

# **Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States**

## **Poland 2017**

Contractor's name: Helsinki Foundation for  
Human Rights

Author(s) name: Małgorzata Szuleka

Reviewed by: Professor Ireneusz C. Kamiński

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**1. Regulatory environment for the work of non-governmental organisations**

**1) Please describe briefly in the table below up to three most significant changes (if any) between 2011-2016, in the legal framework or in the way that existing laws have been implemented, that had a positive or negative impact on the ability of non-governmental organisations to promote fundamental rights.**

Please consider any changes in law, administrative rules and practices in respect to

- A. freedom of expression;
- B. freedom of assembly;
- C. freedom of association (including: issues of access to funding, accounting and auditing rules, rules on the establishment and dissolution of associations or other requirements that civil society organisations must satisfy in order to perform their tasks);
- D. addressing the financing of organised crime or terrorism; taxation; charitable status;
- E. transparency in the legislative process, in particular concerning lobbying (regarding the duties imposed on civil society organisations proportionate to the aim of the legislation and to the capacity of organisations).
- F. defamation.

<b>Title of legislation and reference</b>	<b>Topic (please make reference to categories A-F above)</b>	<b>Effect on civil society (positive or negative)</b>  <b>Please include reference to source of information</b>
Amendment to the Act on assemblies (Ustawa z dnia 13 grudnia 2016 r. o zmianie ustawy Prawo o zgromadzeniach), 13 December 2016	B	Negative  In December 2016, the Parliament adopted an amendment to the Act on assemblies. The Act introduced a concept of "cyclical" assemblies, defined as assemblies organised on an annual basis within last three years or at least four times a year. A province governor, who is an official of the government administration, will decide whether a given assembly is deemed cyclical. The cyclical assemblies would be granted

		<p>priority before any other assemblies, e.g. spontaneous assemblies. Furthermore, the Act limits the possibility to organise parallel counter-demonstrations. The amendment raised considerable opposition. Almost 200 non-governmental organisations pledged the President to refuse to sign the amendment into law. NGOs warned that the introduction of cyclical amendment contravenes the civic nature of the constitutional freedom of assembly and may be used as a tool for abusing powers by public authorities.</p> <p>Prior to signing the Act, the President direct it to the Constitutional Tribunal upon verification the Act's compliance with the Constitution.</p> <p>On 16 March 2017, the Constitutional Tribunal ruled that the provisions granting privileges to cyclical assemblies are constitutional.<sup>1</sup></p> <p>The Act came into force on 3 April 2017.</p>
<p>Act on Associations</p> <p>Act amending the Act on Associations (Ustawa z dnia 25 września 2015 r. o zmianie ustawy - Prawo o stowarzyszeniach oraz niektórych innych</p>	<p>C</p>	<p>Positive</p> <p>In September 2015, the Parliament adopted amendments to the Act on associations. The amendments simplified the process of registering an association and specified the rules of supervision over associations. However, non-</p>

<sup>1</sup> Poland, Constitutional Tribunal, case no Kp 1/17, 16 March 2017.

ustaw), 25 September 2015		governmental organisations monitoring the legislative procedure of this Act raised an alarm that the amendments failed to introduce other provisions, such as e.g. granting the right to create associations to foreigners. <sup>2</sup>
The Act on the protection of the "Fighting Poland" sign (Ustawa z dnia 10 czerwca 2014 r. o ochronie Znaku Polski Walczącej), 10 June 2014	A	Negative  The Act introduced the protection of the "Fighting Poland" sign (sign used by the Polish Underground State during World War II). In the light of this Act, profanation of this sign shall be punished with a fine. This at first glance neutral provision was used against the participants of the assembly protesting against the abortion ban (see further details below).

**Please mention any relevant important case law if applicable.**

In October 2016, in numerous Polish cities, assemblies under the common name – the "Black protest" were organised in protest against the draft law introducing a complete abortion ban. In Szczecin, one of the participants held a poster with a converted "Fighting Poland" sign (sign used by the Polish Underground State during World War II). The sign, which is composed of two merged letters "P" and "W" in the shape of an anchor, had additional two dots above letter "W," which created an image of a woman's breasts. After the protest, the Police pressed charges against the participant on the basis of the provisions of the Act on protection of the "Fighting Poland" sign. In February 2017, the court found the protester not guilty of profaning this sign, however the judgement is not final yet.<sup>3</sup>

<sup>2</sup> NGO.pl, *Nowelizacja stowarzyszeń. Cudzoziemcy stop*, available at: <http://poradnik.ngo.pl/wiadomosc/1636994.html>.

