence could look like in Poland going forward (Radomianie dla demokracji, 2019a).

CSOs cited the aim of these meetings as related to 'disseminat[ing] knowledge about the law, rais[ing] the legal awareness of citizens,' and '[i]nitiating] substantive discussion on current issues related to the law' (Iustitia Oddział Wielkopolski, 2019). Organising interviews, lectures, and panels in such a manner made it easy to resolve questions about current events like the state of the prosecutor's office and the fight to maintain the separation of powers in Poland (Wolna Prokuratura, 2019). By inviting those with lived experiences and professional knowledge to share their experiences and explain the relevance of various events and opening the events to the public, who could ask questions, the distance between the public and judges and other legal professionals (Interview 159) is also lessened. Representatives from various CSOs also conducted interviews with news media explaining in detail recent events related to issues in Poland, like threats to judicial independence and the legal deficits of the neo-KRS (Bojarski, 2018d). While the interview referenced here included a call to all independent judges to become active in the fight to maintain judicial independence and support courts and judges that the government seeks to subordinate, interviews, in general, were helpful as explainers for general audiences. Such interviews could reach a wider audience as readers (or listeners) were not required to subscribe to academic or technical journals (although some papers where interviews were published did have subscription fees) and were presented with information in a digestible manner.

CSOs also led meetings, where activists could share their knowledge based on their lived experience in their respective fields. One such example is a meeting with the co-founder of OSK, Marta Lempart who talked about the realities for Polish women seeking legal abortions, the experience of civic movements after the de facto abortion ban, the decisions activists have to make going forward, and the connection between the country's rule of law crisis and the regression of reproductive rights (Ogólnopolski Strajk Kobiet, 2021c). A benefit of such direct communications is that they bypass politicians or politicised media in an environment where both public media and politicians often contort the truth or politicise various norms (like the rule of law).

7.15. Workshops, Classes, and Explainers for CSOs and Activists

Like civic education, activities were not just targeted at reacting to pressing concerns but also oriented towards long-term outlooks, such as that of the future of activism and civic mobilisation. For this purpose, CSOs also dedicated time to train everyday citizens to become activists, to get involved in several strategic interactions, and to protect their rights while engaging in activist activities or working with CSOs. As one example, KOD conducted a workshop to help young people learn how to organise demonstrations, which ended in the preparation of their first manifestation (Komitet Obrony Demokracji Region Pomorze, 2022). Experienced activists from KOD conducted the training and it was part of a series of lectures and workshops held by activists in various fields who guided prospective activists through everything from organising safe and legal demonstrations to how to promote their protests or other events (Komitet Obrony Demokracji, n.d.). A similar activity was planned by Równik and Stowarzyszenie Pracownia Różnorodności (Diversity Studio Association or SPR), which was specifically geared towards would-be LGBT+ activists and included several experienced activists working for LGBT+ CSOs who would share their experience and provide appropriate training (Równik, 2021b). Those who were already involved in activism could benefit from courses addressing some of the greatest difficulties they likely experienced, such as 'developing a sustainable activism strategy' or network-building (Fundacja HerStory, 2022).

Like the workshops offered by KOD, the workshops offered by Fundacja HerStory were run by experienced activists and they even gave preference to activists from small towns and areas that on average have fewer resources and where potential activists have fewer chances to get involved with CSOs (ibid). CSOs found it important to provide training and other opportunities for activists and other CSOs to benefit from the experience of older and/or more experienced activists and organisations because often the former wanted to mobilise and act out against degrading standards of the rule of law or human rights, but they lacked the expertise and experience of how to properly mobilise etc. (Interview 86).



Figure 13. *The Fight Continues* (Fundacja Równość, 2021b)

Other CSOs focused on ensuring that activists active in their respective fields were aware of the rights and protections under Polish law, providing explainers (Kistowska, 2021; Koalicja Antyfaszystowska, 2022), guides (Fundacja Równość, 2021b; Metelska et al., 2019), and workshops for activists (Akcja Demokracja, 2022). These pieces of information reviewed the rights of activists¹³⁷ when demonstrating, when stopped by the police, how to deal with a police presence at a demonstration, and even details like how to dress comfortably for a demonstration. They were also often accompanied by numbers for lawyers that activists could call in case they were detained, questioned, or otherwise needed legal advice. The offerings to those involved in activist activities or CSOs were also shaped to meet the ever-changing situation in Poland. For instance, judges and other legal professionals were forced into civic activism or in some way found themselves being outspoken on politicised

¹³⁷ One such example can be seen in figure 13 which shows the online poster of Fundacja Równość designed to let activists know their rights of assembly. This poster is just one of several created by the joint project 'Half a year on the streets' ('Pół roku na ulicach') established by the Fundacji im. Stefana Batorego and Fundacja Równość. This infographic provides a brief summary of the rights of protesters stopped or detained by police in plain language and those interested in learning more can download the full report.

issues, which was rarely or never required under past governments. In response, CSOs like INRPINS organised workshops for lawyers related to their freedom of expression when advocating for judicial independence, accountability on courts, and the rule of law more generally (INPRIS, 2021). These discussions included topics like the limits to a judge's freedom of expression and featured foreign guests as experts as well as Polish lawyers.

7.16. Organising or Attending Press Conferences

CSOs also organised press conferences to publicly declare various details about their activity and, importantly, to highlight or bring attention to the exacerbation of issues in their related fields to the wider (inter)national public. This made visible their reasons for contesting unsuitable standards for the rule of law or human rights. For instance, in their press conference announcing its new Legal Protection Programme, KPH brought attention to the worsening conditions for LGBT+ Poles in the country which made it necessary to create such a programme for those 'fighting for equality' (Kampania Przeciw Homofobii, 2021e). The programme was launched to provide legal support to LGBT+ activists in a period of increasing hostility socially, politically, and in the courts for LGBT+ activists and organisations (Kampania Przeciw Homofobii, 2021f, 2021g). In this way, KPH brought attention to the assistance that was available for LGBT+ activists and CSOs and explained to the wider public the factors behind their new programme's necessity. Similarly, the various CSOs involved in the Legal Abortion Without Compromises Committee held a press conference to talk about the progress of the draft bill and the project itself ahead of the Committee's official registration (Legalna aborcja. Bez kompromisów, 2021). Such a press conference, widely covered by several national news agencies, brought attention to the bill as well as to why and how the CSOs were contesting government standards for reproductive rights which did not allow for sufficient abortion access. Being able to speak on the issues in this format also allowed CSOs to control the narrative around their activities and the actions of ZP.

CSOs also held press conferences to share updates on ongoing issues in their field (such as judges fighting for judicial independence for whom there were case developments in national or supranational courts), sharing both an update on important events and offering an explainer for why these events were significant to the norms they defended. For instance, KOS held a press conference to give an

update on an interim measure requested by judges working to maintain the rule of law and contest the violation of the rule of law (Fundacja Kongres Obywatelskich Ruchów Demokratycznych, 2022). As a result of this ruling, the Disciplinary Chamber was ordered not to revoke the immunity of Judge Włodzimierz Wróbel (ibid). The press conference was important for explaining the significance of this development but also the ruling's implications for the potential liquidation of the Disciplinary Chamber. KOS used also used the press conference as an occasion to discuss whether such an action would even satisfy the stipulations of the CJEU (ibid). They spoke not only on the issue at hand (the case of Judge Włodzimierz Wróbel whose immunity was at stake) but also on what the decision meant for other legal developments regarding the rule of law in the country, clarifying:

'The injunction was issued because [Disciplinary Chamber] did not meet the criteria of an independent and impartial court, and the scale of violations of the right to a fair trial (Article 6 of the ECHR) had reached a critical level. This is the first provisional decision in the history of the ECtHR which so extensively protects the interests of the party by ordering it to refrain from any action in the proceedings before the body, which does not meet the criteria of the court within the meaning of Art. 6 of the European Convention on Human Rights. This ruling means that the change planned in the draft act on the liquidation of the Disciplinary Chamber of President Andrzej Duda cannot be effective in any way in the context of the allegations made by European tribunals in relation to the implementation of the right to a fair trial' (ibid).

Thus, they clarify their reason for approaching courts to contest this attack on judicial independence but also relate this strategic case to the overall decline in the rule of law in the country, explaining in factual and legal terms why the Disciplinary Chamber cannot be considered a proper court.

7.17. Legal Mobilisation

Legal mobilisation may¹³⁸ be defined as claiming rights in court in favour of eliciting a greater social change (Şerban, 2022, 2018). It has been used by CSOs across the

¹³⁸ Though not the focus of this research, legal mobilisation is a debated concept and term with ambiguity amongst the legal community about which forms of interaction constitute it. For more see this discussion see Lehoucq and Taylor, 2020.

globe for years to reconfigure power relations between the state and civil society (Buckel et al., 2023). Through legal mobilisation, CSOs and others hope to set a precedent which has an impact on cases beyond the one in question and codify the legitimacy of rights claimed under a particular norm. For instance, British labour activists have mobilised the ECtHR to fight for the right to unionise and push back against precarious working conditions for years (Kahraman, 2017). Before the Strasbourg Court, these advocacy groups argued that both rights were matters of human rights and ought to be protected according to the ECHR. Interestingly, they, like Polish judges' associations, for instance, did not look to supranational courts as the primary targets for recourse from the beginning. However, government pressure on trade unions at the domestic level threatened both trade unions and the protections that unions would traditionally negotiate for workers. This created a new opportunity for engagement with alternative actors to reign in the actions of the government (which they alleged to be human rights violations) and directly contest working conditions that, according to the unions, endangered human rights (ibid). In much the same way, both the intensifying attacks on the rule of law and human rights by ZP (including attacks on apex courts, which made some domestic courts less likely to guarantee justice) and the lack of sufficient intervention by EU institutions, like the Commission, which would otherwise intervene, created a new opportunity structure for CSOs and judges to mobilise supranational courts.

Although uncommon in many contexts, legal mobilisation, for instance, in the form of submitting *amicus curiae*¹³⁹ briefs has been a popular method internationally for NGOs focused on refugee, migrant, and asylum seeker rights. These groups have used it for decades to advocate for these rights (and contest their violation as violations of human rights) in courts like the ECtHR (Pijnenburg and Pas, 2022; Van den Eynde, 2013). It is unsurprising then, that the law would increasingly become a venue for strategic interaction for Polish CSOs as well, particularly in cases where the basic standards for norms like the rule of law and human rights (e.g. judicial independence and the right to a fair trial) as laid out in the Treaties, the ECHR, and by ECJ case law were violated. Unlike other strategic interactions, however, legal mobilisation requires several resources which may be difficult for many CSOs to achieve alone. The use of the law to mobilise requires professional legal knowledge, time, and funds, therefore, making a suitable method of interaction for judges'

¹³⁹ *Amicus Curiae* (also called a third-party intervention) means "friend of the court" and is when a third party, not involved in the litigation but which has a strong interest in the litigation, intervenes in proceedings with additional information which may better inform the judge deciding on a case.

associations and CSOs with a legal team, which also have sufficient funding. CSOs which did not have these resources, but which desired to engage in legal mobilisation could also collaborate with CSOs capable of engaging in this interaction, although the majority of CSOs which used this interaction, had sufficient resources or acted as members of a coalition of CSOs. For strategic litigation¹⁴⁰ in general, it was also important that CSOs could identify strategic cases, which were important and representative of human rights and/or rule of law backsliding in the country more widely.¹⁴¹

In their statements about such court cases, representatives from various CSOs explained the significance of a single case for the state of norms like the rule of law in Poland. Even the act of bringing strategic cases to court sent the signal that breaches of the rule of law or human rights would be met by a significant reaction in the civic space (Interview 86). In her 2020 speech before the CJEU, attorney and member of Wolne Sady, Sylwia Gregorczyk-Abram, Esq said:

'You are the last court whose judgment can save the independence of the courts in Poland. And this is precisely that moment. The Polish judiciary cannot wait any longer...the decision you will issue is absolutely crucial to the whole of the European Union.' (Gregorczyk-Abram, 2020).

The above statement exemplifies the importance of international courts especially in the face of the escalating rule of law backsliding domestically, especially when (some) national courts refuse justice. It also highlights the fact that the case, surrounding besieged judge Waldemar Żurek, who had by then become a major symbol of the rule of law breakdown in Poland (Bober et al., 2020; Bodnar, 2022), carried implications far beyond itself. In such cases, the law becomes not only a tool of recourse but also a source of legitimation, which will hopefully guide future decision-making (ibid).

¹⁴⁰ Although some scholars (and NGOs) (Jeßberger and Steinl, 2022) use the terms strategic litigation and legal mobilisation interchangeably, in this work, the former always refers to bringing legal action against another party, while the latter may also refer to, for instance, the submission of amicus curiae briefs.

¹⁴¹ Though not fully discussed here, one matter which influences whether individuals or organisations bring a case to court or speak on behalf of a case as a relevant third party is standing. In most jurisdictions, the proper standing is required to bring about a lawsuit as the party or parties involved must show that they have suffered direct damages or in some way been directly victimised by the party or parties for which they wish to bring a case (CRIN, n.d.). Some courts, like the ECtHR, allow for organisations and individuals not directly affected but who have relevant information, 'retain a strong interest in the outcome of the litigation' (CRIN, n.d.), and have relevant information to contribute to the case the case to intervene as third-parties.

Legal Mobilisation via the ECtHR:

Many CSOs working in the area of the rule of law (and human rights violations related to the violation of the rule of law) had lawyers and/or a legal team available to support or represent judges appearing before supranational courts like the ECtHR. One example of such a case is that of *Żurek v. Poland*, which involved Judge Waldemar Żurek, a judge of the Regional Court in Kraków who was openly critical of changes to the judiciary since 2015 and who had been prematurely terminated from his role as spokesperson for the National Council of the Judiciary without legal avenues to challenge this decision (Bodnar, 2020b; Judgment *Zurek v. Poland* - Polish authorities attempted to silence well-known judge, 2022; *ŻUREK v. POLAND*, 2022). In this case, the Helsinki Foundation for Human Rights, Themis, and Iustitia intervened in the proceedings as third parties and submit comments on the case (ibid). In addition, it was through the efforts of these CSOs and lawyers from *Wolne Sąd*y that the ECtHR prohibited the action of the Chamber of Extraordinary Control and Public Affairs regarding the case of Judge Żurek (*Wolne Sąd*y, n.d.). In a similar case involving the Supreme Administrative Court judge of the Gorzów Wielkopolski Regional Administrative Court, Jan Grzęda whose mandate as a member of the old NCJ was terminated prematurely for political reasons, the Polish Helsinki Foundation for Human Rights and Iustitia (along with several European judges' associations and NGOs) intervened, submitting comments relevant to the case (*GRZĘDA v. POLAND*, 2022; *Grzęda v. Poland* (communicated), 2019).

Lawyers from the Helsinki Foundation also represented besieged Polish judges, such as Warsaw Regional Court Judge Igor Tuleya, whom Helsinki represented in the ECtHR in a case about whether the Polish government breached his right to private life and his reputation by bringing disciplinary proceedings against him (*Wolne Sąd*y, n.d.). Judge Tuleya, like Judge Żurek, had become a symbol of the battle for the rule of law in Poland as he too was a frequent target of politically motivated attacks by the government (Tuleya, 2023). The ECtHR was a popular route; by the 11th month of 2022, 195 applications were pending before the ECtHR related to judicial 'reforms' under PiS in 2017 and 2018 (Country profiles: Poland, 2022). CSOs also approached the ECtHR regarding access to the information of compromised courts and neo-judges. CSOs that monitor government activity, like *Sieć Obywatelska Watchdog Polska* (the Citizens Network Watchdog Poland), especially in threatened or compromised courts like the 'Constitutional Tribunal' approached the ECtHR to gain

access to information about national courts when they were denied access by these courts (Batko-Tołuć, 2021). In this case, Sieć Obywatelska Watchdog Polska was interested in accessing the calendars of the President and Vice President of the 'CT' to determine whether a 'double judge' (an incorrectly appointed judge who is appointed to a position on the court which was already occupied) was assigned to a case.

This action would have risked breaking ECHR since an earlier ruling of the ECtHR declared that such judges do not guarantee the right to a fair trial (this was decided in the Xero Floor ruling (*XERO FLOR w POLSCE sp. z o. o. v. POLAND*, 2021)). In response to their request to the 'CT,' Watchdog Polska was told that the calendars are not public information, so they pursued their case with the ECtHR. In addition to concerns about the document, Watchdog Polska expressed a further concern that the 'CT' was ignoring previous rulings of the ECtHR and that the public was being prevented from accessing information they were privy to as a result (Batko-Tołuć, 2021). This case was later accepted by the ECtHR and the Polish Helsinki Foundation submitted an amicus curiae brief on Watchdog Polska's behalf (Przywara et al., 2022). The ECtHR was not only a venue for organisations focused on the rule of law. On the front of reproductive rights, by 1 July 2021, over 1.000 cases were communicated to the Polish government by the Court regarding access to abortion in Poland after the October 2020 de facto ban (Country profiles: Poland, 2022). This large number of cases was due, in part to a campaign run by FEDERA which led a massive mobilisation to help Polish women submit a complaint to the ECtHR (*Communication under Rule 9(2) of the Rules of the Committee of Ministers in the cases Tysiąc v. Poland (App. No. 5410/03), R.R. v. Poland (App. No. 27617/04) and P. and S. v. Poland (App. No. 57375/08)*, 2021). Through this campaign, complainants could print out the complaint provided by the CSO (67 pages), fill in three pages related to the reasons for the complaint, and then send it by post to the ECtHR directly (ibid).

Legal Mobilisation via the CJEU

CSOs in Poland can access the CJEU in two ways, through a national court, like the Supreme Administrative Court, which sends requests for preliminary rulings to the CJEU or through the European Commission, which can refer cases to the CJEU. Once gaining entry to the CJEU, CSOs mostly engaged with the court by assigning lawyers on their legal teams to represent judges in strategic cases which were emblematic of the battle for the rule of law. For example, as of 2019, lawyers from KOS handled

around 30 cases regarding judicial independence and other issues judges faced (e.g. being forced into early retirement) (*A country that punishes: Pressure and repression of Polish judges and prosecutors*, 2019). Wolne Sądy, likewise, represented Polish judges appearing before the CJEU who had been reprimanded by the Disciplinary Chamber such as Judge Żurek (Gregorczyk-Abram, 2020). CSOs did not only represent judges in cases that appeared before the CJEU, but they also used the Court to sue in cases important for the rule of law. Polish CSOs,¹⁴² along with several international CSOs (mostly judges' associations) sued the EU Council before the CJEU for its initial decision to consider unblocking Covid Recovery funds for Poland once Milestones (which were insufficient to restore the rule of law) were met (MEDEL, 2022). The case was of strategic importance for several reasons. Firstly, it surrounded the availability of Recovery Funds which had been suspended because of systemic issues with the rule of law in Poland.

Secondly, the matter regarded releasing such funds, upon the satisfaction of 'Milestones' which, even if fully accomplished before any funds were disbursed, would still have 'disregard[ed] the judgments of the CJEU on the matter' and failed to protect Polish judges (*ibid*). Lastly, by bringing such a case against the EU Council, CSOs not only contested the actions of the government as a violation of the rule of law but they also demonstrated their intention to contest the EU Council or any other institution that acquiesced to non-compliance with the rule of law. Unlike with the ECtHR, access of CSOs as third parties to CJEU proceedings is not always successful and it is less straightforward. The CJEU limits the access of third parties once a case is communicated to them by a national court. This means that CSOs that have not already intervened at the local court level will likely be unable to do so once the case reaches the supranational level (Krommendijk and van der Pas, 2022).¹⁴³

Legal Mobilisation via National Courts

Supranational courts were not the only targets of legal mobilisation. Lawyers from CSOs like KPH, KOS, and The Helsinki Foundation for Human Rights still represented activists and judges in local courts. National courts are, of course, one of two gatekeepers for access to the CJEU (Krommendijk and van der Pas, 2022), thus even CSOs which felt that justice may only be achieved through a supranational court,

¹⁴² In the suing coalition were Polish CSOs Lex Super Omnia and Iustitia (operating as members of MEDEL).

¹⁴³ This is not always the case, see *ibid*.

began proceedings in national courts. Strategic interactions here took on three forms. Firstly, CSOs assigned their lawyers or legal teams to represent activists and independent judges before national courts. Secondly, they submitted letters to the court communicating important details about the cases at hand. Lastly, lawyers from the CSOs of focus took direct legal action (e.g. initiating lawsuits). In strategic litigation cases related to the rule of law and involving disciplinary measures against judges, such as waiving their immunity or removing them from adjudication, CSOs represented independent judges in the Disciplinary Chamber, the Chamber of Extraordinary Control and Public Affairs, and local labour courts. Judges of KOS regularly defended judges standing before the Chamber of Professional Responsibility (Wolne Sądy, 2022) and the Disciplinary Chamber which preceded it (Jałoszewski, 2020b; Wolne Sądy, n.d., n.d.). Likewise, the Helsinki Foundation took up the cases of judges facing disciplinary measures (Helsińska Fundacja Praw Człowieka, 2019c), presenting a position statement to the Disciplinary Chamber explaining that only a completely independent court could assess the case of Judge Alina Czubieniak, whom the case concerned.

Additionally, the Helsinki Foundation expressed concerns that disciplinary measures were being used as a way to reprimand judges for upholding EU law and functioning independently (ibid). Cases were not only about judicial independence, however. The Polish Helsinki Foundation also submitted an *amicus curiae* brief in a case brought before the Constitutional Tribunal, this time regarding the amendment to the Constitutional Tribunal Act (Helsińska Fundacja Praw Człowieka, 2016). The Helsinki Foundation was concerned that the Act may 'constitute a threat to the stability of the constitutional system, and may amount to a violation of the principle of a democratic state ruled by law resulting from e.g. the fact that too short lawmaking process (laws are passed without the *vacatio legis* period) may threaten to the certainty of the applicable law' (ibid). Cases such as these were quite common for the Polish Helsinki Foundation for Human Rights. In fact, the CSO has an advanced team of lawyers focused solely on strategic litigation in cases involving issues like migrant rights, LGBT+ rights, the freedom of assembly, and the right to access an impartial tribunal established by law (Wiśniewska and Kładoczny, 2021). This team has handled relevant cases such as that brought against the Minister of Justice regarding disparaging statements made against a judge which the Helsinki Foundation found could represent a form of political pressure (Szwed and Płoszka, 2017) and their 2018 third-party intervention in the case of the mayor of Lublin who

sought to ban the Equality March in the city (Helsinki Fundacja Praw Człowieka, 2018).

For cases centred on the defence of LGBT+ and reproductive rights and/or the activists and CSOs working to defend these rights, local courts were the most appropriate venues. LGBT+ CSOs facing a restriction on Pride and Equality Parades and the 'Zones Free of LGBT Ideology' responded by approaching the courts of the provinces and municipalities in which politicians had limited their rights (Fabryka Równości, 2021). After the Lublin mayor Krzysztof Żuk banned the Lublin Equality March (a decision forbidden according to previous ECtHR rulings), KPH prepared an amicus curiae brief for the District Court in Lublin (Kampania Przeciw Homofobii, 2018). Several other LGBT+ CSOs did the same, pressing the Lublin court to remove the ban ("Letter to Lublin Court of Appeal," 2018). Likewise, volunteer lawyers working with CSOs like KPH have represented LGBT+ CSOs facing SLAPPs¹⁴⁴ for their activist activities, such as Atlas of Hate (Kampania Przeciw Homofobii, 2020d). Even CSOs focused on the rule of law, like Wolne Sądy, which mostly represented besieged judges in courts like the CJEU for instance, represented activists like Bart Staszewski in his bid to stop the circulation of Gazeta Polska's 'LGBT Free Zone' stickers (Wójcik, 2019b) as part of his efforts to challenge growing anti-LGBT+ discourse in the country ("Next hearing in lawsuit against Bart Staszewski scheduled," 2021). For instance, CSOs and activists focused on reproductive rights like Justyna Wydrzyńska were represented by CSOs like Fundacja Centrum Praw Kobiet (Women's Rights Center Foundation), which submitted an amicus curiae brief to the Warsaw District Court hearing her case (Kazimierska and Gzyra-Iskandar, 2022).

Likewise, CSOs like the Polish Helsinki Foundation submitted a letter to the Court of Appeal in Lublin with additional information on the case related to the disruption to the Lublin Equality March (Kędziora, n.d.). In their letter, the Helsinki Foundation went over basic facts of the case, such as when and how the Lublin City Hall received a notification about a public meeting (the Equality Parade) scheduled for 13 October 2018, the role and recognition of Equality Parades in general, the legal basis

¹⁴⁴ SLAPPs or Strategic Lawsuit Against Public Participation are a form of discriminatory legalism in which lawsuits are filed against journalists, media, CSOs, and others, typically for 'large sums of money' in which the 'objective is not to win in court but to get the entity under attack to stop its activity' (Jędrzejczyk, 2021b). In the Polish context, SLAPPs are used by the government and powerful CSO to 'persecute minorities...punish dissent, and to enforce executive power discursively legitimized by the will of the people' (Demczuk, 2021; Lacey, 2019). In other words, 'foes' of the government and other powerful actors are pressured to stop their activities through aggressive lawsuits that weaponize the judiciary for political means.

that the Mayor of Lublin used to prohibit the Parade, and the response from organisers, the Ombudsman, and the Foundation itself regarding the legality of such a ban (ibid). National courts were not just venues to support judges and activists, however. By 2021, judges from Themis and Lustitia sued 25 new Supreme Court judges in the Labour Chamber to determine whether the new judges were correctly appointed (Woźnicki, 2021). Lustitia judges did the same with new judges from the Chamber of Extraordinary Control, the state treasury, and the Supreme Court (ibid).

7.18. Development and Support of Draft Legislation

While some strategies relied on the courts as venues to uphold existing legislation in strategically important cases, other CSOs proposed new legislation altogether. Instead of just contesting extant standards for the rule of law and human rights, then, CSOs also proposed laws which would ensure that the rights of focus would be catalogued and codified under these norms. CSOs collected signatures for a variety of causes, such as requests for reversal of changes made to the Constitutional Tribunal which made it susceptible to government influence (“Mamy 100 tysięcy podpisów pod naszym projektem ustawy o Trybunale Konstytucyjnym!,” 2016), draft acts to decriminalise abortion (Chrzczonowicz, 2022; “Oświadczenie w sprawie projektu ustawy Legalna aborcja,” 2022), and draft laws to elevate concerns about the rise in radical (e.g. homophobic) discourse by PiS to the EU (Interview 93). The option of proposing draft bills is especially attractive in Poland because draft bills with 100.000 handwritten signatures go directly to the Sejm to be considered by MPs there (“Projekt ustawy o fladze Unii Europejskiej - rusza zbiórka podpisów,” 2018). Politicians are then made to take a stance on the proposed measures (although they can opt out of voting), which also helps bills and CSOs gain visibility (sometimes internationally). Using this measure, Lustitia proposed a bill called *Agreement for the Rule of Law*, which was supported by a variety of liberal CSOs and designed to 'sanitise the judiciary' (Ejchart-Dubois et al., 2022).

It contained measures to correct the neo-KRS, upholding the rulings of the CJEU and ECtHR, which challenged both neo-judges and the neo-KRS, proposed a process of vetting new recruitments to a newly elected KRS, and recommended a new disciplinary procedure for judges, among other conditions (ibid). The bill was designed to remedy the most serious threats to the rule of law in Poland and to

create a solution for neo-judges- both addressing neo-judges in the neo-KRS, to assist them in returning to their previous positions after proper vetting (*ibid*). It also had a plan for neo-judges on the Supreme Court who were appointed by the neo-KRS. Finally, it proposed the liquidation of the problematic and unconstitutionally composed Chamber of Extraordinary Control and Public Affairs. *Iustitia*, likewise, proposed a bill to repair the porous boundaries between the legislative and judicial branches, calling for an end to the Minister of Justice being able to appoint court presidents and suggesting a democratic manner for electing judges to the KRS (*Rebelianty Podkarpackie*, 2019). *Iustitia* intended for the bill, which would have been an amendment to the Law on the System of Common Courts, to be voted on before the upcoming elections (*IUSTITIA Stowarzyszenie Sędziów Polskich*, 2019). In addition to this draft law, *Iustitia* also sent a letter to PiS's parliamentary club (a faction of members in the Polish Parliament) outlining the reasons for the draft bill, including politically motivated smear campaigns against judges who defend judicial independence, the inappropriate role played by a politicised Minister of Justice, and the lack of ethical and legal avenues for disciplined judges seeking recourse due to the Disciplinary Chamber's politicisation (*Kancelaria Sejmu*, 2019).

Three years later, a similar draft act was proposed by a consortium of CSOs like KOD, *Wolne Sądy*, *Obywatele RP*, and *Akcja Demokracja*, with the support of several parties such as PO, Lewica, and Razem (*Stowarzyszenie Adwokackie Defensor Juris*, 2022). This bill, submitted as a parliamentary project, called for the liquidation of the neo-KRS, the creation of a legal KRS, the loss of function of neo-judges of the KRS, a procedure to correctly appoint judges to a new KRS, the liquidation of the Disciplinary Chamber and the Chamber of Extraordinary Control and Public Affairs, and the creation of a fair disciplinary system for judges (*ibid*). Draft bills were also popular options in the field of reproductive rights. On 23 October 2017, a consortium of women's CSOs submitted a draft bill with 500.000 signatures to improve access to reproductive rights in the country (*FEDERA*, 2017b). Their project committee, called 'Let's Save Women' proposed to liberalise abortion access in Poland so that its availability mirrored the laws in other EU countries. This is not unlike the way that other CSOs attempted to 'use the EU as a reference' when suggesting legal changes in Poland's pre-accession period. Included in this draft bill were the option of legal pregnancy termination up to the end of the 12th week of pregnancy, the introduction of sex education in schools, the regulation of physicians' use of the conscience clause, free and easily accessible contraception

and the restoration of emergency contraception's availability (without a prescription) (ibid).

The CSOs behind the bill viewed it as a measure to ensure the protection of reproductive rights in Poland, seeing these rights as linked to human and fundamental rights and believing that the competing anti-abortion bill from the 'Stop Abortion Committee' was a serious threat to these rights ("Projekt „Ratujmy Kobiety 2017” trafił do Sejmu – Ratujmy Kobiety,” 2017). CSOs both directly and indirectly involved with the creation of the bill worked to disseminate it, some even creating hashtag campaigns to further the bill by asking signatories to share with friends and family before taking a selfie and using the hashtag #ZbieramBoPopieram (#ICollectBecauseISupport) (KOD Dolnośląskie Wrocław, 2021). Like other interactions, it was the initiative of several CSOs (not all of which primarily focused on abortion or reproductive rights) including several KOD chapters, Grupa Stonewall (Poznań) (Stonewall Group), Feminoteka, and Dziewuchy Dziewuchom. It also received support from several political parties like Inicjatywa Feministyczna (The Feminist Initiative), Partia Razem (Together), Partia Zieloni (The Greens), Sojusz Lewicy Demokratycznej (The Democratic Left Alliance), and Unia Pracy (Labour Union) (ibid). The bill, unfortunately, did not make it out of the Sejm (Korolczuk, 2016a).

Years later, in 2021, many of these same CSOs and parties found themselves in a similar situation as they again proposed draft legislation to liberalise abortion access while a bill to ban abortion was already circulating for consideration in the parliament. The committee for the bill *Legalna Aborcja. Bez Kompromisów* (Legal Abortion. No Compromises) was formed by several CSOs like OSK, Łódzkie Dziewuchy Dziewuchom, Aborcjny Dream Team, and FEDERA and members of political parties like Partia Zieloni and Lewica (KOD Dolnośląskie Wrocław, 2021). The offices of the various CSOs were used as drop-off points for new signatures and participants (which included those not affiliated with CSOs) were encouraged to print the signature list and help collect signatures themselves. Such a joint effort made it possible to sometimes collect hundreds of signatures in a single day (ibid). CSOs also used occasions of large gatherings to take advantage of increased opportunities to collect signatures, such as the Łódź Light Move Festival, where signatures were collected by CSOs like Łódzkie Dziewuchy Dziewuchom (Łódzkie Dziewuchy Dziewuchom, 2021c). This bill was, similarly, unsuccessful. Despite the outcome of the bills, CSOs worked to introduce suitable legislation when existing

provisions under the law were insufficient, lacked application, or were non-existent, indicating their desire to change the legal reality for the rule of law and human rights.

7.19. Statements

Statements Issued to Activists, Judges, and General Audiences

Statements were used to discursively contest government discourse, actions, and laws believed to worsen standards for the rule of law or human rights. They were also used to express solidarity with other CSOs and activists and to speak out against and explain concerns regarding changes in Poland. Unlike appeals, statements did not call upon the audience to act or make a change but simply made clear the position of a CSO and the reasoning behind their identification of laws, actions, and/or discourses as (potentially) in violation of the aforementioned norms. In their statement about the attacks at the Białystok Equality Parade, the Podlaskie chapter of KOD expressed disdain for the attacks, serious concerns with the growing anti-LGBT+ discourse of PiS, and expressed solidarity with march participants (Komitet Obrony Demokracji, 2019). Importantly, they were careful to make the links between increasingly hateful discourse at the national level and attacks against LGBT+ persons on the local level. Another LGBT+ CSO, Tęczowe Opole wrote a statement about the so-called Family Charters signed by President Duda in light of provinces declaring themselves 'Zones Free of LGBT Ideology' (Tęczowe Opole, 2020). In their statement, they stressed that there is no LGBT Ideology, only LGBT+ people who deserve support from the president regardless of their gender identities. They therefore announced that they, as voters, will seek a candidate who represents their values and represents both rainbow and 'traditional' families. Other CSOs also used their statements to report on relevant events and explain the significance of these events for issues like judicial independence and the separation of powers. This is exemplified by the joint statement released by various judges' associations outlining the changes made to Polish courts and threats to independent judges which had taken place in recent years (Stowarzyszenie Sędziów Rodziny w Polsce, 2017a).

Stowarzyszenie Sędziów Rodziny w Polsce (the Association of Family Judges in Poland), in their statement, similarly outlined their concerns regarding several

changes made to Polish courts by the United Right Coalition, especially those which threatened judicial independence (Stowarzyszenie Sędziów Rodziny w Polsce, 2019). They also reprimand the official government narratives that are fed to the media and meant to politicise the courts as they 'undermine[d] the authority of courts and judges and discredit[ed] the hard work and ethos of judges' (ibid). CSOs often used their statements to inform the general public that certain actions were illegal and/or dangerous for the rule of law or human rights. For example, Stowarzyszenie Sędziów Rodziny w Polsce made a statement about the non-publication of a judgement of the CT (Stowarzyszenie Sędziów Rodziny w Polsce, 2016) and again regarding the amendment of the Law on the System of Common Courts (Stowarzyszenie Sędziów Rodziny w Polsce, 2017b). These statements were to draw attention to specific events along the timeline of the rule of law breakdown. They clarified the obligations of the CT and the Prime Minister under Polish law and explained the consequences that such actions had for the rule of law (ibid). Kongres Kobiet, a traditionally non-partisan CSO issued a statement at the very beginning of the rule of law crisis, when judicial appointments to the Tribunal were challenged. In it, they explained their reasons for participating in the protest against this decision with KOD (Kongres Kobiet, 2015b).

This statement clarified their position as an organisation and their reasons for attending such an event but also made known their specific concerns regarding the actions of the new ruling party and its relationship to democracy. The Open Dialogue Foundation, upon witnessing changes such as the government's attempts to subjugate independent courts issued a statement describing all of the events and concerns that inspired their turn toward activism and the contestation of government acts and discourse which posed a threat to the rule of law (Kramek, 2017). It was important that CSOs outlined the factual and legal basis for their claims of norm violation, especially when matters, like court appointments, became politicised. Such a position is especially important when the ruling party can instrumentalise 'official' narratives about judges, CSOs, and changes in the judicial system (White Paper on the Reform of the Polish Judiciary, 2018; Wójcik, 2020a), controlling the delivery of information in these areas to Polish citizens. Like with press conferences, such interactions allowed CSOs more autonomy to control the narrative around their activities and threats to the rule of law and human rights. Organisations also used statements in a show of solidarity to other activists and judges, such as the statement of Łódzkie Dziewuchy Dziewuchom which both warned against increasing anti-LGBT+ sentiment in the media and politics and

expressed solidarity with LGBT+ activists facing legal action because of their activism (Łódzkie Dziewuchy Dziewuchom, 2021d).

They posted the statement on their Facebook page along with photographs of them with the rainbow flag. The significance of the flag in their photographs is related to the charges which the activists in question were facing, namely flying the rainbow flag at the City Hall of Łódź in support of LGBT+ people attacked by the government and the Church, especially the activist Margot and groups like Stop Bzdurom (Stop Bullshit) (ibid). LDD spoke out against the 'escalating' anti-LGBT+ sentiment growing in Poland since 2015 and the role that such sentiment played in the political strategy (Christie and Savage, 2020) of the ruling party. They warned that such increasing sentiments were not 'a fad' but rather should be seen in the light of historical atrocities in which LGBT+ persons, as well as other minorities, were persecuted (ibid). In a political, legal, and social environment where many CSOs, judges, and activists found themselves on the receiving end of threats, violence (psychological or physical), SLAPPs, harassment, and other issues, statements showing solidarity are also important (Ambroziak, 2021; Bojarski, 2018e). Posts and other statements of support often included phrases like 'you will never walk alone' to impress upon these targeted figures that although their journeys, struggles, and defeats may be personal experiences, they should know that CSOs and others are 'behind' them and they need not feel alone (Stowarzyszenie im. Prof. Zbigniewa Hołdy, 2020). In one case, various CSOs penned a statement thanking the Justices of the Supreme Court who refrained from adjudicating with neo-judges ("List otwarty do Sędziów Sądu Najwyższego," 2022).

Statements expressing solidarity with and appreciation for judges in Poland who continue to uphold the rule of law and work towards the preservation of judicial independence were common for judges' associations and other CSOs focused on the rule of law (IUSTITIA Stowarzyszenie Sędziów Polskich, 2021b). There was also an important psychological component to such statements, as judges facing political pressure also experience psychological stress. Letting them know they are not alone, therefore, offers comfort and hopefully positively effects their morale.

Statements Issued to National Courts, Political Figures, and Institutions (e.g. Sejm)

Statements also directly addressed national courts and institutions- typically to put them on notice of the consequences of the bills, discourses, or initiatives for the rule of law and human rights. For instance, a group of CSOs from Poland and abroad sent a statement to the Polish Parliament in which they described their concerns about the 'Stop Abortion' bill. In particular, they were concerned about the bill's consequences for reproductive rights in the country and wished to elevate 'the voices of women across Poland' regarding the 'regressive legislative proposal and protect women's health and human rights' ("Polish parliament must protect women's health and rights," 2018). They reminded parliamentarians that such legislation could violate human rights such as 'the rights to life, health and health care, non-discrimination and equality, privacy, and freedom from cruel, inhuman or degrading treatment' (ibid). They also cited rulings by the ECtHR and statements from the Court regarding the precarious human rights situation in Poland created for women due to existing stringent abortion laws. In addition, they confronted parliamentarians with statements from the UN Human Rights Committee, the Committee on Economic, Social, and Cultural Rights, the Committee on the Elimination of all Forms of Discrimination against Women, and the Committee Against Torture, which were in favour of liberalising abortion to protect human rights (ibid). Other organisations wrote to members of the Polish Parliament in support of individuals they felt had been victimised by legal changes in Poland and to express their outrage at these changes.

For instance, OSK wrote a letter to MPs Joanna Borowiak and Anna Gembicka (*Strajk Kobiet Włocławek*, 2021b). This statement concerned Agnieszka T. and her foetus, both of whom died upon doctors allegedly refusing to remove the foetus of Agnieszka T., which endangered her health (*Strzyżyńska*, 2022). This event happened shortly after the October 2020 de facto abortion ban and was thought to be related to uncertainties that medical staff faced as a result of the ban. In addition to declaring that no more women ought to die because of abortion laws and lack of access to legal abortion in Poland, the CSO asked whether the MPs and their party have a conscious and rhetorically pondered how far the process of imposing restrictions to reproductive rights would go (*Strajk Kobiet Włocławek*, 2021b). The scathing statement expressed the grievances of Polish women, both those denied abortions and those seeking them abroad out of desperation (ibid).



Figure 14. OSK for Agnieszka T. (Ogólnopolski Strajk Kobiet, 2022b)

In another example, CSOs responded to the statements of President Duda's daughter, Kinga Duda who delivered a speech upon her father's re-election in 2020 saying that she wished for a Poland where everyone was accepted (Wernio, 2020). In their statement, Edukacja w Działaniu (Education in Action) brought it to Kinga's attention that the statements of politicians (like President Duda) about LGBT+ persons made such a reality impossible ("A story for Mrs. Kinga Duda," 2020). Lastly, some statements were directed to national courts, like that of Obywatele RP w Bydgoszczy to the National Prosecutor's Office. This statement was a declaration of defiance (Malinowska, 2020). In their letter, Obywatele RP w Bydgoszczy reported itself for asking people to come out and protest against the de facto abortion ban even though COVID-19 restrictions on gatherings were in place. They also declared solidarity with women protesting against the ban (ibid). In their statement, Obywatele RP w Bydgoszczy called out several important figures such as Jarosław Kaczyński and Zbigniew Ziobro for their role in turning back reproductive rights in Poland.