<sup>3</sup> Mrzygłocka S., *Transparent z "Polką Walczącą" nie był zniewagą. Młoda kobieta uniewinniona*, *Gazeta Wyborcza*, available at: <http://szczecin.wyborcza.pl/szczecin/7,34939,21389999,transparent-z-polka-walczaca-nie-był-zniewaga-mloda-kobieta.html>.

## **2. EU Member State government funding for non-governmental organisations – trends and developments 2011-2016**

### **2) Please summarise any trends or developments in government funding for NGOs working on fundamental rights within your Member State (please give references/links in footnotes).**

- a) Has the overall amount of government funding remained the same, increased or decreased between 2011-2016 for work of such organisations carried out within your Member State? Briefly describe in text any trend.

There is no comprehensive data presenting the overall amount of government funding distributed among CSOs in years 2011-2016. The lack of this data should be explained by the complexity of the system of granting public funds to non-governmental organisations. In general, there are three main sources of public funding available to NGOs – the international funds (e.g. European Union Funds distributed by the national operators or Norwegian, Island and Lichtenstein funds or Swiss funds operated at national level), central administration funds (operated by, among others, ministries and authorities of central administration) and funds of local units of self-government. In general, the funds distributed by the national and local administration can be spent on public benefit activity which covers: social care, access to alternative care, legal aid, charity activity, maintaining and protecting national traditions, activity for the rights of minority groups, integration of migrants, sport, promotion of volunteering, protection of children's rights (the Act on the activity for social benefit and volunteering lists over 30 categories of public benefit activities, the advocacy activity is not specifically mentioned among these categories).

Numerous sources indicate that public funds play a crucial role in funding the works of non-governmental organisations. The data gathered by the Central Statistical Office in 2014 indicates that among all non-governmental organisations that publish their financial reports, almost 60% receive funding from public sources. Furthermore, the same research showed that almost half of the financing obtained by non-governmental organisations is granted from public funds.<sup>4</sup> Similar conclusions can be found in the research carried out by the Klon/Jawor Association. According to this data, over the last seven years public funds constituted almost half of the budget of non-governmental organisations. In 2009, public funds amounted to 57 % of the funds gathered by all organisations, in 2011 the component of public funds stayed at around 50 % and in 2014 the budgets of non-governmental organisations were composed of public funds at 60 %.<sup>5</sup>

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<sup>4</sup> Central Statistical Office (*Główny Urząd Statystyczny*), Sector non-profit in 2014, available at: <http://stat.gov.pl/obszary-tematyczne/gospodarka-spoleczna-wolontariat/gospodarka-spoleczna-trzeci-sektor/sektor-non-profit-w-2014-r-,1,5.html>.

<sup>5</sup> Klon/Jawor, *Kondycja sektora organizacji pozarządowych w Polsce 2015 r. Raport z badań*, available at: [http://fakty.ngo.pl/files/wiadomosci.ngo.pl/public/civicpedia/Raport\\_Klon\\_Kondycja\\_2015.pdf](http://fakty.ngo.pl/files/wiadomosci.ngo.pl/public/civicpedia/Raport_Klon_Kondycja_2015.pdf).

With respect to the development of the civil society, the governmental operational programme – Civic Initiatives Fund which has been operated by the Ministry of Family, Labour and Social Policy (former: Ministry of Labour and Social Policy) may be considered the most relevant. The resources of this fund were divided between four main priorities – increasing the activity of citizens and local communities, developing the potential of the non-governmental sector, increasing the engagement of non-governmental organisations in social services as well as supporting the development of social economy. The funds distributed within this program in the period 2011-2016 were sustained at the level of approx. PLN 57,600,000 per year (approx. € 14,400,000).<sup>6</sup>

- b) Has there been a change in the distribution of government funding across different types of activities (such as: service provision, advocacy, litigation, campaigning, public education) between 2011 and 2016?