7.20. Collaborating with Local Politicians on Interactions

When faced with a national situation that could not (immediately) be remedied through collaboration with the ruling coalition or changing the law, CSOs also worked on changing the local reality of the groups they advocated for by collaborating with local politicians on interactions. This particular strategic interaction was seen exclusively in regard to LGBT+ rights. CSOs sometimes found a sympathetic ear on the local level, which resulted in decision-making that had a tangible impact. For instance, the European Commission's stipulation that funds from partnership agreements with Polish voivodeships which had declared themselves 'Zones Free of LGBT Ideology' would be cut was the result of a proposal developed in part after various meetings between KPH and multiple voivodeships ("Zakaz finansowania stref anty-LGBT w Umowie Partnerstwa," 2022). Tolerado, working towards more long-term collaboration and a positive change for the rights of LGBT+ persons, developed a programme called 'Local Leaders as the Engine of Social Change' ("Project Local leaders and leaders," 2022). In this programme, leaders from Tolerado met with leaders in small and medium-sized towns in Pomerania and the surrounding area (especially Sztum, Malbork, Elbląg, and Łębork) to discuss the situations and needs of LGBT+ persons there (ibid). Out of this project, a conference was held, and several best practices documents were developed regarding how to improve the standards for LGBT+ persons locally even if the national environment was one of ever-decreasing rights and standards (Ogólnopolskie Forum Profesjonalistów Praktyków, 2022; Stowarzyszenie na rzecz osób LGBT „Tolerado”, 2022).

In a similar way, Miłość Nie Wyklucza, through their programme MNW Self-Governments, developed an LGBT+ Declaration with Warsaw Mayor Rafał Trzaskowski (Miłość Nie Wyklucza, 2019d). This now infamous Declaration included several measures for LGBT+ persons such as a hostel and safe haven for them when they are expelled from the places they used to reside, more municipal support for LGBT+ people, anti-discrimination training for LGBT+ persons in schools (something United Right had been starkly against), better support (at the municipal level) for LGBT+ CSOs, and the implementation of anti-discrimination clauses for contractors working with the city (among other clauses) (ibid). The development of this initiative was supported by other key figures such as Ombudsman Adam Bodnar and Polish Independent MEP, Sylwia Spurek, together with the support of other CSOs like

Trans-Fuzja and Lambda Warszawa, which joined the network later (Miłość Nie Wyklucza, 2019e, 2019d).

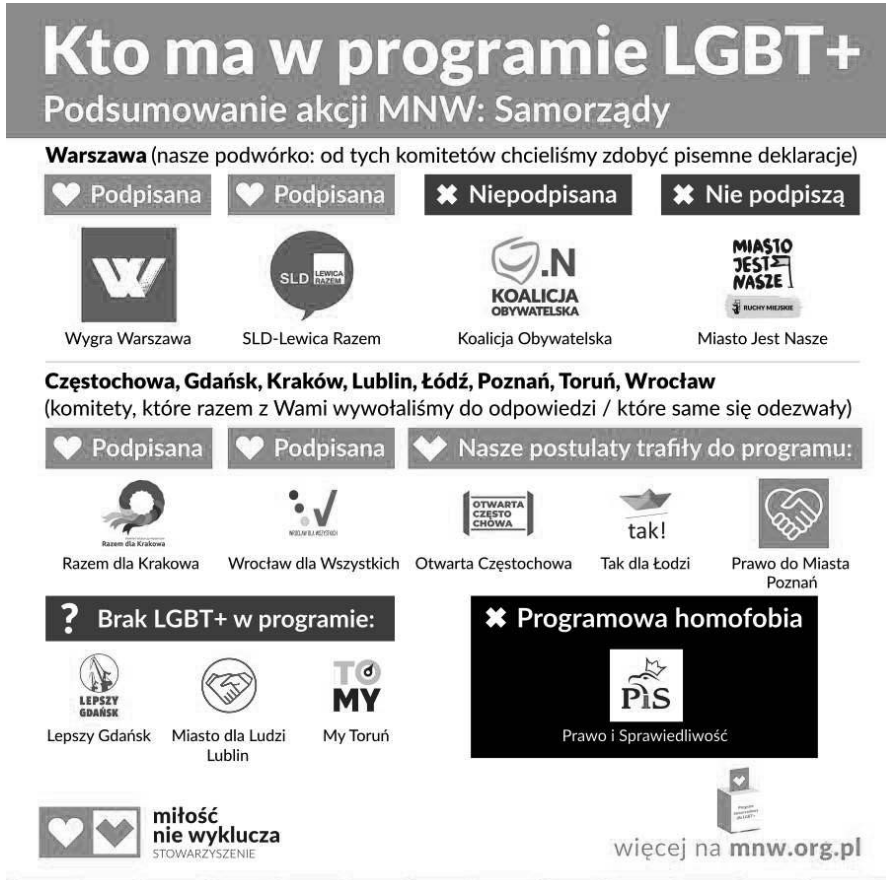


Figure 15. Poster showing which parties signed the LGBT+ Declaration (heart), which had not responded (question mark), and which had refused (x) (Miłość Nie Wyklucza, 2019e)

CSOs like Bank Równości worked together with the city officials (from Koalicja Obywatelska (Civic Coalition) and Lewica) in programmes like 'Kalisz is a city without hatred,' a resolution to better support minorities, including LGBT+ persons living in the cities (Bank Równości, 2020c). Although it did not pass for 'procedural reasons,' this act was significant because it showed that local parties were willing to collaborate openly on resolutions and other acts that would directly improve conditions for LGBT+ persons in their cities. Thus, for CSOs focused on LGBT+ rights,

collaboration with local officials was an attractive option to remedy issues at the national level (e.g. lack of support and protection of LGBT+ persons), when national law failed to do so.

7.21. Direct Support for Affected Parties

This category is defined as activities and programmes designed to provide direct support to individuals immediately affected by decaying standards of the rule of law, reproductive rights, and/or LGBT+ rights. In this way, these individuals, many of whom are activists, seek to defend these norms, and/or whose rights are threatened (e.g. judges facing disciplinary measures) can continue their work. Direct support can involve financial, legal, and medical (including psychological) support. CSOs like Stowarzyszenie im. Prof. Zbigniew Hołdy created a fund for any legal professionals facing disciplinary action or other financial consequences as a result of pressure from the government or Disciplinary Chamber ("Fundusz Wsparcia Praworządności," 2022b). KOS, likewise, provided psychological support to legal professionals who were subjected to political pressure in their professions (Komitet Obrony Sprawiedliwości, 2019b). Their support covered themes like developing mental resilience, how not to give in to pressures, and emotion regulation and its role in responding firmly to difficult situations (ibid). These services required payment, but a variety of services appeared to be available, including workshops; unfortunately, it appeared that such targeted support for legal professionals was rare. Some CSOs also offered special training to help judges resist specific forms of political control. Fundacji Ośrodek Kontroli Obywatelskiej ran the programme 'Pioneering anti-SLAPP Training for Freedom of Expression PATFox' with other international organisations (Wójcik, 2022).

During this workshop, victims of SLAPPs from Poland shared their experiences fighting SLAPPs and participants learned more about SLAPPs and how to fight them. Some CSOs focused on providing direct support to activists. Psychological support was not just important for legal professionals, it was especially important for LGBT+ persons and activists (Interview 29; Interview 93; Interview 6, Interview 19), as the political and social environments around them had become increasingly hostile to

their existence and activities since 2015.¹⁴⁵ Social (including psychological) support was also important for outcomes to reduce stress and feelings of depression (Abramowicz et al., 2017). There were support programmes offering psychological support and access to a welcoming community space for LGBT+ persons and activists (interview 29). Some of these activities were tailored to a specific community, like trans persons living in Poland (Fundacja Trans-Fuzja, 2022; Kultura Równości, 2021) or LGBT+ persons in Poland (e.g. the services of Tęczowe Pogotowie (Rainbow Ambulance), which focused exclusively on providing support). Tęczowe Pogotowie provided not just free psychological support, but also free legal help, sexological support, and special mental support for trans persons (also provided by a trans woman) (Tęczowe Pogotowie, n.d.). This CSO was launched in 2019 as a direct response to both the challenges brought on by the COVID-19 pandemic and the political situation for LGBT+ persons in Poland (Tęczowe Pogotowie, n.d.).

Several CSOs offered a hotline for activists fighting for abortion rights who experienced acts of oppression as well as those 'in difficult situations' with their pregnancy (financed by The Stefan Batory Foundation) (Manifa Toruńska, 2021b). Some CSOs also offered legal support to LGBT+ activists; such was the case with KPH's legal hotline service (Kampania Przeciw Homofobii, 2021g). This service provided free legal help in Polish, English, and Ukrainian to all LGBT+ persons seeking assistance with regular legal procedures (like changing their names) but also those whose personal rights had been violated, those who faced discrimination, or those facing criminal charges (as activists often are) who are preparing a defence strategy (ibid). A similar hotline has existed since 1991 offered by FEDERA, for people seeking advice on their reproductive rights, including advice on contraception and advice on their pregnancy (FEDERA, 2018c). Lines were staffed by doctors (including a gynaecologist and a psychologist) and sex educators (from group PONTON), as well as legal specialists due to the number of women concerned about various acts restricting or threatening legal abortions (ibid). Networks like the nine-member organisation Abortion Without Borders also helped women seeking abortions with direct advice and provided assistance in obtaining an abortion in Poland or abroad (Aborcja Polska - Women Help Women, 2020). Even though some of these hotlines (like the one of FEDERA, just mentioned) existed before 2015, the

¹⁴⁵ This is not to say that the situation for LGBT+ persons or LGBT+ rights was positive before PiS came to power, there is a long history (as reflected in previous chapters) of attacks to LGBT+ rights and slow advancement in this area.

importance of knowing one's rights related to abortion or other reproductive health services increased as access to reproductive care was restricted. It may have also been unclear to women what their rights were regarding the termination of their pregnancies or how they could best access birth control once restrictions were passed.

7.22. Resources and Barriers

CSOs faced a number of threats when working to achieve their goals but they also had access to a number of resources that aided their work. For instance, various actors attempted to weaponize the law against activists (Batko-Tołuć, 2022c; Mycielski and Kramek, 2019; Tilles, 2022c), activists were subject to acts of harassment (including doxing, office raids, and threats) (Jędrzejczyk, 2021a; Serwisu, 2018; Szuleka, 2018b), CSOs' protests and other work were disrupted (Helsińska Fundacja Praw Człowieka, 2022; Pazderski, 2020), CSOs' funding was jeopardised (Pospieszna and Pietrzyk-Reeves, 2022; Taborowski, 2022), and they were sometimes targeted by police (see section **7.22.6. Barrier: Police**). Other acts by the government, such as (proposed) laws restricting sexual and anti-discrimination training and related CSOs from schools (Margolis and Bielecka, 2019; "Poland: Reject New Curbs on Abortion, Sex Ed," 2020) put CSOs in a constant state of being 'on the defensive.' Even acts that were proposed and/or eventually not passed were stressful to CSOs as they constantly worked to speak out against these acts and dealt with chilling effects related to them (e.g. that schools were less likely to interact with them once it seemed that United Right was trying to politicise interactions between schools and liberal CSOs). In this state, CSOs often exhausted financial and human resources defending against new acts, changing their activities to comply with legal and social changes, and finding ways to keep themselves financially stable while maintaining normal operations ("NGO letter to EU Ministers on rule of law and human rights situation in Poland," 2022).

However, even with these barriers, CSOs could access a number of resources to make their interactions successful and often pooled resources, like expertise and funding to make up for shortcomings. CSOs worked closely with each other to achieve their goals of countering, bringing attention to, contesting, or reversing backsliding and formed important bonds with other organisations and political

figures, including international audiences. These collaboration opportunities were strengthened by simultaneous threats to various rights, which helped CSOs unite against common difficulties (Interview 86), much like the resistance movements of the communist period. This bond was demonstrated by CSOs' mutual participation in various strategic interactions like the launching of appeals to EU institutions via open letters, the writing of detailed reports on their areas of focus, or participation in mobilisations. For instance, mobilisations for Polish judges affected by the rule of law crisis drew not only CSOs focused on the rule of law but also CSOs focused on issues like reproductive (Łódzkie Dziewuchy Dziewuchom, 2021e; Obywatele RP w Bydgoszczy, 2017) and LGBT+ rights (HomoKomando, 2021). Likewise, protests against restrictions on abortion were attended not just by CSOs focused on reproductive rights but also by CSOs focused on LGBT+ rights (Queerowy Maj, 2020b; Śląska Manifa, 2020). In addition to such collaborations on strategic interactions, CSOs shared and combined resources. Larger CSOs distributed funding to smaller partners¹⁴⁶ (Interview 93, Interview 183; Interview 95) and coalitions of CSOs worked together with different partners providing services in the areas where they had more experience and expertise (Interview 86), resources (Interview 159), or providing in-kind contributions like space for activities (Interview 20; Interview 29). The sections below recount, in detail, the barriers and opportunities uncovered in this research.

7.22.1. Opportunity: The Online Space

With the rise of Internet 2.0 there has been speculation in fields like Social Movement Studies and Democracy Studies about the role that the online space can play in facilitating social action, social movements, and its effect on political relationships in the offline world (Dubois and Blank, 2018; Wojcieszak and Rojas, 2011). In these and related fields, the verdict is often delivered that the online space has bequeathed to the social movement nothing more than a series of shallow expressions absent of actual discourse and potentially a (more) politically divisive atmosphere as social media sites and targeted content funnel users to pages and news sites where they are likely to interact with others in their social and political bubbles. Some argue, still, that the online space succeeded in meeting some of the

¹⁴⁶ This was especially important for CSOs receiving EU funding for instance, as funding requirements focused on established and registered CSOs with the capacity to complete the application process (which may require a development team or skilled proposal writers) (Interview 29). CSOs would also have to demonstrate to the EU sufficiently how they would manage the funds (ibid).

expectations pinned on it, such as the creation of new political communities and a disruption of political power dynamics in which citizens are no longer spoken to by politicians but can also have intricate political discussion amongst themselves (Pink et al., 2016). Extant research on activists' and CSOs' use of the internet and tools like social media point to its potential to expand movements by expanding to new international publics whose identities also align with those of social movements (Ayoub and Brzezińska, 2015; Khazraee and Novak, 2018). This has the effect of improving community-building and introducing actors, such as activists and CSOs to new strategic interactions. Actors may be inspired by other CSOs or activists they connect with in these new global contexts and online interactions (ibid). This work does not focus on online communities and communication facilitated by Internet 2.0 or social media sites in general.

However, it was in the course of conducting this research that the importance of the online space became visible. The online space provided various opportunities for CSOs, especially those which, in traditional fields of communication would be limited by factors like geography or funding. The opportunities afforded to the CSOs of focus through the online space will be recounted here, although they offer but one snapshot of the effect of the online space on political relationships, collective mobilisation, and social movements. The role of the online space is both duplicitous and enigmatic, it often reproduces the existing power dynamics, and the mediation of various gatekeepers infects it with all kinds of rules, restrictions, and censorship. At the same time, it is shaped by all of its users, who also use their agency to denature the boundaries of censors and community guidelines, even using the features of online platforms for alternative uses which better suit their needs (Arora et al., 2016). Importantly, virtually all of the CSOs examined for this work had a significant online presence, especially on social media. Social media websites were also convenient for CSOs as most of the sites were free and did not require organisations, many of which already had limited resources and person power, to pay website hosting fees or code the webpage themselves. Sites like Facebook allowed groups of CSOs and activists to 'meet' online, discuss and share interesting events, and otherwise update each other on their activities (Interview 183; Interview 162).

The online space especially social media was integral to social campaigns and hashtag campaigns (Warszawski Strajk Kobiet, 2021) and CSOs were appreciative of the opportunity that online campaigns gave them to reach a much wider audience

(Interview 6). Even slogans like Women's Strike generated more than 200 million views on TikTok, which communication strategist and activist Hanna Waśko saw as an unprecedented online mobilisation (ibid). Participation in these campaigns was also a way for well-known figures to show their support. For instance, the then Austrian district leader (Bezirksvorsteherin) (SPÖ), Ilse Pfeffer used her official Facebook to share a picture of herself holding a sign with the hashtag #ratujmykobiety (let's save women) shortly after the announcement of the de facto abortion ban by the 'Constitutional Tribunal' (Pfeffer, 2020). This hashtag was both in support of Polish women and it was the name of the committee for the citizen's draft bill for expanding abortion access (ibid). This is just one of many examples of politicians showing support for Polish judges and activists on their social media pages. Figures like Terry Reintke (Reintke, 2021) and Frans Timmermans (Timmermans, 2021) also used their social media sites to extend support for certain groups (in this case LGBT+ persons who had been labelled ideologies). Social media for some CSOs was also a way to reach a new generation of young people and share information quickly with those who are used to getting news and updates on social media (Interview 159). These results are not entirely surprising, research has shown that social media influences the way that young people receive news (often becoming a vehicle for news over traditional media (Fletcher and Nielsen, 2018; Peters et al., 2022)).

It can also make new perspectives that are not covered (extensively) in traditional media more interesting to them (Wohn and Bowe, 2016). The latter phenomenon may be a particular advantage in media landscapes like that of Poland where the government assumed control over public media and made it difficult for independent, private media to function ("Poland," n.d.; "We need free speech," 2021; Szuleka, 2018). Additionally, both (public and conservative) media and official government narratives paint a discriminatory picture of liberal civil society, activists, independent judges, and LGBT+ persons, exposing the potential benefit of alternative media spaces. These sources have the potential to tackle such politicised narratives with authenticated information in a manner that is made for widespread sharing. It seems that activism in Poland via social media has also engaged new publics by breaking through to people who have different 'news worlds' and who may otherwise never see updates on events like threats to abortion because they engage different media (Wójcik, 2020b). The websites and social media pages of CSOs were especially important for sharing updates, news, and information and each could be considered living digital archives of the events unfolding in Poland.

Even when the pages no longer exist (which was the case for several CSOs), tools like the internet archive, Wayback Machine, screengrabs, and content from shared posts which on other CSOs' websites and social media pages, memorialised this content.

Some activists active on social media in a personal capacity shared updates and important news on their personal pages (Interview 95). The Internet, especially social media sites like Facebook, which allowed individuals and CSOs to create event pages and share details, documents, pictures, and links related to the event, made announcing and sharing events simple for CSOs (Interview 86; Wójcik, 2020b). CSOs could also use Facebook event pages to share updates to planned events, such as a change in venue or updates about COVID rules for in-person mobilisations. CSOs could use Twitter to 'live tweet' during their events, sharing updates by the minute, sometimes with photographs and quotes or start a Facebook livestream to record events as they took place. The online space also took on a new meaning for CSOs operating during the COVID-19 pandemic. Once CSOs became accustomed to the appropriate online tools to aid or replace physical activities during COVID-19, they could re-design the programmes halted because of COVID-19. While this was sometimes undesirable or impossible (e.g. if services could only be provided physically), it did sometimes have the effect of making participation more equitable (e.g. by making it easier for those who lived far away to participate) (Interview 95). Despite the extensive use of online spaces for many of their initiatives, the CSOs examined in this research did not seem to substitute online interactions for those in the physical realm, rather, interactions in the physical realm seemed to be complemented by online actions.

For instance, Marsz dla bezpiecznej aborcji's social media posts featuring selfies of activists alongside information about accessing abortion was complemented by their offline 'abortion guerrilla' initiative (Marsz dla bezpiecznej aborcji, 2020b). In addition to women's toilets and other physical locations, posts on social media provided the organisation with another 'place' to share their contact details and short messages about their efforts to help women access safe, legal abortions. However, it was clear that for this CSO, as with many, that a combination of online and offline events was important. The role of social media influencers was sometimes important. Here influencers are defined as social media users who have established an extremely significant online presence and many followers or friends on their social media site(s) of engagement. It seems that influencers were more

keen to engage on issues like reproductive and LGBT+ rights (Mierzyńska, 2020a; Wójcik, 2020b).¹⁴⁷ Influencers speaking out against the de facto ban included some like Justyna Suchanek (who in October 2020 had 726.000 followers on Instagram), Anja Rubik (who in October 2020 had 1,2 million followers on Instagram), and actress Sylwia Bomba (Mierzyńska, 2020a).

This is not to say that only social media influencers can make a difference, as activists and CSOs stream to Facebook and Instagram during mobilisations and others share event reminds on Facebook and Twitter, users' followers and friends see these engagements and so do millions of other strangers whose activity encourages social media algorithms to promote such content to them. These observations are consistent with what Van Laer and Van Aelst (2010) termed internet-supported collective action, in which they assert that through the internet 'traditional tools of social movements...have become easier to organize and coordinate.'¹⁴⁸ Although CSOs expressed that the online space was mostly a positive asset, including through the use of social media, they also expressed that the more views and attention their posts got, the more likely that they also attracted hate from trolls¹⁴⁹ and others (Interview 29). Some also wondered about the effect of polarisation via social media since users can tailor their content and engagement to restrict activities to those they agree with (Interview 86). Others were concerned that the role that online communication was taking versus face-to-face communication had caused weak social bonds, a condition that made it more difficult for others to sympathise and easier for some groups to 'check out' of politics entirely (Interview 158).

7.22.2. Opportunity: The International Community of Civic Actors and Scholars

¹⁴⁷ Not only liberal influencers are making such statements but there are also conservative influencers who speak out against the expansion of reproductive rights like abortion. See, for instance, Koźuchowski, 2020.

¹⁴⁸ Although not covered here, this is not to suggest that there are not existing concerns about the extent to which the Internet can perform the aforementioned functions. While the Internet has become a valuable tool for organisations in the civic space, other scholars raise concerns about the restrictions of the Internet as well, such as the digital divide, the potential for Internet-enabled 'Slacktivism,' or the idea that the Internet may not create sustainable relationships in the way that offline mobilisation can (Diani, 2000; Van Laer and Van Aelst, 2010).

¹⁴⁹ Here a troll (also called internet troll) is someone who deliberately posts hateful, upsetting, inflammatory, or otherwise offensive content (including comments) online in efforts to target an individual, organisation, or other actor for harassment.

As could be seen throughout this chapter, many interactions were planned, financed, or organised together with both Polish and international CSOs. Indeed, the influence and support of foreign CSOs with similar foci were apparent in virtually every single interaction, whether it was as a partner on a report (Warso et al., 2016), as the co-organiser of a Pride Parade (KOD Mazowsze, 2022), as a funder for events and activities (Interview 29), or as co-filers of a complaint with the European Parliament (Warso et al., 2016). In addition, foreign CSOs like the Dutch *Rechters voor Rechters* (Judges for Judges or R4R) have done much to support besieged Polish judges and Polish judges' associations ("Letter to the President of the European Commission," 2020; *Rechters voor rechters*, 2020). R4R even provided information as a third party in a number of cases in the ECtHR concerning the judicial independence of various Polish judges ("Announcement of a Grand Chamber case concerning the judiciary in Poland," 2022) and submitted letters to the Polish Embassy and the EU representation in The Hague regarding the situation of besieged judge Igor Tuleya (Trotman, 2020a, 2020b). Likewise, in cases communicated to the ECtHR about access to abortion following the 2020 *de facto* ban, international CSOs like Amnesty International, the Center for Reproductive Rights, Human Rights Watch, and the International Commission of Jurists (ICJ) intervened as third parties, providing information on the potential detrimental effects that restrictions to abortion access would have on women in Poland— like increasing anxiety, stigma, and possibly limiting human rights ("Application no. 3639/21: Written comments," 2021).

In addition to sharing or otherwise allowing Polish CSOs to benefit from their resources (audience, reputation, financial resources, and access to international institutions), engagements with international CSOs were also important because they helped internationalise the concerns of Polish CSOs. They could stress to the rest of the EU or the global community how attacks on rights in Poland were concerning for these rights in the Union or worldwide (*Webinar*, 2020). It is also assumed that Polish CSOs gained access to a wider, international audience each time international CSOs hosted an event on their behalf, spoke out about the plight of Polish CSOs in their local newspapers, or translated news from Poland into their local language.



Figure 16. The Our Rule of Law team established by bachelor law students from the University of Groningen (NL) (from left to right Anna Walczak, Tekla Emborg, Elene Amiranashvili, and Zuzanna Uba) and their professor and mentor (Prof. John Morijn, centre) (ourruleoflaw, 2021)

Foreign CSOs were not the only international allies of Polish CSOs in their efforts—they could also come to rely on the international academic community for support. This included organising events like Judges under Stress – the Breaking Point of Judicial Institutions (INPRIS, 2018c), a seminar held at the University of Warsaw as part of the University of Oslo project, Judges under Stress JuS - the Breaking Point of Judicial Institutions (University of Oslo, 2018) and letter-writing campaigns in support of besieged judges (Melnychenko, 2020b). In addition to the organisation of events and programmes, individual academics also supported Polish CSOs in their causes, for instance by signing appeals for the Polish President to veto further reforms to the justice system and expressing concerns about recent changes to Polish courts (Balicki et al., 2017) or collaborating together with them on initiatives to address rule of law backsliding.¹⁵⁰ Academics from across the globe also launched appeals in defence of besieged judges such as Judge Igor Tuleya (Melnychenko, 2020a). Academics, like Full Professor of Law, Dean of Law and Head of the Sutherland School of Law (Dublin, Ireland) Laurent Pech also submitted briefs as a third party to cases relevant to the rule of law in Poland (GRZĘDA v. POLAND, 2022). Scholars also attended events held by Polish CSOs, discussing topics like threats to the rule of law internationally, how past threats relate to challenges that Polish judges are facing today, and developing a better understanding of how political attempts to subordinate the judiciary succeed (Jędrzejczyk, 2019). These events, often attracting an international audience, allowed scholars to share their

¹⁵⁰ See figure 16. The Our Rule of Law foundation has, among other things organised events related to the Polish rule of law crisis and created an academy to brainstorm solutions to it and other threats to the rule of law in the EU.

experience and expertise on the subject matter and relate events in Poland with EU-wide or international developments.

Events and statements were not the only ways that international academics got involved with supporting Polish CSOs in their efforts to address threats to the rule of law, reproductive rights, and LGBT+ rights. Academics also conducted and continued to conduct research on the topic, shedding light on the activities of civic movements. These publications (Bucholc, 2022a; Hall, 2019; Holzacker, 2012; Hussein et al., 2018) reach international (academic) audiences, often being published in high-level journals and presented at international conferences. Like reports, academic articles can give a certain kind of legitimacy to social movements by identifying and explaining the importance behind their strategic interactions, explaining the social, legal, and political basis upon which CSOs' are expressing their concerns, and detailing how changes in Poland have contributed to worsening standards for norms like human rights and the rule of law.

7.22.3. Opportunity: Opposition Parties

Except for judges' associations, which refrain from being political and forming bonds with politicians, other CSOs planned events (Wolne Sądy, 2017b) and collaborated on draft laws and other acts (Chrzczonowicz, 2022b) together with opposition parties like Inicjatywa Trójmiasto (The Tri-City Initiative) and Razem (from various areas like Pomerania) (Komitet Obrony Demokracji Region Pomorze, 2018). For example, the citizens' draft bill *Legalna Aborcja. Bez kompromisów* as well as the discussions following its rejection in the Polish Parliament involved the close collaboration of politicians from opposition parties like MPs Wanda Nowicka, Katarzyna Kotula, and Joanna Scheuring from *Nowa Lewica* (Warszawski Strajk Kobiet, 2022). In some cases, CSOs also believed that a win by the opposition was the only way that the actions of United Right, which they highly opposed, could be challenged or reversed — expressing their support of opposition parties as a necessity (Akcja Demokracja, 2020b). Some CSOs openly supported certain opposition parties, while others published information on the stances of various parties regarding their issue areas (like access to contraception and liberalising abortion) (Radomianie dla demokracji, 2019b). Still, some activists moved into the political realm more conspicuously, becoming politicians themselves and continuing to work with their and other CSOs to address the issues of focus in this research

(Interview 183). Such was the case for Łukasz Kohut, a member of Śląskie Perły (the "Silesian Pearls" Association) who later became an MEP (Śląskie Perły, 2019).

Interviewees similarly expressed that they were often able to find politicians, especially at the local level who would collaborate with their CSO on events, take threats to LGBT+ persons and others seriously, and approach them with an open mind (Interview 123; Interview 183). This was not always the case, however, as interviewees in especially conservative provinces often times found their efforts on the local level (which were already strained by things like high workload or lack of resources) thwarted by conservative local authorities who, for instance, worked to ban local Pride Parades or otherwise did little to support them or their activities (Interview 20). Further, several CSOs expressed frustration with opposition parties, which they felt did not always recognise the seriousness of their role and unite sufficiently to counter ZP (Interview 158; Interview 86).

7.22.4. Barrier: The Catholic Church

CSOs identified the Church as a major obstacle to an environment where their preferred standards of human rights could be achieved, especially those related to reproductive and LGBT+ rights (Interview 15). It was seen as a major player in supporting and spreading anti-LGBT+ sentiment (DOŚĆ milczenia - STOP klerykalizacji Polski. Inicjatywa Obywatelska, 2020; Interview 15), in the legal persecution of activists (Parada Równości (@paradarownosci), 2021), and behind restrictions to reproductive rights, such as the de facto abortion ban (Aborcyjny Dream Team, 2021; Śląskie Perły, 2018). Among other things, CSOs expressed concerns that the Church had undue influence on political decision-making in these areas ("List Konferencji Episkopatu Polek w sprawie pełnej ochrony życia kobiet," 2016) and that, as a result, everything from women's lives and safety to sex education in schools was as much a consequence of their whims as those of United Right. The complex political relationship between United Right and the Church is well documented (Bill and Stanley, 2020; Gwiazda, 2021; Żuk and Żuk, 2019) and although Poles are becoming less religious (Tilles, 2021h), CSOs in this study and for the immediate future will have to contend with acting against this powerful actor. The Church can influence important decisions about Poles' daily lives, reproductive rights, and social attitudes towards sexual minorities (Chrzczonowicz, 2019). For

these reasons, CSOs targeted the Church in their mobilisations (“Protesty przed siedzibami polskich diecezji. „Episkopacie, odwołaj swoje pieski!”, 2018; “Słowo Na Niedzielę - Wieszak dla Biskupa w Toruniu. Protest zwolenników prawa do aborcji pod kurią [ZDJĘCIA],” 2018; Woodyatt and Woodyatt, 2020) and in their appeals (See **section 7.11. Appeals** and subsection **Appeals to the Catholic Church**).

7.22.5. Barrier: Opposing Civil Society Organisations

It is well-documented, though often ignored in analyses of civil society in Poland, that the civic space is highly polarised (Ekiert, 2019b). Just as the civic space in Poland includes CSOs like the liberal CSOs of focus for this research, there are also CSOs that, regardless of the status of their independence (although they do seem to be independent of the Polish government), share common goals with ZP and have so far benefited from this fact (see more details in **Chapter 6: PiS and Civil Society— 2005-2007 and 2015- 2022**). Such organisations belong to the complex and now politicised civic space in Poland and, perhaps unsurprisingly, were also a barrier to the CSOs examined for this study. For example, CSOs focused on reproductive and LGBT+ rights found themselves not only contending with discourse from the ruling coalition and the Catholic Church about their alleged danger to children and their role in spreading ‘gender ideology’ but they also faced challenges from CSOs like Ordo Iuris (OI) (Margolis and Bielecka, 2019). As a result, liberal CSOs sometimes planned strategic interactions aimed at these opposing CSOs. OSK created a hashtag protest, where participants were asked to send as many virtual St. Valentine’s Day cards to Ordo Iuris with the hashtag #OrdolurisFuckOff as possible (Ogólnopolski Strajk Kobiet, 2022c). OSK argued that OI was behind several serious attempts to limit women’s and reproductive rights such as draft laws seeking to ban abortion and attempts to reduce access to contraception, sex education, and IVF, therefore prompting the campaign (ibid).



Figure 17. Valentine for Ordo Iuris - Digital 'postcards' from OSK's hashtag campaign against Ordo Iuris (Ogólnopolski Strajk Kobiet, 2022d)

They also mentioned the role played by OI in issues faced by LGBT+ persons like growing anti-LGBT+ sentiment (ibid). This concern was, of course, not only related to encouraging anti-LGBT+ discourse, OI also filed lawsuits against CSOs like Atlas nienawiści (Wawrykiewicz et al., 2020). CSOs like Łódzkie Dziewuchy Dziewuchom likewise expressed their concerns regarding the influence OI had on laws affecting areas like abortion and the chilling effect that OI's activities have allegedly had on the realities of the Polish people they advocate for, like pregnant women seeking abortions (Łódzkie Dziewuchy Dziewuchom, 2021f). OI is not the only CSO in this space which has challenged liberal CSOs, however. Ultra-conservative anti-abortion and anti-LGBT+ activists, Kaja Godek was another such example. Godek's foundation *Życie i Rodzina* spearheaded both the 'Stop Abortion' and 'Stop LGBT' bills (with Godek herself taking a prominent role in the promotion of the two bills) (Kozłowski, 2022; Maciejewska, 2022). In addition to the bills, *Życie i Rodzina* often spread its

message with shocking anti-abortion billboards, displaying images of bloody, dismembered fetuses and expressing to the public that there are terrible medical consequences for abortion — making strategic interactions like social campaigns to normalise abortion more difficult (FEDERA, 2019). In response, liberal CSOs targeted some of their strategic interactions towards these conservative CSOs to call out their behaviour and the role they felt it played in worsening standards, especially for reproductive and LGBT+ rights.

For example, demonstrations targeted the infamous so-called 'HOMOPHOBUS.' This a bus covered in banners with homophobic content which appears to be the result of a collaboration between Fundacja Pro - Prawo do Życia (Pro Foundation - Right to Life) and OI (Trójmiejskie Dziewuchy Dziewuchom, 2020). Liberal CSOs, like Tolerado used their resources to confront Fundacja Pro - Prawo do Życia and its HOMOPHOBUS in national courts (Ambroziak, 2019a; Łupak, 2019; Stowarzyszenie na rzecz osób LGBT „Tolerado”, 2020b). Conservative CSOs were also responsible for some counter-protests, such as Fundacja Pro and their aforementioned van, which contained slogans comparing homosexuals to paedophiles and was parked in various public places or drove around during Pride Parades and LGBT+ demonstrations (Fundacja Pro - Prawo do Życia, 2022a). In response to such counter-protests, liberal CSOs sometimes participated in actions like damaging the property of conservative CSOs, like the HOMOPHOBUS (Fundacja Pro - Prawo do Życia, 2021a). They also blocked such vans when they appeared at protests for reproductive and LGBT+ rights (Kampania Przeciw Homofobii, 2020e; Łódzkie Dziewuchy Dziewuchom, 2021g). Another example includes a counter-mobilisation held during an event to collect signatures for the Ratuujemy Kobiety bill which would have liberalised abortion access.

CSOs showed up to picket, bringing pictures of aborted fetuses and posters condemning LGBT+ persons as affiliated with paedophilia to the event (Trójmiejskie Dziewuchy Dziewuchom, 2017). CSOs reported other disruptions due to counter-protests. For instance, some LGBT+ organisations planning Pride of Equality marches found that they had to be strategic about communicating event dates since counter-protesters who discovered the dates in advance would then launch a series of applications with the municipality to also schedule their events on the communicated days in an effort to block their Marches (Interview 20; *Poland: “They Treated Us Like Criminals”: From Shrinking Space to Harassment of LGBTI Activists*, 2022). Opposing CSOs did not only plan counter-protests but focused on other campaigns

which made it difficult for liberal CSOs to carry out their work. CSOs like Fundacja Pro planned information campaigns designed to make clear to Poles the 'consequences of a homosexual lifestyle' ("Rafał Trzaskowski przegrał w sądzie z Fundacją Pro - Prawo do życia," 2022) and spoke out against Warsaw Mayor Trzaskowski's ongoing support for LGBT+ persons and CSOs (Tilles, 2021i). This action was coupled with petitions to Mayor Trzaskowski to drop support for his 'No Hate' initiative in schools and any lessons that would promote what they considered LGBT+ or gender propaganda ("Petycja do prezydenta Warszawy przeciw lekcjom nt. mowy nienawiści," 2019).

In addition to being disruptive to the activities of liberal CSOs, these activities contributed to negative social discourse about groups already under threat in Poland. For example, LGBT+ persons were likened to paedophiles on the graphics of the so-called 'HOMOPHOBUS.' The bus bore a banner with words that suggested that the 'LGBT lobby' wanted to teach young children how to masturbate, how to consent to sex, and how to experience an orgasm (Fundacja Pro - Prawo do Życia, 2022a). Additionally, the 'scientific' reports of CSOs like Fundacja Pro suggested that there was a statistical or scientific correlation between homosexuality and paedophilia (Fundacja Pro - Prawo do Życia, 2019). This discourse was obviously damaging both to LGBT+ persons and CSOs that work with them or focus on LGBT+ rights and it linked these groups to obscene activities.

It was not just claims about their alleged proximity to repugnant behaviour that liberal CSOs had to be concerned about. Opposing CSOs also produced content scrutinising their funding and activities. Reports and articles published by conservative CSOs expressed criticism for how liberal CSOs (allegedly) spent their funds, sometimes in a way which sought to discredit liberal CSOs and their causes (Ambroziak, 2019b). Further, CSOs which offer(ed) equality or anti-discrimination classes at schools, for instance, faced pressure, not only from some parents and schools but also from CSOs like OI, which since 2017 ran the campaign 'Let's Protect Children' (Ordo Iuris, 2018; Suchanow et al., 2020). This campaign provided legal assistance to parents who opposed these kinds of extracurricular activities and classes. In addition, OI encouraged parents and school staff to 'actively oppose' these classes and contextualised them as a potential danger to children (ibid). This campaign was especially concerning for LGBT+ CSOs or CSOs that dealt with topics related to LGBT+ rights or persons in their work. Conservative CSOs such as OI and Fundacja Mamy i Taty (Mother and Father Foundation) also published reports about

the activities of liberal CSOs focused on issues like LGBT+ rights, wherein details were presented on these organisations' prominent members, political affiliations, funding sources, activities, and social media presence (Ambroziak, 2019b; Kowalczyk and Szewczuk, 2019; *Organizacje LGBT w Polsce: działalność, finansowanie, sieć powiązań*, 2019).

In these reports, special attention is paid to LGBT+ CSOs receiving funding from foreign or public sources, making it seem as if there was something concerning about the sources of CSOs' funding, the level of financial and/or political support they received, or their political connections (ibid). Further, the report of Mamy i Taty featured a 'radicalism' scale to rank organisations according to their alleged radicalism (Ambroziak, 2019b; *Organizacje LGBT w Polsce: działalność, finansowanie, sieć powiązań*, 2019). Such reports were subsequently picked up with conservative media (see **7.22.7. Public and Conservative Media**). Other liberal CSOs, meanwhile were subject to scrutiny in various reports which suggested that CSOs like the Stefan Bathory Foundation spent money in an ideological manner (Ambroziak, 2017a) and that CSOs like FEDERA were receiving a concerning amount of foreign funding for their initiatives (Ambroziak, 2017b). Claims framing funding as dubious, overly indulgent or highlighting that they come from foreign sources often raise concerns that liberal civil society is perhaps not as beneficial to democratic values as was once believed or in some way suggest that there is something questionable going on with their activities or funding sources. Fundacja Pro was also active in the fields of reproductive health and rights. They framed the Black Protests as protests 'demanding the death of innocent children in Poland' and likening them to the mobs which formed against Jesus (Fundacja Pro - Prawo do Życia, 2022c).

Regarding CSOs focused on reproductive rights like Aborcjny Dream Team (who Fundacja Pro renamed Aborcjny Killing Team' in their public demonstrations), the CSO was similarly critical of their task and mission (Fundacja Pro - Prawo do Życia, 2021b). Likewise, other conservative CSOs were active in their campaigns against the liberalisation of abortion but also to restrict government funding for IVF and access to emergency contraception. They too used the language of human rights to speak about and on behalf of foetuses, not as cells but as 'unborn persons' whose human and fundamental rights were threatened (Suchanow et al., 2020). Of course, such acrimonious discourse is often mutual between the conservative and liberal CSOs focused on reproductive rights and health as the latter sees access to abortion

and contraception as a matter of human rights and the former as a danger to the human and fundamental rights of the unborn (Żuk and Żuk, 2020).

7.22.6. Barrier: Police

CSOs and affiliated activists faced a number of threats related to the police, especially during mobilisations. These included police-initiated ID checks, detention (including arrest), interrogation, violence, raids, and summons for members of CSOs to visit the prosecutor's office (Jędrzejczyk, 2022e; "Poland," 2020; *Poland*, 2018; *Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists*, 2022). Both Polish and international CSOs reported police violence at peaceful protests, such as those held following the de facto abortion ban of 2020 (Fundacja Otwarty Dialog, 2021; "Poland crackdown on Women's Strike protests continues unabated," 2020). LGBT+ groups similarly reported violent arrests despite peaceful protests (Łódzkie Dziewuchy Dziewuchom, 2021d; No More, 2021). Just one example is the so-called Rainbow Night of 7 August 2020, during which protests organised to support activist Margot of Stop Bzdurom ended in 48 arrests, the random targeting of protestors by police, and serious accusations of extreme violence against protestors (Klimczak, 2021). In addition to the mass arrests, detainees were denied legal assistance, access to toilets and medicines, and access to medical care after being injured during arrest (Fundacja Otwarty Dialog, 2021; Interview 48). They were also subject to (physical and mental) violence, held for hours in the cold (sometimes without ultimately being charged), and suffered humiliation (ibid). In addition to these actions causing physical and mental discomfort, police activity potentially had a chilling effect, discouraging other (would-be) activists and CSOs from attending demonstrations or engaging in other strategic interactions.

CSOs worked to abate some of these risks by creating guides for protestors about what to wear, where to seek legal advice (or which numbers to call to access a lawyer), and what to do/expect if attacked (for instance with pepper spray) (See **7.15. Workshops, Classes, and Explainers for CSOs and Activists**). Although many instances of police violence were reported during protests for reproductive and LGBT+ rights, protestors for the rule of law, such as Katarzyna Augustyniak (pictured in Fig. 18, below) also faced police violence when protesting on behalf of causes like independent courts (Fundacja Otwarty Dialog, 2021).



Figure 18. Poster showing the details of the arrest of Katarzyna Augustyniak who suffered physical abuse and was denied access to legal assistance, food, a toilet, and medicine (Copyright Open Dialog Foundation - CC-BY-NC-ND) (Fundacja Otwarty Dialog, 2021)

Along with attacks by police, activists also suggested that when they or other activists were attacked by counter-protestors or passers-by, police ignored such attacks and that there sometimes did not seem to be a sufficient police presence to keep them safe (Nowak, 2021; Poland: *“They Treated Us Like Criminals”: From Shrinking Space to Harassment of LGBTI Activists*, 2022). When CSOs elevated their concerns to police they were often ignored. After receiving a bomb threat, OSK leader Marta Lempart felt she had to ask a friend to contact the police, otherwise, they would procrastinate to help her (Civic Space Watch, 2021). As a result of these challenges, CSOs also organised demonstrations to bring attention to police violence and confront police on these violent confrontations (Kubis, 2020b). In just one city alone (Warsaw), almost 600 complaints were received by local courts regarding arrests during the Women's Strike demonstrations (Jędrzejczyk, 2021c). This is not to say that the police were always at fault or that activists placed the blame on the police

all the time. In interviews (Interview 183), activists also mentioned that they built a rapport over time with local police. In fact, according to one activist, their CSO was so well-known to the police and had such a long track record of not ‘causing trouble,’ that the police were always gentle with them, and they never had experiences similar to those cited above (ibid).

However, the activist noted that police had been transferred from other locations to their area during protests, they believed, so that the police and protestors had no prior relationship or rapport. Other CSOs actually thanked the police for not provoking violence during demonstrations and keeping them safe (Marsz Równości w Lublinie, 2019). Additionally, even when activists felt that they were disproportionately or incorrectly reprimanded for manifestations and other activities by the police, they suggested that the police were also under pressure from other, political actors and seemed to support their CSOs and/or causes even when they were compelled to arrest them (Interview 183; Nowak, 2020).

7.22.7. Barrier: Public and Conservative Media

As mentioned previously (see **Chapter 6: PiS and Civil Society— 2005-2007 and 2015- 2022**, section **6.3.1. Serious Threats to the Rule of Law 2015-2022**, year 2019) United Right took over public media, making it its mouthpiece, while pursuing various activities which threatened private, independent media (*Erosion of Media Freedom in Poland*, 2020; “Polish government moves to control public media,” 2015). As such, CSOs, activists, and judges who have found themselves in the crosshairs of the government often found themselves in the crosshairs of adversarial media as well (Interview 36). This had several negative effects on the operation of CSOs, especially as it related to public trust in civil society (Interview 36). Some media outlets attempted to cast a negative light on CSOs and the groups they represented. For instance, on 10 October 2019, the public media channel Telewizja Polska (TVP), a mouthpiece for the government (“How Poland’s public service TV was turned into a government mouthpiece,” 2019), aired a documentary-style programme called ‘LGBT Invasion’ (Ambroziak, 2019c). It was designed to scandalise the activities of LGBT+ CSOs that participate in Pride demonstrations and raise questions about these CSOs’ spending by suggesting that their Pride-related costs were somehow dubiously spent (Ambroziak, 2019c; “„Opłacamy pociąg, nocleg i jeszcze dostajecie dietę”. Kulisy działania „inwazji LGBT”,” 2019). In addition, the ‘documentary’ also

suggested that there was a link between rainbow organisations and paedophilia, among other jarring claims (Ambroziak, 2022).

The social media accounts of media like TVP Info, wpolityce.pl, Niezależna.pl, Fronda.pl, TV Republika, PCh24.pl, and Polskie Radio 24 were also used to complement media campaigns like the 2019 media campaign against 'LGBT Ideology' preceding the Polish elections (Mierzyńska, 2020b). Likewise, TVP used disparaging terms to refer to activists, such as those advocating for abortion access who were labelled 'supporters of killing unborn children' (Civic Space Watch, 2021). This is not new for TVP; it was also behind negative media campaigns against various LGBT+ activists, publishing unflattering and sometimes false information about them, their CSOs, and/or their activities (Jędrzejczyk, 2022f). One example included reporting that LGBT+ activist Bart Staszewski created the 'LGBT Free Zones'¹⁵¹ himself to incite reactions from other 'leftists' (Ambroziak, 2020b). CSOs focused on the rule of law, similarly, cited difficulties with the media regarding the honest representation of independent Polish judges, who were sometimes portrayed by the media as having underlying political reasons for acting (Marsz Równości w Lublinie, 2019).

TVP did several special reports on the funding of liberal CSOs like the Stefan Batory Foundation, suggesting that there was something suspicious or concerning about its funding and stressing the relationship between the CSO and funders like George Soros ("Dość szkalowania organizacji pozarządowych w TVP. „OKO” dołącza do protestu," 2016; "Kolejne pytania o fundację," 2016). A similar 'expert report' was produced on the funding sources of CSO Akcja Demokracja, in which the CSO was 'exposed' for its various foreign funding sources and the apparent lack of transparency about what their activists do (although this information exists on AD's website and also existed on the site at the time of the report) (Chrzczonowicz, 2017). In addition, reports from conservative CSOs suggesting that funding provided to liberal CSOs or costs incurred by them were suspicious or associated with the interests of foreign parties (Ambroziak, 2019b) were regularly picked up by conservative media like Polish Radio 24, TVP Info, Telewizja Republika, Radio Maryja, Niezależna, and Pch24 (Ambroziak, 2019b; Dudkiewicz, 2016). As argued previously, these reports and coverage of them create an air of suspicion related to CSOs focused on issues like reproductive rights, LGBT+ rights, and the rule of law and

¹⁵¹ For more about these 'Zones' and Staszewski's project itself, see: **Chapter 6: PiS and Civil Society— 2005-2007 and 2015- 2022**, section **6.3.2. Further Threats to Human Rights 2015-2022**, year 2019)

amplify the discourse that these CSOs work to spread an invasive, foreign ideology or are secretly politically motivated. Concerningly, activists reported receiving extreme threats (including death threats) shortly after negative media reports about them aired (Ambroziak, 2020b).

7.22.8. Barrier: SLAPP Polish Style

SLAPP in Polish, a term coined by OKO.press (Jędrzejczyk, 2021b), refers to SLAPPS that take on features inconsistent with traditional SLAPPS. While traditional SLAPPS are typically used as a tool by the state and powerful businesses to suppress the activities of target individuals and organisations (usually media and journalists), Polish-style SLAPPS seem to have different targets and engage a broader repertoire of activities and institutions (Jędrzejczyk, 2021b). In addition, they can be mobilised on a massive scale; instead of targeting one individual, a particular firm, or a newspaper, Polish-style SLAPPS can target hundreds or thousands of individuals at the same time (Jędrzejczyk, 2022d). Further, unlike traditional SLAPP targets, which often have access to funding set apart for SLAPPS and other legal proceedings, most activists (and CSOs struggling in Poland's post-2015 civic landscape (Bill, 2022)) did not have the same financial resources to defend against SLAPPS (Wójcik et al., 2021). Through these Polish-style SLAPPS, activists faced the effect of a 'massive but relatively mild pressure from the entire state apparatus,' in which a number of institutions and tools were instrumentalised against them like 'the police, prosecutor's office, the sanitary inspectorate, TVP, government media, [and] internet trolls' (Jędrzejczyk, 2022d; Interview 15).¹⁵² At the same time, they often faced misdemeanour and (rarely) criminal charges (ibid) for petty offences, exhausting CSOs and their activists financially and mentally (see **7.22.10. Barrier: 'Burn-Out'**).¹⁵³

Activists faced charges for everything from blocking traffic to refusing to provide identification (especially in cases where it is not clear that police have the right to ask for ID) (Jędrzejczyk, 2021c). The cases were often based on weak evidence and frequently resulted in acquittals as local courts upheld the law and could not reasonably press charges with such 'evidence' (Kowalska, 2021). This is typical of

¹⁵² Machine translated from using Google Translate ibid.

¹⁵³ Even when they were reimbursed for the cost of court proceedings upon acquittal, activists still had to travel back-and-forth to the police station and/or the court, some even taking leave from their jobs to do so (Jędrzejczyk, 2021d).

SLAPPs because the importance is not winning, it is in exhausting activists' and CSOs' resources and energy. Many activists did not file a complaint after arrests, even when they won their cases in court (unless there was a fine) because many were exhausted and would rather do other things in their free time (Jędrzejczyk, 2021d). Even with acquittals, activists faced (potential) financial losses (e.g. costs associated with travelling to and from the police station or court, costs related to organising a legal defence), intimidation, fear (Polish-style SLAPPS against activists and judges can also have a chilling effect), stigmatisation (e.g. the public may form a negative opinion seeing judges and activists charged or upon seeing details of their arrest or charges filed in the media), and demoralisation (Jędrzejczyk, 2022d, 2022g). When compounded by the financial difficulties that some Polish CSOs experience due to selective de-funding (see **Chapter 6**), the financial costs of Polish-style SLAPPs can be devastating. Free legal representation or increased financial support for CSOs in precarious political situations in general (see **Chapter 8**, section **8.3.2. Advice to the EU**) could alleviate some of these financial difficulties.

Activists mentioned that just being threatened with fines and jail time was extremely stressful, even if in the end charges were dropped (Interview 48). This is not to say that the outcome of Polish-style SLAPPs was entirely negative. One bright light in the situation was that activists also reported that, as a result of constant and overwhelming pressure from political authorities over the years, they were encouraged to collaborate more closely (Jędrzejczyk, 2022a). For instance, the increase of Polish-style SLAPPs also caused the growth of pro bono legal assistance from individual lawyers and CSOs (Jędrzejczyk, 2022d; Kampania Przeciw Homofobii, 2022e). Therefore, CSOs' strategic interactions (i.e. providing direct [legal] support) as well as their opportunities for collaboration improved because of the atmosphere of constant political pressure.

7.22.9. Barrier: The COVID-19 Pandemic

In February 2020, the spread of the Novel Coronavirus (SARS-CoV-2) reached pandemic levels in Europe (Pazderski, 2020). On 13 March 2020, the Polish Minister of Health declared a state of epidemic threat in Poland due to COVID-19 (*Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications*, 2020). Just days earlier, on 2 March 2020, the Parliament adopted The Act on Specific Solutions Related to the Prevention and Combating of COVID and Other Infectious Diseases and Crises They Caused (for short, COVID Act), allowing authorities to implement a

number of measures in efforts to reduce the public health threat caused by COVID-19 (ibid) and allowing for the temporary suspension of freedoms (Pazderski, 2020). One of these restrictions included a ban on mass events (initially 'public assemblies attended by more than 50 persons') and by 25 March 2020, a limitation on non-family gatherings of more than two people (six people in the event of religious gatherings) was imposed (*Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications*, 2020; Pazderski, 2020). Restrictions made it difficult for CSOs to carry out their regular activities, especially those which regularly carried out demonstrations and/or conducted in-person events, trainings, or meetings. As a result, for some of these CSOs, at least initially, programming ground to a halt or was significantly impacted (Interview 86; Interview 93; Interview 123; Interview 183). Others had to stop some programmes (e.g. Pride) entirely (Interview 159) in favour of finding new ways to host programmes or putting more resources into programmes which were not restricted under COVID rules (Interview 20; Interview 29; Interview 183; Interview 95; Interview 48; Interview 62; Interview 37).

CSOs did find novel ways to continue their efforts, even demonstrations. This included protesting on bikes or from one's car (Dargiewicz, 2020; Manifa Toruńska, 2020a), protesting while distanced and at public locations (like supermarkets) (Dargiewicz, 2020), 'walking' protests¹⁵⁴ (Manifa Toruńska, 2020b), handing out supplies casually while providing information about their causes (Interview 183), and online protests (Dargiewicz, 2020). Despite this, some CSOs felt like it was difficult to translate at least some of their most successful programmes to an online or alternative form during restrictions (Interview 20). Although CSOs generally tried to abide by the rules on public gatherings, some demonstrations even including just one person, received a police response. As a result, participants were likely to receive a fine under new laws as the Sanitary Service could impose financial penalties when there was a note from the police about a CSO or gathering (Pazderski, 2020). It was, therefore, sometimes unclear what kinds of mobilisations would be punished, and which could proceed without interference. For instance, some state-organised manifestations were allowed to take place while other manifestations of similar size came under scrutiny (Dargiewicz, 2020). On 10 April 2020, a state-organised gathering to remember the tragic Smolensk Air Disaster was

¹⁵⁴ In these mobilisations, participants could 'go for a walk,' distanced and with masks while talking about reproductive rights and speaking to others about the concerning consequences related to the recent de facto abortion ruling.

allowed to take place and featured multiple state authorities despite violating the assembly ban related to the COVID-19 restrictions (ibid).

In quite another example, the 'Rainbow Disco' mobilisation¹⁵⁵ taking place in front of the Presidential Palace was not stopped by police (although individual participants were targeted by police after the event) (Starzewski, 2020; Widła, 2020). These two instances happened despite the fact that many other protestors (e.g. those associated with the protests following the de facto abortion ban of 2020), faced significant restrictions to their assemblies. It even seemed that when CSOs like OSK did their best to abide by COVID-19 regulations (e.g. by organising online or having socially distanced mobilisations), activists were still fined (Pazderski, 2020). CSOs became concerned that the pandemic was being used by the government strategically to reduce public participation in protests, especially around reproductive rights. Firstly, many found it curious that the bill which eventually resulted in a near-total abortion ban was passed only during the pandemic when restrictions to public gatherings and assemblies would have (in theory) prevented mass protests like those which inspired PiS to drop the last draft bill for a near-total ban in 2016 (Interview 183; Interview 158). United Right's request that the 'CT' examine the provision in Polish law that allowed for abortion in the case of a damaged foetus was made in 2019 (Pazderski, 2020). Despite this, the 'CT' was only used to pass the ruling once pandemic restrictions on gatherings were in place (ibid). Lastly, it appeared that 'riskier' events and gatherings were still allowed even as protests around reproductive rights were not, such as the Smolensk Air Disaster commemoration mentioned previously and weddings (Widła, 2020).

Despite the unclear atmosphere created by these inconsistencies, some mass protests continued. For instance, on 22 October 2020, the day that the 'CT' announced its ruling on abortion, mass protests took place around the country (Magdziarz and Santora, 2020). Even though the government announced fines and jail time for illegal gatherings, on 30 October, over 100.000 participants gathered for the Warsaw protests (Pazderski, 2020). Protests around the country drew crowds of up to 400.000 participants (ibid). CSOs and activists could appeal charges and fines although the process was not straightforward. The state of Polish courts (although local courts seemed to be able to uphold the law) made attempts of CSOs and others to challenge assembly bans or to challenge a particular arrest in the courts

¹⁵⁵ This is a dancing event organised by activists Hanna Zagulska and Julia Świąch to support the LGBT+ community in Poland.

difficult (Jaraczewski, 2020; Widła, 2020). Further, challenges to the 'CT' made attempts to assess these restrictions' legality difficult as:

'Legal acts of dubious constitutionality should be subject to a prompt review by the Polish Constitutional Tribunal...the Polish Constitutional Tribunal [however] is now a hollow shell of its former self, completely taken over by the ruling party and able to act with competence and independence only if the subject matter is of no interest for the government' (Jaraczewski, 2020).

Thus, options to elevate concerns about COVID laws to the 'CT' were also tricky. The pandemic also created restrictions for accessing the courts since courts significantly reduced their activities and meetings, leading to longer wait times for those seeking access to courts (ibid). In addition to these challenges, COVID-19 had another serious consequence for CSOs like those working with LGBT+ persons. For LGBT+ persons, the pandemic also meant (reportedly- as official figures are lacking) increased rates of homelessness with some LGBT+ persons living in precarious circumstances after coming out, unable to stay home and unable or unwilling to go to conventional shelters that did not have their rights or identity in mind (Kampania Przeciw Homofobii, 2021h). There was also a special risk for LGBT+ youths who sometimes found themselves trapped at home with parents or a family who didn't understand or were hostile to them (Interview 93). As a result, many LGBT+ CSOs worked overtime to establish and secure shelter and psychological assistance for LGBT+ persons or help them find the appropriate services. The pandemic was not entirely harmful to CSOs, however. As a result of the need to organise self-help services amongst themselves with short notice and an unusual and difficult situation, CSOs' own self-help networks became more developed and robust (Jędrzejczyk, 2022d). Additionally, local authorities did not always have the resources to prevent mobilisations and other restricted acts.

Therefore, CSOs could seize these gaps in enforcement to continue their activities (CSOs implemented a number of measures to reduce the spread of infection, such as passing out and asking all participants to wear masks, giving out hand sanitiser, and asking participants to stand apart from each other or protest from their vehicles) (Dargiewicz, 2020). CSOs also used this as a chance to take advantage of digital tools and the Internet to plan a number of actions in the online space, such as OSK who hosted an 8-hour stream on their Facebook page, inviting 48 activists to talk about their experiences with activism (ibid) or others who hosted live-stream

demonstrations, which allowed those who could not physically protest to ‘march’ alongside them (Ogólnopolski Strajk Kobiet, 2020).

7.22.10. Barrier: ‘Burnout’

Burnout is defined as ‘a state of complete mental, physical, and emotional exhaustion’ (“Signs you might be experiencing a burnout and how to regain balance in your life,” 2021). This can include physical and emotional symptoms such as headaches, fatigue, feelings of helplessness, loss of motivation, withdrawal from others, and even outbursts (ibid). Activist burnout has features that are distinct from burnout in other professions or roles. For instance, activists are more exposed to state violence in their line of activity and experience stress and other negative emotions as a result of developing such a deep awareness of the extreme social, political, and economic problems that inspire their activism (Gorski, 2019; Interview 159). It is further thought that activists are particularly vulnerable to emotional exhaustion and overwork because they have strong emotional connections to their cause(s) of choice and work diligently to achieve a positive outcome in difficult political situations (Chen and Gorski, 2015). In addition, a discourse of selflessness often develops in activism which makes it difficult for activists to address or speak out against negative feelings of exhaustion related to their activism (Rodgers, 2010). The CSOs and related activists in this research expressed experiences consistent with burnout (even explicitly saying that they had burnout or felt burnt out) (Interview 20; Interview 29; Interview 123; Interview 19).

More than exhausted by the protests themselves (Interview 183), they reported being exhausted by heavy-handed police action against civil society (including the use of pepper spray, police weapons, and gas), threats posed by opposing CSOs, and, increasingly hostile social attitudes (against women, activists, judges, reproductive rights, and LGBT+ persons) (Interview 29; Interview 123; Nekolina, 2020). The souring social attitude towards sexual minorities, like LGBT+ persons, can be especially difficult for activists who are also sexual minorities — in addition to dealing with acrimonious discourse and behaviour from local authorities (e.g. banning Pride), they face or see various acts of hate directed against themselves and others. Sometimes this caused activists to deliberately avoid certain activities (e.g. holding hands with their partner or donning rainbow attire) in their daily lives just to avoid violence (Interview 20). For other CSOs, much exhaustion came from how quickly the situation for the rule and human rights deteriorated in Poland, with new

events, laws, and discourses developing rapidly and having a kind of snowball effect (Interview 175). For long-time activists, burnout was related to the constant work they put into a situation which showed little signs of improvement (ibid). For larger, more well-known CSOs, it was tiring being expected to respond immediately to each challenge in their area(s) of focus each time a major change took place (Interview 183).

This can also be difficult in interactions with others, for instance, when one's friends and family see that they have been active in a CSO for years, but it has resulted in little to no change. Activists may then also have to deal with claims that they are 'doing nothing' with their time (ibid). In addition, working hard on recommendations or research for the government just to see that it is not considered can feel demoralising (Interview 36). For judges, there was a double emotional burden which may have made burnout more likely. Firstly, in the best of situations, judges deal with work-related stress like hearing cases with sometimes upsetting and extreme details, excessive case burdens, regular criticism of their judgements, and having to make difficult decisions about topics which can be sensitive (e.g. family matters, sexual assault, death, and violent crimes) (Bojarski, 2018a). In addition to these daily concerns, independent judges in Poland facing political pressure dealt with smear campaigns, negative press, politically motivated attacks and discourse, and disciplinary measures (the extent of these threats is reflected in **Chapter 6: PiS and Civil Society— 2005-2007 and 2015- 2022**, section **6.3.1. Serious Threats to the Rule of Law 2015-2022**). Like activists who may feel unable to share feelings of burnout or the emotional and psychological symptoms related to it for fear that they may appear uncommitted or affect the morale of others,¹⁵⁶ judges, who are often expected to react professionally regardless of the varied circumstances they find themselves in and may have difficulty admitting the need for help in these areas or discussing the toll that their experiences have on their mental health and psychological safety (ibid).

It should also be remembered that judges and activists often do this work without being paid and alongside their full-time jobs and other duties (i.e. caring for children or elderly parents), meaning that they are at risk for burnout due to overwork (Interview 86; Interview 159; Interview 15; Interview 158; Interview 19). Activism can also feel like a 'second job' (Interview 93). Activists may be persuaded to leave

¹⁵⁶ This information came from a private conversation with an activist.

activism or leave Poland altogether because of the aforementioned stressors (Interview 29; Interview 93; Interview 15). This does not mean that activists and judges are getting no assistance with treating or avoiding burnout and its symptoms, however. As section **7.21. Direct Support for Affected Parties** demonstrated, some CSOs provide special services to these groups to help them negotiate symptoms of burnout. Some CSOs could also secure funding for costs such as the organisation of events to counter burnout and/or deliver psychological support (Ambroziak, 2020c; Interview 111). For CSOs like Stop Bzdurom, this totalled 32.000 zł and 40.000 zł, respectively (both the burnout support and the psychological support were together 40.000 zł) (ibid). CSOs also try to support each other with encouragement and optimism that their situations and experiences will someday change (Interview 29). Activists themselves expressed the importance of taking breaks, going on holiday, and even going offline, leaving work to others who can take their tasks up while they recover from the constant stress of their work (Interview 159; Interview 111).

Likewise, they expressed the importance of connecting with others to let them know that they are not alone, even if they are based at a CSO in a small town and to remember that they themselves are not alone in their struggles (Interview 175). Some activists felt that without even their informal network of friends and fellow activists who supported them in times of extreme stress and need, they would have left Poland long ago (Interview 15). In some cases, activists also mentioned that such a challenging social and political situation, can motivate people to get *more* involved in activism as they then were willing to do things that they otherwise would not, due to the dire circumstances (Interview 86; Interview 15; Interview 158).

'If they weren't so violent against us, we wouldn't have woken up' (Interview 20)

Likewise, groups like Queer Toury (Queer Tours) were inspired both by the rise in 'Zones Free of LGBT Ideology' and the lack of government condemnation of them (Kłos, 2021). This inspired the CSO to conduct social campaigns to show that queer Poles are ordinary people (ibid). CSOs like Stop Bzdurom had similar origins; it started as a direct reaction to increasingly hostile discourse about LGBT+ persons, which had been spread and endorsed by powerful figures, including Foundation Pro (Stop Bzdurom, 2020). CSOs further recounted that their numbers (of members of participants in specific events) grew each time a decision was made by the

government to restrict their rights (Interview 29) as people were motivated by increasing threats to these rights.

Conclusion

This chapter, in which the empirical results of this research study are presented, details the 21 strategic interactions pursued by the CSOs of study to contest what they identified as rule of law and/or human rights backsliding. Some of these strategies were primarily discursive, such as issuing statements detailing how established standards of the rule of law and human rights were violated or holding debates to discuss developments in the areas. Other strategies relied on the power of physical and digital manifestations to express fierce disagreement with the position of United Right, such as in demonstrations and hashtag protests. Still, other strategic interactions centred on engaging with powerful norm-setters, like IOs and international courts to enforce certain normative standards, for instance, by lobbying EU institutions or via legal mobilisation. Like their predecessors in the period immediately preceding Poland's accession to the EU, CSOs engaging in these kinds of activities took advantage of Poland's relationship with more powerful, well-resourced actors capable of discursively or legally reining in problematic behaviour which could threaten the status of shared norms. While most of the interactions focused on direct action, that is, remedying rule of law and human rights concerns directly, this chapter also makes the argument that interactions focused on long-term societal change. This is reflected in activities such as archiving, documentation, and educational activities.

CSOs seemed to use such strategies to preserve evidence of the events that had taken place since 2015 in Poland related to the decline in the rule of law and human rights and to fortify citizens' understanding of matters related to these norms. In addition to an overview of these strategies, which addresses the primary research question, this chapter also explores the secondary research question by investigating the barriers and opportunities that CSOs themselves expressed experiencing when working to achieve their goals. It detailed how access to new spaces, such as the online space, as well as access to certain audiences, like that of international scholars and opposition parties, provide new opportunities for CSOs to cement their influence and increase their impact. The chapter ends by reviewing the

challenges faced by CSOs in this research, including challenges unique to the Polish civic space, such as Polish-style SLAPPs and those which are familiar to a myriad of CSOs in countries facing similar challenges, such as police violence and acrimonious state media.

Chapter 8: Conclusions and Discussion

8.1. Conclusions

The previous chapter showed how Polish CSOs contested United Right's standards for the rule of law and human rights, specifically related to the issues which had been at the centre of high levels of civic activity during the study period of 2015-2022. Regarding the rule of law, this research focused on judicial independence, the right to a fair trial (also a human right), and the separation of powers. For human rights, this research focused on reproductive rights (including access to contraception, IVF, and abortion) and LGBT+ rights (including the use of anti-LGBT+ discourse by political elites, threats to freedom of assembly for LGBT+ groups, and discrimination on the grounds of sexual orientation). This work pursued the following primary research question: *How did civil society in Poland contest United Right's standards for the rule of law and human rights from 2015-2022?* It also addressed the secondary research question: *What challenges and opportunities did liberal CSOs experience when working to actualise their goals?* This research revealed that the relevant CSOs engaged in a multifaceted approach which included justifying their claims of norm violation, engaging in strategic interactions as both acts of contestation and in efforts to elicit change and embedding claims of norm violation in extant law and treaties (i.e. via legal mobilisation and the citation of international treaties in their appeals and statements). However, the 21 strategic interactions uncovered in this work were not only aimed at contesting the ruling coalition's standards for the rule of law and human rights.

The 206 CSOs studied in this work also urged empowered actors to enact change (i.e. in appeals, legal mobilisation, and by lobbying EU institutions), defended the defenders (e.g. by providing direct support for affected individuals), tried to stimulate societal change (e.g. through civic education and social campaigns), and created and preserved knowledge on the nature of these norm violations (i.e. through the production of reports and research). CSOs' strategies reflected a combination of both short-term interactions aimed at addressing immediate concerns (such as reinstating dismissed judges) and long-term interactions aimed at influencing the future of these norms (i.e. changing public perception of these norms and the groups they affect). Their strategies engaged authorities and others on the local, national, and supranational levels, spreading the potential of their efforts across several levels of society and investing in alternative outlets to increase their impact and circumvent ineffective avenues. Lastly, CSOs articulated their

defence of these norms using the legal and normative language of the various international organisations and treaties in which Poland is 'embedded.' There appeared to be both reactive and proactive contestation present.

Reactive, as CSOs contested United Right's contestation of the rule of law and human rights norms, performing strategic interactions designed to express disagreement with these standards. Proactive because CSOs used their strategic interactions to critically engage with the human rights norm to broaden the issues which could be protected in the name of human rights. They challenged matters like the de facto abortion ban and anti-LGBT+ discourse and worked to discursively catalogue these issues as matters of human rights. For example, CSOs made claims that the differential treatment and negative discourse about LGBT+ persons (including the concept that there is an LGBT+ ideology) affects their freedom of assembly (i.e. through bans and discriminatory legalism affecting LGBT+ groups) and encourages discrimination against sexual minorities. In another example, they demonstrated how the de facto abortion ban could be linked to deteriorating standards for women's health and the denial of proper healthcare— recounting the stories of women who had passed shortly after the de facto ban after being denied life-saving abortions or reminding others that the removal of a safe abortion option encourages deadly, clandestine abortions. In addition, CSOs sometimes linked serious threats to the rule of law in Poland and threats to other rights, like reproductive rights. Just one example is CSOs' concerns that the very de facto abortion ban that they had been contesting was passed by a compromised 'non-court' which cannot pass laws or perform any other actions of a court because it is not a 'tribunal established by law,' as per the ECtHR (Wawrykiewicz et al., 2020; Wilczek, 2021a).

In this way, CSOs employed recognised norms as a foundation from which to justify and legitimise certain standards of the rule of law and human rights. This positive overview of CSOs' activities should not obscure the fact, however, that both the CSOs of interest in this work and liberal civil society in Poland more generally have, since 2015, been facing a myriad of obstacles. Not the least of these obstacles has been the mass weaponisation of state institutions against them. Furthermore, 'embeddedness' has its limits (see section **8.5.1. The Limitations of Embeddedness**), especially as it relates to the attempts of CSOs and others (e.g. MEPs) to position issues such as the de facto abortion ban and homophobic discourse from politicians, as matters of human rights. Accordingly, there are things

that EU institutions and others can do to diminish the effect of these difficulties (see **8.3. Recommendations for Practice**) although larger questions remain about the future of the rule of law and human rights both in Poland and in the wider EU (see section **8.5. Final Thoughts**). Further discussion of the aforementioned findings continues in the **Discussion** section which follows.

8.2. Discussion

8.2.1. 'Splintering' Strategic Interactions

The initial goal of this work was to explore how liberal Polish civil society reacted to the series of intense social, political, and legal changes which have occurred in the country since the rise of the United Right coalition in 2015. This research specifically reflected on the rule of law, reproductive rights, and LGBT+ rights, likewise, centring on CSOs which championed these rights and expressed their opposition to government standards in these areas. The subsequent research revealed that CSOs responded in several ways, however, their strategies were 'splintered' with different kinds of strategic interactions aimed at different audiences and serving different purposes. Strategic interactions like demonstrations, appeals, and statements were aimed at discursively (and corporally, in the case of demonstrations, although they also included demands, signs, and slogans) contesting the United Right coalition's standards for the rule of law and human rights. Through these interactions, CSOs made the factors behind their contestation known and laid out how alleged norm violations ought to be corrected. Concerning direct remedies to alleged norm violations, CSOs pursued pathways like appeals to various national, international, and supranational actors, lobbying EU institutions for action and mobilising the courts. Through these interactions, CSOs called on the EU to launch infringement proceedings with the CJEU regarding Poland's 'Zones Free of LGBT Ideology', appealed to the UN to recognise Poland's de facto abortion ban as contrary to the Organisation's human rights standards, and stood before the ECtHR to represent besieged judges whose cases had become emblematic of Poland's rule of law breakdown.

CSOs coupled strategic interactions focused on direct intervention with those oriented towards long-term societal change and civic education. For instance, when

communicating with the public, it was important for CSOs to state the basis of their claims and explain how the actions of United Right violated the rule of law and/or human rights. This, in turn, legitimised and justified their activities before the greater public, including their own supporters and perhaps even critics. In addition to educating the public, CSOs recognised the importance of changing societal attitudes towards the rule of law and human rights and towards the groups affected by violations of these norms. For instance, through civic education, CSOs educated Polish citizens of all ages about their rights but also about the role of courts, the role of judges, the importance of the separation of powers, the rule of law, and the events taking place in Polish courts. In this way, citizens were able to better understand the gravity of threats to the rule of law and would ideally recognise potential threats to their constitutional rights in the future. This may prevent another situation in which most citizens, especially those who are not already politically active, fail to realise the seriousness of government attacks on constitutional rights (before they become severe). One of their first decisions, to challenge judicial appointments to the Constitutional Tribunal, for instance, was a grave harbinger of potential threats to democracy and the rule of law, yet many citizens failed to understand it as such and, in fact, miscalculated the threat to the rule of law, even after judges were attacked and the Tribunal was taken over.

This was in part due to a lack of trust in judges and an insufficient understanding of the courts and the impact that United Right's decision had on the separation of powers. Citizens struggled to see the relevance of the actions taken by United Right against independent courts and judges until the issue had been severe or until these actions affected their lives directly. Civic education may prevent the knowledge gaps which allowed United Right to inconspicuously dismantle the rule of law while also bringing citizens closer to legal professionals who, through a combination of their meagre social interaction and negative press, came to be mistrusted by the public. Rights were not the only important thing that CSOs focused on in this work. They also focused on the individuals and groups whose lives were directly affected by worsening standards of the rule of law and human rights in Poland. While this could be achieved by social campaigns which challenged pervasive social attitudes about these groups (more about this in the paragraphs that follow), providing direct support to affected individuals was also important. The importance here was on supporting groups beset by United Right and other political authorities because of their 'activist' activity so that these individuals could continue

their work and avoid the negative consequences of actions taken against them by powerful actors.

For instance, judges who had been subject to disciplinary proceedings and who were transferred to other courts/locations or lost their right to adjudicate faced psychological stress from political pressure and financial distress from salary reductions, travel costs to attend court, or paying for legal representation. In the same way, activists targeted for SLAPPs faced political pressure, financial losses (e.g. travelling to court, taking time off of their work, potentially losing their employment because of their activist activity or legal actions taken against them), and required legal support or representation. For both groups, psychological support and pro bono legal services were important to overcome the consequences of being targeted and to be able to continue with their work. Social campaigns were another way for CSOs to provide support for individuals directly affected by the various challenges spotlighted in this research. However, this form of support was more indirect and focused on changing societal attitudes towards certain groups, in the hope that this would improve public perception and the likelihood of others to identify attacks on these actors' rights as problematic. For some groups, such as women who had or sought abortions or LGBT+ persons, societal change was much more focused on normalisation. CSOs engaging in interactions like social campaigns worked to demystify and normalise these groups and related issues (e.g. access to reproductive rights) so as to change the social mood concerning them and, eventually, these groups' social realities.

CSOs planning 'coming out' campaigns in which people shared their stories of having an abortion, assisting an abortion, or just loving someone who had an abortion wrote that such stories could let someone who wants to terminate their pregnancy know that they are not alone and in fact, others had been in a similar situation and faced similar choices (Ogólnopolski Strajk Kobiet, 2021a). They also hoped that the campaigns would work against so-called 'abortion stigmatisation' or the negative portrayal of people who terminate their pregnancy, seek information to do so, or support those who make such a decision (ibid). The issue of 'abortion stigmatisation' is one that groups like Stowarzyszenie Queerowy Maj believed to be directly linked to political lobbying and attempts to tighten Poland's abortion laws. They therefore hoped to break this stigma with their 'Coming Out' stories. This connection is not new, existing research especially that looking at reproductive rights campaigns in the first years out of communism, has noted that the inability to

normalise and legitimise occurrences like abortion made it difficult for CSOs focused on reproductive rights. Nowicka (2007) noted:

'Polish women do not speak about the right to abortion because they do not know how to convince others or themselves that abortion is a common and legitimate experience, an important social and political issue, and that the right to decide is a fundamental women's right. They also do not acknowledge that politicians have the responsibility to guarantee women the rights they need. Given that they have not convinced themselves, how can they convince others?' (Nowicka, 2007).

Thus, the importance of social campaigns for normalising the issues of focus is well known. For LGBT+ persons, CSOs hoped to contest prejudiced perceptions which posited them as a danger to traditional families, children, and the Polish nation itself, by revealing them to be everyday people. They were not ideologies but Poles who also fell in love, had hobbies, were pleasant to be around, and could even be one's neighbour or acquaintance. CSOs also hoped that such alternative images of the LGBT+ community would dismember the narrative that LGBT+ individuals were (related to) some kind of 'ideology,' which according to figures like Jarosław Kaczyński, 'weakens the West and terrorises people' (Tilles, 2021a). If the public could understand LGBT+ persons to be normal human beings like them and others, then discourses used to justify threats to their rights or discrimination against them may be less effective. In addition, future attempts to scapegoat sexual minorities or other groups may then be met with suspicion as similar claims against LGBT+ persons were undressed as untrue and misleading during social campaigns. Finally, CSOs' long-term strategies focused on creating and preserving knowledge. Strategic interactions like archiving ensured that an accurate reservoir of information would be there for use by researchers, international institutions, and others. This information could provide the basis of a counter-narrative to that of the ruling coalition.

Those with professional understanding and/or lived experience with Poland's rule of law and human rights breakdown created a myriad of documentary evidence about these processes, explaining important events and their relevance for the terminal outcome of the rule of law and human rights. Documenting events since 2015, thus, made it easier to see the progression of norm violations. The knowledge produced by CSOs was suitable for several audiences, both national and international, including powerful international organisations and courts. Reports were written in

tandem with international institutions like ILGA-Europe and targeted international organisations like the UN or EU. Blog articles were written to reach a wider audience as well, with sites like *ruleoflaw.pl* specifically targeting international academics. Social media posts and campaigns could reach a mixed audience, with the added advantage of potentially rupturing traditional news bubbles in which state propaganda thrived. Such knowledge, centralised, fact-checked, and written for various audiences, was used by (PhD) researchers, cited by the ECtHR in their rulings, and delivered to the UN as an alternative to official government narratives. Further, reports, articles, and even social media posts are automatically archived on the websites of these institutions and wherever else they are shared and published on and offline. Besides automatic archiving, however, some CSOs created dedicated archives online which could be searched and shared by interested parties. In this way, knowledge is preserved for posterity and multiple audiences can become aware of what is happening and what has happened in Poland, understand how standards for the rule of law and human rights had degraded through time, and hopefully rely on this knowledge to prevent further degradation or spot future threats.

8.2.2. 'Embedding' Arguments in Recognised Norms

This work has previously introduced the concept of embeddedness or the idea that Poland is 'nested' in several normative and legal frameworks as an EU member state and a signatory of international treaties which confirm its obsequiousness to certain standards of the rule of law and human rights. It is because of such embeddedness that CSOs could invoke the norms enshrined in (inter)nationally recognised treaties to call upon certain standards for the rule of law and human rights. CSOs used these standards to anchor their rights claims. Such embeddedness, further, gave CSOs access to additional venues for mobilisation such as the ECtHR, CJEU, and UN, which could, through appeals, legal mobilisation, or lobbying be motivated to act on behalf of defending the rule of law and/or human rights. By rooting their arguments and interactions in the normative and legal standards enshrined in the treaties of these supranational courts and international organisations, CSOs could legitimise their positions and potentially find justice in the legal realm. For instance, KOS rooted its legal opinions concerning besieged judges in the rights guaranteed in the ECHR and the Charter such as the right to a fair hearing (*A country that punishes: Pressure and repression of Polish judges and prosecutors*, 2019; Komitet Obrony Sprawiedliwości,

2018). Not only Polish CSOs emphasised Poland's embeddedness when it came to claiming rights, however.

In its statements of support, the European Parliament defended abortion and other reproductive health rights in Poland by positioning such rights as guaranteed in or related to existing ECHR protections for sexual and reproductive health rights ("MOTION FOR A RESOLUTION on the first anniversary of the de facto abortion ban in Poland," 2021). During a country visit, the Council of Europe Commissioner for Human Rights similarly expressed concerns about the potential negative effect that restricting abortion would have on women's rights and human rights, urging Poland to 'guarantee to all women and girls full and adequate access to safe and legal abortion care by bringing its law and practise into line with international human rights standards, including the Convention [on Human Rights], and regional best practices' (*A.m. and Others v. Poland (dec.)*, 2023). Such statements were repeated across other IOs, such as the EU, even though, as in the two aforementioned examples, these organisations had no competencies in areas like abortion. Likewise, while the European Commission has been slow to act on the rule of law breakdown in Poland and Hungary, it did write letters to local authorities in areas identifying as 'Zones Free of LGBT Ideology' or which adopted 'Charters of Family Rights' to remind these authorities that some EU funds (here the European Structural and Investment Funds) are contingent upon respect for EU norms and values. They stressed that these norms and values included non-discrimination and that authorities' Resolutions and 'Zones' could affect EU funding (Wądołowska, 2020). Even with the aforementioned examples, however, embeddedness had its limits.

A conspicuous difference between matters like the rule of law and abortion or anti-LGBT+ discourse is that the latter two are more difficult to directly translate to norms such as human rights. Treaties do not explicitly mention abortion, IVF, the availability of contraception, anti-LGBT+ discourse, or politicians' stigmatisation of LGBT+ persons as ideologies. The closest issues referenced many times are matters like discrimination on the grounds of sex and the SRHR.