Since there is no comprehensive data presenting the entire scope for distribution of public funds to non-governmental organisations, it is not possible to indicate general trends or changes which occurred in this regard over the last six years. In addition, there are no comprehensive data regarding the trends in distributing funds for particular types of activity. The only available information in this regard shows how many CSOs in Poland declare carrying out this type of activity. For example, the analysis of Klon/Jawor Foundation shows that in 2015 28 % of CSOs declared that within their activity they perform also advocacy activity (by way of comparison, in 2012 only 16 % of CSOs declared such a type of activity).<sup>7</sup>

Because of the lack of comprehensive data, it is also not possible to define the trends in the field of distributing the public funds for non-governmental organisations providing legal aid. However, in this regard some important developments can be observed. In 2016, in Poland the system of the free legal aid was introduced. In the light of the Act on the free legal aid and legal education 1524 centres of free legal advice was created. In the light of this Act the costs of maintaining one centre is 5150 PLN (approx. € 1,125) per month. The costs of foundationing of the entire system is PLN 94 183 200 in 2016 (approx. € 23,545,800).<sup>8</sup> Half of these centres are run by non-governmental organisations. However, these data do not provide with comprehensive information on the financing of non-governmental organisation providing free legal aid. Many CSOs still provide to their

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<sup>6</sup> Ministry of Family, Labour and Social Policy, *Departament Ekonomii Społecznej i Pożytku Publicznego*, available at: <http://www.pozytek.gov.pl/>.

<sup>7</sup> Klon/Jawor Association, *Kondycja sektora organizacji pozarządowych w Polsce 2015 r. Raport z badań*, available at: [http://www.nck.pl/media/attachments/318004/Raport\\_Klon\\_Kondycja\\_2015.pdf](http://www.nck.pl/media/attachments/318004/Raport_Klon_Kondycja_2015.pdf).

<sup>8</sup> Poland, Act on the free legal aid and legal education (*Ustawa z dnia 5 sierpnia 2015 r. o nieodpłatnej pomocy prawnej oraz edukacji prawnej*), 5 August 2015.

clients with legal aid, but they are not part of the free legal aid system.

- c) Are you aware of restrictions (or other changes) on NGO funding from other sources?

So far, there have not been any restrictions or changes on NGO funding from other sources.

Trends and developments in government funding to support CSOs working on fundamental rights inside your Member State:

In the years 2011-2015, there were several changes or developments that affected the process of distributing funds for CSOs working on fundamental rights. One of the most vivid examples was the creation of the Asylum, Migration and Integration Fund in 2014. At the national level, the Fund's launching was scheduled for July 2015 while the projects funded from public sources in previous granting schemes ended in December 2014. As a consequence, there was a half-year break in distributing funds.<sup>9</sup>

Nevertheless, it can be stated that in the years 2011-2015, the cooperation between CSOs and the administration was progressing in a relatively good direction. However, since the beginning of 2016 the situation in this sphere has been deteriorating continuously and revealed three disturbing trends related to the distribution of funds for CSOs working on fundamental rights.

The first disturbing trend concerns a limitation of CSOs' access to public funds. This practice is reflected in deteriorating standards for organising public calls for proposals. According to the data gathered by the Polish Federation of Non-Governmental Organisations, since 2016, 17 calls for proposals organised by the authorities at the national level were annulled or organised with a very short deadline (e.g. the deadline for presenting offers was 7 days from the call's publication). The same research shows other malfunctions, e.g. an announcement on public consultations of the programme of cooperation between the Ministry of Foreign Affairs and CSOs was published under a link "car sale".<sup>10</sup> Furthermore, there are examples of decisions on distributing public funds in a way that favours specific organisations close to the governing majority. For example, in July 2016 the Ministry of Foreign Affairs announced that the grant to establish Regional Centres for International Debate was awarded to an organisation that was established in 2015, even though the rules of the call required that a bidder have a documented experience from the period 2013-2015. The funds from the same call were also granted to the catholic Academia,

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<sup>9</sup> Helsinki Foundation for Human Rights (*Helsińska Fundacja Praw Człowieka*), *Pół roku bez środków na pomoc prawną dla uchodźców?*, available at: <http://www.hfhr.pl/pol-roku-bez-srodkow-na-pomoc-prawna-dla-uchodzcow/>.