8.2.3. Contributions made to Extant Research

8.2.3.1. Research on civil society (in Poland)

This research contributes to growing research about the role of Polish CSOs, including judges' associations, in addressing issues related to attacks on the rule of law such as threats to judicial independence and government attempts to politically subjugate national courts (Christopoulou, 2022; Mathieu et al., 2018; Matthes, 2021a). It was also hoped that focusing on the role of the civic space in the defence of the rule of law would address the hyper-focus on institutional actors like IOs, which has left a gap in the literature (Christopoulou, 2022). Going a step further, this work also looked at CSOs' collaborations with others in the Polish civic space and transcended the hyper-focus on legalistic strategies that is prevalent in extant research about the response of CSOs to rule of law issues. By doing so, this research revealed that these CSOs' strategies went far beyond legal mobilisation alone and engaged a host of other strategic interactions from demonstrations to long-term strategies aimed at improving public knowledge and awareness about matters related to the rule of law. As it relates to extant research on CSOs working against attacks on reproductive rights in Poland, this research seeks to broaden the view of these CSOs' interactions and experiences by focusing on events beyond the 2016 Black Protests and reactions to the 2020 de facto abortion ban (Hall, 2019; Korolczuk, 2022, 2016a). Much current research about civil society's response to attacks on reproductive rights in Poland focuses heavily or entirely on mass mobilisations, key mobilisations (such as the two cited previously), and larger, well-known CSOs.

This research, therefore, tried to broaden the scope of CSOs' interactions and experiences by looking at their strategic interactions from the beginning of United Right's term in 2015 up until 2022 (a practical limit considering the need to analyse data and publish this work by the end of 2023) and by collecting data on CSOs of various size, even local, unregistered ones. It was also hoped that by not hyper-focusing on major events for reproductive rights only, this research could look at how these CSOs contested ZP's standards for human rights both reactively (e.g. through mobilisations) and proactively (e.g. by drafting appeals which discursively position matters like access to contraception as human rights). Lastly, this research adds to work which examines the way that LGBT+ CSOs have sought to counter growing anti-LGBT+ discourse by the ruling coalition and other negative developments for LGBT+ rights (Ayoub and Chetaille, 2020; Marczewski, 2020; O'Dwyer, 2018b; Yermakova, 2021). Extant research in this field appears to be quite

scarce and amongst that which exists, most studies focus on anti-gender and anti-LGBT+ rhetoric in Polish political discourse, the development of LGBT+ civil society before or since communist times, or how movements changed through the years. While all of these themes are important to understanding the Polish civic space, this work would like to add a focus on how LGBT+ CSOs have responded to what has been arguably one of the most challenging periods for LGBT+ rights and persons since communist times.

It, therefore, concentrates on CSOs' interactions since 2015, when these significant challenges began (and up to 2022, for the reasons already discussed). It also goes beyond more reactive and visible interactions like mobilisations or Pride/Equality marches and looks at how CSOs mobilised the courts and sought direct relief by lobbying the EU for action. In this way, it is hoped that this research will expose just how varied the repertoires of these CSOs are beyond those which are commonly identified in research. This research took a 'scattershot' approach to selecting CSOs for study. Rather than following one or a small number of CSOs, concentrating on more well-established NGOs, or focusing only on CSOs which all engage in the same activities (e.g. protests), this research sought to obtain a wide view of changes in the civic space and better understand how CSOs responded to the same challenges related to the norms of focus. It is hoped that such an effort would avoid replicating the hyper-focus on NGOs and also spotlight the efforts that even small, local, and unregistered CSOs in Poland. This should also better reflect the reality of movements in the Polish civic space by advancing beyond just the CSOs which have become notorious and the activists who have become representative of their respective movements. Lastly, this research contributes to extant work on how civil society responds to a host of threats in the context of widespread de-democratisation.

Although the focus was on Poland, Poland is but one of many states experiencing such challenges to democracy. Such an understanding of the threats that Polish CSOs faced, the strategies they implemented in reaction to these and other threats, and the obstacles and opportunities they faced, therefore, may provide other CSOs with a roadmap to responding to these and similar threats in their own national contexts. For instance, CSOs in any context can learn from how Polish CSOs sought to embed their arguments in the norms and laws which (ought to) bind domestic decision-makers to strengthen their claims of legitimacy in an environment where powerful actors tried to de-legitimise their causes. Other CSOs can, likewise, learn

from how Polish CSOs ‘splinter’ their strategies and expand beyond strategic interactions most common for their organisation type or cause (e.g. judges’ associations participated in strategies beyond legalistic ones, which such groups have historically engaged and conducted other interactions like mobilisations). Those seeking to support these CSOs, such as policymakers or other CSOs, will find a helpful overview of where CSOs experience challenges as well as specific recommendations for how these challenges can be addressed and how CSOs can be buttressed.

8.2.3.2. Research on Norm Contestation

This research also focused on how CSOs expressed disagreement with the standards for the rule of law and human rights set by United Right and how CSOs positioned new rights as matters of human rights— engaging in both reactive and proactive contestation. Although receiving less attention than politicians, states, and IOs, civil society is an important realm from which to study both forms of contestation. Such research provides insights into the various strategic interactions that CSOs could employ to challenge norm violations that affect the rights they champion but it also provides insight into how organised citizens seek to exercise their agency to co-shape the norms which also shape their legal, social, and political realities. This research also contributes to the growing literature which examines the role of civil society as a challenger of existing norms and an entrepreneur of new norms or new definitions for extant norms (Nah, 2016; Radu et al., 2021). In an environment such as Poland where serious threats to the rule of law and human rights were exacerbated by ruling parties and where opponents such as CSOs invest in multifaceted strategies to counter this activity, research which sheds light on how civic actors contest the normative standards set by the state or other political figures will continue to be relevant.

8.3. Recommendations for Practice

Although not the main focus of this work, both the document analysis and interviews conducted with CSOs did expose a number of potential recommendations for policymakers, the EU, academics and civil society. These recommendations reflect the challenges and opportunities which frequently

surfaced in this work and are not intended to be all-inclusive, but rather, to elevate frequently cited concerns.

8.3.1. Advice to Policymakers

Connect more with Civil Society: Firstly, policymakers should see CSOs as significant sources of knowledge. Properly vetted knowledge, whether from their lived experiences or from the reports and data they produce and collect, could be a significant source of accurate, up-to-date, and reliable data and insight into the situation 'on the ground' for civil society and other affected actors (e.g. judges, LGBT+ persons). It is, therefore, important that policymakers take advantage of this knowledge *and* branch out to these organisations. As CSOs often struggle to know how to approach policymakers and how to replicate sporadic successes they experienced working with policymakers in the past, policymakers should proactively seek chances to connect and collaborate with civil society. These interactions should not be with large NGOs alone but also with small, local organisations. Examining the CSOs of study in this work shows that even smaller, local organisations seemed to carry out a range of strategic interactions and have significant knowledge about the situation of their target norms and groups. In addition, CSOs seeking to better connect with policymakers would benefit from policymakers who train them to understand how, when, and with what vocabulary they can communicate with those in the policy realm. In this way, CSOs may more confidently communicate with policymakers to receive support, communicate concerns, and more closely collaborate on joint efforts.

8.3.2. Advice to the EU

More Funding Opportunities for Polish CSOs: The EU should create more pathways for obtaining funding for smaller, local CSOs. Almost every CSO interviewed and multiple documents, as well as research and reports about the tilting of the Polish civic space, made clear the devastating effect that funding difficulties had on liberal CSOs. Funding is typically a limitation for smaller CSOs in mundane conditions, however, in an environment where many CSOs are selectively defunded by political authorities and face additional financial pressures related to issues like SLAPPs,

these difficulties are greatly exacerbated. As a result, international funding sources have become integral. However, this funding is not unlimited and not equally available to all CSOs. Further, funding is sometimes also restricted to specific groups because of requirements regarding CSOs' registration status or requirements that CSOs have the resources and finances to manage and report on secured funds. In such situations, collaboration opportunities between CSOs should be encouraged. Larger, registered CSOs with more resources and funding may be the targets of many funding schemes, however, opening the door to consortiums with smaller organisations may make funding opportunities more equitable for CSOs that are less likely to be awarded funding on their own. As is often the case with CSOs, organisations also prefer funding opportunities that are not restricted to programmatic work so that they can finance their overhead costs or work on expanding services versus constantly planning and executing new programmes.

More Engagement with CSOs and Academics: Many of the smaller organisations, which were less established and working on the local level, seemed not to seek opportunities to exert influence at the EU level. The EU may thus seek to proactively engage these CSOs if it is interested in diversifying the pool of CSOs with which it collaborates and/or funds. Generally speaking, the EU should work (more) closely with academics and civil society to keep abreast of the situation in Poland (or member states experiencing similar difficulties) and to better understand the landscape of threats which exist for CSOs beyond challenges from the national government (e.g. Polish-style SLAPPs). Academics and CSOs have, since 2015, been keeping records of such events and their consequences in the forms of academic publications, research, and reports. Engaging with both groups will, therefore, help the EU (and other international institutions) better understand the unique configuration of the Polish civic landscape. In this polarised landscape, for instance, it cannot always be expected that buttressing civil society will mean an improved situation for matters like democracy and reproductive rights. Exactly the opposite may also be true, as reflected by existing research (*Cultural and Religious Counterrevolution*, 2020; Ekiert, 2019b) and this work (see **Chapter 7: Data and Results**, section **7.22.5. Barrier: Opposing Civil Society Organisations**, for instance).

This finding, however, differs from conventional ideas about the relationship between civil society and liberal democratic values, thus, those without a specific understanding of the Polish civic landscape (or working relationships with civic and

academic actors who do have this understanding) would likely miss this fact. Another potentially missed opportunity is the wealth of information that exists already from the Polish civic space. Here, actors with both lived and professional experience detailed the situation 'on the ground' for civil society and for groups which have been affected by the rule of law and/or human rights issues. While there appeared to be some engagement from the EU, such as the use of such reports and information in EU reports, it is likely that EU actors (and others) are missing such input. This would be to the detriment of both the CSOs which used time, energy, and resources to produce such reports and to IOs themselves, who could use this rich information. When engaging either civil society or academics, the EU must have a clear plan for the engagement. The EU and other IOs seeking engagement should ask the following questions: *How will CSOs' input be remunerated or otherwise compensated? How will the information, reports, and other testimony be used? What is the follow-up plan after the initial collaboration is complete?*

The EU has in the past initiated various measures for citizens to become involved in EU affairs and decision-making, only to leave the results of such collaboration dubious and without proper follow-up. CSOs, academics, and others may then be less likely to collaborate in the future because doing so entails costs to them (i.e. energy, time, and negative attention from the government and others) but may not deliver substantive rewards. It is therefore advised that in addition to a clear and concise follow-up plan for individual interactions, the EU also works towards building a common framework for engagement and collaboration with EU-based CSOs. In this way, interactions and follow-up are standardised and less likely to lead to chaotic engagement. It is clear that the EU appreciates and understands the role that can be played by civil society. This is reflected by EU engagement with CSOs for reports and during country visits but also, for instance, awards like the Citizens' Award presented by the European Parliament, which in 2020 recognised the role of Wolne Sąd in defending the norms enshrined in the EU Charter of Fundamental Rights, among other things ("Prawnicy z inicjatyw 'Wolne Sąd' laureatami nagrody Parlamentu Europejskiego," 2021). Consistent and meaningful engagement with CSOs will ensure, therefore, that such an appreciation appears sincere, and that the EU sets appropriate expectations from the very beginning of its work with civic actors.

Stronger and More Proactive Intervention: Appeals and other attempts to lobby the EU for action made it clear that CSOs see the EU as an integral venue for action,

specifically as it concerns direct interactions like the initiation of infringement procedures. The EU, therefore, should respond to the concerns of civil society proactively and use all available methods of intervention. This may include statements and resolutions but should also include more aggressive action such as the European Commission launching infringement procedures with the CJEU. The EU, like other international institutions, should, further, continue to offer discursive support and issue official statements regarding the rights that Polish CSOs advocate for. In the same way, the EU and other international institutions may use their positions to officially condemn the actions of Polish authorities which create adverse conditions for the rule of law, reproductive rights, and the lives and rights of LGBT+ persons. Developing a robust strategy for collaboration with CSOs inside of the Union and organised plans to protect CSOs and activists in the EU from issues like discriminatory legalism, the weaponisation of funding, and other concerns reflected by CSOs in this work will ensure that there is a regular and trusted process to prevent the repression of activists and the tilting of the civic space.

This will also help civic actors to strategize by making them aware of the protections which exist for them and the situations in which they will be activated, instead of relying on ad hoc and unpredictable support from EU institutions. Lastly, the EU has numerous tools for intervention when it is suspected or confirmed that norms are being broken. Proper and timely use of these tools is integral to maintaining the EU's existence as a normative community and is the assigned task of EU institutions, especially the Guardian of the Treaties.

8.3.3. Advice to Academics

Looking Past the 'Ivory Tower': Although there is debate within the academic community about the role that academics should play in addressing societal issues (versus, for instance, staying 'neutral'¹⁵⁷) (Lazarus, 2022, 2020; Stone, 2022), academics working on socially impactful issues, such as those in this research, may seek to become involved outside of academia. While academia is a major driver of

¹⁵⁷ Although there is no room to include the larger discussion around neutrality, the word neutral is placed in quotation marks as the extent to which academics (or the instruments and theories of their fields) truly remain neutral is debatable. This is due to a number of factors such as academics' positionality, their topic of focus, and the history of their field(s) of study. For more discussion see Jensen, 2014 as one example (the book Jensen is quoted in is also beneficial for a richer discussion on the topic. Though the discussion surrounds one kind of profession, the points argued here are echoed in other fields).

knowledge creation and brings developments to light regarding potential rights violations in Poland and beyond, such knowledge may remain within academic institutions and fail to be translated into other forms of knowledge or resources which are more accessible to wider audiences, including those that academic study. This can be overcome by writing in plain language or avoiding language geared solely towards academic audiences, contributing to blog articles, panels, and other events (e.g. exhibitions) designed to bring in a non-academic audience or at least engage multiple audiences, and working (more) closely with CSOs themselves to translate their lived experience and other knowledge into research for academic and other audiences. As academics often gain entry into other spaces, like IOs or policy institutions, they may work alongside these institutions to the elevate concerns of those in the civic space.

Where skilled, academics could have a significant role to play in the translation of the needs and concerns of civil society into a grammar that is easy to understand for policymakers. Likewise, academics may be able to guide CSOs on the way that they can share their experiences, needs, and concerns with policymakers directly, using the kind of approach and language that is more appropriate for the policy world. Lastly, academics with the proper expertise may become directly involved, for instance, working together with organisations like judges' associations to intervene as a third party in strategic cases. Engagement in the strategic interactions of CSOs, however, need not be so specialised. Mobilisations, petitions, and email campaigns are all ways of becoming involved if one finds such scholarly activism attractive.

Elevate the Voices of those Directly Involved: Academics should elevate the voices of other academics, activists, and judges who have lived experience in the matters covered in this work. This may be done by sharing their articles, citing their work, or inviting them as experts for events. In this way, academic knowledge is also enriched by the personal experiences and on-the-ground knowledge of those closest to the issues of focus.

Acting within Academia: Academics, even juniors, can also act within the academic realm. The Dutch-based Our Rule of Law Foundation, founded by four bachelor law students (Anna Walczak, Tekla Emborg, Elene Amiranashvili, and Zuzanna Uba) is but one of many examples. This project has, at the time of writing, launched a training programme for future rule of law defenders, hosted university events

related to the defence of the rule of law which brought together academics, judges, and civil society, collected donations to support besieged judges, and produced a comprehensive report regarding ways to defend the rule of law across Europe (“About Us,” n.d.). While the success of this project and the junior academics who created it are impressive, it should also be taken into account that junior academics will need the support and guidance of senior academics to achieve similar success. Junior academics are especially vulnerable because they have less influence and standing in their departments and universities. Where scholar activism is harshly criticised, junior academics may struggle to actualise projects such as Our Rule of Law. Further, they may lack the experience and funding needed to oversee such complex projects. More-established, respected academics whose careers enjoy relative stability, should, therefore, guide junior academics wishing to start similar initiatives and help them navigate potential difficulties and criticism.

Of course, traditional methods exist within academia for scholars looking to make an impact in other ways such as the publication of research in the form of academic articles and books. Such work enriches available academic knowledge and creates a repertoire of knowledge from which other academics, policymakers, and organisations may draw on for their own activities. The aforementioned suggestions were by no means created to discount these traditional methods.

8.3.4. Advice to Civil Society

Find the Right Words: It appears that audiences external to Poland or external to the events unfolding in Poland might remain unaware of what is happening, why it is problematic, and why they should care about it in their personal lives. It is, therefore, vital to reach these groups (e.g. by publishing in more accessible language and perhaps more frequently in English). However, this research has revealed that many CSOs, especially those focused on the rule of law, struggle to find the proper words to explain the importance of their causes to non-expert groups. A recurring concern of CSOs focused on issues like the rule of law is that it is difficult to find the language to speak to the general public. They often struggle to talk about the rule of law in a way that is not abstract and to impress upon the public, especially those who are not politically inclined, that issues in Poland’s apex courts, also affect them and should be important to them. Perhaps such CSOs could collaborate with groups working on issues that are easier to articulate or CSOs who

have extensive experience articulating their issue areas and trying to build public sympathy for issues and persons that are often stigmatised. These CSOs have experience communicating with the public and may help others craft the correct language to 'break through' to the public.

Learn from each other: It was clear in this research that CSOs in Poland often worked together. Sometimes regional closeness brought them together, especially if they focused on different issues/services and did not see each other as competition. Other times, CSOs worked together to share the burden of strategic interactions (e.g. in a consortium where one CSO supplied legal assistance and the other worked more on communications and outreach). The simultaneous attack on various rights (e.g. reproductive rights, free press, LGBT+ rights, judicial independence) by the same figure(s), gave CSOs the same common antagonist and potentially aided them in understanding attacks on these various rights as part of a systemic dismantling of liberal democracy, especially as it regarded attacks on the rule of law and minority rights. These factors may have made it easier for the CSOs in this study to work together. However, this is not always the case, especially in relation to movements that had significantly different foci. Collaboration seemed to be much more common between groups from the same movement and groups from related movements (e.g. movements for reproductive health rights and movements for LGBT+) versus groups working in issues areas which were very different (i.e. climate and reproductive rights). This may signal that further chances for collaboration between movements are possible but not yet being taken advantage of. Increased collaboration may allow for the pooling of resources, strengthen the networks of CSOs and activists and allow CSOs to exchange best practices and other strategies. It should be encouraged, when possible, although CSOs will have to mind the danger of 'mission creep.'

8.4. Recommendations for Future Research

Through this work, several avenues for potential future research emerged. These avenues were not possible to explore fully in the course of this work and so they are recounted in the following sections as areas that are interesting for future research. Future research could of course expand upon the findings and foci of this research by collecting data on more organisations and/or collecting more in-depth data on a

smaller number of CSOs. The latter could be achieved, for instance, through an ethnographic study of CSOs in this space which was, unfortunately, not possible due, in part, to the COVID-19 pandemic which restricted travel for the entire 1,5- 2-year period in which such work would have taken place. In-depth, ethnographic work may reveal additional CSOs or interactions which were difficult to identify through the methods used in this study alone. For instance, CSOs that were not active online and whose activities were not covered in traditional or social media were likely to be missed in this work unless they were mentioned by other CSOs (i.e. during an interview). This could mean that local CSOs, especially those whose strategic interactions were less visible to non-local, external audiences were overlooked in this work.

In this research, a list of 206 relevant CSOs was compiled as were details such as their foci and registration statuses. This research pursued a purely qualitative approach and so only very basic data was collected about these organisations. Another direction for future research may then be to expand upon the basic data collected for this work and pursue a data-driven approach to investigate matters such as whether certain interactions were more common for CSOs of a certain status or focused on certain issues, the extent of CSOs' networks (e.g. through a network analysis), and whether CSOs' strategic interactions (and/or the frequency of their interactions) changed through time. Another area that may be explored in future research which was not possible in this work is outcome tracking. There is already some nascent evidence that at least in some situations CSOs' efforts can be translated to positive outcomes in their areas of interest. For instance, it is commonly believed that the 2016 Black Protests organised in part by OSK and eventually blooming into several mass protest events, were responsible for United Right's backtracking on a citizens' draft bill that would have imposed harsh abortion restrictions (Hall, 2019).

Likewise, there is evidence that CSOs' interactions like the production of research and reports were useful for other actors, like the CJEU, which referred to the reports published by Polish CSOs, like Themis (*OPINION OF ADVOCATE GENERAL TANCHEV delivered on 6 May 2021(1) Case C-791/19 European Commission v Republic of Poland*, 2021) and Iustitia (*ŽUREK v. POLAND*, 2022) or the Venice Commission, which also used reports from CSOs in its own reports ("Venice Commission opinion on the 'muzzle law' – Rule of Law," 2020). However, there appears to be little focus in existing academic research on tracking if and how often CSOs' strategic interactions

lead to their desired outcome. Such research would, of course, be able to address critical concerns around the actual effectiveness of CSOs' activities and strategic interactions. A stronger focus on outcome tracking would additionally lead the way for determining which factors may influence the success of certain CSOs or certain strategic interactions over others by initially arriving at a definition of success, identifying interactions which have succeeded, and dissecting CSOs and their strategies to determine which factors ensured their success.

Lastly, while this work does make mention of the polarised Polish civic space, the focus of this work is primarily on the country's liberal civil society. This means that the strategic interactions and experiences of the other half of this civic landscape are left out. The previous chapter (see section **7.22.5. Barrier: Opposing Civil Society Organisations**) demonstrated that there are significant, often antagonistic, interactions between the 'two sides' of Poland's civil society and that quite a lot of happening on the 'other side.' However, such a focus on conservative civil society was not within the scope of this research. To present a more well-rounded picture of the Polish civic landscape, also considering that much extant research on Polish civil society focuses on liberal civil society, an in-depth study on conservative civil society in Poland would be valuable for closing this gap in research.

8.5. Final Thoughts

8.5.1. The Limitations of Embeddedness

As mentioned in the previous section **8.2.2. 'Embedding' Arguments in Recognised Norms**, CSOs engaged with Poland's embeddedness in several treaty systems, however, such engagement has its limits. This was briefly alluded to in the aforementioned section and the following sections will speak on this matter more in-depth.

Rights Not Explicitly Protected

'...unborn lives are [to be] defended, they cannot defend themselves...human rights legislation does not refer to such issues, the European Convention and the case law of the

European Court of Human rights do not touch upon of this issue...Commissioner [Helena Dalli], in legal terms the EU has no competence in the field of abortion rights in member states, this is something you have said in the November Debates'¹⁵⁸ (Beata Mazurek, during the European Parliamentary debate, The de facto abortion ban in Poland, 2021).

Despite the use of the language of human rights in statements and appeals related to matters like access to abortion and homophobic discourse, the relevance of extant treaties like the ECtHR in these matters is much more limited than, for instance, matters related to the rule of law. This does not mean that supranational courts like the ECtHR could not become venues through which matters like access to abortion and contraception are protected in the future, however. The ECtHR follows 'the doctrine of dynamic interpretation' which 'effectively enables the Court to flesh out the contents of ECHR rights by taking into account "external parameters" that "regard the socio-political context"' (Bjorge, 2010). In other words, the Court's understanding of which rights and groups may be protected under the ECHR can evolve according to external developments. The ECHR acts like a living document which can be rather liberally interpreted according to present-day conditions (although such interpretation is still quite rigid). In the past, this has meant increased protections for matters such as LGBT+ rights as developments in sexual discourse took place across Europe (Bjorge, 2010; Goldhaber, 2007a). This feature may make the ECtHR an especially likely ally for LGBT+ CSOs, for instance, seeking additional protections for LGBT+ persons that were not originally envisioned in the ECHR and other treaties.

CSOs also seemed to recognise the promise of engaging the ECtHR. For instance, as discussed in the previous chapter, FEDERA led a mass campaign to help Polish women mobilise the ECtHR by submitting complaints regarding the de facto abortion ban. Such interactions may encourage activists, CSOs, and others to see the Strasbourg Court as a potential venue for intervention, even if the rights of focus do not explicitly enjoy the protection of extant treaties. However, it is worth noting that the Court has also remained ambiguous regarding these rights as well. For instance, It has consistently escaped the question of a so-called 'foetal right to life' at the heart of the anti-/pro-abortion debate (Goldhaber, 2007b; Williamson, 2012). In fact, despite its history of upholding women's rights, including their right to make various medical decisions about their own bodies, when it comes to states'

¹⁵⁸ Transcription from the English-language, real-time translation provided by the European Parliament.

sovereignty to decide on matters like abortion, the ECtHR prefers not to dispute or challenge states' national legislation (Cosentino, 2015). It avoids explicit comments about whether abortion or any other contraception is covered by the ECHR (Zampas and Gher, 2008). These facts expose the limitations of supranational law for some of the rights mentioned in this study. Similarly, much support from international organisations remains in the discursive realm, accompanied only by symbolic gestures like the declaration of the EU as an 'LGBTIQ Freedom Zone.'

In international institutions like the UN and EU, representatives have repeatedly spoken out against the increasingly restrictive laws governing reproductive rights in Poland, which have made access to contraception, sex education, abortion, and IVF more difficult and the use of anti-LGBT+ rhetoric by United Right and other figures (e.g. President Duda). Many in the civic space have lamented that this engagement has mostly stayed in the discursive round, but this is unsurprising. The EU, itself has no competencies in areas like health legislation of member states. Therefore, while it can condemn the lack of access to certain forms of contraception and position threats to their availability as threats to human rights, it cannot require that member states change their healthcare policy.¹⁵⁹ This is the competency of member states alone, although member states like Poland, whose legislation differs significantly from that of many other member states, are often pressed by EU institutions and member states to adopt more liberal policies. This combined pressure from supranational actors and domestic groups (e.g. CSOs) could encourage change in policies related to LGBT+ and reproductive rights, however, ZP appeared very closed to change in these areas.

The Effects of Ambiguity

The potential to relate international treaties on human rights to matters like abortion and anti-LGBT+ discourse is not only exploited by liberal CSOs. Conservative actors engaged with these treaties as well. For instance, they also argued for matters like abortion to be reflected in extant treaties on human rights, however, such arguments were concerned with preserving the human and fundamental rights of the unborn. Conservative actors, therefore, appealed to international institutions like the UN and engaged the language of international treaties in efforts to frame services like abortion as inconsistent with protecting the

¹⁵⁹ According to The Charter, one has a fundamental right for access to healthcare, however, this does not mean that healthcare should include services like abortion, IVF, or other forms of contraception.

'foetal right to life' ("SUBMISSION OF THE PRO LIFE CAMPAIGN," 2015; Zgaga et al., 2023). They avoided moralistic or religious arguments even when speaking on issues of moral and religious significance, such as abortion, instead opting for legalistic arguments (Interview 150). As one example, in their amicus curiae brief to the 'CT,' OI (and several other international pro-life CSOs) argued, among other things, that allowing for 'eugenic' abortions (e.g. those carried out due to defects of the foetus) infringed upon the legal duty to protect human life and human dignity ("Opinion of amici curiae: Article 4a," 2020). Assuming life begins from the point of conception (or in any case before birth), they further argued that the 'right of unborn children to legal protection of their lives' aligned with several recognised treaties of which Poland is a signatory such as the Convention on the Rights of the Child (adopted by the UN in 1989), (Article 2 of) the Universal Declaration of Human Rights of 1948, and (Article 2 paragraph 1 of) the International Covenant on Civil and Political Rights of 1966, in addition to the country's own constitution (ibid).

Such claims mirrored those of pro-choice CSOs in Poland regarding similar restrictions like FEDERA's claims which evoked the protection of women's lives, autonomy, and health as per the Vienna Declaration, recommendations from the Committee on the Elimination of Discrimination against Women, rulings by the ECtHR, and the Polish constitution (especially Articles 30, 37, 68, and 53) (FEDERA, 2021c, 2018d). In this case, both groups contest the other's understanding of rights associated with the human rights norm such as abortion. Here the contestation is about whose rights ought to be protected (that of the foetus or that of the pregnant person). Thus, the outcome of efforts to catalogue the aforementioned rights as matters of human rights may be influenced by a number of actors, not all of which are seeking outcomes like the liberalisation of abortion law. In a second example, OI wrote a letter to ambassadors of other nations in Poland during Pride month asking them not to publicly support Pride parades and marches. Instead of moralistic arguments, OI reasoned that doing so would be a 'violation of the Polish legal order and the constitutional order of the Republic of Poland, including the protection of marriage as a union between a man and a woman'¹⁶⁰ ("Ordo iuris apeluje do ambasadorów o neutralność w czasie „Miesiąca Dumy”,” 2022).

They further cited the Vienna Convention on Diplomatic Relations in their explanation that members of a diplomatic mission ought to 'respect the provisions

¹⁶⁰ Machine-translated using Google Translate.

of the law of the receiving country.' The proposal argued that this Convention, therefore limited ambassadors' ability to support Pride Month and related activities as the 'demands of the LGBT Ideology' apparently 'undermine the foundations' of Poland's systems (ibid). Here, the alleged demands of LGBT+ persons and organisations are presumed to 'in many cases' (according to the statement) lead to violations of the Polish legal system.

Non-Compliance

'The deadline set by the Commission in its additional reasoned opinion addressed to the Polish government regarding the "Muzzle Law" and the suspended Disciplinary Chamber passed at the end of February 2021. Even so, the Polish authorities have not stopped systematically breaching EU law and ignoring the Court of Justice's rulings' - Excerpt from the open letter to the European Commission penned by several judges' associations and Polish judges ("Open Letter to the European Commission," 2021).

Across the EU, the non-implementation (and 'sham-implementation') of rulings from the ECtHR and CJEU is an issue, with some countries showing a graver disregard for these rulings than others. When it comes to CJEU rulings related to the rule of law, Poland along with Hungary and Romania had (as of the end of 2022) the largest number of non-implemented rulings (Jaraczewski et al., 2023). ECtHR rulings related to the rule of law and human rights faced a similar fate with important rulings in these areas such as those concerning the unlawful composition of the 'CT' (Marcin Szwed, 2021; *XERO FLOR w POLSCE sp. z o. o. v. POLAND*, 2021) or the unlawful composition of the Supreme Court (*RECZKOWICZ v. POLAND*, 2021) being ignored. In fact, either no changes or superficial changes¹⁶¹ were made in both of the aforementioned cases (Jaraczewski et al., 2023). In addition to the non-implementation of rulings, the Polish government and the compromised courts it puppeteers or influences took an adversarial stance towards supranational courts themselves, like the CJEU (Wójcik, 2019a). For instance, after the June 2019 ruling from the CJEU in which it was determined that Poland's Disciplinary Chamber did not meet the standards set by EU law due to the involvement of the (compromised) neo-KRS in the selection of its judges (a decision echoed later by Advocate General

¹⁶¹ For example, as a result of a CJEU ruling regarding the composition of the Disciplinary Chamber of the Supreme Court (Pech, 2020), the Chamber was 'replaced' by the Professional Liability Chamber, which bore the same concerns and hallmarks as the compromised body that it replaced (Jaraczewski et al., 2023; Woźnicki, 2022b).

Evgeni Tanchev), figures from United Right downplayed the judgement, expressing their 'fundamental disagreement' with the opinion (ibid).

Others like Julia Przyłębska, President of the 'CT' called the ruling 'replete with manipulation, inconsistent and problematic' (Wójcik, 2019a, 2019b). This delegitimising discourse is accompanied by open acts of non-compliance with the CJEU's rulings and interim orders, while the 'CT,' controlled by the ruling coalition, challenged the primacy of some 'problematic' parts of EU law with that of Polish law (Cabral, 2021). Even the financial penalty imposed by the Commission for non-compliance with the CJEU ruling regarding the so-called 'Muzzle Law' and the withholding of Recovery and Resilience Funds did not force legitimate compliance. Additional concerns regarding the limits of embeddedness are, then, the non-implementation of judgements and open hostility towards the courts that issue them. Thus, while international courts may provide an additional venue, especially in the event that national courts are compromised, a positive judgement in supranational courts may not always mean that rights violations are corrected or that affected individuals achieve full justice.

Dereliction of Duties

'Our main conclusion is that the EU's interconnected legal order is bound to gradually disintegrate while the EU [slowly] mutates from a community of values into a community of (liberal) democracies and (de facto) autocracies should the Commission and Council continue to oscillate between procrastination and dereliction of duties in the face of Polish authorities' "carpet bombing" style attacks on judicial independence.' - (Pech et al., 2021b)

While the EU was a consistent venue for the appeals and lobbying of CSOs, it was clear that its commitment to addressing rule of law backsliding and worsening standards of reproductive and LGBT+ rights varied across institutions. Attitudes about these matters were also inconsistent within the same institution. For instance, the European Parliament consistently put concerns regarding the rule of law, human rights, reproductive rights, and LGBT+ rights on its agenda (see "The de facto abortion ban in Poland (debate)," 2021; "The situation of the rule of law and democracy in Poland (debate)," 2017; "Women's rights in Poland (debate)," 2016)). It, further, took steps to officially declare its position on these matters, such as its declaration of the EU as an 'LGBTIQ Freedom Zone,' its decision to identify the

October 2020 ruling of the ‘CT’ as a de facto ban on abortion, and its lawsuit against the European Commission regarding its inaction in Poland’s rule of law crisis (“EU parliament sues EU Commission for inaction over rule-of-law concerns,” 2021). Despite these official actions, however, both MEPs from PiS and other conservative MEPs pushed back on such interventions as politically motivated attacks against conservatives and the rejection of ideological diversity in the Union itself.

A closer look at the aforementioned debates alone reveals major contention between the views of some MEPs, like Germany’s Terry Reintke and the Netherlands’ Sophie in ’t Veld, who frequently expressed their concerns for the condition of the rule of law, human rights, and LGBT+ and reproductive rights situation in Poland and MEPs such as Poland’s Jadwiga Wiśniewska or Romania’s Cristian Terheş, who consistently pushed back against such concerns and the intervention of the European Parliament in general. Previous research has also demonstrated how some party groups used the Parliament to challenge the idea that reproductive and LGBT+ rights should be catalogued as human rights (Ahrens et al., 2021). In addition to the difficulties that the Parliament has experienced in trying to present a cohesive narrative about these rights and their concerns in Poland, the alleged inaction of the European Commission has been cited by various scholars. Scholars are quick to point out how such inaction has progressed to the point that other actors, like the ECtHR and CJEU, have become overburdened. Professor Laurent Pech writes, for instance:

‘It is difficult not to conclude that the ECtHR is paying the price of the EU’s persistent failure to act promptly and decisively after years of acting in a too little, too late fashion. In a period of seven years, the European Commission has indeed lodged with the ECJ a grand total of four infringement actions and has been sitting on a fifth one regarding Poland’s unlawfully composed CT for more than a year. By contrast, Polish judges have referred no fewer than 39 requests for a preliminary ruling to the ECJ. In doing the Commission’s job, the referring judges have sacrificed their professional careers in addition to making themselves the target of repeated unlawful proceedings, sanctions, abuse and threats (Pech, 2023a).

The European Commission, the so-called ‘Guardian of the Treaties,’ has despite their significant power, consistently failed to act (Kelemen, 2022; Pech, 2023a; Pech and Scheppele, 2017b). This failure to act was extreme enough that the Commission was

accused of dereliction of duties (Pech, 2022a; Pech et al., 2021b). When it did respond, the Commission proposed remedies that were often weak and rife with issues like leaving legal decisions (e.g. the reinstatement of unlawfully suspended Polish judges) in the hands of unconstitutionally and unlawfully composed courts (Pech, 2022a); setting weak standards for potentially useful new mechanisms (such as the Recovery and Resilience Facility (RRF)) (*2022 Rule of Law Report: The rule of law situation in the European Union*, 2022; Mayer, 2022), and failing to leverage existing ECtHR rulings. Other relevant institutions, such as the Council of Europe and the Council of the EU have, further, acted anaemically regarding serious rule of law threats (Pech et al., 2021b). Therefore, while a major threat to seeking relief through supranational courts is the non-implementation (or sham-implementation) of rulings, an additional challenge exists for CSOs and others seeking relief through European institutions.

8.5.2. The Janus-Faced Role of Law

As this research has alluded to, the law and the institutions which (ought to) uphold it have varied impacts on CSOs. They have both been weaponised against CSOs, judges, and activists to control or discourage certain behaviours and used by the same groups in order to resist repression and remedy rights violations. While there were already longstanding debates about the role that law could play in challenging or upholding power dynamics between states and civil society, the situation in Poland presented even more extreme concerns, as even apex courts were subject to political subjugation and rulings from supranational courts are being ignored. A longstanding question related to both strategic litigation and legal mobilisation more broadly is whether the law (even when cases are won by CSOs) could represent a genuine change in the power structures between civil society and the state (Buckel et al., 2023). While this debate was originally about whether the law should be understood as a more 'neutral' force, open to use by both powerful and disenfranchised actors (Scheingold, 2004) or whether it should be understood as a force created to maintain hegemonic systems and preserve existing power dynamics (Börzel, 2006; Editor, 2022), the Polish context is even trickier. In this case, the assumption that actors operating according to the 'logic of the law' and making claims consistent with the law have an equal chance at using the law to claim rights is not always accurate. Compromised courts, courts facing pressure from political authorities on some cases and the non-implementation of rulings create additional barriers to justice.

Even when CSOs, activists, and judges win their cases, it may be difficult to understand such wins as successes. Here success can be defined as both winning a case *and* having the decision of that case be implemented and respected by the relevant court. A case may be won, which, in theory, should trigger a certain outcome (e.g. the unbanning of an Equality Parade or reinstating a judge to once again adjudicate). However, if that outcome is not achieved because, for instance, it is a politically sensitive case and compromised national courts both discursively contest the ruling and contest it via non-implementation, then the CSO can only speak of partial success. It is still possible that the case will set a precedent for future cases or that the ruling will be implemented under different circumstances (e.g. when another party comes to power). Therefore, the outcome is still a (partial) success, however, its non-implementation and the contestation of the ruling itself is a failure as the ruling will then fail to have its intended impact (implementation), at least for the time being. In addition to these concerns, CSOs also faced other issues related to the weaponisation of law, such as discriminatory legalism (*SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE): POLAND OTHER STAKEHOLDERS REPORT, 2022*).

Despite this reality, CSOs expressed that while national courts may find themselves in the strike zone of government subordination, the law is still their weapon (or shield). For them, supranational courts like the CJEU and ECtHR will continue to be promising avenues for justice (Kampania Przeciw Homofobii, 2021f). The situation of civil society in Poland, however, proves that the role of law is ambiguous for many CSOs and activists. While they very much come to rely on the law and pursue interactions in the legal realm, they cannot be certain that the law or compromised courts will not infringe upon their rights.

8.5.3. The Future of Civil Society in Poland and the EU

This work arouses but cannot resolve within the space of this study, the question of what the future of Poland's civil society will be. Several threats to a healthy and robust civic space exist, including the growing polarisation of civil society, the aftershocks of ZP's attempts to tilt the civic space, and the looming threat of Polish-style SLAPPs. In addition, growing pressures on liberal CSOs to address an increasing number of issues with limited resources may mean that the already tilted

civic space is in greater danger of even more negative change. Despite these and other concerns, however, it was clear in the course of this work that civic actors remained committed to their causes and adopted or modified strategic interactions in response to new threats. Ironically, increasing pressure on the civic space, attacks on the rule of law and human rights, and even the tragic outcomes related to legal decisions such as the de facto abortion ban have galvanised civic actors to strengthen their efforts and collaborate more closely. Although their sustained and robust response to the sea of various challenges they faced since 2015 was impressive, civil society and the activists and judges of focus in this study were (and are) still highly vulnerable. The future of CSOs and of the Polish civic space will be a consequence of the actions of various actors both inside (e.g. CSOs themselves, the Polish government, and opposition parties) and outside (i.e. the EU, UN, international audiences of academics, and supranational courts) of Poland.

Although the outlook regarding the Polish civic space is more positive in 2024 than it was at the end of the study period (in 2022, when ZP was still in power), it is clear that the path towards restoring standards for the rule of law, reproductive rights, and LGBT+ rights will be long and arduous. At present, Poland's compromised courts still openly contest the final judgements of the CJEU and ECtHR regarding key cases related to the rule of law. This continues despite the triumph of opposition parties over PiS in the 2023 Polish parliamentary elections. Amongst the sea of reasons to be pessimistic (which has grown smaller with time), however, what keeps one cautiously optimistic on the best of days and at least stoic on the worst days, is the stunning strength and courage of the judges and activists in Poland. Interactions with these groups during conferences, panels, interviews, and even through document analysis and following CSOs on Facebook, Twitter, and Instagram, have impressed upon me the strength and vigour of Polish civil society. Although the diagnosis of the Polish and CEE civic space remains unfavourable in comparison to the civic space further West, Polish civil society (both liberal and conservative) has proved that it is capable of elevating its chosen rights and causes, contesting Polish and/or EU standards for various norms in a number of fora, and collaborating within and across borders to achieve its goals. It is no coincidence that such an allegedly 'meagre' civic space has so passionately fought to reshape its political, social, and legal realities to reflect the rights and norms it wishes to champion.

After all, just decades ago Poland was the country which harboured the most formidable and consistent resistance movements in the Eastern Bloc and one

whose citizens endured political, social, and financial turmoil in their 'rejoining' of the West. I can, thus, have no doubt about the ability of organised Polish citizens to decide for themselves the future they want to have and to find new ways to co-shape it.

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Appendices

1a. List of Interview Topics/Interview Guide English Version 1

Interview Question Template

Intro and Basics:

- How are you today?
 - Thanks for your availability to participate in the study! Do you have any questions about any of the information I sent over to you? **May you please submit the consent form?**
 - Great! Please know you can pause or stop the interview at any time and if there is information that you wish not to provide, you can skip the question. Also, I apologise that I will be reading each of the questions like a script, it is to ensure that I give everyone the opportunity to respond to the same questions and I don't skip or miss any information.
1. I am going to go through a list of roles, feel free to stop me if we come across the role that you are currently in. Which of the following describes your current role in the organisation?:
 - a. Secretary
 - b. Director
 - c. President
 - d. Chairperson
 - e. Board member
 - f. Head of office
 - g. Project manager/coordinator
 - h. Communication manager
 - i. Policy officer/advisor
 - j. Legal advisor
 - k. Administrative officer
 - l. Assistant
 - m. Other (namely):

2. I've read a lot about your organisation online, from your _____ (**website, social media, newspapers etc.**). Can you tell me more about your role in the organisation and the mission of your organisation, in your own words?
3. Your organisation was founded in ____, is that correct? **OR** What year was your organisation founded?
4. How would you characterise your organisation. There are four choices, feel free to stop me when I come to the one that best matches your organisation
 - a. Small, grass-roots, loosely organised
 - b. Medium-sized, fairly organised (e.g. regular meetings/members/campaigns)
 - c. Large and local
 - d. Large and international, NGO; Internationally or nationally organised and integrated
5. Next, I have a question about the members of your organisation- members can be considered 'regular donors who only make financial contributions as well as active members who are engaged in a wide range of organizational activities. Members can be individuals, firms or other organizations.' With this in mind, would you say you have:
 - a. (1) 1-20 members
 - b. (2) 21-100 members
 - c. (3) 101-1.000 members
 - d. (4) 1.001 - 50.000 or
 - e. (5) Over 50.000 members?
6. I know a bit about the kinds of activities that your organisation does, but I just want to run down the following list and ask if any of these are activities that your organisation also does:
 - a. Advocacy/lobbying
 - b. Marches/demonstrations
 - c. Media campaigns
 - d. Research
 - e. Support or advice to members
 - f. Fundraising
 - g. Promoting volunteering/ volunteering
 - h. Monitoring the election campaigns of political parties
 - i. Community events (e.g. clothing drives, neighbourhood parties, food drives)
 - j. Religious activities
 - k. Provide expert advice to the government
 - l. Provide expert advice to the EU/ EU institutions

m. Other_____ (namely)

7. (If an interviewee names some activities) In which of these activities are you involved?

Changes:

8. How has the organisation changed within the recent years? You may think, for instance, about how the organisation has grown, how goals/priorities have changed, or how the scope has changed.
9. How has the environment (social, political, economic) changed for you within the last 5 or more years? Are these negative or positive changes?
10. Do you feel that your organisation or its activities have been impacted as a result of COVID-19? If so, how?

Social:

11. Sometimes, the very existence of an organization is challenged by internal and/or external forces. Considering the next five years, would you estimate that your organization will face a serious challenge to its existence?
 - a. Highly unlikely (0.1)
 - b. Unlikely (0.2)
 - c. Neither unlikely or likely (0.3)
 - d. Likely (0.4)
 - e. Highly likely (0.5)
 - f. Don't know (0.0)
12. (If yes to question 11): What challenges do you anticipate?
13. Next, I want to ask about your network. Does your network include any of the following groups:
 - a. Local organisations (in your province/city)
 - b. National organisations
 - c. EU-based organisations
 - d. International organisations outside of the EU
 - e. Local government
 - f. National government
 - g. The EU
14. Do you feel as if you have the ability to influence local, national, international, or EU policy because of your network? If so, what level do you feel you can influence?
 - a. Local
 - b. National
 - c. International

- d. EU
 - e. Other (namely)
15. (If EU selected for question 14) Within the past 12 months, which EU-level institutions or agencies has your organisation sought access to in order to influence policies?
- a. Commissioners and their cabinets
 - b. Directorate Generals of the Commission
 - c. Member-state delegations/Permanent representations in Brussels
 - d. The Council secretariat
 - e. Leadership of European Parliament party groups and/or European party federations
 - f. Other members of the European Parliament
 - g. European regulatory agencies
 - h. EU-level interest groups and civil society organizations
 - i. Other
16. (If EU **NOT** selected for question 14) Are you interested in influencing EU-level institutions or agencies? If yes, how do you plan to do so? Or is this something you know you're interested in now, even if getting there isn't figured out yet?
17. Has the quality of your organisation's relationships with any of these groups changed in the last 5 years? **How did it change?**
- a. Local organisations (in your province/city)
 - b. National organisations
 - c. EU-based organisations
 - d. International organisations outside of the EU
 - e. Local government
 - f. National government
 - g. The EU
18. Which of these groups do you consider the most cooperative with your organisation ? Why ?
19. Which of these groups do you consider less cooperative with your organisation ? Why ?

Goals and Challenges:

20. What things would make it easier for your organisation to achieve its goals? You may think, for instance, about funding, better collaboration with other

organisations, a better relationship with local, national, or EU governments/organisations.

21. What would you say are some of the most significant successes for your organisation?
 - a. How do you measure these successes?
22. What would you say are some of the most significant difficulties your organisation has faced?
 - a. To what do you attribute these difficulties?
23. What potential solutions would you propose to tackle these difficulties ?
24. Your organisation focuses primarily on (**Details from review and from what they told me**), do you feel aligned with any decision-makers on these issues? For instance, do you feel a certain party, politician, organisation, MEP etc. defends your interests in this/these area(s) well?
 - a. If yes- Do you collaborate with them?
 - b. If yes-Do you support their work? If so, how?
25. Your organisation focuses primarily on (**Details from review and from what they told me**), that's pretty difficult considering **Relay challenges they faced or those ID'd through previous research**. How do you deal with that?
26. If you could imagine an ideal situation when it comes to your network, how would it look? You may wish for instance, for a larger network, a more international one, or simply a network that is more consistent or can provide more support for your efforts.

Other and Closing

27. Is your organisation also active online (e.g. social media)? If so, which online spaces and how often are you active online?
28. (If yes selected for question 27) What kinds of activities does our organisation do online? Select all that apply:
 - a. Blogging/Vlogging
 - b. Protests
 - c. Panels/ other events
 - d. Posting on Social Media (including short posts)
 - e. Making Contact/ Staying in Contact with other organisations etc.
 - f. Other; namely:
29. Thank you so much for your time and the information provided today! Are there any other questions or points you wanted to bring up that we did not already touch upon today?

Thank you so much for your time today, the information you provided is invaluable for my research and it sheds light on the situation of civil society organisations in Poland. If you have any questions or concerns, please feel free to reach out to me with your participant number, as your organisation name will not be stored with this interview data so I won't be able to identify your data otherwise.

2a. List of Interview Topics/Interview Guide English Version 2

Interview Question Template

Intro and Basics:

- How are you today?
 - Thanks for your availability to participate in the study! Do you have any questions about any of the information I sent over to you? **May you please submit the consent form?**
 - Great! Please know you can pause or stop the interview at any time and if there is information that you wish not to provide, you can skip the question. Also, I apologise that I will be reading each of the questions like a script, it is to ensure that I give everyone the opportunity to respond to the same questions and I don't skip or miss any information.
1. I am going to go through a list of roles, feel free to stop me if we come across the role that you are currently in. Which of the following describes your current role in the organisation?:
 - a. Secretary
 - b. Director
 - c. President
 - d. Chairperson
 - e. Board member
 - f. Head of office
 - g. Project manager/coordinator
 - h. Communication manager
 - i. Policy officer/advisor
 - j. Legal advisor
 - k. Administrative officer
 - l. Assistant
 - m. Other (namely):
 2. I've read a lot about your organisation online, from your _____ (**website, social media, newspapers etc.**). Can you tell me more about your role in the organisation and the mission of your organisation, in your own words?
 3. Your organisation was founded in ____, is that correct? **OR** What year was your organisation founded?

4. How would you characterise your organisation. There are four choices, feel free to stop me when I come to the one that best matches your organisation
 - a. Small, grass-roots, loosely organised
 - b. Medium-sized, fairly organised (e.g. regular meetings/members/campaigns)
 - c. Large and local
 - d. Large and international, NGO; Internationally or nationally organised and integrated
5. Next, I have a question about the members of your organisation- members can be considered 'regular donors who only make financial contributions as well as active members who are engaged in a wide range of organizational activities. Members can be individuals, firms or other organizations.' With this in mind, would you say you have:
 - a. (1) 1-20 members
 - b. (2) 21-100 members
 - c. (3) 101-1.000 members
 - d. (4) 1.001 - 50.000 or
 - e. (5) Over 50.000 members?
6. I know a bit about the kinds of activities that your organisation does, but I just want to run down the following list and ask if any of these are activities that your organisation also does:
 - a. Advocacy/lobbying
 - b. Marches/demonstrations
 - c. Media campaigns
 - d. Research
 - e. Support or advice to members
 - f. Fundraising
 - g. Promoting volunteering/ volunteering
 - h. Monitoring the election campaigns of political parties
 - i. Community events (e.g. clothing drives, neighbourhood parties, food drives)
 - j. Religious activities
 - k. Provide expert advice to the government
 - l. Provide expert advice to the EU/ EU institutions
 - m. Other_____ (namely)

Changes:

7. How has the organisation changed within the recent years and when about did these changes occur? You may think, for instance, about how the organisation has grown, how goals/priorities have changed, or how the scope has changed.

8. How has the environment (social, political, economic) changed for you within the last 5 or more years? Are these negative or positive changes?
9. Do you feel that your organisation or its activities have been impacted as a result of COVID-19? If so, how?

Social:

10. Sometimes, the very existence of an organization is challenged by internal and/or external forces. Considering the next five years, would you estimate that your organization will face a serious challenge to its existence?
 - a. Highly unlikely (0.1)
 - b. Unlikely (0.2)
 - c. Neither unlikely or likely (0.3)
 - d. Likely (0.4)
 - e. Highly likely (0.5)
 - f. Don't know (0.0)
11. Next, I want to ask about your network. Does your network include any of the following groups:
 - a. Local organisations (in your province/city)
 - b. National organisations
 - c. EU-based organisations
 - d. International organisations outside of the EU
 - e. Local government
 - f. National government
 - g. The EU
12. Do you feel as if you have the ability to influence local, national, international, or EU policy because of your network? If so, what level do you feel you can influence?
 - a. Local
 - b. National
 - c. International
 - d. EU
 - e. Other (namely)
13. (If EU **NOT** selected for question 12) Are you interested in influencing EU-level institutions or agencies? If yes, how do you plan to do so? Or is this something you know you're interested in now, even if getting there isn't figured out yet?

Goals and Challenges:

14. What things would make it easier for your organisation to achieve its goals? You may think, for instance, about funding, better collaboration with other organisations, a better relationship with local, national, or EU governments/organisations.
15. What would you say are some of the most significant difficulties your organisation has faced?
 - a. To what do you attribute these difficulties?
16. What would you say are some of the most significant successes for your organisation?
 - a. How do you measure these successes?
17. Your organisation focuses primarily on (**Details from review and from what they told me**), do you feel aligned with any decision-makers on these issues? For instance, do you feel a certain party, politician, organisation, MEP etc. defends your interests in this/these area(s) well?
 - a. If yes- Do you collaborate with them?
 - b. If yes-Do you support their work? If so, how?
18. If you could imagine an ideal situation when it comes to your network, how would it look? You may wish for instance, for a larger network, a more international one, or simply a network that is more consistent or can provide more support for your efforts.

Other and Closing

19. Is your organisation also active online (e.g. social media)? If so, which online spaces and how often are you active online?
20. (If yes selected for question 19) What kinds of activities does our organisation do online? Select all that apply:
 - a. Blogging/Vlogging
 - b. Protests
 - c. Panels/ other events
 - d. Posting on Social Media (including short posts)
 - e. Making Contact/ Staying in Contact with other organisations etc.
 - f. Other; namely:
21. Thank you so much for your time and the information provided today! Are there any other questions or points you wanted to bring up that we did not already touch upon today?

Thank you so much for your time today, the information you provided is invaluable for my research and it sheds light on the situation of civil society organisations in Poland. If you have any questions or concerns, please feel free to reach out to me with your participant number, as your organisation name will not be stored with this interview data so I won't be able to identify your data otherwise.

3a. List of Interview Topics/Interview Guide English Version 3

Interview Question Template

Intro and Basics:

- How are you today?
 - Thanks for your availability to participate in the study! Do you have any questions about any of the information I sent over to you? **May you please submit the consent form?**
 - Great! Please know you can pause or stop the interview at any time and if there is information that you wish not to provide, you can skip the question. Also, I apologise that I will be reading each of the questions like a script, it is to ensure that I give everyone the opportunity to respond to the same questions and I don't skip or miss any information.
1. I am going to go through a list of roles, feel free to stop me if we come across the role that you are currently in. Which of the following describes your current role in the organisation?:
 - a. Secretary
 - b. Director
 - c. President
 - d. Chairperson
 - e. Board member
 - f. Head of office
 - g. Project manager/coordinator
 - h. Communication manager
 - i. Policy officer/advisor
 - j. Legal advisor
 - k. Administrative officer
 - l. Assistant
 - m. Other (namely):
 2. I've read a lot about your organisation online, from your _____ (**website, social media, newspapers etc.**). Can you tell me more about your role in the organisation and the mission of your organisation, in your own words?
 3. Your organisation was founded in ____, is that correct? **OR** What year was your organisation founded?

4. How would you characterise your organisation. There are four choices, feel free to stop me when I come to the one that best matches your organisation
 - a. Small, grass-roots, loosely organised
 - b. Medium-sized, fairly organised (e.g. regular meetings/members/campaigns)
 - c. Large and local
 - d. Large and international, NGO; Internationally or nationally organised and integrated
5. I know a bit about the kinds of activities that your organisation does, but I just want to run down the following list and ask if any of these are activities that your organisation also does:
 - a. Advocacy/lobbying
 - b. Marches/demonstrations
 - c. Media campaigns
 - d. Research
 - e. Support or advice to members
 - f. Fundraising
 - g. Promoting volunteering/ volunteering
 - h. Monitoring the election campaigns of political parties
 - i. Community events (e.g. clothing drives, neighbourhood parties, food drives)
 - j. Provide expert advice to the government
 - k. Provide expert advice to the EU/ EU institutions
 - l. Bringing cases or providing evidence before (national or supranational) courts?
 - i. If yes, what courts and what services do you provide?
 - m. Other_____ (namely)

Changes:

6. How has the organisation changed within the recent years and when about did these changes occur? You may think, for instance, about how the organisation has grown, how goals/priorities have changed, or how the scope has changed.
7. How has the environment (social, political, economic) changed for you within the last 5 or more years?
8. Do you feel that your organisation or its activities have been impacted as a result of COVID-19? If so, how?

Social:

9. Sometimes, the very existence of an organization is challenged by internal and/or external forces. Considering the next five years, do you believe that your

organization will face a serious challenge to its existence? If so, to what do you contribute these challenges?

10. Next, I want to ask about your network. Does your network include any of the following groups:
 - a. Local organisations (in your province/city)
 - b. National organisations
 - c. EU-based organisations
 - d. International organisations outside of the EU
 - e. Local government
 - f. National government
 - g. The EU
11. Do you feel as if you have the ability to influence local, national, international, or EU policy because of your network? If so, what level do you feel you can influence?
 - a. Local
 - b. National
 - c. International
 - d. EU
 - e. Other (namely)
12. (If **YES** selected for question 11) In what way are you able to influence policy?
13. (If EU **NOT** selected for question 11) Are you interested in influencing EU-level institutions or agencies? If yes, how do you plan to do so? Or is this something you know you're interested in now, even if getting there isn't figured out yet?

Goals and Challenges:

14. What things would make it easier for your organisation to achieve its goals? You may think, for instance, about funding, better collaboration with other organisations, a better relationship with local, national, or EU governments/organisations.
15. What would you say are some of the most significant difficulties your organisation has faced?
16. What would you say are some of the most significant successes for your organisation?
17. Your organisation focuses primarily on (**Details from review and from what they told me**), do you feel aligned with any decision-makers on these issues? For instance, do you feel a certain party, politician, organisation, MEP etc. defends your interests in this/these area(s) well?

- a. If yes- Do you collaborate with them?
- b. If yes-Do you support their work? If so, how?

Other and Closing

18. Is your organisation also active online (e.g. social media)? If so, which online spaces and how often are you active online?
19. (If yes selected for question 19) What kinds of activities does our organisation do online? Select all that apply:
- a. Blogging/Vlogging
 - b. Protests
 - c. Panels/ other events
 - d. Posting on Social Media (including short posts)
 - e. Making Contact/ Staying in Contact with other organisations etc.
 - f. Other; namely:
20. Thank you so much for your time and the information provided today! Are there any other questions or points you wanted to bring up that we did not already touch upon today?

Thank you so much for your time today, the information you provided is invaluable for my research and it sheds light on the situation of civil society organisations in Poland. If you have any questions or concerns, please feel free to reach out to me with your participant number, as your organisation name will not be stored with this interview data so I won't be able to identify your data otherwise.

1b. List of Interview Topics/Interview Guide Polish Version

1

Wzór pytań na wywiad

Wstęp i podstawy:

- Jak się Pan/Pani dzisiaj miewa ?

Dziękuję za możliwość wzięcia udziału w badaniu. Czy ma Pan/Pani jakieś pytania dotyczące informacji, które do Pana/Pani wysłałam?

o Świetnie! Proszę wiedzieć, że może Pan/Pani przerwać lub zakończyć wywiad w dowolnym momencie, a jeśli są informacje, których nie chce Pan/Pani udzielić, może Pan/Pani pominąć to pytanie. Przepraszam również, że będę czytał każde z pytań jak ze scenariusza, ma to na celu zapewnienie, że dam każdemu możliwość odpowiedzi na te same pytania i nie pomnę żadnej informacji. Wywiad będzie trwał około godziny. Rozpocznę teraz nagrywanie, które będzie rejestrować tylko dźwięk.

1. Zamierzam przejść przez listę ról w organizacji. Proszę mi przerwać, jeśli natrafimy na rolę, którą Pan/Pani obecnie pełnię. Które z poniższych określić opisuje Pana/Pani obecną rolę w organizacji?

- Sekretarz
- Dyrektor
- Prezes
- Przewodniczący
- Członek Zarządu
- Kierownik biura
- Kierownik/koordynator projektu
- Kierownik ds. komunikacji
- Specjalista ds. polityki/doradca
- Radca prawny
- Pracownik administracyjny
- Asystent
- Inny (mianowicie):

2. Dużo czytałam o Państwa organizacji w Internecie, ze strony _____ (strona internetowa, media społecznościowe, gazety itp.). Czy może mi Pan/Pani

opowiedzieć więcej o swojej roli w organizacji i misji organizacji, własnymi słowami?

3. Państwa organizacja została założona w ____, czy to prawda? LUB W którym roku została założona Państwa organizacja?

4. Jak scharakteryzowałbyś Państwa organizację. Do wyboru są cztery opcje. Proszę mi przerwać gdy dojdę do tej, która najlepiej pasuje do Państwa organizacji:

- a. Mała, oddolna, luźno zorganizowana
- b. Średniej wielkości, dość zorganizowana (np. regularne spotkania/członkowie/kampanie)
- c. Duże i lokalne
- d. Duża i międzynarodowa, organizacja pozarządowa; Zorganizowana i zintegrowana na poziomie międzynarodowym lub krajowym

5. Następnie mam pytanie dotyczące członków Państwa organizacji - za członków można uznać zarówno "stałych darczyńców, którzy dokonują jedynie wpłat finansowych, jak i aktywnych członków, którzy są zaangażowani w szeroki zakres działań organizacyjnych. Członkami mogą być osoby fizyczne, firmy lub inne organizacje". Mając to na uwadze, z ilu członków składa się Państwa organizacja ?

- a. (1) 1-20 członków
- b. (2) 21-100 członków
- c. (3) 101-1.000 członków
- d. (4) 1.001 - 50.000 lub
- e. (5) Ponad 50.000 członków?

6. Posiadam ogólne informacje o rodzajach działalności prowadzonej przez Państwa organizację, ale chciałabym tylko sprawdzić poniższą listę i zapytać, czy któreś z nich są działaniami, które prowadzi również Państwa organizacja:

- a. Rzecznictwo/lobbying
- b. Marsze/demonstracje
- c. Kampanie medialne
- d. Badania
- e. Wsparcie lub doradztwo dla członków
- f. Zbieranie funduszy
- g. Promowanie wolontariatu/wolontariatu
- h. Monitorowanie kampanii wyborczych partii politycznych

- i. Wydarzenia społeczne (np. zbiórki odzieży, imprezy sąsiedzkie, zbiórki żywności)
- j. Działalność religijna
- k. Udzielanie porad eksperckich dla rządu
- l. Świadczenie usług doradczych na rzecz UE/instytucji UE
- m. Inne_____ (mianowicie)

7. (Jeśli respondent wymienia kilka działań) W które z tych działań jest Pan(i) zaangażowany(a)?

Zmiany:

8. Jak zmieniła się placówka w ciągu ostatnich lat? Można zastanowić się np. nad tym, jak placówka się rozrosła, jak zmieniły się jej cele/priorytety lub jak zmienił się jej zakres działania.

9. Jak zmieniło się dla Pana/Pani otoczenie (społeczne, polityczne, ekonomiczne) w ciągu ostatnich 5 lub więcej lat? Czy są to zmiany negatywne czy pozytywne?

10. Czy uważa Pan/Pani, że Państwa organizacja lub jej działalność została dotknięta w wyniku COVID-19? Jeśli tak, to w jaki sposób?

Społeczne:

11. Czasami samo istnienie organizacji jest kwestionowane przez siły wewnętrzne i/lub zewnętrzne. Biorąc pod uwagę następne pięć lat, czy szacuje Pan(i), że Pana(i) organizacja stanie przed poważnym wyzwaniem dla swojego istnienia?

- a. Bardzo mało prawdopodobne (0,1)
- b. Mało prawdopodobne (0,2)
- c. Ani mało prawdopodobne, ani prawdopodobne (0,3)
- d. Prawdopodobne (0,4)
- e. Bardzo prawdopodobne (0,5)
- f. Nie wiem (0,0)

12. (Jeśli tak na pytanie 11): Jakie wyzwania przewiduje Pan/Pani?

13. Następnie chciałbym zapytać o Pana/Pani sieć kontaktów. Czy w Pana/Pani sieci kontaktów znajdują się któreś z poniższych grup:

- a. Organizacje lokalne (w Pana/Pani województwie/miasteczku)

- b. Organizacje krajowe
- c. Organizacje z siedzibą w UE
- d. Organizacje międzynarodowe spoza UE
- e. Samorządy lokalne
- f. Rząd krajowy
- g. UE

14. Czy uważa Pan/Pani, że dzięki swojej sieci kontaktów, ma Pan/Pani możliwość wpływania na politykę lokalną, krajową, międzynarodową lub unijną? Jeśli tak, to na jakim poziomie czuje Pan/Pani, że może Pan/Pani wpływać?

- a. Lokalny
- b. Krajowy
- c. Międzynarodowy
- d. UE
- e. Inne (konkretnie)

15. (Jeśli w pytaniu 14 wybrano UE): W ciągu ostatnich 12 miesięcy, do których instytucji lub agencji na poziomie UE Państwa organizacja starała się uzyskać dostęp w celu wywarcia wpływu na politykę?

- a. Komisarze i ich gabinety
- b. Dyrekcje Generalne Komisji
- c. delegacje/przedstawicielstwa stałe państw członkowskich w Brukseli
- d. Sekretariat Rady
- e. Kierownictwo grup partyjnych Parlamentu Europejskiego i/lub europejskich federacji partyjnych
- f. Inni posłowie do Parlamentu Europejskiego
- g. Europejskie agencje regulacyjne
- h. Grupy interesu i organizacje społeczeństwa obywatelskiego na poziomie UE
- i. Inne

16. (Jeśli UE NIE została wybrana w pytaniu 14): Czy jest Pan(i) zainteresowany(a) wywieraniem wpływu na instytucje lub agencje na poziomie UE? Jeśli tak, to w jaki sposób zamierza Pan/Pani to robić? A może jest to coś, co już Pana/Panią obecnie interesuje, nawet jeśli jeszcze Pan/Pani nie wie jak to osiągnąć?

17. Czy jakość relacji Państwa organizacji z którąś z tych grup zmieniła się w ciągu ostatnich 5 lat? Jak się zmieniła?

- a. Organizacje lokalne (w Twoim województwie/miasteczku)
- b. Organizacje krajowe

- c. Organizacje z siedzibą w UE
- d. Organizacje międzynarodowe spoza UE
- e. Samorządy lokalne
- f. Rząd krajowy
- g. UE

18. Którą z tych grup uważa Pan/Pani za najbardziej skłoną do współpracy z Pana/Pani organizacją? Dlaczego?

19. Które z tych grup uważają Państwo za mniej skłonne do współpracy z Państwa organizacją? Dlaczego ?

Cele i wyzwania:

20. Jakie rzeczy ułatwiłyby Państwa organizacji osiągnięcie jej celów? Można wziąć pod uwagę, przykład. o finansowanie, lepszą współpracę z innymi organizacjami, lepsze relacjach z rządami/organizacjami lokalnymi, krajowymi lub unijnymi.

21. Jakie są najbardziej znaczące sukcesy Waszej organizacji?

- a. Jak mierzycie te sukcesy?

22. Jakie są Pana/Pani zdaniem najbardziej znaczące trudności, z którymi borykała się Pana/Pani organizacja?

- a. Z czego wynikają te trudności?

23. Jakie potencjalne rozwiązania zaproponowałoby Państwo w celu pokonania tych trudności?

24. Czy czuje się Pan(i) związany(a) z jakimiś decydentami w tych sprawach? Na przykład, czy uważa Pan(i), że jakaś partia, polityk, organizacja, poseł do PE itp. dobrze broni Państwa interesów w tym/ tych obszarach?

- a. Jeśli tak - czy współpracujesz z nimi?
- b. Jeśli tak - czy wspiera Pan(i) ich pracę? Jeśli tak, to w jaki sposób?

25. Państwa organizacja koncentruje się głównie na (*Szczegóły z przeglądu i z tego, co mi powiedzieli*), co jest dość trudne, biorąc pod uwagę wyzwania, przed którymi stanęli lub te zidentyfikowane w poprzednich badaniach. Jak sobie z tym radzicie?

26. Gdyby Pan mógłby/Pani mogłaby wyobrazić idealną sytuację, jeśli chodzi o sieć kontaktów, jak by ona wyglądała? Na przykład większa sieć kontaktów lub bardziej międzynarodowej, lub po prostu sieci, która jest bardziej spójna lub może zapewnić większe wsparcie dla Twoich wysiłków.

Inne i zakończenie:

27. Czy Państwa organizacja jest również aktywna w sieci (np. w mediach społecznościowych)? Jeśli tak, to w jakich miejscach i jak często są Państwo aktywni w tej sieci?

28. (Jeśli wybrano odpowiedź twierdzącą na pytanie 27): Jakiego rodzaju działania podejmuje nasza organizacja w Internecie? Wybierz wszystkie, które mają zastosowanie:

- a. Blogowanie/Vlogowanie
- b. Protesty
- c. Panele/inne wydarzenia
- d. Publikowanie w mediach społecznościowych (w tym krótkie posty)
- e. Nawiązywanie kontaktu/pozostawanie w kontakcie z innymi organizacjami itp.
- f. Inne; mianowicie:

29. Bardzo dziękujemy za poświęcony czas i przekazane dziś informacje! Czy są jeszcze jakieś pytania lub punkty, które Pan chciałby/Pani chciałby poruszyć, a których jeszcze dzisiaj nie poruszyliśmy?

Bardzo dziękuję za poświęcony mi dzisiaj czas, informacje, które Państwo dostarczyli są bezcenne dla moich badań i rzucają światło na sytuację organizacji społeczeństwa obywatelskiego w Polsce. Jeśli ma Pani/Pan jakieś pytania lub wątpliwości, proszę się ze mną skontaktować podając numer uczestnika, ponieważ nazwa Pani/Pana organizacji nie będzie przechowywana wraz z danymi z wywiadu, więc nie będę w stanie zidentyfikować Pani/Pana danych w inny sposób. **Teraz zakończę nagranie.**

2b. List of Interview Topics/Interview Guide Polish Version

2

Wzór pytań na wywiad

Wstęp i podstawy:

- Jak się Pan/Pani dzisiaj miewa ?
 - Dziękuję za możliwość wzięcia udziału w badaniu. Czy ma Pan/Pani jakieś pytania dotyczące informacji, które do Pana/Pani wysłałam?
 - Świetnie! Proszę wiedzieć, że może Pan/Pani przerwać lub zakończyć wywiad w dowolnym momencie, a jeśli są informacje, których nie chce Pan/Pani udzielić, może Pan/Pani pominąć to pytanie. Przepraszam również, że będę czytał każde z pytań jak ze scenariusza, ma to na celu zapewnienie, że dam każdemu możliwość odpowiedzi na te same pytania i nie pominę żadnej informacji. Wywiad będzie trwał około godziny. Rozpocznę teraz nagrywanie, które będzie rejestrować tylko dźwięk.
- 1. *Zamierzam przejść przez listę ról w organizacji. Proszę mi przerwać, jeśli natrafimy na rolę, którą Pan/Pani obecnie pełnię. Które z poniższych określeń opisuje Pana/Pani obecną rolę w organizacji?***
- a. Sekretarz
 - b. Dyrektor
 - c. Prezes
 - d. Przewodniczący
 - e. Członek Zarządu
 - f. Kierownik biura
 - g. Kierownik/koordynator projektu
 - h. Kierownik ds. komunikacji
 - i. Specjalista ds. polityki/doradca
 - j. Radca prawny
 - k. Pracownik administracyjny
 - l. Asystent
 - m. Inny (mianowicie):

2. **Dużo czytałam o Państwa organizacji w Internecie, ze strony _____ (strona internetowa, media społecznościowe, gazety itp.). Czy może mi Pan/Pani opowiedzieć więcej o swojej roli w organizacji i misji organizacji, własnymi słowami?**
3. **Państwa organizacja została założona w ____, czy to prawda? LUB W którym roku została założona Państwa organizacja?**
4. **Jak scharakteryzowałbyś Państwa organizację. Do wyboru są cztery opcje. Proszę mi przerwać gdy dojdę do tej, która najlepiej pasuje do Państwa organizacji:**
 - a. Mała, oddolna, luźno zorganizowana
 - b. Średniej wielkości, dość zorganizowana (np. regularne spotkania/członkowie/kampanie)
 - c. Duże i lokalne
 - d. Duża i międzynarodowa, organizacja pozarządowa; Zorganizowana i zintegrowana na poziomie międzynarodowym lub krajowym
5. **Następnie mam pytanie dotyczące członków Państwa organizacji - za członków można uznać zarówno "stałych darczyńców, którzy dokonują jedynie wpłat finansowych, jak i aktywnych członków, którzy są zaangażowani w szeroki zakres działań organizacyjnych. Członkami mogą być osoby fizyczne, firmy lub inne organizacje". Mając to na uwadze, z ilu członków składa się Państwa organizacja ?**
 - a. (1) 1-20 członków
 - b. (2) 21-100 członków
 - c. (3) 101-1.000 członków
 - d. (4) 1.001 - 50.000 lub
 - e. (5) Ponad 50.000 członków?
6. **Posiadam ogólne informacje o rodzajach działalności prowadzonej przez Państwa organizację, ale chciałabym tylko sprawdzić poniższą listę i zapytać, czy któreś z nich są działaniami, które prowadzi również Państwa organizacja:**
 - a. Rzecznictwo/lobbying
 - b. Marsze/demonstracje
 - c. Kampanie medialne
 - d. Badania
 - e. Wsparcie lub doradztwo dla członków
 - f. Zbieranie funduszy

- g. Promowanie wolontariatu/wolontariatu
- h. Monitorowanie kampanii wyborczych partii politycznych
- i. Wydarzenia społeczne (np. zbiórki odzieży, imprezy sąsiedzkie, zbiórki żywności)
- j. Działalność religijna
- k. Udzielanie porad eksperckich dla rządu
- l. Świadczenie usług doradczych na rzecz UE/institucji UE
- m. Inne_____ (mianowicie)

Zmiany:

7. **Jak zmieniła się placówka w ciągu ostatnich lat? Można zastanowić się np. nad tym, jak placówka się rozrosła, jak zmieniły się jej cele/priorytety lub jak zmienił się jej zakres działania.**
8. **Jak zmieniło się dla Pana/Pani otoczenie (społeczne, polityczne, ekonomiczne) w ciągu ostatnich 5 lub więcej lat? Czy są to zmiany negatywne czy pozytywne?**
9. **Czy uważa Pan/Pani, że Państwa organizacja lub jej działalność została dotknięta w wyniku COVID-19? Jeśli tak, to w jaki sposób?**

Społeczne:

10. **Czasami samo istnienie organizacji jest kwestionowane przez siły wewnętrzne i/lub zewnętrzne. Biorąc pod uwagę następane pięć lat, czy szacuje Pan(i), że Pana(i) organizacja stanie przed poważnym wyzwaniem dla swojego istnienia?**
 - a. Bardzo mało prawdopodobne (0,1)
 - b. Mało prawdopodobne (0,2)
 - c. Ani mało prawdopodobne, ani prawdopodobne (0,3)
 - d. Prawdopodobne (0,4)
 - e. Bardzo prawdopodobne (0,5)
 - f. Nie wiem (0,0)
11. **Następnie chciałbym zapytać o Pana/Pani sieć kontaktów. Czy w Pana/Pani sieci kontaktów znajdują się któreś z poniższych grup:**
 - a. Organizacje lokalne (w Pana/Pani województwie/miasteczku)
 - b. Organizacje krajowe

- c. Organizacje z siedzibą w UE
 - d. Organizacje międzynarodowe spoza UE
 - e. Samorządy lokalne
 - f. Rząd krajowy
 - g. UE
12. **Czy uważa Pan/Pani, że dzięki swojej sieci kontaktów, ma Pan/Pani możliwość wpływania na politykę lokalną, krajową, międzynarodową lub unijną? Jeśli tak, to na jakim poziomie czuje Pan/Pani, że może Pan/Pani wpływać?**
- a. Lokalny
 - b. Krajowy
 - c. Międzynarodowy
 - d. UE
 - e. Inne (konkretnie)
13. ***(Jeśli UE NIE została wybrana w pytaniu 12):* Czy jest Pan(i) zainteresowany(a) wywieraniem wpływu na instytucje lub agencje na poziomie UE? Jeśli tak, to w jaki sposób zamierza Pan/Pani to robić? A może jest to coś, co już Pana/Panią obecnie interesuje, nawet jeśli jeszcze Pan/Pani nie wie jak to osiągnąć?**

Cele i wyzwania:

14. **Jakie rzeczy ułatwiłyby Państwa organizacji osiągnięcie jej celów? Można wziąć pod uwagę, przykład. o finansowanie, lepszą współpracę z innymi organizacjami, lepsze relacjach z rządami/organizacjami lokalnymi, krajowymi lub unijnymi.**
15. **Jakie są Pana/Pani zdaniem najbardziej znaczące trudności, z którymi borykała się Pana/Pani organizacja?**
- a. Z czego wynikają te trudności?
16. **Jakie są najbardziej znaczące sukcesy Waszej organizacji?**
- a. Jak mierzycie te sukcesy?
17. **Czy czuje się Pan(i) związany(a) z jakimiś decydentami w tych sprawach? Na przykład, czy uważa Pan(i), że jakaś partia, polityk, organizacja, poseł do PE itp. dobrze broni Państwa interesów w tym/ tych obszarach?**

- a. Jeśli tak - czy współpracujesz z nimi?
 - b. Jeśli tak - czy wspiera Pan(i) ich pracę? Jeśli tak, to w jaki sposób?
- 18. Gdyby Pan mógłby/Pani mogłaby wyobrazić idealną sytuację, jeśli chodzi o sieć kontaktów, jak by ona wyglądała? Na przykład większa sieć kontaktów lub bardziej międzynarodowej, lub po prostu sieci, która jest bardziej spójna lub może zapewnić większe wsparcie dla Twoich wysiłków.**

Inne i zakończenie:

- 19. Czy Państwa organizacja jest również aktywna w sieci (np. w mediach społecznościowych)? Jeśli tak, to w jakich miejscach i jak często są Państwo aktywni w tej sieci?**
- 20. (Jeśli wybrano odpowiedź twierdzącą na pytanie 19): Jakiego rodzaju działania podejmuje nasza organizacja w Internecie? Wybierz wszystkie, które mają zastosowanie:**
- a. Blogowanie/Vlogowanie
 - b. Protesty
 - c. Panele/inne wydarzenia
 - d. Publikowanie w mediach społecznościowych (w tym krótkie posty)
 - e. Nawijanie kontaktu/pozostawanie w kontakcie z innymi organizacjami itp.
 - f. Inne; mianowicie:
- 21. Bardzo dziękujemy za poświęcony czas i przekazane dziś informacje! Czy są jeszcze jakieś pytania lub punkty, które Pan chciałby/Pani chciałby poruszyć, a których jeszcze dzisiaj nie poruszyliśmy?**

Bardzo dziękuję za poświęcony mi dzisiaj czas, informacje, które Państwo dostarczyli są bezcenne dla moich badań i rzucają światło na sytuację organizacji społeczeństwa obywatelskiego w Polsce. Jeśli ma Pani/Pan jakieś pytania lub wątpliwości, proszę się ze mną skontaktować podając numer uczestnika, ponieważ nazwa Pani/Pana organizacji nie będzie przechowywana wraz z danymi z wywiadu, więc nie będę w stanie zidentyfikować Pani/Pana danych w inny sposób. **Teraz zakończę nagranie.**

3b. List of Interview Topics/Interview Guide Polish Version

3

Wzór pytań na wywiad

Wstęp i podstawy:

- Jak się Pan/Pani dzisiaj miewa ?
 - Dziękuję za możliwość wzięcia udziału w badaniu. Czy ma Pan/Pani jakieś pytania dotyczące informacji, które do Pana/Pani wysłałam?
 - Świetnie! Proszę wiedzieć, że może Pan/Pani przerwać lub zakończyć wywiad w dowolnym momencie, a jeśli są informacje, których nie chce Pan/Pani udzielić, może Pan/Pani pominąć to pytanie. Przepraszam również, że będę czytał każde z pytań jak ze scenariusza, ma to na celu zapewnienie, że dam każdemu możliwość odpowiedzi na te same pytania i nie pominę żadnej informacji. Wywiad będzie trwał około godziny. Rozpocznę teraz nagrywanie, które będzie rejestrować tylko dźwięk.
- 1. *Zamierzam przejść przez listę ról w organizacji. Proszę mi przerwać, jeśli natrafimy na rolę, którą Pan/Pani obecnie pełnię. Które z poniższych określeń opisuje Pana/Pani obecną rolę w organizacji?***
- a. Sekretarz
 - b. Dyrektor
 - c. Prezes
 - d. Przewodniczący
 - e. Członek Zarządu
 - f. Kierownik biura
 - g. Kierownik/koordynator projektu
 - h. Kierownik ds. komunikacji
 - i. Specjalista ds. polityki/doradca
 - j. Radca prawny
 - k. Pracownik administracyjny
 - l. Asystent
 - m. Inny (mianowicie):

2. **Dużo czytałam o Państwa organizacji w Internecie, ze strony _____ (strona internetowa, media społecznościowe, gazety itp.). Czy może mi Pan/Pani opowiedzieć więcej o swojej roli w organizacji i misji organizacji, własnymi słowami?**
3. **Państwa organizacja została założona w ____, czy to prawda? LUB W którym roku została założona Państwa organizacja?**
4. **Jak scharakteryzowałbyś Państwa organizację. Do wyboru są cztery opcje. Proszę mi przerwać gdy dojdę do tej, która najlepiej pasuje do Państwa organizacji:**
 - a. Mała, oddolna, luźno zorganizowana
 - b. Średniej wielkości, dość zorganizowana (np. regularne spotkania/członkowie/kampanie)
 - c. Duże i lokalne
 - d. Duża i międzynarodowa, organizacja pozarządowa; Zorganizowana i zintegrowana na poziomie międzynarodowym lub krajowym
5. **Posiadam ogólne informacje o rodzajach działalności prowadzonej przez Państwa organizację, ale chciałabym tylko sprawdzić poniższą listę i zapytać, czy któreś z nich są działaniami, które prowadzi również Państwa organizacja:**
 - a. Rzecznictwo/lobbying
 - b. Marsze/demonstracje
 - c. Kampanie medialne
 - d. Badania
 - e. Wsparcie lub doradztwo dla członków
 - f. Zbieranie funduszy
 - g. Promowanie wolontariatu/wolontariatu
 - h. Monitorowanie kampanii wyborczych partii politycznych
 - i. Wydarzenia społeczne (np. zbiórki odzieży, imprezy sąsiedzkie, zbiórki żywności)
 - j. Udzielanie porad eksperckich dla rządu
 - k. Świadczenie usług doradczych na rzecz UE/institucji UE
 - l. Inne_____ (mianowicie)

Zmiany:

6. **Jak zmieniła się placówka w ciągu ostatnich lat? Można zastanowić się np. nad tym, jak placówka się rozrosła, jak zmieniły się jej cele/priorytety lub jak zmienił się jej zakres działania.**
7. **Jak zmieniło się dla Pana/Pani otoczenie (społeczne, polityczne, ekonomiczne) w ciągu ostatnich 5 lub więcej lat?**
8. **Czy uważa Pan/Pani, że Państwa organizacja lub jej działalność została dotknięta w wyniku COVID-19? Jeśli tak, to w jaki sposób?**

Społeczne:

9. **Czasami samo istnienie organizacji jest kwestionowane przez siły wewnętrzne i/lub zewnętrzne. Biorąc pod uwagę następane pięć lat, czy szacuje Pan(i), że Pana(i) organizacja stanie przed poważnym wyzwaniem dla swojego istnienia?**
10. **Następnie chciałbym zapytać o Pana/Pani sieć kontaktów. Czy w Pana/Pani sieci kontaktów znajdują się któreś z poniższych grup:**
 - a. Organizacje lokalne (w Pana/Pani województwie/miasteczku)
 - b. Organizacje krajowe
 - c. Organizacje z siedzibą w UE
 - d. Organizacje międzynarodowe spoza UE
 - e. Samorządy lokalne
 - f. Rząd krajowy
 - g. UE
11. **Czy uważa Pan/Pani, że dzięki swojej sieci kontaktów, ma Pan/Pani możliwość wpływania na politykę lokalną, krajową, międzynarodową lub unijną? Jeśli tak, to na jakim poziomie czuje Pan/Pani, że może Pan/Pani wpływać?**
 - a. Lokalny
 - b. Krajowy
 - c. Międzynarodowy
 - d. UE
 - e. Inne (konkretnie)
12. **(Jeśli odpowiedź TAK na pytanie 11) W jaki sposób ma Pan/Pani możliwość wpływania na politykę?**
13. **(Jeśli UE NIE została wybrana w pytaniu 11): Czy jest Pan(i) zainteresowany(a) wywieraniem wpływu na instytucje lub agencje na poziomie UE? Jeśli tak,**

to w jaki sposób zamierza Pan/Pani to robić? A może jest to coś, co już Pana/Panią obecnie interesuje, nawet jeśli jeszcze Pan/Pani nie wie jak to osiągnąć?