<sup>10</sup> Polish Federation of Non-governmental Organisations (OFOP), *Repozytorium*, available at: <http://repozytorium.ofop.eu/>.



which had not previously dealt with the issues related to international policy.<sup>11</sup>

The second trend concerns distribution of funds to non-governmental organisations providing aid to victims of crimes. On the basis of Article 43 of the Criminal Executive Code and the Regulation of the Ministry of Justice, the Ministry of Justice distributes to non-governmental organisation the funds for their activity embracing different forms of support for victims of crimes. Since 2014, the overall amount of money distributed within this Fund varied from PLN 11 million (ca. € 2,500,250) in 2014 to PLN 20 million (ca. € 5 million) in 2016 to PLN 16 million (ca. € 4,000,000) in 2017. Since 2012, when the Fund was created, three well-experienced non-governmental organisations providing specific aid for children and women victims of crime were among the organisations which received funding from the Fund. However, since 2016 those three organisations (namely the Women's Rights Centre, Association for Women BABA and Nobody's Children Foundation) have not received any access to this fund, even though their proposals were assessed very highly. According to the Ministry of Justice, the funds were granted to the organisations which provide victims with comprehensive aid. After the Ombudsman's intervention in this case, the Minister of Justice announced that the reason why the Women's Rights Centre did not receive funding is because it specialises only in one group of victims of crime (women) and, therefore, such a practice should be found discriminatory towards men who can also suffer from domestic violence. The Ministry of Justice also announced that the offers of two other organisations (Nobody's Children Foundation and Association for Women BABA) were assessed lower than the offers presented by e.g. Caritas and Brother Krystian Association of Aid for Neighbours.<sup>12</sup> Another example relates to the works of the Autonomia Foundation which run a project „ZERO violence - engagement, education and advocacy against the gender-based violence”. The project was funded from the funds of the Civic Initiatives Fund. After a rapid and unexpected monitoring from the Ministry of Family, Labour and Social Policy (which has been operated the Fund) the agreement between the organisation and the Fund was solved immediately. It was the first case of such a rapid monitoring in the entire history of the Fund. It should be stated that a couple of days before the monitoring two MPs directed a question to the Ministry of Family, Labour and Social Policy about the cooperation with Autonomia Foundation. In their letter the works of the Autonomia Foundation were described as including „an enormous load of ideology” and the Foundation's statute was said to include „aims strictly referring to LGBT ideology” and a declaration on „fight against sexual intolerance”. The MPs asked the Ministry how this agenda can go hand in

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<sup>11</sup> Stankiewicz A., *Strumień dotacji dla o. Rydzyka, Rzeczpospolita*, available at: <http://www.rp.pl/Kosciol/307069869-Strumien-dotacji-dla-o-Rydzyka.html#ap-1>.

<sup>12</sup> Ombudsman's Office (*Biuro Rzecznika Praw Obywatelskich*), *Dlaczego niektóre organizacje pozarządowe nie mogą liczyć na dotacje? – Minister Sprawiedliwości odpowiada RPO*, available at: <https://www.rpo.gov.pl/pl/content/dlaczego-niektore-organizacje-pozarzadowe-nie-moga-liczyc-na-dotacje-minister-sprawiedliwosci>.

hand with the Ministry's activity towards „the strong position of the family and marriage”.<sup>13</sup>

The third disturbing trend concerns the distribution of funds for legal aid and support for migrants and refugees. In 2016, the Ministry of Interior announced that the call for proposals within the Asylum, Migration and Integration Fund was annulled. The Ministry explained its decision by stating that between the announcement of the call and presentation of its results significant changes had occurred in relation to migration and integration. Given that, the Ministry decided to announce two new calls for proposals. Altogether, the Ministry was supposed to distribute over PLN 2,500,000 (approx. € 625,000).<sup>14</sup> The deadline in those two calls was set for June 2016 and the costs were eligible as of August 2016. However, none of these calls have been resolved yet. The significant delay in resolving these calls affected the NGOs' capacity to provide legal aid and support to migrants and refugees.<sup>15</sup>

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<sup>13</sup> Repozytorium OFOP, MRPiPS: rozwiązanie umowy FIO z Fundacją Autonomia w trybie natychmiastowym, available at: <http://repozytorium.ofop.eu/mrpips-rozwiazanie-umowy-fio-z-fundacja-autonomia-w-trybie-natychmiastowym/>.