Cele i wyzwania:

14. **Jakie rzeczy ułatwiłyby Państwa organizacji osiągnięcie jej celów? Można wziąć pod uwagę, przykład. o finansowanie, lepszą współpracę z innymi organizacjami, lepsze relacjach z rządami/organizacjami lokalnymi, krajowymi lub unijnymi.**
15. **Jakie są Pana/Pani zdaniem najbardziej znaczące trudności, z którymi borykała się Pana/Pani organizacja?**
16. **Jakie są najbardziej znaczące sukcesy Waszej organizacji?**
17. **Czy czuje się Pan(i) związany(a) z jakimiś decydentami w tych sprawach? Na przykład, czy uważa Pan(i), że jakaś partia, polityk, organizacja, poseł do PE itp. dobrze broni Państwa interesów w tym/ tych obszarach?**
 - a. Jeśli tak - czy współpracujesz z nimi?
 - b. Jeśli tak - czy wspiera Pan(i) ich pracę? Jeśli tak, to w jaki sposób?

Inne i zakończenie:

18. **Czy Państwa organizacja jest również aktywna w sieci (np. w mediach społecznościowych)? Jeśli tak, to w jakich miejscach i jak często są Państwo aktywni w tej sieci?**
19. ***(Jeśli wybrano odpowiedź twierdzącą na pytanie 19):* Jakiego rodzaju działania podejmuje nasza organizacja w Internecie? Wybierz wszystkie, które mają zastosowanie:**
 - a. Blogowanie/Vlogowanie
 - b. Protesty
 - c. Panele/inne wydarzenia
 - d. Publikowanie w mediach społecznościowych (w tym krótkie posty)
 - e. Nawiązywanie kontaktu/pozostawanie w kontakcie z innymi organizacjami itp.
 - f. Inne; mianowicie:

20. **Bardzo dziękujemy za poświęcony czas i przekazane dziś informacje! Czy są jeszcze jakieś pytania lub punkty, które Pan chciałby/Pani chciałby poruszyć, a których jeszcze dzisiaj nie poruszyliśmy?**

Bardzo dziękuję za poświęcony mi dzisiaj czas, informacje, które Państwo dostarczyli są bezcenne dla moich badań i rzucają światło na sytuację organizacji społeczeństwa obywatelskiego w Polsce. Jeśli ma Pani/Pan jakieś pytania lub wątpliwości, proszę się ze mną skontaktować podając numer uczestnika, ponieważ nazwa Pani/Pana organizacji nie będzie przechowywana wraz z danymi z wywiadu, więc nie będę w stanie zidentyfikować Pani/Pana danych w inny sposób. **Teraz zakończę nagranie.**

1c. Interview Invitation Email

(English Follows)

Szanowny Panie/ Szanowna Pani,

Mam nadzieję że mój mail dobrze Panią/Pana zastanie. Nazywam się Akudo McGee. Prowadzę badania doktoranckie na wydziale Nauk Artystycznych i Społecznych Uniwersytetu Maastricht. W ramach moich badań, analizuję drogę Polski do Unii Europejskiej, biorąc pod uwagę obecne napięcie polityczne między Unią Europejską a Polskim rządem. Dodatkowo, jestem zainteresowana zbadaniem roli jakie odgrywają organizacje społeczeństwa obywatelskiego w Polsce, zarówno jak i ich zasobami i kontaktami.

Kontaktuję się z Panią/Panem w celu zaproszenia na wywiad do moich badań doktoranckich. Poszukuję przedstawicieli różnych organizacji, których obszary działalności skupiają się na tematach upololitycznionych w ciągu ostatnich kilku lat (prawa LGBT, niezależność sądownictwa, praworządność). Wywiad planowany jest na około 1 godzinę.

Informacje z tych wywiadów zostaną również wykorzystane do rzucenia światła na niektóre z bieżących problemów, trudności i doświadczeń organizacji społeczeństwa obywatelskiego w Polsce. Nie ma tu dobrych czy złych odpowiedzi. Staram się raczej poznać szeroki wachlarz opinii i doświadczeń.

Jeśli byłaby Pani/byłby Pani zainteresowana/y udziałem w tym badaniu, czy mogłaby Pani/mógłby Pan odpowiedzieć na ten e-mail? Następnie prześlę Pani/Panu arkusz z dodatkowymi informacjami na temat badania i wywiadu, który zawiera również formularz zgody i możliwe daty naszej rozmowy. Wszystkie wywiady odbędą się online przy użyciu Microsoft Teams, dlatego nie będzie Pan(i) musiał(a) podróżować ani gościć mnie na rozmowie. Z Microsoft Teams można korzystać w przeglądarce, bez konieczności instalowania dodatkowych aplikacji.

Jeśli ma Pani/Pan jakiegokolwiek pytania dotyczące badania, proszę wysłać do mnie e-mail, a ja z przyjemnością je z Tobą omówię.

Pozdrawiam serdecznie i życzę miłego dnia !

ENGLISH:

Dear Sir/Madam,

I hope this email finds you well! My name is Akudo McGee and I am a PhD researcher in the Faculty of Arts and Social Sciences at Maastricht University in the Netherlands. I am

conducting research on Poland's journey as a European Union (EU) member state, including the ongoing political tensions between EU institutions and the Law and Justice (PiS- Prawo i Sprawiedliwość) Party.

I am additionally interested in understanding the role played by civil society organisations (CSO) in Polish society, as well as the resources and networks available to them.

I am writing to you in order to invite you to participate in an interview for my research. I am looking for representatives from organisations, which focus on topics that have been politicised in recent years (e.g. abortion, LGBTI+ rights, (non-)traditional families, and judicial independence, and the rule of law). For this reason, I would like to invite you for a one-time interview of approximately one (1) hour. A Polish-language translator will be available in the event that you prefer to conduct the interview in Polish or would like her to be there while it is conducted in English.

The information from these interviews will also be used to shed light on some of the current concerns, difficulties, and experiences of CSO in Poland. There are no right or wrong answers to the questions. Instead, I am seeking to acknowledge a wide variety of opinions and experiences. It would therefore be an honour to speak with a representative from your organisation who has lived experience working in a CSO in Poland.

If you are interested in participating in this study, may you please respond back to this email? Afterward, I will send you a sheet with more information on the study and the interview, which also contains a consent form and possible time slots for our talk. All interviews will take place online using Microsoft Teams, thus you will not be required to travel or host me for the interview. Microsoft Teams can be used in your browser, without installing additional apps. Lastly, information which can be used to identify you (like your name and organisation) will be removed from any data used so that you should be able to keep your participation in these interviews private.

If you have any questions about the study, you may send me an email and I will be happy to discuss them with you! Regardless of your desire to participate, I hope you have a wonderful day!

Thank you very much for reading this email.

Sincerely,

Akudo McGee

*PhD researcher - Head of 89Netherlands
Faculty of Arts and Social Sciences (FASoS)- Studio Europa Maastricht
a.mcgee@maastrichtuniversity.nl*

www.maastrichtuniversity.nl

Grote Gracht 76, room 0.11

P.O. Box 616, 6200 MD, Maastricht, The Netherlands

1d. Informed Consent form Polish Version 1

Szanowna Pani/Panie,

Dziękuję za udział w moich badaniach doktoranckich. Jako pracownik naukowy traktuję ochronę Państwa informacji jako sprawę najwyższej wagi. Oznacza to ochronę Państwa informacji poprzez udostępnianie tylko tych danych, które są istotne dla społeczności akademickiej i pomijanie wszelkich innych informacji, które mogą być wykorzystane do identyfikacji Państwa. Z tego powodu Państwa dane zostaną poddane pseudonimizacji (lub de-identyfikacji). Oznacza to, że dane osobowe (np. imię i nazwisko, organizacja i adres e-mail) będą przetwarzane w taki sposób, aby nie można ich było przypisać do danej osoby bez użycia dodatkowych informacji. Takie dodatkowe informacje będą starannie przechowywane oddzielnie od Państwa danych osobowych. Aby uzyskać więcej informacji na temat przechowywania danych, proszę zapoznać się z częścią niniejszego formularza zatytułowaną ***Jak będą przechowywane i chronione Państwa dane?***

Jestem bardzo wdzięczny za poświęcony mi czas. Mam nadzieję, że potraktuje Pani/Pan ten wywiad jako okazję do opowiedzenia o swoich doświadczeniach, przekazania informacji zwrotnych na temat trudności, z jakimi boryka się Pani/Pan w podobnych organizacjach oraz podania dodatkowych szczegółów, które uzna Pani/Pan za istotne dla wywiadu.

O moich badaniach:

Moje badania są poruszają następujące kwestie. Ogólnie rzecz biorąc, przyglądam się drodze Polski do członkostwa w Unii Europejskiej (UE), w tym trwającym napięciom politycznym między stroną Unijną a partią rządzącą Prawo i Sprawiedliwość (PiS). Ponadto interesuje mnie zrozumienie roli, jaką odgrywają w Polsce organizacje społeczeństwa obywatelskiego (CSO), a także ich zasoby i dostępne sieci.

Aby zrozumieć tę ostatnią kwestię, przeprowadzam wywiady z przedstawicielami organizacji społeczeństwa obywatelskiego zajmującymi się kwestiami, które w Polsce są często wysoce upolitycznione, takimi jak prawa osób LGBTI+, aborcja, niezależność sądów i praworządność. W tych wywiadach, których Pani/Pani jest uczestnikiem, zadaję szereg pytań, które w większości mają charakter otwarty i dają Ci możliwość zgłoszenia dodatkowych wątpliwości. Moje pytania będą dotyczyły Pana/Pani organizacji i jej celów, komunikacji z instytucjami i organizacjami lokalnymi, krajowymi i unijnymi oraz działalności organizacji by zwrócić uwagę na ważne dla niej kwestie.

Charakter wywiadu:

Wywiady będą częściowo ustrukturyzowane, co oznacza, że będę miała te same pytania dla wszystkich uczestników, ale wywiad będzie bardziej przypominał rozmowę. Niektóre pytania mogą zostać całkowicie pominięte, podczas gdy Twoje odpowiedzi na inne mogą zachęcać do zadawania kolejnych pytań. Podobnie jak wszyscy uczestnicy, będziesz mógł mówić

otwarciu i długo w odpowiedzi na pytania i związane z nimi tematy. Rozmowa będzie trwała do jednej godziny. Jeśli wcześniej zaznaczył/a Pan/i, że chciałby/aby Pan/i skorzystać z pomocy polskiego tłumacza, moja asystentka będzie obecna w celu zapewnienia usług tłumaczeniowych.

Informacje uzyskane w tym badaniu będą wykorzystane wyłącznie w sposób, który nie ujawni Pana/Pani tożsamości. Nie zostanie Pani/Pan zidentyfikowana/y w żadnej publikacji z tego badania ani w żadnych plikach danych udostępnianych innym badaczom. Twój udział w tym badaniu jest poufny. Jeśli wycofa się Pani/Pan z udziału w badaniu, nie musi Pani/Pan podawać powodów. Proszę jednak poinformować badacza doktoranckiego o swojej decyzji.

Jak będą przechowywane i chronione Pani/Pana dane?

Wywiady będą przeprowadzane przy użyciu programu wideo o nazwie Microsoft Teams, ponieważ spełnia on wymagania Ogólnego Rozporządzenia o Ochronie Danych Osobowych (RODO) w zakresie przetwarzania danych wrażliwych wysokiego ryzyka. Więcej informacji na temat środków stosowanych przez Unię Europejską w celu ochrony Twoich danych zgodnie z RODO można znaleźć na stronie: https://europa.eu/youreurope/business/dealing-with-customers/data-protection/data-protection-gdpr/index_pl.htm. Za Pana/Pani zgodą wywiad zostanie nagrany; tylko dźwięk zostanie zapisany na chronionym hasłem dysku osobistym badacza przy użyciu aplikacji do szyfrowania danych. W celu uzyskania informacji na temat tego, w jaki sposób można uzyskać dostęp do tych danych, należy skontaktować się z lekarzem. Transkrypty z danych będą przechowywane w ten sam sposób. Szyfrowanie zapewnia, że tylko osoba posiadająca hasło do każdego pliku będzie miała do niego dostęp.

Zebrane dane, które mogą być użyte do zidentyfikowania Pana/Pani (imię i nazwisko, adres e-mail, organizacja), niniejszy formularz zgody oraz notatki i transkrypty sporządzone z tego wywiadu będą przechowywane oddzielnie. Ponadto, Pana/Pani imię i nazwisko zostanie zastąpione losowo wygenerowanym numerem uczestnika. Proszę zanotować ten numer (patrz "NUMER" w prawym górnym rogu każdej strony) na wypadek, gdyby w przyszłości trzeba było skontaktować się ze mną w związku z Pana/Pani danymi. Twoje imię i nazwisko nie będzie powiązane z zebranymi danymi i w przeciwnym razie nie będzie możliwe zlokalizowanie Twoich danych.

Tłumaczka asystująca przy dzisiejszym wywiadzie nie zachowuje kopii audio ani wideo, jednak pliki audio mogą być przez nią tymczasowo dostępne, aby pomóc w procesie transkrypcji. W takim przypadku pliki są udostępniane wyłącznie za pomocą bezpiecznego serwisu wymiany plików o nazwie SURFdrive, z opcją szyfrowania plików w serwisie, jak również za pomocą dodatkowej aplikacji. Pliki te zawsze będą znajdować się na urządzeniu chronionym hasłem i zabezpieczonym szyfrowaniem. Po zakończeniu transkrypcji przez badacza, dostęp tłumacza do tych plików zostanie odebrany.

Przyszłe wykorzystanie danych:

Pod koniec niniejszego formularza zgody zobaczysz sekcję dotyczącą wykorzystania Twoich (pseudonimizowanych lub pozbawionych tożsamości) danych w przyszłości. Daje ona możliwość odmowy lub akceptacji wykorzystania danych do innych celów, na przykład do

przyszłych publikacji badawczych w czasopismach naukowych, briefing politycznych lub blogach akademickich.

Przechowywanie danych po zakończeniu badań:

Zgodnie z protokołami badawczymi FAIR (Wyszukiwalne, Dostępne, Interoperacyjne i Wielokrotnego Użytku) dane mogą zostać udostępnione innym badaczom po tym, jak badacz doktorancki prowadzący to badanie opuści swoje stanowisko lub miejsce zatrudnienia. Oznacza to, że dane zebrane w dniu dzisiejszym będą przechowywane (z wyłączeniem informacji umożliwiających identyfikację i zagregowane w celu ochrony danych osobowych). Dane będą przechowywane w bezpiecznej usłudze przechowywania danych w chmurze o nazwie SURFdrive. Twoje imię i nazwisko, organizacja i adres e-mail nie zostaną zapisane.

Zgoda i podpisy:

Wyrażam zgodę na kontakt w przyszłości w sprawie wykorzystania moich danych:

.....

(Podpis uczestnika)

Wyrażam zgodę na wykorzystanie moich danych do celów innych niż napisanie pracy doktorskiej, takich jak artykuły w czasopismach naukowych lub prezentacje na konferencjach naukowych:

(Podpis uczestnika)

.....
Wyrażam zgodę na udział w tym wywiadzie:

(Drukowane imię i nazwisko uczestnika)

.....
(Podpis uczestnika)

Kontakt:

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Doktorantka
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Prof. Mathieu Segers
Główny promotor
Wydział Sztuk Pięknych i Nauk Społecznych (FASoS) - Studio Europa Maastricht
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Julia Walczyk
Tłumaczka - asystentka badawcza
j.walczyk@maastrichtuniversity.nl

2d. Informed Consent form Polish Version 2

Szanowni Pani/Szanowny Panie

Dziękuję za udział w moich badaniach doktoranckich. Jako pracownik naukowy traktuję ochronę Państwa informacji jako sprawę najwyższej wagi. Oznacza to ochronę Państwa informacji poprzez udostępnianie jedynie danych istotnych dla społeczności akademickiej i pomijanie wszelkich innych informacji, które mogą być wykorzystane do identyfikacji Państwa. Z tego powodu Państwa dane zostaną poddane pseudonimizacji (lub de-identyfikacji). Oznacza to, że dane osobowe (np. imię i nazwisko, organizacja i adres e-mail) będą przetwarzane w taki sposób, aby nie można ich było przypisać do danej osoby bez użycia dodatkowych informacji. Takie dodatkowe informacje będą starannie przechowywane oddzielnie od Państwa danych osobowych. Więcej informacji na temat przechowywania danych osobowych znajduje się w części niniejszego formularza zatytułowanej **Jak będą przechowywane i chronione Państwa dane?**

Jestem bardzo wdzięczna za poświęcony mi czas. Mam nadzieję, że potraktują Państwo ten wywiad jako okazję do opowiedzenia o swoich doświadczeniach, przekazania informacji zwrotnych na temat trudności, z jakimi borykają się Państwo w podobnych organizacjach, a także o dodatkowych szczegółach, które uznają Państwo za istotne dla tego wywiadu.

O moich badaniach:

Moje badania dotyczą dwóch tematów. Pierwszy temat dotyczy tego, w jaki sposób partia Prawo i Sprawiedliwość (PiS) przedstawia kontrowersyjne decyzje polityczne wobec instytucji Unii Europejskiej i polityków innych państw członkowskich. Druga część moich badań, w które Pan/Pani jest zaangażowany/a, dotyczy zmian w polskiej przestrzeni obywatelskiej po 2015 roku oraz tego, w jaki sposób organizacje społeczeństwa obywatelskiego (CSO) funkcjonują w spolaryzowanym i potencjalnie wrogim otoczeniu społecznym i politycznym.

Aby zbadać powyższy temat, staram się przeprowadzić wywiady z przedstawicielami organizacji społeczeństwa obywatelskiego zajmującymi się sprawami, które w Polsce są często wysoce upolitycznione, takimi jak prawa osób LGBTI+, prawa/zdrowie reprodukcyjne (m.in. aborcja), niezawisłość sądów, (nie)tradycyjne rodziny, edukacja seksualna i praworządność. Podczas wywiadów, których Pan/Pani jest uczestnikiem, zadam szereg pytań, które w większości mają charakter otwarty i dają możliwość poruszenia dodatkowych wątpliwości. Moje pytania będą dotyczyć Państwa organizacji i jej celów, Państwa komunikacji z instytucjami i organizacjami lokalnymi, krajowymi i unijnymi, oraz tego, w jaki sposób Państwa organizacja działa na rzecz zwrócenia uwagi na ważne dla niej kwestie.

Charakter wywiadu:

Wywiady będą częściowo ustrukturyzowane, co oznacza, że będę miała te same pytania dla wszystkich uczestników, ale wywiad będzie bardziej przypominał rozmowę. Niektóre pytania mogą zostać całkowicie pominięte, podczas gdy odpowiedzi na inne mogą zachęcać do zadawania kolejnych pytań. Podobnie jak wszyscy uczestnicy, będziesz mógł mówić otwarcie

i długo w odpowiedzi na pytania i związane z nimi tematy. Rozmowa będzie trwała do jednej godziny.

Informacje zawarte w tym badaniu będą wykorzystywane wyłącznie w sposób, który nie ujawni Państwa tożsamości. Nie zostaniesz zidentyfikowana w żadnej publikacji z tego badania ani w żadnym pliku danych udostępnionym innym badaczom. Twój udział w tym badaniu jest poufny. Jeśli wycofa się Pani/Pan z udziału w badaniu, nie musi Pani/Pan podawać powodów. Proszę jednak poinformować badacza doktoranckiego o swojej decyzji.

Jak będą przechowywane i chronione Pani/Pana dane?:

Wywiady mogą odbywać się osobiście, w wybranej przez Pana/Pani lokalizacji, lub online. Wywiady online będą przeprowadzane przy użyciu programu wideo o nazwie Microsoft Teams, ponieważ spełnia on wymagania Rozporządzenie Ogólne o Ochronie Danych Osobowych (RODO) w zakresie przetwarzania danych wrażliwych wysokiego ryzyka. Więcej informacji na temat środków stosowanych przez Unię Europejską w celu ochrony Twoich danych zgodnie z RODO można znaleźć na stronie: <https://gdpr.eu/what-is-gdpr/>. Wywiad nie będzie nagrywany, jednak badacz (i tłumacz, jeśli zostanie o to poproszony) będzie robił notatki podczas rozmowy, które będą przechowywane na zabezpieczonym hasłem i zaszyfrowanym dysku osobistym badacza, oraz na zabezpieczonym hasłem i zaszyfrowanym dysku uniwersyteckim. Dysk osobisty jest zdalnie dostępnym miejscem przechowywania danych, do którego dostęp kontroluje wyłącznie badacz. Transkrypcje danych będą przechowywane w ten sam sposób. Szyfrowanie zapewnia, że tylko osoba posiadająca hasło do każdego pliku będzie miała do niego dostęp.

Zebrane dane, które mogą być użyte do zidentyfikowania Pana/Pani (imię i nazwisko, adres e-mail, organizacja), niniejszy formularz zgody oraz notatki i transkrypty sporządzone z tego wywiadu będą przechowywane oddzielnie. Ponadto, Pana/Pani imię i nazwisko zostanie zastąpione losowo wygenerowanym numerem uczestnika. Proszę zanotować ten numer (patrz "NUMER" w prawym górnym rogu każdej strony) na wypadek, gdyby w przyszłości trzeba było skontaktować się ze mną w związku z Pana/Pani danymi.

Przyszłe wykorzystanie danych:

Pod koniec tego formularza zgody, zobaczysz sekcję dotyczącą wykorzystania Twoich (pseudonimizowanych lub zdemaskowanych) danych w przyszłości. Będzie Pan(i) miał(a) możliwość odmówienia lub zaakceptowania wykorzystania swoich danych do innych celów, na przykład do przyszłych publikacji badawczych w czasopismach akademickich, briefingach politycznych lub blogach akademickich.

Przechowywanie danych po zakończeniu badań:

Zgodnie z protokołami badawczymi FAIR (Wyszukiwalne, Dostępne, Intrepretacyjne, Wielokrotnego Użytku) dane mogą zostać udostępnione innym badaczom po tym, jak badacz doktorant prowadzący to badanie opuści swoje stanowisko lub miejsce zatrudnienia. Oznacza to, że dane zebrane w dniu dzisiejszym będą przechowywane (z wyłączeniem informacji umożliwiających identyfikację i zagregowane w celu ochrony danych osobowych).

Dane będą przechowywane w bezpiecznej usłudze przechowywania danych w chmurze o nazwie SURFdrive. Twoje imię i nazwisko, organizacja i adres e-mail nie zostaną zapisane.

Zgoda i podpisy:

Wyrażam zgodę na kontakt w przyszłości w sprawie wykorzystania moich danych:

(Podpis uczestnika)

Wyrażam zgodę na wykorzystanie moich danych do celów innych niż napisanie pracy doktorskiej, takich jak artykuły w czasopismach naukowych lub prezentacje na konferencjach naukowych:

(Podpis uczestnika)

Wyrażam zgodę na udział w tym wywiadzie:

(Podpis uczestnika)

Kontakty:

Akudo Kyoshia McGee
Doktorantka
Wydział Humanistyki i Nauk Społecznych (FASoS) - Studio Europa Maastricht
a.mcgee@maastrichtuniversity.nl

Prof. Mathieu Segers
Główny nadzorujący
Wydział Humanistyki i Nauk Społecznych (FASoS) - Studio Europa Maastricht
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3d. Informed Consent form Polish Version 3

Szanowna Pani/Szanowny Panie!

Dziękuję za udział w moich badaniach doktoranckich. Jako pracownik naukowy traktuję ochronę Państwa informacji jako sprawę najwyższej wagi. Oznacza to ochronę Państwa informacji poprzez udostępnianie jedynie danych istotnych dla społeczności akademickiej i pomijanie wszelkich innych informacji, które mogą być wykorzystane do identyfikacji Państwa. Z tego powodu Państwa dane zostaną poddane pseudonimizacji (lub de-identyfikacji). Oznacza to, że dane osobowe (np. imię i nazwisko, organizacja i adres e-mail) będą przetwarzane w taki sposób, aby nie można ich było przypisać do danej osoby bez użycia dodatkowych informacji. Takie dodatkowe informacje będą starannie przechowywane oddzielnie od Państwa danych osobowych. Więcej informacji na temat przechowywania danych osobowych znajduje się w części niniejszego formularza zatytułowanej **Jak będą przechowywane i chronione Państwa dane?**

Jestem bardzo wdzięczna za poświęcony mi czas. Mam nadzieję, że potraktują Państwo ten wywiad jako okazję do opowiedzenia o swoich doświadczeniach, przekazania informacji zwrotnych na temat trudności, z jakimi borykają się Państwo w danych organizacjach, a także o dodatkowych szczegółach, które uznają Państwo za istotne dla tego wywiadu.

O moich badaniach:

Moje badania dotyczą roli, jaką polskie społeczeństwo obywatelskie i organizacje społeczne odgrywają w realizacji swoich celów, gdy skupiają się na wysoce upolitycznionych i często polaryzujących kwestiach. Dodatkowo, jestem zainteresowana zmieniającymi się relacjami między organizacjami (ze zróżnicowanymi ideologiami) oraz lokalnymi, państwowymi lub międzynarodowymi podmiotami (jak rządy i inne organizacje).

W celu zgłębienia tego tematu, zamierzam przeprowadzić wywiady z reprezentantami organizacji zaangażowanych w mocno upolitycznione w Polsce kwestie, takie jak prawa LGBTI+, zdrowie/prawa reprodukcyjne, niezależność sądów i praworządność, (nie)tradycyjne rodziny i ich prawa. W wywiadach, w których Pan/Pani uczestniczy, zadam Panu/Pani pytania, w większości otwarte, które pozwalają również na podniesienie dodatkowych wątpliwości. Moje pytania dotyczą Pana/Pani organizacji i jej celów, komunikacji z instytucjami/organizacjami lokalnymi, narodowymi, czy też na poziomie UE, a także w jaki sposób Pana/Pani organizacja zwraca uwagę na ważne dla siebie kwestie.

Charakter wywiadu:

Wywiady będą częściowo ustrukturyzowane, co oznacza, że będę miała te same pytania dla wszystkich uczestników, ale wywiad będzie bardziej przypominał rozmowę. Niektóre pytania mogą zostać całkowicie pominięte, podczas gdy odpowiedzi na inne mogą zachęcać do

zadawania kolejnych pytań. Podobnie jak wszyscy uczestnicy, będzie mógł(a) Pan/Pani mówić otwarcie i długo w odpowiedzi na pytania i związane z nimi tematy. Rozmowa będzie trwała do jednej godziny.

Informacje zawarte w tym badaniu będą wykorzystywane wyłącznie w sposób, który nie ujawni Państwa tożsamości. Nie zostaniesz zidentyfikowana w żadnej publikacji z tego badania ani w żadnym pliku danych udostępnionym innym badaczom. Twój udział w tym badaniu jest poufny. Jeśli wycofa się Pani/Pan z udziału w badaniu, nie musi Pani/Pan podawać powodów. Proszę jednak poinformować badacza doktoranckiego o swojej decyzji. Jedyną dodatkową osobą, która pozna Pana/Pani dane osobiste jest nasza tłumaczka, ma ona jednak etyczny obowiązek zachowania ich w tajemnicy i przechowywania bezpiecznie, podobnie jak badacze.

Jak będą przechowywane i chronione Pani/Pana dane?:

Wywiady mogą odbywać się osobiście, w wybranej przez Pana/Pani lokalizacji, lub online. Wywiady online będą przeprowadzane przy użyciu programu wideo o nazwie Microsoft Teams, ponieważ spełnia on wymagania Rozporządzenie Ogólne o Ochronie Danych Osobowych (RODO) w zakresie przetwarzania danych wrażliwych wysokiego ryzyka. Więcej informacji na temat środków stosowanych przez Unię Europejską w celu ochrony Twoich danych zgodnie z RODO można znaleźć na stronie:

<https://gdpr.eu/what-is-gdpr/>. Wywiad nie będzie nagrywany, jednak badacz (i tłumacz, jeśli zostanie o to poproszony) będzie robił notatki podczas rozmowy, które będą przechowywane na zabezpieczonym hasłem i zaszyfrowanym dysku osobistym badacza, oraz na zabezpieczonym hasłem i zaszyfrowanym dysku uniwersyteckim. Dysk osobisty jest zdalnie dostępnym miejscem przechowywania danych, do którego dostęp kontroluje wyłącznie badacz. Transkrypcje danych będą przechowywane w ten sam sposób. Szyfrowanie zapewnia, że tylko osoba posiadająca hasło do każdego pliku będzie miała do niego dostęp.

Zebrane dane, które mogą być użyte do zidentyfikowania Pana/Pani (imię i nazwisko, adres e-mail, organizacja), niniejszy formularz zgody oraz notatki i transkrypty sporządzone z tego wywiadu będą przechowywane oddzielnie. Ponadto, Pana/Pani imię i nazwisko zostanie zastąpione losowo wygenerowanym numerem uczestnika. Proszę zanotować ten numer (patrz "NUMER" w prawym górnym rogu każdej strony) na wypadek, gdyby w przyszłości trzeba było skontaktować się ze mną w związku z Pana/Pani danymi.

Przyszłe wykorzystanie danych:

Pod koniec tego formularza zgody, zobaczysz sekcję dotyczącą wykorzystania Twoich (pseudonimizowanych lub zdemaskowanych) danych w przyszłości. Będzie Pan(i) miał(a) możliwość odmówienia lub zaakceptowania wykorzystania swoich danych do innych celów, na przykład do przyszłych publikacji badawczych w czasopiśmie akademickich, briefingach politycznych lub blogach akademickich.

Przechowywanie danych po zakończeniu badań:

Zgodnie z protokołami badawczymi FAIR (Wyszukiwalne, Dostępne, Interpretacyjne, Wielokrotnie Użytku) dane mogą zostać udostępnione innym badaczom po tym, jak badacz

doktorant prowadzący to badanie opuści swoje stanowisko lub miejsce zatrudnienia. Oznacza to, że dane zebrane w dniu dzisiejszym będą przechowywane (z wyłączeniem informacji umożliwiających identyfikację i zagregowane w celu ochrony danych osobowych). Dane będą przechowywane w bezpiecznej usłudze przechowywania danych w chmurze o nazwie SURFdrive. Twoje imię i nazwisko, organizacja i adres e-mail nie zostaną zapisane.

Zgoda i podpisy:

Wyrażam zgodę na kontakt w przyszłości w sprawie wykorzystania moich danych:

(Podpis uczestnika)

Wyrażam zgodę na wykorzystanie moich danych do celów innych niż napisanie pracy doktorskiej, takich jak artykuły w czasopismach naukowych lub prezentacje na konferencjach naukowych:

(Podpis uczestnika)

Wyrażam zgodę na udział w tym wywiadzie:

(Podpis uczestnika)

Kontakty:

Akudo Kyoshia McGee
Doktorantka
Wydział Humanistyki i Nauk Społecznych (FASoS) - Studio Europa Maastricht
a.mcgee@maastrichtuniversity.nl

Prof. Mathieu Segers
Główny nadzorujący
Wydział Humanistyki i Nauk Społecznych (FASoS) - Studio Europa Maastricht
mathieu.segers@maastrichtuniversity.nl

1e. Informed Consent form English Version 1

Dear Sir/dear Madam,

Thank you for your participation in my doctoral study! As a researcher, I treat the protection of your information as a matter of extreme importance. This means protecting your information by only sharing data relevant to the academic community and omitting any other information, which may also be used to identify you. For this reason, your data will be pseudonymised (or de-identified). This means processing your personal data (e.g. name, organisation, and email address) in such a manner that it can no longer be attributed to you without the use of additional information. Such additional information will be kept carefully separate from your personal data. For more information on the storage of your data, please see the section of this form labelled *How will your data be stored and protected?* below.

I am very appreciative of your time! Your data will provide valuable insight into my research topic and I hope that you will also find this interview as an opportunity to speak about your experiences, provide feedback about some of the difficulties you and similar organisations experience, as well as additional details you deem important to the interview.

About my Research: My research investigates multiple topics. In general terms, it looks at Poland's journey as a European Union (EU) member state, including the on-going political tensions between the EU and the Law and Justice party. These tensions are experienced at the (supra-)national level but also throughout Polish society. However, most studies focus primarily on national and supra-national actors, often underestimating the complexity of Polish society itself and the role played by civil society organisations (CSO) as intermediaries between the Polish people and (supra-)national governments and as an embodiment of the needs and concerns of Polish citizens.

In order to investigate the above, I am seeking to interview representatives from CSO focused on issues, which are often highly politicised in Poland like LGBTI+ rights, abortion, judicial independence, and the rule of law. In these interviews, of which you are a participant, I will ask a number of questions, which are mostly open-ended and give you the opportunity to raise

additional concerns. My questions will concern your organisation and its goals, your communication with local, national, and EU institutions and organisations, and how your organisation works to bring attention to the issues that are important to it.

Nature of the Interview:

Interviews will be semi-structured, meaning that I will have the same questions listed for all participants but the interview will feel more like a conversation. Some questions may be skipped entirely, while your response to others may encourage follow-up questions. Like all participants, you will be able to speak openly and at length in response to questions and related topics. The interview will last up to **one hour**.

The information in this study will only be used in ways that will not reveal who you are. You will not be identified in any publication from this study or in any data files shared with other researchers. Your participation in this study is confidential. If you withdraw from the study, you do not have to state why. Please do inform the researcher about your decision.

How will your data be stored and protected? Interviews will take place using a video programme called **Microsoft Teams** as it meets the General Data Protection Regulation (GDPR) requirements for processing high-risk sensitive data. For more information on the European Union's measures to protect your data with GDPR, please see: <https://gdpr.eu/what-is-gdpr/>. With your permission, the interview will be recorded; audio only will be stored on the password-protected and encrypted personal drive of the researcher. The personal drive is a remotely accessible storage location to which only the researcher controls access. Transcripts from data will be stored the same manner. Encryption ensures that only someone with a password for each file can access it.

The data collected that can be used to identify you (name, email address, organisation), this consent form, and the notes and transcripts made from this interview will all be stored apart from each other. In addition, your name will be replaced by a randomly generated participant number. Please keep a record of this number (see 'NUMBER' in the upper-right corner of each page) in case you need to reach out to me in reference to your data, in the future.

Your name will not be linked with the data collected so without the number it is not possible to locate your data.

Future use of data: Towards the end of this consent form, you will see a section about the use of your (pseudonymised or de-identified) data in the future. It will give you the option to decline or accept the use of your data for other uses, for instance, future research publications in academic journals, policy briefs, or academic blogs.

Storage of data after this research:

In accordance with FAIR (Findable, Accessible, Interoperable and Reusable) research protocols, data may be made available to other researchers after the PhD researcher conducting this study vacates her position or place of employment. This means that data collected today will be stored (excluding identifiable information and aggregated to protect your personal data). Data will be stored in a secure cloud storage service called SURFdrive. Your name, organisation, and email address will not be saved.

Consent and signatures:

I agree to be contacted in the future regarding the use of my data:

(Signature of participant)

I agree that my data may be used for purposes outside of writing the researcher's PhD thesis, such as academic journal articles or presentations at academic conferences:

(Signature of participant)

I agree to participate in this interview:

(Signature of participant)

Contacts:

Akudo Kyoshia McGee

PhD Researcher

Faculty of Arts and Social Sciences (FASoS)- Studio Europa Maastricht

a.mcgee@maastrichtuniversity.nl

Prof. Mathieu Segers

Primary Investigator

Faculty of Arts and Social Sciences (FASoS)- Studio Europa Maastricht

mathieu.segers@maastrichtuniversity.nl

2e. Informed Consent form English Version 2

Dear Participant,

Thank you for your participation in my doctoral research! As a researcher, I treat the protection of your information as a matter of extreme importance. This means protecting your information by only sharing data relevant to the academic community and omitting any other information, which may also be used to identify you. For this reason, your data will be pseudonymised (or de-identified). This means processing your personal data (e.g. name, organisation, and email address) in such a manner that it can no longer be attributed to you without the use of additional information. Such additional information will be kept carefully separate from your personal data. For more information on the storage of your data, please see the section of this form labelled *How will your data be stored and protected?* below.

I am very appreciative of your time! Your data will provide valuable insight into my research topic and I hope that you will also find this interview as an opportunity to speak about your experiences, provide feedback about some of the difficulties you and similar organisations experience, as well as additional details you deem important to the interview.

About my Research: My research investigates the role that Polish civil society or social organisations play in advancing their goals when they are focused on highly politicised and often polarising foci. Additionally, I am interested in the changing relationship between various organisations (with diverse ideologies) and local, national, and international actors like governments or other organisations.

In order to investigate this topic, I am seeking to interview representatives from organisations focused on issues, which are highly politicised in Poland like LGBTI+ rights, reproductive rights/health, judicial independence and the rule of law, (non-)traditional families, and family rights. In these interviews, of which you are a participant, I will ask a number of questions, which are mostly open-ended and give you the opportunity to raise additional concerns. My questions will concern your organisation and its goals, your communication with local, national, and EU-level institutions and

organisations, and how your organisation works to bring attention to the issues that are important to it.

Nature of the Interview:

Interviews will be semi-structured, meaning that I will have the same questions listed for all participants but the interview will feel more like a conversation. Some questions may be skipped entirely, while your response to others may encourage follow-up questions. Like all participants, you will be able to speak openly and at length in response to questions and related topics. The interview will last up to **one hour**.

The information in this study will only be used in ways that will not reveal who you are. You will not be identified in any publication from this study or in any data files shared with other researchers. Your participation in this study is confidential. If you withdraw from the study, you do not have to state why. Please do inform the researcher (Akudo Kyoshia McGee) about your decision.

How will your data be stored and protected? Interviews may either take place in-person, at a location of your choosing or online. Online interviews will take place using a video programme called **Microsoft Teams** as it meets the General Data Protection Regulation (GDPR) requirements for processing high-risk sensitive data. For more information on the European Union's measures to protect your data with GDPR, please see: <https://gdpr.eu/what-is-gdpr/>. The interview will not be recorded, however, the researcher (and translator, if requested) will take notes during the interview, which will be stored on the password-protected and encrypted personal drive of the researcher as well as their password protected, encrypted University drive. This drive is a remotely accessible storage location to which only the researcher controls access. Transcripts from data will be stored the same manner.

The data collected that can be used to identify you (name, email address, organisation), this consent form, and the notes and transcripts made from this interview will all be stored apart from each other. In addition, your name will be replaced by a randomly generated participant number, never will your name or organisation appear on the form of data entry notes where your responses appear. Please keep a record of this number (see 'NUMBER' in the

upper-right corner of each page) in case you need to reach out to me in reference to your data, in the future.

Future use of data: Towards the end of this consent form, you will see a section about the use of your (pseudonymised or de-identified) data in the future. It will give you the option to decline or accept the use of your data for other uses, for instance, future research publications in academic journals, policy briefs, or academic blogs.

Storage of data after this research:

In accordance with FAIR (Findable, Accessible, Interoperable and Reusable) research protocols, data may be made available to other researchers after the PhD researcher conducting this study vacates her position or place of employment. This means that data collected today will be stored (excluding identifiable information and aggregated to protect your personal data). Data will be stored in a secure cloud storage service called SURFdrive, the state-of-the-art for long- and short-term storage of data in Dutch universities. Your name, organisation, and email address will not be saved.

Consent and signatures:

I agree to be contacted in the future regarding the use of my data:

(Signature of participant)

I agree that my data may be used for purposes outside of writing the researcher's PhD thesis, such as academic journal articles or presentations at academic conferences:

(Signature of participant)

I agree to participate in this interview:

(Signature of participant)

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3e. Informed Consent form English Version 3

Dear Participant,

Thank you for your participation in my doctoral research! As a researcher, I treat the protection of your information as a matter of extreme importance. This means protecting your information by only sharing data relevant to the academic community and omitting any other information, which may also be used to identify you. For this reason, your data will be pseudonymised (or de-identified). This means processing your personal data (e.g. name, organisation, and email address) in such a manner that it can no longer be attributed to you without the use of additional information. Such additional information will be kept carefully separate from your personal data. For more information on the storage of your data, please see the section of this form labelled *How will your data be stored and protected?* below.

I am very appreciative of your time! Your data will provide valuable insight into my research topic and I hope that you will also find this interview as an opportunity to speak about your experiences, provide feedback about some of the difficulties you and similar organisations experience, as well as additional details you deem important to the interview.

About my Research: My research investigates the role that Polish civil society or social organisations play in advancing their goals when they are focused on highly politicised and often polarising foci. Additionally, I am interested in the changing relationship between various organisations (with diverse ideologies) and local, national, and international actors like governments or other organisations.

In order to investigate this topic, I am seeking to interview representatives from organisations focused on issues, which are highly politicised in Poland like LGBTI+ rights, reproductive rights/health, judicial independence and the rule of law, (non-)traditional families, and family rights. In these interviews, of which you are a participant, I will ask a number of questions, which are mostly open-ended and give you the opportunity to raise additional concerns. My questions will concern your organisation and its goals, your communication with local, national, and EU-level institutions and

organisations, and how your organisation works to bring attention to the issues that are important to it.

Nature of the Interview:

Interviews will be semi-structured, meaning that I will have the same questions listed for all participants but the interview will feel more like a conversation. Some questions may be skipped entirely, while your response to others may encourage follow-up questions. Like all participants, you will be able to speak openly and at length in response to questions and related topics. The interview will last up to **one hour**.

The information in this study will only be used in ways that will not reveal who you are. You will not be identified in any publication from this study or in any data files shared with other researchers. Your participation in this study is confidential. If you withdraw from the study, you do not have to state why. Please do inform the researcher (Akudo Kyoshia McGee) about your decision.

How will your data be stored and protected? Interviews may either take place in-person, at a location of your choosing or online. Online interviews will take place using a video programme called **Microsoft Teams** as it meets the General Data Protection Regulation (GDPR) requirements for processing high-risk sensitive data. For more information on the European Union's measures to protect your data with GDPR, please see: <https://gdpr.eu/what-is-gdpr/>. The interview will not be recorded, however, the researcher (and translator, if requested) will take notes during the interview, which will be stored on the password-protected and encrypted personal drive of the researcher as well as their password protected, encrypted University drive. This drive is a remotely accessible storage location to which only the researcher controls access. Transcripts from data will be stored the same manner.

The data collected that can be used to identify you (name, email address, organisation), this consent form, and the notes and transcripts made from this interview will all be stored apart from each other. In addition, your name will be replaced by a randomly generated participant number, never will your name or organisation appear on the form of data entry notes where your responses appear. Please keep a record of this number (see 'NUMBER' in the

upper-right corner of each page) in case you need to reach out to me in reference to your data, in the future.

Future use of data: Towards the end of this consent form, you will see a section about the use of your (pseudonymised or de-identified) data in the future. It will give you the option to decline or accept the use of your data for other uses, for instance, future research publications in academic journals, policy briefs, or academic blogs.

Storage of data after this research:

In accordance with FAIR (Findable, Accessible, Interoperable and Reusable) research protocols, data may be made available to other researchers after the PhD researcher conducting this study vacates her position or place of employment. This means that data collected today will be stored (excluding identifiable information and aggregated to protect your personal data). Data will be stored in a secure cloud storage service called SURFdrive, the state-of-the-art for long- and short-term storage of data in Dutch universities. Your name, organisation, and email address will not be saved.

Consent and signatures:

I agree to be contacted in the future regarding the use of my data:

(Signature of participant)

I agree that my data may be used for purposes outside of writing the researcher's PhD thesis, such as academic journal articles or presentations at academic conferences:

(Signature of participant)

I agree to participate in this interview:

(Signature of participant)

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1f. Coding Examples

Qualitative Document Analysis (QDA)

Example 1— Facebook Event Post

Step 1: Inclusion Criteria for Documents and Step 2: Collection of Documents

The first steps were identifying which documents would be potentially relevant for collection and collecting and storing¹⁶² documents. The process of doing so was slightly different depending on the type of document and the information provided, however, the steps were similar. Documents were located using the CSOs' website or social media page, newspaper or blog articles, or the websites and archives of international institutions, like the UN, and supranational courts like the ECtHR and CJEU. The steps for determining their potential relevance for this research are documented below. This example is sourced from the Facebook page of the pro-choice, women's rights CSO *Dziewuchy Węgorzewo*, namely the event page for a signature collection event, in which signatures for a citizens' draft bill to legalise and liberalise abortion were collected (Ogólnopolski Strajk Kobiet, 2021b). It was translated using the Google Translate browser attachment.

👉 On the fifth anniversary of **Black Monday**, we announce: no **"compromises"**! We are going for **freedom of choice**, there is a milestone to move ahead of us. We will do it! ⚡⚡⚡

This time not with **umbrellas**, but with signature cards of **support for the civic legislative initiative "Legal abortion. No compromises"** we go **out to the streets** of all of Poland 🇵🇱

👉 Yes, **Msc Julia Przyłębska** (this lady pretending to be the president of the Constitutional Court) imposed an actual **ban on abortion** on us last year, also for **embryopathological reasons**. That is why we are looking at the **Argentines** who also had **various Przyłębskie on the way**.

👉 Yes, **we collect signatures**, in a country where 69% of people are in favor of legalizing abortion - and where there is a project **from 2016 in the Sejm again**, like El Salvador, with punishment for miscarriage as for murder.

👉 Yes, **we collect signatures** knowing that our hands could fall from all this. But from hands down, it's very close to shoulder shrugs - and you'll never see that with us. We don't drop our hands, we don't shrug. We'll roll up our sleeves.

¹⁶² Documents were collected in their digital form and 'stored' using the reference software Zotero.

!!👉 In Węgorzewo we meet where on October 24, 2016 we set off with the first demonstration in the history of this city of citizens and citizens rebelling against the regime: at the post office.

📺 Do you remember how it was with us five years ago? See videos and photos:
<https://www.facebook.com/events/1222727261101955/>

📍 nationwide event:

<https://facebook.com/events/s/legalna-aborcja-zbiorka-podpis/539979550414008/>

📍 "Legal abortion. No compromises" is a civic legislative initiative of which we are part and which you can find here:

<https://www.facebook.com/legalnaaborcjabezkompromisow>

👉 How to join the collection? And so:

<https://www.facebook.com/legalnaaborcjabezkompromisow/posts/250961727032602>

📍 Support the Legislative Initiative Committee Legal Abortion Without Compromises:

Santander Bank

68 1090 1870 0000 0001 4876 0418

KIU Legal Abortion Without Compromise

st. Wiejska 16/40

00-490 Warsaw

#NationalWomen's Strike

#women's rights

#womenrights

#abortion

#stopzakazowiaborcji

#LegalSafeFree

#LegalnaAborcjaWithout Compromises'

From the above example, several pieces of information can be determined— the factors which helped me determine that this document would be relevant for analysis are highlighted in pink. Firstly, it was important to determine if the basic requirements of this research were met, namely that this was an organisation primarily focused on human rights (here LGBT+ and/or reproductive rights) and/or the rule of law. This was determined by investigating the statutes and 'about us' information of the CSO beforehand as it was not always possible to understand this context from one document alone, although, as will be demonstrated, several

references are made to reproductive rights and reproductive rights backsliding in the document. The document and the event described in it also had to fulfil other requirements to be considered for this research. Namely, events must be related to reproductive rights, the rule of law, and/or LGBT+ rights backsliding in Poland and have to have taken place between 2015-2022. As the highlighted text shows, the event takes place in Węgorzewo, in Central Poland and is scheduled for 3 October 2021 (this information is on the basic data of the Facebook event page, which is required to set up an event, it is not recorded in this brief example). Several references in the text lend credence to the idea that it is related to reproductive rights backsliding. Firstly, the title of this event was '*Legalna Aborcja // zbiórka podpisów Węgorzewo*' or '*Legal Abortion // collection of signatures Węgorzewo*' (this is also a part of the basic data required to create a Facebook event page). From the name alone, it appears that the event may be relevant, as prior research into restrictions on abortion in Poland made me aware of a citizens' legislative initiative by a similar name to liberalise Polish abortion law and reverse some of the negative developments in abortion access since 2020.

This initiative is headed by a group of CSOs—Federacja na Rzecz Kobiet i Planowania Rodziny (Federation for Women and Family Planning), Strajk Kobiet (Women's Strike), Aborcjny Dream Team (Abortion Dream Team), Łódzkie Dziewuchy (Łódź Girls for Girls), Centrum Praw Kobiet (Women's Rights Center), Kobiety w Sieci (Women on the Web), and Akcja Demokracja (Action Democracy) and politicians from the left (Katarzyna Kotula, Wanda Nowicka, Marcelina Zawisza, Magdalena Biejat, Joanna Senyszyn, Monika Falej, Katarzyna Ueberhan, Katarzyna Kretkowska) and the Greens (Magdalena Galkiewicz) (Fundacja Centrum Praw Kobiet, 2021). That background knowledge, as well as knowledge on the Women's Strike CSO and movement, made it easier to spot terms such as '#LegalnaAborcjaWithoutCompromises' (the name of the initiative, which is also written as "Legal abortion. No compromises"), '#NationalWomen's Strike,' and 'umbrellas' (a symbol of the Women's Strike and especially pro-choice organisations in Poland (Wądołowska, 2020)) as related to the struggle against reproductive rights backsliding in Poland. Explicit references are also made to the 'ban on abortion,' a reference to the October 2020 decision of the 'Constitutional Tribunal' to significantly restrict abortion access, which is often called a 'ban' or 'de facto ban' on abortion because it eliminated one of the reasons for seeking an abortion, which accounted for approximately 97% of all legal abortions (Bucholc and Komornik, 2020).

Lastly, although this was listed on a Facebook event page, it needed to be determined, whether a strategic interaction was potentially referenced in the document and whether the interaction was likely related to backsliding. Both the references to 'freedom of choice' and Dziewuchy Węgorzewo's 'first demonstration' in Węgorzewo, on 24 October 2016 (linked in the post) (Dziewuchy Węgorzewo, 2016), which was organised against proposed 'total abortion bans' at the time and representative of the larger 2016 'Black Protests' (Szelegieniec, 2018; Turok-Squire, 2021), make it clear that reproductive rights and reproductive rights backsliding is likely the catalysts for this event. The description of the event, which the organisers describe both as a demonstration and a collection of signatures made it clear that some kind of activity or strategic interaction was being described in the text. Namely, it appeared that the event was created in support of the draft proposal which would 'liberalis(e) the provisions on abortion,' due to be presented in the Sejm two months later ('on Wednesday, January 10 at 4.45 pm'). From this context, it can be assumed that the purpose of the interaction was to challenge abortion restrictions in Poland and to provide an alternative to the current abortion law, namely, in the form of a citizens' draft bill that would legalise and liberalise abortion in-country. Taking these details together, this document was determined appropriate for further analysis.

Step 3: Coding Documents

The goal of this document analysis was to determine the strategic interaction aligned with this single instance of confronting, addressing, or bringing attention to reproductive (or human rights) backsliding. In order to do so, several clues in the text were examined. Some documents, like social media posts or blog articles, require the spotting of some keywords or some announcement of the strategic interaction(s) planned to identify the interaction. In this case, phrases like 'Yes, we collect signatures' make it clear that Dziewuchy Węgorzewo is collecting signatures (for the draft bill explained previously). Mentions of the draft bill by name and a link to more information on the bill and how one may collect signatures on behalf of it confirm the link between the signature collection and the bill. This assumption was further confirmed by the photographs from the event posted on the Facebook event page by the organisation (See Figure 19), which show representatives of Dziewuchy Węgorzewo on the streets of Węgorzewo collecting signatures at a table. As can be seen in the figure, both the sign next to the table for the signature collection and the

clipboards and bandana of the representatives posing in the photograph, bear the name and colours of the 'Legalna aborcja. Bez kompromisów' initiative.



Figure 19. Volunteers from *Dziewuchy Węgorzewo* pose with their clipboards and the sheet for signature collection

This strategic interaction was coded as **Support for Draft Legislation**. The definition of this and all codes can be found in **Chapter 7: Data and Results**—although this interaction can be briefly summarised as a set of activities designed to Support Draft Legislation such as the collection of signatures. It differs from the interaction Proposal for Draft Legislation, which is reserved for CSOs that (co-) draft the legislation.

Step 4: Verifying Documents

Once 10 documents were coded for strategic interactions, the codes developed were compared with each other. After each potential code was identified, it was entered into a Google Sheets document along with the segments of texts, words, or paragraphs from which the interaction could be determined and/or a link to the document analysed. Existing codes were compared with each other both to form categories and to determine if the descriptions were still accurate and relevant. The former process involved grouping related codes together after determining that they were similar enough to potentially be related but different enough that they were not referring to the same activity. For instance, some CSOs used (inter)national law to try and defend against backsliding or remedy the effects that backsliding had on certain individuals (like judges victimised by politically motivated disciplinary proceedings) or groups (like biological women childbearing age who were affected

by the de facto abortion ban). This involved various strategic interactions like providing legal support (like advice) to affected individuals, representing individuals in national or supranational courts, or drafting legislation. All of these activities describe different strategic interactions so they cannot be consolidated under one code but they are all related in their use of the law to address backsliding in some way. By looking at literature which also examines the use of law for rights claiming and to fight the violation and backsliding of various rights (e.g. Handmaker and Taekema, 2023, 2021), these activities appeared to fit the process of Legal Mobilization and were thus coalesced under this Category. This process involved scrutinising extant codes, asking questions like *what makes this interaction different from this other interaction? Or, can these two interactions be considered the same? And Since this interaction only comes up once, is it possible that the code is inaccurate? Or maybe I missed the occurrence of this code when examining the documents of other organisations?*

Example 2— ECtHR Case Document

Step 1: Inclusion Criteria for Documents and Step 2: Collection of Documents

This second example uses the *ŻUREK v. POLAND* court document from the ECtHR's online archive (*ŻUREK v. POLAND*, 2022). Here similar steps were taken to the example above. Firstly, the relevant document was located. Rather than starting on the website or from the archives of a CSO itself (in this case, the judges' association *Iustitia*), this document was identified through a targeted search of court cases launched between 2015-2022. To ensure that the documents in the search results were those most likely to be relevant to this research, the search was narrowed to cases where the Polish government was the applicant (as this would include all cases in which complaints in Polish courts or against Polish authorities were elevated to the ECtHR) and which included certain keywords, like 'abortion,' 'LGBT,' 'judges,' 'judges' association,' 'rule of law,' 'reproductive rights' or 'human rights.'. The review of cases revealed that some of the same CSOs often intervened as third parties¹⁶³ in cases concerning judicial independence in Poland specifically, such as *Rechters for Rechters* (Judges for Judges, a Dutch CSO), *Iustitia*, and the Polish judges' association *Themis* (*Stowarzyszenie Sędziów Themis*). These terms were

¹⁶³ Third party interventions allow parties not directly the subject of a case to 'engage actively in a dialogue with the Court,' this includes international organisations, civil society, and other groups (*Third-Party Interventions before the European Court of Human Rights*, 2017).

added to the search to try and isolate more cases in which these and other CSOs intervened as third parties as multiple third parties were often present.

This search was cross-checked by searching for all cases filed in the same time period in which any repressed Polish judges (identified with the help of the repression archive (Archiwum Osiatyńskiego, n.d.) and the archive of cases communicated to the ECtHR and CJEU cases provided by the Meijers Committee (Meijers Committee, n.d.)) were listed in the case title or introduction. This was more relevant to identifying cases centring on rule of law backsliding. The introduction of the court document was read to examine whether the background context provided was relevant to this research. Unfortunately, the introduction and the case itself are too long to cite in their entirety, therefore, a truncated example is used below with key terms which helped identify the document as potentially relevant for study.

'1. The applicant alleged that he had been denied access to a court to contest the premature and allegedly arbitrary termination of his term of office as a judicial member of the National Council of the Judiciary. He also complained of the measures taken by the authorities in connection with the views that he had expressed publicly in his professional capacity concerning legislative reforms affecting the judiciary...

The broader domestic background to the present case was set out in the Grand Chamber judgement in the case of *Grzęda v. Poland* ([GC], no. 43572/18, §§ 14-28, 15 March 2022)...'

The full details of the introduction are too long to post here, however, it also outlines the processes undertaken by the PiS government to compromise national courts and public bodies, such as the National Council of the Judiciary and the threats that (outspoken) Polish judges have faced as a result of these changes. The Strasbourg court further contextualised Żurek's case as demonstrative of these events related to rule of law backsliding due to his off-bench mobilisation efforts to counter politicised court changes. It therefore seemed that the case itself revolved around rule of law backsliding, namely, one of the judges directly affected by it. In the above example, it can be seen that the case revolves around Judge Żurek being reprimanded due to complaints about 'legislative reforms affecting the judiciary.' This case is also related by the ECtHR to the case *Grzęda v. Poland*, which is about the premature termination of Judge Jan Grzęda for the same reason as Judge Waldemar Zurek, challenging the same irregular appointments and 'judicial reforms' made by PiS (*GRZĘDA v. POLAND*, 2022). It was expected, due to the review of previous research conducted about the role of judges' associations in comparing

rule of law backsliding (Bojarski, 2021; Matthes, 2022a, 2022b), that this document may contain references to the intervention of CSOs as third parties or a reference to the activities undertaken by CSOs (especially judges' associations) to address backsliding. Therefore, the next step was looking through the document to determine which (if any) CSOs were involved. The below content is from the document, in section (c) Submissions of third-party interveners.

'126. The European Network of Councils for the Judiciary, Amnesty International jointly with the International Commission of Jurists, the Helsinki Foundation for Human Rights, the Polish Judges' Association *Iustitia*, the Judges for Judges Foundation jointly with Professor L. Pech and the Commissioner for Human Rights of the Republic of Poland submitted their written comments on the case, similar to those made earlier in the case of *Grzęda v. Poland*. Their submissions were summarised in the *Grzęda* judgement (cited above, §§ 205-239). The submissions received pertain both to the admissibility and merits of the complaint under Article 6 § 1. 127. The Judges' Association *Themis*, which did not intervene in *Grzęda*, submitted comments in the present case. With regard to the stability of tenure of judicial members of the NCJ, the intervener supported the view of the Commissioner that the judicial members were entitled to protection as regards their irremovability, analogous to that afforded to judges performing judicial functions. It considered that in this context the Court should have regard to the relevant jurisprudence of the CJEU. The intervener noted that the change of procedure for electing judicial members of the NCJ rendered that procedure politicised. It also resulted in a situation where the NCJ ceased to fulfil its constitutional role as guardian of judicial independence.'

Looking at the above excerpt and also the additional content presented in the referenced case, it can be seen that two Polish CSOs submitted information to the court and acted as third-party interveners in the case. It was, therefore, determined that this document was relevant for analysis.

Step 3: Coding Documents

This activity was consistent with the strategic interaction, **Legal Mobilisation**— which, in short, can be defined as 'a strategy which uses the justice sector to achieve legal and social change by means of test cases' (Fuchs, 2013). It involves activities like filing lawsuits (called strategic or impact litigation), filing 'amicus curiae' briefs, and providing information as a third party in a case, however, rather than these activities centring on the one case alone, they are part of an effort to claim rights for a wider group. Thus the adjudication of the case is hoped to legitimise movements, protect all/other activists from the weaponization of law, or grant or restore rights

to other groups (Handmaker and Taekema, 2023; Krommendijk and van der Pas, 2022). As the Court made multiple references to the information published by the aforementioned and other judges' associations, these pieces of text were also analysed (see the below section for just one example).

The applicant maintained that he was a symbolic figure of the Polish judicial community and one of the judges most engaged in the public debate concerning the independence of the judiciary in recent years. At the same time, he was one of the most "targeted" judges and had been subjected to, more or less formal, repressive measures by the authorities over the past few years. His case had been mentioned, inter alia, in a report by the Polish Judges' Association Iustitia and by the Lex Super Omnia Association of Prosecutors, "Justice Under Pressure", published in 2020.'

The first and second highlighted sections lend credence to the claim that this strategic interaction could be coded as legal mobilisation since Judge Żurek and the legal outcomes of his cases have long been seen as symbolic of the pressures Polish judges have faced in times of rule of law backsliding and their struggle to resist it (Gregorczyk-Abram, 2020; "Władza nie odpuszcza sędziemu Waldemarowi Żurkowi. 'Przykład, jak głęboko wchodzimy w państwo autorytarne,'" 2020). This was heavily alluded to in the case document, however, my own prior knowledge of rule of law backsliding and its effects on judicial independence and individual judges, especially after 2017 helped me immediately flag the case of Judge Żurek as potentially relevant for strategic litigation and other forms of legal mobilisation.

Next, there are several references to another kind of strategic interaction, namely the **Publishing of Reports** (addressing, explaining, and otherwise bringing attention to backsliding in Poland). The report in question seems to be within the time period of study as well and indeed, this item was investigated separately and later incorporated into the corpus of source documents.

Thematic Coding Semi-Structured Interviews

First Example Except for Interview 20 with an LGBT+ rights CSO

Question 6: I know a bit about the kinds of activities that your organisation does, but I just want to run down the following list and ask if any of these are activities that your organisation also does:

1. Advocacy/lobbying- Yes
2. Marches/demonstrations- Yes, they do Pride and they've done demonstrations in the past (especially for queer people in Poland or in the local community, for instance, when Pride parades elsewhere face violent pushback or when queer activists are arrested). They avoid wearing a rainbow etc. when they're not at Pride and keep a certain look so people don't perceive them as queer. In this way, they feel like they haven't directly felt in danger but when they're holding their partner's hand, people make them uncomfortable (e.g. starting). **Quote from the interviewee:** "I fear being attacked or even yelled [at]". Lots of people are chased or attacked for having blue hair or being known as gay, especially in a small town or having non-heteronormative clothing. Even knowing it [an attack] could happen makes people afraid. **Quote from the interviewee:** "If they weren't so violent against us, we wouldn't have 'woken up' " (the interviewee describes how violence against queer people, especially under PiS, catalysed more queer people to be politically active and active in civil society). The interviewee indicates that the post-2015 PiS laws and etc. 'activated the gay community.' While the number of people against them went up and supporters went up too.
3. Media campaigns- No
4. Research- Yes but it was limited Once they did a study (ranking of the safe for queer people in high schools) but just that
5. Support or advice to members- Yes. They are also planning on making a support group for parents of trans people and trans people. They also have lawyers in their safe space who people can reach out to for legal advice. They have support from some companies as well.
6. Fundraising- Yes. Every year before Pride, they fundraise money on a site called —¹⁶⁴ and other than that, they also write grants (for example, the safe space is funded by the Stefan Batory Foundation). Sometimes people also donate to them.
7. Promoting volunteering/ volunteering- Yes. They cooperate with some organisations but they can't talk about it because it's unfinished. For now, they don't have any projects with others but for random things like at the Belarus-Polish border conflict, they support volunteers working there and raise money for food and clothing (collecting clothing etc.). Direct action is important to them too, they are always helping.
8. Monitoring the election campaigns of political parties- No
9. Community events (e.g. clothing drives, neighbourhood parties, food drives)- **Not asked (reflected in the previous responses)**
10. Religious activities- No
11. Provide expert advice to the government- Yes. They have had several meetings with the Polish government but the government is mostly dominated by PiS, which has

¹⁶⁴ Redacted.

someone from their party or with connections to their party in every single part so there is not much space to collaborate

12. Provide expert advice to the EU/ EU institutions- Yes. They were in Brussels on an invitation from the European Commission and gave advice to politicians about helping the Polish LGBT+ community.
13. Other_____ (namely)- N/A

In this example, the participant clearly outlines the strategic interactions that their CSO focuses on, this data could be confirmed through subsequent analysis of the CSOs' social media pages, websites, and when available, outside reporting (e.g. in reports or newspaper articles about the CSO) about the organisation. However, it also recurred in other parts of the interview. As in the document analysis, some of these interactions were anticipated based on extant research exploring the interactions to backsliding (Bernhard et al., 2020; Fuchs, 2013; Matthes, 2022a), such as street protests, rallies, and strategic litigation. Together these formed the first list of initial codes, which evolved through time as new strategic interactions were identified.

The second purpose of conducting the interviews was to contextualise the experiences of CSOs because, as previously alluded to, organisations do not act in a vacuum. They interact with other actors and are motivated, obstructed, or forced to act and potentially pursue some interactions over others by their relationships with other actors. Having access to 'insiders' from these CSOs allowed for reflection on the experiences of these CSOs, the challenges they faced, and their relationships with various actors (e.g. local and national government, (inter)national courts, the police, and other CSOs), and obstacles and resources which influenced theory activity. The interview notes and quotes processed in this research are too extensive to be recounted in full for the example in this chapter, therefore, excerpts of the interview notes are provided to describe the different steps of coding the interview data.

Step 1: Open Coding

The first step in this process was open coding where the text of the interview notes and quotes taken from the interviewee were used to define concepts and categories for further coding. The open coding technique allows the data to guide the development of codes and coding potentially important groups of text, sentences,

or single words according to the 'initial impression' gathered from them (Saldaña, 2013).

Second Example Excerpt for Interview 20 with an LGBT+ rights CSO

Question 1: I've read a lot about your organisation online, from your **social media**. Can you tell me more about your role in the organisation and the mission of your organisation, in your own words?

Notes from Response: In their Polish province, they take care of **queer rights** and queer people and everything queer because they are the only **queer organisation** in the province. Among their activities are support groups, providing safe spaces for queer people, running a library, and they also do a **Pride** every year. They have other projects ongoing (action —¹⁶⁵ where they visited the 'LGBT Free Zones' and talked to citizens to educate them. They do a lot to **normalise LGBT+ people**. Their **safe space** is open —¹⁶⁶ is open and people can just come in. Every week, they organise a gathering (e.g. movie night, board game night). **Local queer people can meet and feel safe**.

Question 22: What would you say are some of the most significant difficulties your organisation has faced? To what do you attribute these difficulties?

Answer: Their organisation is 'pretty popular' even though they are in a small town because they are **controversial** and the **local government helps highlight them through their hostility**— for instance, they became locally famous after **suining their mayor**. They also do interesting things; last year they held a **Halloween Pride** because they like to be over-the-top, controversial etc. so they're **'famous for that.'** **Local and national governments are big challenges for them**. They know **others face problems like funding but they don't have the problem because of the embassies and organisations from which they can get grants**. **The local community is very engaged as well**. **Activist burnout is very challenging because people work really hard and don't earn anything**. Some have been **activists for a long time and put a lot of work and time into their work but they see no effect**. It can be very frustrating that people can do so much **work and it becomes invisible**. **People in their families, on the internet and in general think that activists are just bored people with too much free time which they like to waste doing things that don't matter or chasing dreams but they have a full-time job and sometimes they work an extra 8 hours a day for free, with no effects**.

¹⁶⁵ This information is redacted because it is the name of a programme run by the organisation which would easily identify them. However, the name of the programme was used to further research the activities of the organisation.

¹⁶⁶ Details of the location of this safe place are redacted.

In the above example, there are two different kinds of information extracted from the text for coding. The first set of information (highlighted in pink) is related directly to the research question and reflects on the kinds of strategic interactions this organisation engaged in. These details were cross-checked against the information on CSOs' strategic interactions on their websites and other alternative sources and the responses to question 6 to ensure that interactions named in other questions were accounted for. In the open coding of the document, a number of codes emerge; the notes and quotes which reference these codes are colour-coded in the short segment of text such that phrases and words thought to be related to one another are highlighted in the same colour. The codes identified in this first step are listed in *Table X. Emerging Themes* under the second column 'Codes.'

Categories and Codes

Category	Codes	Description	Example
Organisational Alignment	Cause	The cause(s) the interviewee aligns with their organisation and its strategic interactions	-Queer Rights
	Organisation Type	How the interviewee defines/understands the organisation	-Queer Organisation
Perception of CSO from other actors	Public Reception	How the interviewee understands the public's reception of them or their CSO	-Pretty popular -Controversial -'famous for that.' (controversial behaviour) -People in their families, on the internet and in general think that activists are just bored people with too much free time which they like to waste doing things that don't matter or chasing dreams
	Relationship	How the interviewee understands	-Local government

	with local government	the local government's reception of them or their CSO	helps highlight them through their hostility
Challenges for CSO	Acrimonious engagement with local government	The (negative) interactions the interviewee describes as having with local government	-Suing their mayor -Local and national governments are big challenges for them.
	Psychological challenges	Psychological difficulties experienced while championing CSO's cause	-Activist burnout
	Lack of intended effect	The interviewee describes lack of positive effect as a result of the concerted strategic interactions	- Activists work for a long time and put a lot of work and time into their work but they see no effect. -Work...becomes invisible - work an extra 8 hours a day for free, with no effects.
Actor-related Opportunities for CSO	Positive Relationships with local populace	The (positive) interactions the interviewee describes as having with the local populace	-The local community is very engaged as well.
Opportunities	Resources	Resources that the interviewee presented as helpful to their CSO	-Others face problems like funding but they don't have the problem -embassies and organisations from which they can get grants.

Table 2. Emerging Themes

Here, it can be seen how CSOs interact with a variety of actors, like local government, family members, funders, and those living in their municipality and how these actors and other factors (like the psychological stress of activism) contribute both to opportunities and challenges experienced by the CSO.

Step 2: Axial coding

Axial coding is 'undertaken to confirm that the concepts and categories accurately represent interview responses,' (Sheppard, 2020) this involves a closer examination of how all of the codes and the grouping of codes into categories reflect their relatedness to each other. The results of axial coding are reflected in *Table 2. Emerging Themes*.

Step 3: Selective Coding

In this step, the different categories identified in axial coding are connected with each other. They are joined under a core category. In the case of this research, the intent was to better contextualise the activities and experiences of CSOs by understanding all of the developments happening 'in the background' of their strategic interactions, which include their interactions with others but also the challenges and opportunities that potentially influenced the strategic interactions they pursued. For instance, the interviewee mentioned that their CSO, unlike many others in the same space, doesn't struggle with funding due to their access to grants from 'embassies and organisations,' one of which is named is the Stefan Batory Foundation. This has allowed them both to engage in a number of strategic interactions, like Pride parades and providing legal support in their safe space, as well as to expand the interactions they engage in and other events they organise. Asking questions about the challenges, opportunities, networks, and similar information contributed to creating a more holistic picture of the experiences of CSOs, the actors they interact with, and sometimes, the factors that influence their strategic interactions. For instance, many organisations mentioned, such as in Interview 20, that working with the (national) government was difficult or impossible, thus, while some of them still continued to engage the government, when they had the chance, they relied on other strategic interactions and reached out to other actors instead.

Like in the document analysis, once an interview was coded, another was coded and then codes were compared to each other to determine if there were similarities between the initial codes developed and to challenge differences between codes that were close in description. This was an iterative process, with codes changing, merging, or disappearing as the process developed.

1g. List of Studied Organisations

g. List of Studied Organisations			
Organisation	Classification	Relevant Rights of Focus	Notes
Stowarzyszenie Kongres Kobiet (The Congress of Women)	Stowarzyszenie rejestrowe (registry association)- 2010	Reproductive Rights	
Lambda Warszawa	<u>Stowarzyszenie rejestrowe (registry association)- 1997</u>	LGBT+ Rights	
Lambda Szczecin	<u>Stowarzyszenie rejestrowe (registry association)- 2002</u>	LGBT+ Rights	
KOD (Komitet Obrony Demokracji)	<u>Stowarzyszenie rejestrowe (registry association)- 2016</u>	The Rule of Law	
Fundacja im. Stefana Batorego (Stefan Batory Foundation)	<u>Fundacja (1988)</u>	The Rule of Law LGBT+ Rights	
Kampania Przeciw Homofobii (Campaign Against Homophobia)	<u>Stowarzyszenie rejestrowe (2001)</u>	LGBT+ Rights	
Miłość Nie Wyklucza (Love does not exclude)	<u>Stowarzyszenie rejestrowe (2013)</u>	LGBT+ Rights	
Fundacja Trans-fuzja	<u>Fundacja (2008)</u>	LGBT+ Rights	
Osiatyński Archive (Archiwum Osiatyńskiego)	<u>(estb 2017 by Fundacja Ośrodek Kontroli Obywatelskiej OKO)</u>	The Rule of Law	
Fundacja Wolontariat Równości	<u>Fundacja (2012)</u>	LGBT+ Rights	

Stowarzyszenie Grupa Stonewall (Stonewall group association)	<u>Stowarzyszenie rejestrowe (2015)</u>	LGBT+ Rights	
Federacja na rzecz Kobiet i Planowania Rodziny (Federation for Women and Family Planning)	<u>Stowarzyszenie rejestrowe (2002)</u>	Reproductive Rights	<u>Consortium</u>
Stowarzyszenie Fabryka Równości (Equality Factory Association)	<u>Stowarzyszenie rejestrowe (2009)</u>	LGBT+ Rights	
Aborcyjny Dream Team (Abortion Dream Team)	Unregistered (2016)	Reproductive Rights	
Ogólnopolski Strajk Kobiet, OSK (All-Poland Women's Strike)	<u>Fundacja (2019)</u>	Reproductive Rights	
Amnesty International Poland (Stowarzyszenie Amnesty International)	Stowarzyszenie rejestrowe (1990)	LGBT+ Rights Reproductive Rights The Rule of Law	
Foundation Dziewuchy Dziewuchom	<u>Fundacja (2018)</u>	LGBT+ Rights Reproductive Rights	
Stowarzyszenie Obywatele Solidarnie w Akcji	<u>Stowarzyszenie zwykłe (2016)</u>	LGBT+ Rights Reproductive Rights The Rule of Law	
Foundation for Equality and Emancipation STER (Fundacja na rzecz Równości i Emancypacji STER)	<u>Fundacja (2019)</u>	Reproductive Rights	

Fundacja Równość/ Fundacja Równości (Equality Foundation) / Fundacja Równość.org.pl	<u>Fundacja (2005)</u>	LGBT+ Rights	
Łódzkie Dziewuchy Dziewuchom	<u>Stowarzyszenie rejestrowe (2018)</u>	Reproductive Rights	
Stowarzyszenie na rzecz osób LGBT „Tolerado” (Association for LGBT people 'Tolerado')	<u>Stowarzyszenie rejestrowe (2012)</u>	LGBT+ Rights	
Kultura Równości (Equality Culture)	<u>Stowarzyszenie rejestrowe (2012)</u>	LGBT+ Rights	
Stowarzyszenie Stan Równości	Stowarzyszenie rejestrowe (2018)	LGBT+ Rights	
Stowarzyszenie Queerowy Maj (Queer Association Maj)	Stowarzyszenie rejestrowe (2015)	LGBT+ Rights	
Fundacja na Rzecz Różnorodności Polistrefa	Fundacja (2010)	LGBT+ Rights	
Stowarzyszenie Tęczówka	Stowarzyszenie rejestrowe (2012)	LGBT+ Rights	
Stowarzyszenie Prowincja Równości	Stowarzyszenie rejestrowe (2019)	LGBT+ Rights	
Stowarzyszenie Marsz Równości w Lublinie (Equality March Association Lublin)	Stowarzyszenie rejestrowe (2019)	LGBT+ Rights	
Płocki Marsz Równości (Płock Equality March)	Unregistered (2019?)	LGBT+ Rights	
Stowarzyszenie Tęczowe Opole (Rainbow Association Opole)	Stowarzyszenie rejestrowe (2018)	LGBT+ Rights	

Stowarzyszenie Pracownia Różnorodności (Diversity Workshop Association)	2009- connected to Równik (Fundacja (2019))	LGBT+ Rights	
Stowarzyszenie Tęczowy Białystok (Rainbow Association Białystok)	Unregistered (2018)	LGBT+ Rights	
Fundacja Wiara i Tęcza (Faith and Rainbow Foundation)	Fundacja (2018)	LGBT+ Rights	
My, Rodzice stowarzyszenie matek, ojców i sojuszników osób LGBTQIA (We, Parents association of mothers, fathers and allies of LGBTQIA people)	Stowarzyszenie rejestrowe (2008)	LGBT+ Rights	
Akceptacja Stowarzyszenie Rodzin i Przyjaciół Osób Homoseksualnych, Biseksualnych i Transpłciowych (Acceptance by the Association of Families and Friends of Homosexual and Bisexual People and transgender)	Fundacja (2017)	LGBT+ Rights	
Fundacja Tęczowe Rodziny (Rainbow Families Association)	Fundacja (2018)	LGBT+ Rights	
Polskie Towarzystwo Prawa Antydyskryminacyjnego (PTPA) (Polish Society of Anti-Discrimination Law (PTPA))	Stowarzyszenie rejestrowe (2007)	LGBT+ Rights	

Towarzystwo Edukacji Antydyskryminacyjnej (Society for Anti-Discrimination Education) Warsaw	Stowarzyszenie rejestrowe (2009)	LGBT+ Rights	
Fundacja Cicha Tęcza (The Silent Rainbow Foundation)	Fundacja (2018)	LGBT+ Rights	
Stowarzyszenie TAK Trójmiejska Akcja Kobięca (Tricity Women's Campaign Association)	Stowarzyszenie zwykłe (2020)	Reproductive Rights	
Wolne Sądy (Free Courts)	Fundacja (2020)	The Rule of Law	
Sieć Obywatelska Watchdog Polska (Citizens Network Watchdog Poland)	Stowarzyszenie rejestrowe (2003)	The Rule of Law	
Open Dialogue Foundation (Fundacja Przestrzenie Dialogu)	Fundacja (2004)	The Rule of Law	
Helsinki Foundation for Human Rights (HFHR) (Helsińska Fundacja Praw Człowieka)	Fundacja (1989)	LGBT+ Rights Reproductive Rights The Rule of Law	
Manifest Wolnej Polki	Unregistered (2016)	Reproductive Rights	
DOK Democracy is OK	Unregistered (2016?)	LGBT+ Rights Reproductive Rights The Rule of Law	
Stowarzyszenie Stop Stereotypom	Stowarzyszenie rejestrowe (2014)	LGBT+ Rights Reproductive Rights	

Polish Judges Association Iustitia (Stowarzyszenie Sędziów Polskich "Iustitia")	Stowarzyszenie rejestrowe (1990)	The Rule of Law	
Komitet Obrony Sprawiedliwości KOS (Justice Defense Committee)	association of orgs (2018)	The Rule of Law	<u>Consortium</u>
Judges' Association Themis (Stowarzyszenie Sędziów Themis)	Stowarzyszenie rejestrowe (2010)	The Rule of Law	
Akcja Demokracja	Fundacja (2015)	LGBT+ Rights Reproductive Rights The Rule of Law	
Edukacja w Działaniu (Education in Action)	Unregistered (2018)	LGBT+ Rights Reproductive Rights	
Protest z Wykrzyknikiem	Unregistered (2019)	LGBT+ Rights Reproductive Rights	
Civic Development Forum (Fundacja Forum Obywatelskiego Rozwoju) FOR	Fundacja (2007)	The Rule of Law	<u>Consortium</u>
Stowarzyszenie Prokuratorów "Lex Super Omnia"	Stowarzyszenie rejestrowe (2017)	The Rule of Law	
Centrum Praw Kobiet	Fundacja (1994)	Reproductive Rights	
Grupa Ponton	Nieformalna grupa lub inicjatywa (informal group or initiative) (2002)	LGBT+ Rights Reproductive Rights	
Kobiety W Sieci- aborcja po polsku	Unregistered	Reproductive Rights	