<sup>14</sup> Ministry of Interior, Department of Border Policy and International Fund (*Ministerstwo Spraw Wewnętrznych, Departament Polityki Granicznej i Funduszy Międzynarodowych*), *Dwa nowe nabory w ramach Funduszu Azylu, Migracji i Integracji*, available at: <http://fundusze.mswia.gov.pl/ue/aktualnosci/13784,Dwa-nowe-nabory-w-ramach-Funduszu-Azylu-Migracji-i-Integracji.html>.

<sup>15</sup> Mazur N., *MSWiA ma miliony na integrację cudzoziemców, ale w 2016 r. nie wydało na to ani złotówki*, *Gazeta Wyborcza*, available at: <http://wyborcza.pl/7,75398,21216958,mswia-ma-miliony-na-integracje-cudzoziemcow-ale-w-2016-r-nie.html>.

**3. Access to the decision-making process for non-governmental organisations working on fundamental rights**

**3) Please list and summarise up to three most significant developments (if any) between 2011-2016 that have enabled or restricted NGO consultation or participation in policy- and decision-making. This includes the preparation, creation, impact assessment, implementation, or evaluation of laws and/or policies; have any relevant rules/guidelines been adopted, amended, or abolished?**

<b>Title of legislation/policy</b>	<b>Reference</b>	<b>Short summary (max 500 characters)</b>
Liquidation of the Council on Preventing Racial Discrimination, Xenophobia and Related Intolerance	Regulation No. 53 of the Prime Minister on Liquidation of the Council on Preventing Racial Discrimination, Xenophobia and Related Intolerance ( <i>Zarządzenie nr 53 Prezesa Rady Ministrów z dnia 27 kwietnia 2016 r. w sprawie zniesienia Rady do spraw Przeciwdziałania Dyskryminacji Rasowej, Ksenofobii i związanej z nimi Nietolerancji</i> ), 27 April 2016.	The Council was established in 2013 and its task was to coordinate the works of different public institutions in the area of combating hate speech and other acts of intolerance. The Council was also a platform for discussions with civil society organisations. The decision to abolish it was not consulted with CSOs involved in its works.

**4. Further information**

**4) Please present any further information of which you are aware, that is relevant to the standing and operational space of non-governmental organisations in your country, including the ability of organisations to do advocacy work.**

In Poland, since the beginning of 2016 the civil society sector has faced numerous challenges detrimental to its work. The challenges are in the form of attacks on CSOs (including both physical attacks and information campaigns aimed at the CSOs), shrinking space for dialogue and consultations between CSOs and, above it all, draft legislative changes which, once adopted, may have severe impact on the works of CSOs. All these trends have been summarised below.

## Attacks on CSOs

At the beginning of 2016, the headquarters of organisations acting for LGBTQ rights (namely Campaign Against Homophobia and Lambda Foundation) were attacked by anonymous perpetrators. The criminal proceedings in these cases were discontinued due to the impossibility of identifying their perpetrators. Furthermore, almost at the same time, an activist of HejtStop (Stop Hate Project) faced an enormous wave of hate speech and threats after she reported racist statement published by one sportsman to the administrators of Facebook. None of these incidents were condemned by the authorities. The letter signed by over 300 NGOs with an appeal to the Prime Minister to undertake actions against a rising wave of hatred and attacks against NGOs remained unanswered.<sup>16</sup>

At the end of October 2016, the public media carried out a smear campaign aimed at certain civil society organisations which work on the rule of law and human rights, and which had received public funding for their work. The news which initiated this campaign was originally directed at the previous judge of the Constitutional Tribunal who currently strongly criticises the reforms of the Tribunal, including undermining its independence by the governing majority. The public media used the fact that the judge is a member of one CSOs Board and, on the basis of publicly available documents, made allegations that this organisation received public funding in a fraudulent way. A similar schema was used towards other CSOs. Relying on publicly available documents, the broadcasts suggested that some organisations received funds in a non-transparent way and through family and personal ties. While making allegations, the broadcasts were not backed by any evidence of a breach of law or any other irregularities such as wasting public funding. This information was broadcasted by among others "Wiadomości" which is the main evening news programme of the public TV.<sup>17</sup> In November 2016, the Helsinki Foundation for Human Rights requested that National Broadcasting Council review whether the evening news reports on NGOs complied with requirements set by the Broadcasting Act. The Act obliges public television outlets to produce news in line with the principles of impartiality, balance and independence. In the opinion of the National Broadcasting Council, the public TV's evening news report on non-governmental organisations "lacked information about the actual work of such organisations and their social role and also costs of their operations connected with the exercise of their statutory duties and involvement of NGO activists". According to the national regulator of the media market, the reports in question failed to emphasise "the social purpose served by NGOs and objectives they need to achieve".<sup>18</sup>

## Shrinking space for dialogue between CSOs and the administration

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<sup>16</sup> *Obywatele dla Demokracji, List do premier Beaty Szydło z prośbą o podjęcie działań na rzecz przeciwwstawienia się fali nienawiści*, available at: <http://www.ngofund.org.pl/apel-do-premier-beaty-szydlo-o-podjecie-dzialan-w-sprawie-atakow-na-organizacje-pozarzadowe/>.

<sup>17</sup> Bychawska-Siniarska D., Godzisz P., Warso Z., Information on the recent challenges faced by human rights defenders and civil society in Poland, Helsinki Foundation for Human Rights, available at: [www.hfhr.pl/wp-content/uploads/2016/11/HRD-report-30112016-FIN.pdf](http://www.hfhr.pl/wp-content/uploads/2016/11/HRD-report-30112016-FIN.pdf).

<sup>18</sup> Poland, Helsinki Foundation for Human Rights, Regulator responds to HFHR's complaint about TV evening news programme, available at: <http://www.hfhr.pl/en/regulator-responds-to-hfhrs-complaint-about-tv-evening-news-programme/>.

Furthermore, none of the Acts adopted in 2016 and crucial for human rights protection were subject to public consultations. Each act introducing consecutive reforms of the Constitutional Tribunal,<sup>19</sup> the Act amending the Act on the Police<sup>20</sup> and the Act on Prosecutor's Office<sup>21</sup> were submitted to the Parliament as private bills of MPs. In the case of the Anti-terrorist Act, even though the government promised to launch a public consultation process, the draft has not been consulted and, which is even more worrying, remained confidential for a few months.<sup>22</sup>

The Civil Forum of Legislation stressed that between May and September 2016 very often the authorities responsible for organising public consultations set very short deadlines for consultations (14 days) and only the first version of the draft law was subject to consultations. Furthermore, the remarks received during the consultations were not always published and the responsible authorities almost never responded to the received remarks.<sup>23</sup>

### **Projected legislative changes**

Currently, there are two pieces of legislation under preparation which, once adopted, may have a negative impact on the ability of CSOs to fulfill their watchdog functions.

The first piece of legislation is an amendment to the Act on the National Remembrance Institute. The new law introduces criminal liability for statements imputing responsibility for crimes of the Nazi regime to the Polish nation and establishes civil law remedies for infringements of the good name of the Republic of Poland and that of the Polish Nation. However, the proposed amendment may lead to an unreasonable interference with the freedom of expression. Although the justification of this draft is intended primarily as a measure to counteract the dissemination of the expressions like "Polish concentration camps" or "Polish death camps", the scope of the draft is far much wider. If adopted, the proposed

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<sup>19</sup> *Poselski projekt ustawy o zmianie ustawy o Trybunale Konstytucyjnym*, druk nr 12, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=12>, *Poselski projekt ustawy o zmianie ustawy o Trybunale Konstytucyjnym*, druk nr 122, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=122>, *Poselski projekt ustawy o Trybunale Konstytucyjnym*, druk nr 558, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=558>, *Poselski projekt ustawy o statusie sędziów Trybunału Konstytucyjnego*, druk nr 880, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=880>, *Poselski projekt ustawy o organizacji i trybie postępowania przed Trybunałem Konstytucyjnym*, druk nr 963, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=963>, *Poselski projekt ustawy - Przepisy wprowadzające ustawę o organizacji i trybie postępowania przed Trybunałem Konstytucyjnym oraz ustawę o statusie sędziów Trybunału Konstytucyjnego*, druk nr 1059, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=1059>.

<sup>20</sup> *Poselski projekt ustawy o zmianie ustawy o Policji oraz niektórych innych ustaw*, druk nr 154, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=154>.

<sup>21</sup> *Poselski projekt ustawy - Prawo o prokuraturze*, druk nr 162 i druk nr 162-A, available at: <http://sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=162>.