Kongres Kobiet Północnej Wielkopolski (Stowarzyszenie „Metropolia Wielkopolska”)	Stowarzyszenie rejestrowe (2014)	Reproductive Rights	
Kongres Kobiet Tomaszów Maz.	Unregistered	Reproductive Rights The Rule of Law	
Kongres Kobiet Województwa Śląskiego	Unregistered	Reproductive Rights	
Lubelska Koalicja na Rzecz Kobiet	Unregistered	Reproductive Rights	
Manifa Bydgoska	Unregistered	Reproductive Rights	
Manifa Lublin	Unregistered	Reproductive Rights	
Manifa Łódź	Unregistered	Reproductive Rights	
Manifa Rzeszów	Unregistered	Reproductive Rights	
Manifa Toruńska	Unregistered	Reproductive Rights	
Marsz Godności	Unregistered	LGBT+ Rights Reproductive Rights Abortion	
Medical Students For Choice Poland	501(c)(3) Medical Student Organisation	LGBT+ Rights Reproductive Rights	
Międzynarodowy Strajk Kobiet	Unregistered	LGBT+ Rights Reproductive Rights	
Nic o nas bez nas. Ruch kobiecy Gliwice i Pyskowice	Unregistered	LGBT+ Rights Reproductive Rights	
Nieformalna Grupa Inicjatywna z Bydgoszczy	Unregistered	Reproductive Rights	
Obywatelskie Stowarzyszenie “Możemy”	Stowarzyszenie rejestrowe (2015)	Reproductive Rights	

Ratujmy Kobiety (Save Women)	Stowarzyszenie rejestrowe (1992)	Reproductive Rights	
Stowarzyszenie Dolnośląski Kongres Kobiet	Stowarzyszenie rejestrowe (2013)	LGBT+ Rights Reproductive Rights	
Stowarzyszenie Kobiety Słupsk	Stowarzyszenie rejestrowe (2016)	Reproductive Rights	
Stowarzyszenie Kobiety Piaseczno	Unregistered	Reproductive Rights	
Koniński Kongres Kobiet	Stowarzyszenie rejestrowe (2013)	Reproductive Rights	
Tęczowy Tarnów	Stowarzyszenie zwykłe (2021)	LGBT+ Rights	
Toruńskie Dziewuchy	Unregistered	Reproductive Rights	
Warszawski Strajk Kobiet	Unregistered	LGBT+ Rights Reproductive Rights Abortion	
Warszawskie Dziewuchy	Unregistered	Reproductive Rights	
Młoda Zaraza (Young Plague)	Unregistered	LGBT+ Rights Reproductive Rights	
Forum Unia Młodych (Youth Union)	Stowarzyszenie rejestrowe (2020)	Reproductive Rights	
Fundacja Kongres Obywatelskich Ruchów Demokratycznych	Fundacja (2019)	The Rule of Law	
Marsz dla bezpiecznej aborcji (March for Safe Abortion)	Unregistered (2018)	Reproductive Rights	
Demokraci Ziemi Sanockiej	Stowarzyszenie rejestrowe (2019)	The Rule of Law	
Same Plusy	Unregistered	Reproductive Rights	

Legalna aborcja. Bez kompromisów	Unregistered	Reproductive Rights	<u>Comittee of Civic and Political Actors</u>
Fundacja Widzialne - Zmiana jest Kobietą	Fundacja (2021)	Reproductive Rights	
Tęczowy Port UG	Unregistered	LGBT+ Rights	
Sędziów Polskich "Iustitia" Oddział w Gdańsku (Iustitia Oddział Gdański)(Iustitia Oddział Gdański)	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (1993)	The Rule of Law	
Rebelianty Przemysł	Unregistered	Reproductive Rights	
Iustitia Oddział Przemysł	Unregistered	The Rule of Law	
Iustitia Oddział w Lublinie	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2003)	The Rule of Law	
Iustitia Oddział Gorzowski	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2002)	The Rule of Law	
Iustitia Oddział Opolski	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2001)	The Rule of Law	
Obywatele Stargard, OSK Stargard	Unregistered	The Rule of Law	
Strajk Kobiet Włocławek	Unregistered	Reproductive Rights	
Instytut Rozwoju Młodych Kobiet	Unregistered	Reproductive Rights	
Koalicja Prodemokratyczna	Unregistered (2017)	The Rule of Law	
Miasteczko Wolności	Stowarzyszenie zwykłe (2022)	The Rule of Law	

Obywatele RP w Bydgoszczy	Unregistered (2018?)	The Rule of Law Reproductive Rights	
Parasolki	Unregistered	The Rule of Law Reproductive Rights	
Inicjatywa Demokratyczna	Fundacja (2015)	The Rule of Law	
Projekt Wolność		The Rule of Law	
Protesty Szczecin	Unregistered	Reproductive Rights	
Radomianie dla demokracji (Radomians for democracy)	Stowarzyszenie zwykłe (2017)	The Rule of Law	
Rada Konsultacyjna przy OSK	Unregistered	Reproductive Rights	
Polskie Babcie (Polish grannies)	<u>Stowarzyszenie zwykłe (2020)</u>	The Rule of Law Reproductive Rights	
Koalicja Antyfaszystowska	Unregistered	Reproductive Rights	
Aborcja Polska - Women Help Women	Unregistered	Reproductive Rights	
Łańcuch Światła Poznań (Chain of Light)	Unregistered	The Rule of Law	
Europo, nie odpuszczaj	Unregistered	The Rule of Law	
Obywatele Gorzów Wlkp.66- 400	Stowarzyszenie rejestrowe (2017)	The Rule of Law	
Wolny Balkon	Stowarzyszenie rejestrowe (2017)	The Rule of Law	
Bank Równości	Unregistered (2019)	LGBT+ Rights	
Rebelianty Podkarpackie	Unregistered	LGBT+ Rights	
Stowarzyszenie Europejska Demokracja - Nadzieja i Otwartość (SEDNO)	Stowarzyszenie rejestrowe (2018)	The Rule of Law	

Stowarzyszenie Sędziów Rodziny w Polsce (The Association of Family Court Judges)	Stowarzyszenie rejestrowe (2003)	The Rule of Law	
Trójmiejskie Dziewuchy	Stowarzyszenie zwykłe (2017)	Reproductive Rights	
Fundacja WOLNI I RÓWNI	Fundacja (2017)	The Rule of Law	
Inicjatywa obywatelska „Demokraci z Mokotowa”	Unregistered	The Rule of Law	
Stowarzyszenie Demokratyczna RP	Stowarzyszenie rejestrowe (2016)	The Rule of Law Reproductive Rights	
Stowarzyszenie Radomianie dla Demokracji	Stowarzyszenie zwykłe (2017)	The Rule of Law	
Stowarzyszenie Wolność, Równość, Demokracja	Stowarzyszenie rejestrowe (2018)	The Rule of Law	
Dziewuchy Węgorzewo	Unregistered (2016?)	The Rule of Law Reproductive Rights	
Radomska Inicjatywa Kobieca - OSK Radom	Stowarzyszenie zwykłe (2018)	Reproductive Rights	
Śląskie Perły	Stowarzyszenie rejestrowe (2018)	The Rule of Law Reproductive Rights	
Feministyczna Brygada Rewolucyjna FeBRa	Stowarzyszenie zwykłe (2017)	Reproductive Rights	
Nowa Fala Aktywizmu	Unregistered	Reproductive Rights	
INPRIS	Fundacja (2009)	The Rule of Law	
Stowarzyszenie im. Prof. Zbigniew Hołdy	Stowarzyszenie rejestrowe (2011)	The Rule of Law	

Homokomando	Stowarzyszenie (2006)	LGBT+ Rights Reproductive Rights	
Stałe Prezydium Forum Współpracy Sędziów (Presidium of the Judges Cooperation Forum) also FWS FORUM	2017	The Rule of Law	
Atlas of Hate (Atlas nienawiści)	2019 (Unregistered)	LGBT+ Rights	
Stowarzyszenie Adwokackie Defensor Iuris	Stowarzyszenie zwykłe (2019)	The Rule of Law	
Wolna Prokuratura	Unregistered (2018?)	The Rule of Law	
Fundacji Ośrodek Kontroli Obywatelskiej	Fundacja (2016)	The Rule of Law	
Iustitia Oddział Toruński	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (1998)	The Rule of Law	
Iustitia Oddział Szczecin	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (1997)	The Rule of Law	
Iustitia Oddział w Płocku	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2004)	The Rule of Law	
SZPIL(A)	Unregistered (2020)	LGBT+ Rights Reproductive Rights	
Queer Touro (Queer Tours)	Unregistered (2019)	LGBT+ Rights	
Gryfiński Strajk Kobiet	Unregistered (2018)**Check interview data	Reproductive Rights	

Iustitia Oddział Bydgoszcz	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (1999)	The Rule of Law	
Komitet Obrony Demokracji Region Pomorze	Unregistered (2016)	The Rule of Law	
Wielkopolski Kongres Kobiet	Unregistered (2012)	Reproductive Rights	
A city protest against the war (Miejski protest przeciw wojnie)	Unregistered (2017)	Reproductive Rights	
Strajk Kobiet Wielkopolska	Unregistered (2016)	Reproductive Rights	
Mosiński Strajk Kobiet	Unregistered (2020)	Reproductive Rights	
Puszczykowski Strajk Kobiet	Unregistered (2020)	Reproductive Rights	
Komitetu Obrony Demokracji (KOD) Podkarpacie	Unregistered (2016)	The Rule of Law	
Komitetu Obrony Demokracji (KOD) Podlaskie	Unregistered (2016)	The Rule of Law	
Stowarzyszenie Sędziów Polskich "Iustitia" Oddział w Elblągu	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (1999)	The Rule of Law	
Cafe Iustitia Elbląg	Unregistered (2020)	The Rule of Law	
Co w prawie piszczy (What the Law Says)	Unregistered (2019)	The Rule of Law	
Słupska kafejka prawna (Legal Café in Słupsk)	Unregistered (2018)	The Rule of Law	
Ogólnopolskie Stowarzyszenie Sędziów Sądów Administracyjnych (OSSSA)	Stowarzyszenie rejestrowe (2018)	The Rule of Law	

Prawnicy dla Polski (Lawyers for Poland)	Stowarzyszenie rejestrowe (2019)	The Rule of Law	
Fundacja Edukacji Prawnej "Iustitia" (Legal Education Foundation "Iustitia")	Fundacja (2002)	The Rule of Law	
Fundacja Court Watch Polska (Court Watch Polska)	Fundacja (2010)	The Rule of Law	
Federacja Znaki Równości	Federacja, związek stowarzyszeń (2016)	LGBT+ Rights	
Queer UW	Unregistered (2010)	LGBT+ Rights	
Wielka Koalicja za Równością i Wyborem (The Grand Coalition for Equality and Choice)	Nieformalna grupa lub inicjatywa (2017)	Reproductive Rights	<u>Consortium</u>
BABA Lubuskie Stowarzyszenie na Rzecz Kobiet	Stowarzyszenie rejestrowe (2000)	Reproductive Rights	
Czarny Protest Bielsko-Biała / Strajk Kobiet Bielsko-Biała	Unregistered (2016)	Reproductive Rights	
Instytut Równości	Stowarzyszenie rejestrowe (2018)	LGBT+ Rights	
Fundacja Wrzenie	Fundacja (2022)	LGBT+ Rights	
Stop Bzdurom (Stop Bullshit)	Unregistered (2019)	LGBT+ Rights	
Lex Q	Unregistered (2020)	LGBT+ Rights The Rule of Law	
Cień Mgły: oddolne wsparcie Strajku Kobiet (Shadow of Mist: grassroots support for the Women's Strike)	Unregistered (2021)	Reproductive Rights The Rule of Law	

Strajk Obywatelski (Citizen's Strike)	Unregistered (2016)	The Rule of Law	
Konferencja Episkopatu Polek (Episcopal Conference of Polish Women)	Unregistered (2016)	Reproductive Rights	
KOD Dolnośląskie Wrocław	Unregistered (2017)	The Rule of Law Reproductive Rights	
Równik	Unregistered (2020)	LGBT+ Rights	
Iustitia Oddział Wielkopolski	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2003)	The Rule of Law	
Strajk Kobiet Olsztyn	Unregistered (2020)	Reproductive Rights	
No More	Unregistered (2020)	LGBT+ Rights Reproductive Rights	
Piotrkowski Strajk Kobiet	Unregistered (2020)	Reproductive Rights	
KOD - Śląskie	Unregistered (2016)	The Rule of Law	
Ogólnopolski Strajk Kobiet Lublin	Unregistered (2017)	Reproductive Rights	
Iustitia Oddział Warszawski	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2002)	The Rule of Law	
Iustitia Oddział w Słupsku	Stowarzyszenie rejestrowe (2016)	The Rule of Law	
Iustitia Oddział Łódzki	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2001)	The Rule of Law	
Iustitia Oddział w Nowym Sączu	Unregistered (2020)	The Rule of Law	

Iustitia Oddział we Wrocławiu	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (1999)	The Rule of Law	
Iustitia Oddział w Zielonej Górze	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2005)	The Rule of Law	
Iustitia Oddział Śląski	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (1998)	The Rule of Law	
Bronimy Sędziów i Prokuratorów - Cała Polska	Unregistered (2019)	The Rule of Law	
Wolność Równość Demokracja	Stowarzyszenie rejestrowe (2018)	The Rule of Law	
Prawniczki Pro Abo	Unregistered (2022)	Reproductive Rights	
Stowarzyszenia Sędziów Rodzinnych Pro Familia	Stowarzyszenie rejestrowe (2014)	The Rule of Law	
Lęborskie Dziewuchy	Unregistered (2016)	Reproductive Rights	
Manifa Koszalin	Unregistered (2014)	Reproductive Rights	
Ratujmy Kobiety Białystok	Unregistered (2017)	Reproductive Rights	
Autonomia fundacja (Foundation autonomy)	Unregistered (2008)	Reproductive Rights	
Sześć Kolorów Równości	Stowarzyszenie rejestrowe (2021)	LGBT+ Rights	
QKS Trójmiasto	Unregistered (2021)	LGBT+ Rights	
Iustitia Oddział w Krakowie	Stowarzyszenie rejestrowe (2016)	The Rule of Law	
KOD Małopolskie	Unregistered (2016)	The Rule of Law	

Iustitia Oddział Radomski	Jednostka terenowa stowarzyszenia posiadająca osobowość prawną (2000)	The Rule of Law	
Fundacja Nie Tylko Matka Polka Toruń	Fundacja (2009)	Reproductive Rights	
Tęczowe Pogotowie (Rainbow Ambulance)	Unregistered (2019)	LGBT+ Rights Reproductive Rights	
Cień Mgły: oddolne wsparcie Strajku Kobiet (Cień Mgły: grassroots support for the Women's Strike)	Unregistered (2021?)	LGBT+ Rights Reproductive Rights	

Impact

This research was tasked with investigating the ways that liberal Polish civil society organisations (CSOs) challenged the standards of the rule of law and human rights set by the ruling coalition, United Right. This research followed 206 CSOs working on issues related to the rule of law and human rights (specifically reproductive rights and LGBT+ rights). It revealed that these CSOs used 21 unique strategies to express disagreement with the standards of these norms set by United Right and to remedy what they felt were violations of these norms. These strategies ranged from protests to appeals to CSOs defending key figures (such as judges who had been disciplined under the government before national and European courts). CSOs did not act alone, however, they relied on the support of their networks, including other CSOs both in Poland and internationally, academics across the world, and various political figures (such as members of the European Parliament) to achieve their goals. The strategies of CSOs were aimed not only at remedying norm violations directly but also at encouraging change in Polish society in the long term and knowledge creation and preservation. For instance, CSOs also spent time conducting social campaigns aimed at changing public perception regarding LGBT+ persons.

They also produced many reports, archives, and data related to their issues of focus, for use by researchers, politicians, and even courts. As a country which, according to the democracy index V-Dem is becoming less democratic faster than any other country in the world and one in which CSOs have reacted considerably to various threats against democracy, Poland provides an excellent case study. Through this case study, the thesis contributes to growing research on the role of actors outside of the government and international organisations (IOs) like the EU in addressing human rights and rule of law concerns. It also contributes to research in international relations by offering a broad representation of the various ways that actors beyond states and IOs express disagreement with certain interpretations of norms. Also interesting to contemporary historians will be the brief overview of the ways in which Poland's accession to the EU helped activists and others strengthen their arguments for certain rights to be protected under norms like human rights. In the societal realm, this research provides a blueprint and helpful overview both for CSOs looking to replicate the strategies of Polish civil society and for policymakers

and others hoping to better understand the Polish civic space and the strategies, barriers, and opportunities CSOs in this space experience.

In this work, I, therefore, provide a list of recommendations in the final chapter for the various actors who may play a role here. For instance, the EU is advised to use existing, appropriate tools to accurately identify, correct, and address the violation of EU norms and to work together with civil society to co-create meaningful strategies for addressing their issues of concern and better understanding their lived realities. Academics wishing to speak out on issues which have significant societal implications are given suggestions about how to become engaged inside and outside of academia. Further suggestions are made to civil society actors and policymakers to help both translate their needs and concerns into a language that is appropriate for the other and to better collaborate in meaningful strategies towards shared goals. Target groups will be informed about the results of this research through the publication of this dissertation and in the forthcoming publication of a policy paper aimed at policy-makers and civil society. In addition, some results have already been shared with academic and non-academic audiences through the publication of several academic blog articles (two more will be published, sharing the results of this research), and for academic audiences during six conferences and one panel (one conference is forthcoming) attended during the course of this work.

Samenvatting

Wanneer normen botsen: hoe het Poolse liberale burgermaatschappij de standaarden van de regering voor de rechtsstaat en de mensenrechten normen van 2015-2022 betwistte

Er wordt gezegd dat de Europese Unie (EU) wordt geconfronteerd met een 'waardencrisis' waarin haar normen, zoals mensenrechten en de rechtsstaat, intern worden betwist door enkele van haar eigen lidstaten. Deze trend is vooral zichtbaar in lidstaten als Polen, waar de normen voor de democratie, de rechtsstaat en de mensenrechten zijn afgenomen sinds de United Right (Zjednoczona Prawica of ZP) coalitie in 2015 aan de macht kwam. Deze ontwikkeling heeft geleid tot nieuw onderzoek gericht op het begrijpen en beoordelen van interventies tot wat, onder andere 'terugval' wordt genoemd. Veel van dit onderzoek richt zich echter op de rol van institutionele actoren bij het aanpakken van bedreigingen voor EU-normen (bijvoorbeeld de Europese Commissie). Dit gaat door ondanks het feit dat het maatschappelijk middenveld traditioneel gezien wordt als een correctiemiddel voor bedreigingen van de liberaal-democratische waarden en als een kracht om het gebruik van willekeurige macht te beperken. Bovendien suggereert nieuw onderzoek al dat maatschappelijke organisaties (CSO's) in Polen betekenisvol reageren op deze 'terugval.' Ten slotte zal zelfs de informele waarnemer de aanzienlijke mobilisatie van actoren in de Poolse maatschappelijke ruimte hebben opgemerkt, bijvoorbeeld in de vorm van massaprotesten die al maanden nadat de heersende coalitie aan de macht kwam, begonnen.

Ondanks deze feiten bestaat er zeer weinig bestaand onderzoek dat de rol van maatschappelijke organisaties onderzoekt bij het betwisten van de acties van problematische regeringen zoals ZP. Bovendien vertoont het bestaande onderzoek naar dit onderwerp verschillende tekortkomingen, zoals de hyperfocus op grote NGO's, de uitgebreide focus op een van een klein aantal probleemgebieden (d.w.z. onderzoek dat uitsluitend kijkt naar aanvallen op de rechtsstaat, vrije pers, seksuele en reproductieve gezondheidsrechten of de reacties van het maatschappelijk middenveld op het 'anti-gender'-beleid van de overheid), en heeft de neiging om één vorm van strategische interactie te isoleren (bijvoorbeeld protesten) en/of de studie van interacties van een bepaald type te beperken (i.e. onderzoek naar de interacties van maatschappelijke organisaties op het gebied van de rechtsstaat heeft de neiging

zich te sterk te concentreren op juridische interacties en op de inspanningen van maatschappelijke organisaties om nationale en supranationale rechtbanken te mobiliseren). Dit onderzoek probeert zich daarom te concentreren op normen die de meeste aandacht hebben gekregen van internationale instellingen (IO's) zoals de EU en de liberale burgermaatschappij in Polen. Dit zijn namelijk de rechtsstaat en de mensenrechten. De specifieke foci van de onderzochte maatschappelijke organisaties met betrekking tot de rechtsstaat waren: rechterlijke onafhankelijkheid, het recht op een eerlijk proces (ook een mensenrecht) en de scheiding der machten. Wat de mensenrechten betreft, waren de foci: reproductieve rechten (inclusief toegang tot anticonceptie, in-vitrofertilisatie (IVF) en abortus) en LGBT+-rechten (inclusief de beperking van anti-LGBT+-discours door politieke elites, vrijheid van vergadering en non-discriminatie op grond van seksuele geaardheid).

Deze lijst van foci weerspiegelt zowel de onderwerpen die het meest relevant waren voor Poolse maatschappelijke organisaties als de onderwerpen die de meeste aandacht van de EU hadden gekregen. Ze zijn ontwikkeld na een zorgvuldig proces van toezicht op de Poolse burgerlijke ruimte en na EU-verklaringen, oproepen, veroordelingen en andere communicatie over kwesties in Polen (bijvoorbeeld debatten in het Europees Parlement). Er werd extra aandacht besteed aan het onderzoeken van maatschappelijke organisaties van verschillende omvang (inclusief de niet-geregistreerde organisaties) en aan het zoeken naar maatschappelijke organisaties buiten de grote steden. Door het onderzoeken van een breed scala aan rechten, normen en organisaties wordt gehoopt dat dit onderzoek een meer authentieke weergave zal opleveren van het Poolse burgerlandschap, de interventies die door maatschappelijke organisaties worden ingezet om de betwisting van de rechtsstaat en de mensenrechten door ZP te betwisten, en onthullen of en hoe maatschappelijke organisaties samenwerken in verschillende kwestiegebieden in verschillende vormen van strategische samenwerking. Dit werk laat zien niet alleen de verschillende strategische acties van de maatschappelijke organisaties waarop de focus ligt, maar ook de bedreigingen, allianties en barrières die zij tijdens hun werk hebben ondervonden. Om dit te doen stelt het de volgende onderzoeksvraag: *Hoe heeft het maatschappelijk middenveld in Polen de normen van United Right voor de rechtsstaat en de mensenrechten tussen 2015 en 2022 betwist? Het gaat ook in op de secundaire onderzoeksvraag: welke uitdagingen en kansen hebben liberale maatschappelijke organisaties ervaren bij het verwezenlijken van hun doelstellingen?*

Het onderzoek is gebaseerd op 18 semi-gestructureerde interviews met 21 Poolse maatschappelijke organisaties en de documentanalyse van 797 documenten waarin de verschillende vormen van interventies waarmee maatschappelijke organisaties in dezelfde periode bezig waren, gedetailleerd worden beschreven. Samen brachten deze gegevens 21 strategische interventies aan het licht die gemeenschappelijk zijn voor de 206 maatschappelijke organisaties die voor onderzoek zijn geselecteerd. Deze interacties varieerden van protesten tot de mobilisering van het recht tot directe oproepen aan de heersende coalitie of gecompromitteerde rechtbanken zelf. Bovendien heeft dit onderzoek aangetoond dat deze maatschappelijke organisaties bij hun interventies gebruik kunnen maken van een breed, internationaal netwerk van bondgenoten, zoals andere maatschappelijke organisaties, de academische wereld en politieke actoren (bijvoorbeeld leden van het Europees Parlement). Deze interventies waren gericht op het betwisten of uiten van onenigheid met de standaarden van ZP voor de rechtsstaat en de mensenrechten. Deze betwisting omvatte zowel reactieve betwisting (de regelrechte schending van een norm of de betwisting van de betwisting van een norm door een andere actor) als proactieve betwisting (het uiten van onenigheid over de betekenis, het bereik en/of de inhoud van een norm als een vorm van kritisch engagement en in pogingen om samen een norm vorm te geven). Maatschappelijke organisaties concentreerden zich op de rechtsstaat voerden reactieve betwisting door de standaarden van United Right voor de rechtsstaat te betwisten, die volgens hen in strijd waren met EU- en internationale wetten en verdragen.

Actoren die zich op de mensenrechten concentreerden, betwistten echter proactief de normen van ZP voor deze norm, in hun pogingen om de norm zo mede vorm te geven dat de reproductieve en LHBT+-rechten die zij verdedigden ook zouden worden gecatalogiseerd als mensenrechtenkwesties. Dat deden ze door hun argumenten in gerespecteerde normen en verdragen te verankeren en door de officiële verklaringen, aanbevelingen en veroordelingen te citeren van (vertegenwoordigers van) internationale organisaties die op discursieve wijze hun focusrechten op één lijn brachten met die van de mensenrechten. Op deze manier probeerden ze de taal van de rechten te gebruiken ten gunste van het bepleiten van hun probleemgebieden. Hoewel de complexe strategieën die maatschappelijke organisaties in deze betwistingsprocessen hanteerden indrukwekkend en divers waren, werden maatschappelijke organisaties ook geconfronteerd met ernstige bedreigingen van een groot aantal actoren, zoals de Poolse regering, nationale rechtbanken, politie, de media en conservatieve maatschappelijke organisaties.

Deze bedreigingen, georkestreerd door machtige actoren, in combinatie met consistente passiviteit (of late actie) van de EU, hebben het potentiële succes van liberale maatschappelijke organisaties op dit gebied bedreigd. Het blijft daarom de vraag of het maatschappelijk middenveld in staat zal zijn om effectief terug te dringen tegen beleid, discours en andere acties van de overheid die de normen voor de rechtsstaat, de rechten van minderheden, reproductieve rechten en andere aanverwante kwesties aantasten.

Dit werk biedt daarom in het slothoofdstuk ook een lijst met aanbevelingen voor de verschillende actoren die hierin een rol kunnen spelen. De EU wordt bijvoorbeeld geadviseerd bestaande, passende instrumenten te gebruiken om de schending van de EU-normen accuraat te identificeren, corrigeren en aan te pakken, en samen te werken met het maatschappelijk middenveld om betekenisvolle strategieën te ontwikkelen om hun problemen aan te pakken en de ervaringen van het Poolse maatschappelijke middenveld beter te begrijpen. Academics worden aangemoedigd om niet te zwijgen over dit soort kwesties, die aanzienlijke maatschappelijke implicaties met zich meebrengen, en er worden verschillende suggesties gedaan over hoe men zowel binnen als buiten de academische wereld betrokken kan raken. Er worden verdere suggesties gedaan aan actoren uit het maatschappelijk middenveld en beleidsmakers om hun behoeften en zorgen te helpen vertalen in een taal die geschikt is voor de ander, en om beter samen te werken in zinvolle strategieën om gedeelde doelen te bereiken. Als een land dat volgens de democratie-index V-Dem sneller autocratisch wordt dan enig ander land ter wereld en waar maatschappelijke organisaties aanzienlijk hebben gereageerd op verschillende bedreigingen tegen de liberale democratie, biedt Polen een uitstekende casestudy. Via deze case study draagt het proefschrift bij aan beginnend onderzoek naar de rol van niet-institutionele actoren bij het aanpakken van problemen op het gebied van de mensenrechten en de rechtsstaat.

Het draagt ook bij aan onderzoek op het gebied van internationale betrekkingen door een brede representatie te bieden van de verschillende manieren waarop actoren op mesoniveau zich bezighouden met betwisting, waardoor de aandacht wordt verlegd van staten en internationale organisaties, die traditioneel de focus is van dit veld en onderzoek naar norm betwisting. Op maatschappelijk gebied biedt dit onderzoek een blauwdruk en een nuttig overzicht voor maatschappelijke organisaties die de strategieën van de Poolse burgermaatschappij willen repliceren. Het is ook belangrijk voor beleidsmakers en andere praktijkmensen die de Poolse

burgermaatschappij willen steunen en die meer willen weten over de strategieën, barrières en kansen van maatschappelijke organisaties. De resultaten van deze studie suggereren dat, hoewel de terugval een aanzienlijk negatief effect heeft gehad op liberale maatschappelijke organisaties, het ook nieuwe manieren van netwerken en mobiliseren noodzakelijk heeft gemaakt, waaronder netwerken tussen maatschappelijke organisaties met een aanzienlijk verschillende foci en de betrokkenheid van strategische interacties die verder gaan dan de bekende vormen zoals protesten en strategische rechtszaken. De strategieën van maatschappelijke organisaties waren niet alleen gericht op het direct verhelpen van normschendingen (zoals het vertegenwoordigen van een ongepast gedisciplineerde rechter in een strategische zaak om deze te laten herplaatsen), maar ook op maatschappelijke verandering en kenniscreatie op lange termijn (zoals sociale campagnes gericht op het veranderen van publieke perceptie van LHBT+-personen of de oprichting van archieven waarin de uitdagingen voor de rechtsstaat sinds 2015 in kaart worden gebracht).

Er wordt gehoopt dat deze bevindingen een groter en verfijnder inzicht bieden in de Poolse maatschappelijke ruimte, zowel voor academici als voor praktijkmensen. Het advies in het laatste hoofdstuk weerspiegelt bovendien belangrijke actiepunten voor een groot aantal academische en sociale actoren. Hoewel deze bevindingen de suggestie kunnen versterken dat sommige maatschappelijke organisaties een correctie kunnen zijn voor een terugval, zoals die in Polen en Hongarije, worden er ook een aantal verontrustende trends geïdentificeerd die, als ze niet worden gecontroleerd, een existentiële bedreiging voor maatschappelijke organisaties kunnen worden. Deze omvatten onder meer het niet ten uitvoer leggen van uitspraken van supranationale rechtbanken en het bewapenen van de wet tegen activisten. In dit proefschrift vindt men het theoretische raamwerk dat dit onderzoek leidt, en een inleiding tot de onderzoeksvelden waaruit dit project put (**Hoofdstuk 2: Theoretical Framework: When Civil Society Contests**). Vervolgens worden de methodologie van dit onderzoek, de selectie van gevallen, de beperkingen en de gegevens verzameld als onderdeel van deze studie gepresenteerd (**Hoofdstuk 3: Methodology**), gevolgd door een discussie over de ontwikkeling van het Poolse maatschappelijk middenveld vóór het einde van het communisme en in de aanloop naar Toetreding tot de EU (**Hoofdstuk 4: Polish Civil Society Between Communist Occupation and EU Membership**).

Het volgende hoofdstuk zal het effect uitleggen dat het EU-lidmaatschap had op het maatschappelijk middenveld dat hoopt nieuwe rechten op te eisen (**Hoofdstuk 5: Polish Civil Society in the Context of EU Membership**) voordat de focus verschuift naar de studieperiode in **Hoofdstuk 6 (PiS and Civil Society— 2005-2007 and 2015- 2022)**. Ten slotte worden de resultaten van het onderzoek uiteengezet in **Hoofdstuk 7: Data and Results** ordat een bespreking van de resultaten plaatsvindt en enkele laatste woorden over toekomstig onderzoek, aanbevelingen en de potentiële toekomst van de Poolse maatschappelijke ruimte worden aangeboden in **Hoofdstuk 8: Conclusions and Discussion**.

Summary

When Norms Clash: How Polish Liberal Civil Society Contested Government Standards for the Rule of Law and Human Rights from 2015-2022

The European Union (EU) is said to be facing a 'crisis of values' in which its core norms like human rights and the rule of law, are internally contested by some of its own member states. This trend is especially evident in member states like Poland where standards for democracy, the rule of law, and human rights have declined since the United Right Coalition came into power in 2015. This development has led to new research aimed at understanding and assessing interventions to what has been termed, backsliding, among other things. However, much of this research focuses on the role of institutional actors in addressing threats to EU norms (e.g. European Commission). This continues despite the fact that civil society has traditionally been theorised as a corrective to threats to liberal democratic values and as a force for limiting the use of arbitrary power. Additionally, nascent research already suggests that civil society organisations (CSOs) in Poland *are* reacting meaningfully to backsliding. Lastly, even the informal observer will have noticed the significant mobilisation of actors in Poland's civic space, for instance, in the form of mass protests which started as early as months after the ruling coalition came into power.

Despite these facts, very little extant research exists which examines the role of CSOs in contesting the actions of problematic governments like the United Right coalition. In addition, the research which does exist on this topic has several shortcomings such as the hyper-focus on large NGOs, extensive focus on one of a small number of issue areas (i.e. research which solely looks at attacks to the rule of law, free press, sexual and reproductive health rights, or the reactions of civil society to the government's 'anti-gender' policies), and tends to isolate one form of strategic interaction (e.g. protests) and/or limit the study of interactions of a particular type (i.e. research on CSOs' interactions in the realm of the rule of law tend to hyper-focus on legal interactions and on the efforts of CSOs to mobilise national and supranational courts). This research, therefore, seeks to concentrate on norms which have received the most attention from international institutions (IOs) like the EU as well as Poland's liberal civil society. These are, namely, the rule of law and human rights. The rights of focus for the CSOs examined regarding the rule of law

were: judicial independence, the right to a fair trial (also a human right), and the separation of powers. As it regards human rights, the rights of focus were reproductive rights (including access to contraception, in vitro fertilisation (IVF), and abortion) and LGBT+ rights (including the restriction of anti-LGBT+ discourse by political elites, freedom of assembly, and non-discrimination on the grounds of sexual orientation).

This list of rights reflects both the topics that were most pertinent to Polish CSOs and those which had received the most attention from the EU. They were developed following a careful process of monitoring the Polish civic space and following EU statements, appeals, declarations, condemnations, and other communications regarding issues in Poland (e.g. debates in the European Parliament). Additional care was taken to examine CSOs of various sizes (including those not registered) and to seek out CSOs outside of large cities. In investigating a wide variety of rights, norms, and organisations, it is hoped that this research will present a more authentic representation of Poland's civic landscape, the strategic interactions employed by CSOs to contest United Right's contestation of the rule of law and human rights, and reveal if and how CSOs work together across issue areas in various acts of strategic collaboration. This work not only unpacks the various strategic actions of the CSOs of focus but also the threats, alliances, and barriers they experienced in the course of their work. To do so, it asks the following research question: *How did civil society in Poland contest United Right's standards for the rule of law and human rights from 2015-2022?* It also pursues the secondary research question: *What challenges and opportunities did liberal CSOs experience when working to actualise their goals?*

It is informed by 18 semi-structured interviews with 21 Polish CSOs and the document analysis of 797 documents detailing the various forms of intervention CSOs engaged in during the same period. Together, these data revealed 21 strategic interactions common to the 206 CSOs selected for study. These interactions ranged from protests to legal mobilisation to direct appeals to the ruling coalition or compromised courts themselves. In addition, this research has revealed that these CSOs may tap into a wide, international network of allies such as other CSOs, academia, and political actors (e.g. members of the European Parliament) in their strategic interactions. These interactions were aimed at contesting, or expressing disagreement, with United Right's standards for the rule of law and human rights. This contestation included both reactive contestation (the outright violation of a

norm or the contestation of another actor's contestation of a norm) and proactive contestation (expressing disagreement about the meaning, reach, and/or content of a norm as a form of critical engagement and in efforts to co-shape a norm). CSOs focused on the rule of law engaged in reactive contestation by contesting United Right's standards for the rule of law, which they alleged violated EU and international laws and treaties.

Actors focused on human rights, however, proactively contested United Right's standards for this norm, in efforts to co-shape the norm in such a way that the reproductive and LGBT+ rights they championed would also be catalogued as matters of human rights. They did so by embedding their arguments in respected norms and treaties and by citing the official statements, recommendations, and condemnations, of (representatives from) IOs who discursively aligned their rights of focus with those of human rights. In this way, they attempted to use the language of rights in favour of advocating for their issue areas. Although the complex strategies employed by CSOs in these processes of contestation were impressive and diverse, CSOs also faced serious threats from a host of actors such as the Polish government, national courts, police, the media, and conservative CSOs. These threats, orchestrated by powerful actors, coupled with consistent EU inaction (or late action), have threatened the potential success of liberal CSOs in this space. It, therefore, remains questionable whether civil society will be able to effectively push back against policies, discourse, and other actions from the government which degrade the standards for the rule of law, minority rights, reproductive rights, and other related issues.

This work, therefore, also provides a list of recommendations in the final chapter for the various actors who may play a role here. For instance, the EU is advised to use existing, appropriate tools to accurately identify, correct, and address the violation of EU norms and to work together with civil society to co-create meaningful strategies for addressing their issues of concern and better understanding their lived realities. Academics are encouraged not to be silent on issues like this which bear significant societal implications and several suggestions are made as to how one might become involved both inside and outside of academia. Further suggestions are made to civil society actors and policymakers to help both translate their needs and concerns into a language that is appropriate for the other and to better collaborate in meaningful strategies towards shared goals. As a country which, according to the democracy index V-Dem is becoming autocratic faster than

any other country in the world and one in which CSOs have reacted considerably to various threats against liberal democracy, Poland provides an excellent case study. Through this case study, the thesis contributes to nascent research on the role of noninstitutional actors in addressing human rights and rule of law concerns.

It also contributes to research in international relations by offering a broad representation of the various ways that actors at the meso-level engage in contestation, reorienting focus away from states and IOs, which are traditionally the target of this field and research on contestation. In the societal realm, this research provides a blueprint and helpful overview both for CSOs looking to replicate the strategies of Poland's liberal civil society and for policymakers and other practitioners hoping to better understand both the Polish civic space and the strategies, barriers, and opportunities CSOs in this space experience. The results of this study suggest that, while backsliding has had a significant negative impact on liberal CSOs, it has also necessitated new ways of networking and mobilising which included networks between CSOs of significantly different focus and the engagement of strategic interactions beyond well-known forms such as protests and strategic litigation. The strategies of CSOs were aimed not only at remedying norm violations directly (such as representing an improperly disciplined judge in a strategic case to have them reinstated) but also at long-term societal change and knowledge creation (such as social campaigns aimed at changing public perception of LGBT+ persons or the creation of archives mapping challenges to the rule of law since 2015).

It is hoped that these findings provide greater, more sophisticated insight into the Polish civic space both for academics and practitioners. The advice offered in the last chapter, further, reflects important action items for a host of academic and social actors. Although these findings may strengthen the suggestion that some CSOs can be a corrective for backsliding such as that seen in Poland and Hungary, it also identifies several concerning trends that, if left unchecked could become existential threats to CSOs. These included the non-enforcement of supranational court rulings and the weaponisation of the law against activists. In this dissertation, one will find the theoretical framework guiding this research and an introduction to the fields of research from which this project draws (**Chapter 2: Theoretical Framework: When Civil Society Contests**). Next, the methodology of this research, case selection, limitations, and data collected as part of this study are presented (**Chapter 3: Methodology**), followed by a discussion of the development of Polish

civil society before the end of communism and leading up to EU accession (**Chapter 4: Polish Civil Society Between Communist Occupation and EU Membership**).

The following chapter will uncover the effect that EU membership had on civil society hoping to claim new rights (**Chapter 5: Polish Civil Society in the Context of EU Membership**) before the focus shifts to the study period in **Chapter 6 (PiS and Civil Society— 2005-2007 and 2015- 2022)**. Finally, the results of the research are laid out in **Chapter 7: Data and Results** before a discussion of the results and some final words about future research, recommendations, and the potential future of the Polish civic space are offered in **Chapter 8: Conclusions and Discussion**.

About the Author

Akudo Kyoshia McGee was born in Philadelphia, Pennsylvania (United States) on 21 August 1992. She obtained a Bachelor of Arts at the University of Pittsburgh (United States) in German Language and Cultural Studies with a certificate in Global Studies in 2015. Her interest in the European Union, the cooperation between EU states in cross-border issues like migration, and her fascination with civil society led her to continue her studies at the University of Amsterdam in 2017. Here, McGee studied the European Studies: Identity and Integration track, where she did ethnographic research on how citizen's initiatives supported refugee integration in difficult social and economic environments. This research included travel visits to the Marzahn-Hellersdorf neighbourhood in Berlin, Germany (the focus of her MA thesis), where she conducted interviews and participant observation. She earned her Master of Arts in 2018, also winning the MA Thesis Prize for European Studies at the University of Amsterdam.

After completing her Master's degree, McGee returned to her native United States where she worked for the non-profit organisation VentureWell before deciding to return to academia and complete her PhD. From 2020 to 2024, McGee completed her PhD at Maastricht University under her primary supervisor Prof. Mathieu Segers, her second supervisor Asst. Prof. Ferenc Laczó, and an external third supervisor Prof. Haroon Sheikh (The Netherlands Council for Government Policy- WRR). Her PhD research, focused on how Polish civil society reacted to threats against the rule of law and human rights from 2015-2022, is part of the LIMES programme financed via the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No 847596. This research brought McGee back to one of her greatest interests, civic mobilisation and connected her with a wide variety of diverse actors such as volunteers for civil society organisations, researchers, lawyers, judges, teachers, and students. The steadfast dedication of these individuals to protect and improve human rights and the rule of law in Poland (and often beyond), inspired her greatly during her PhD.

During her PhD, McGee was also active in the (co-)organisation of academic conferences (e.g. the East-West Symposium and the LIMES final conference), became the head of the pan-European think-tank, 89 Initiative, started volunteer work with the EU-Watchdog, Civil Liberties Union for Europe (Liberties), and volunteered for local organisations focused on vulnerable groups (i.e. the elderly and those with mental impairments). These experiences allowed her to give back to various communities and to personally explore the primary

interest of her research, namely, how organised citizens can mobilise to address the most pressing issues of their time, such as the closure of the civic space or the social isolation of vulnerable groups.