<sup>22</sup> Helsinki Foundation for Human Rights, HFHR opinion on new antiterrorism law, available at: [www.hfhr.pl/en/hfhr-opinion-on-new-antiterrorism-law/](http://www.hfhr.pl/en/hfhr-opinion-on-new-antiterrorism-law/).

<sup>23</sup> *Obywatelskie Forum Legislacji, Obserwacja praktyki procesu legislacyjnego w okresie od 16 maja do 10 września 2016 r.*, available at: [www.batory.org.pl/upload/files/Programy%20operacyjne/Odpowiedzialne%20Panstwo/Komunikat%20z%20VIII%20obserwacji.pdf](http://www.batory.org.pl/upload/files/Programy%20operacyjne/Odpowiedzialne%20Panstwo/Komunikat%20z%20VIII%20obserwacji.pdf).

version of the Act may discourage members of the public from discussing certain aspects of Poland's history because of the risk of facing criminal sanctions.<sup>24</sup> In the opinion of CSOs there is a risk that in the future this provision may be used against watchdog organisations and human rights defenders, particularly those active at the international fora, for voicing critical opinions about the government's actions or providing information about the irregularities in the functioning of state institutions.<sup>25</sup> In HFHR's legal opinion presented during the legislative procedure "there is a risk that these provisions will be used to prevent the operations of watchdog organisations addressing abuses of public authority, such as the media or non-governmental organisations".<sup>26</sup>

In December 2016, the Prime Minister announced the plans to create the National Center for the Development of Civil Society. The justification of the draft Act on the National Center for the Development of Civil Society reads among others that the Polish CSOs are relatively the weakest and the least numerous CSOs in Europe, play a marginal role in the public life and their watchdog activity is very weak. Furthermore, the justification of the draft states that the launching of the National Center for the Development of Civil Society will lead to "creation of the legal, institutional and organisational framework for the comprehensive and effective distribution of public funds for the civil society".

The draft Act on the would National Center for the Development of Civil Society introduce numerous changes to the Act on the activity for social benefit and volunteering. The National Centre would be controlled by the Prime Minister through a nominated plenipotentiary. The government would have a decisive role in deciding about the composition of the Centre's governing bodies (Director and the Council). In general, the Centre would be a body responsible for distributing funds to CSOs at the national level (e.g. the Civic Initiatives Fund and the education initiatives would be abolished and its resources would be operated by the Centre). The draft fails to provide detailed information on the competitions which would be organised to distribute funds. The draft also includes a provision in light of which it would be possible for the President of the Centre to delegate public tasks to be performed by CSOs. As a result, it will lead to a complete discretion in distributing public funds. The draft Act has been strongly critics by numerous non-governmental organisations. The Klon/Jawor Association stated that the draft law „is contradictory to the rules of partnership and sovereignty, competitiveness and transparency guaranteed not only by the Act on the activity for social benefit, but also preserved by years of cooperation”.<sup>27</sup> In March and April 2017, the Polish government has been carrying out negotiations with the operators of EEG Grants financed from the funds of Norway

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<sup>24</sup> Helsinki Foundation for Human Rights, The HFHR on draft amendment to National Remembrance Institute Act, available at: <http://www.hfhr.pl/en/the-hfhr-on-draft-amendment-to-national-remembrance-institute-act/>.

<sup>25</sup> Bychawska-Siniarska D., Godzisz P., Warso Z., Information on the recent challenges faced by human rights defenders and civil society in Poland, Helsinki Foundation for Human Rights, available at: <http://www.hfhr.pl/wp-content/uploads/2016/11/HRD-report-30112016-FIN.pdf>.

<sup>26</sup> Poland, Helsinki Foundation for Human Rights, The HFHR on draft amendment to National Remembrance Institute Act, available at: <http://www.hfhr.pl/en/the-hfhr-on-draft-amendment-to-national-remembrance-institute-act/>.

<sup>27</sup> Citizens Observatory of Democracy, *Projekt ustawy o Narodowym Centrum Rozwoju Społeczeństwa Obywatelskiego*, available at: <http://obserwatoriumdemokracji.pl/ustawa/o-projekt-ustawy-o-narodowym-centrum-rozwoju-spoleczenstwa-obywatelskiego/>.

and Lichtenstein regarding the distribution of the second batch of these funds for civil society. The media reported that the government's intention was that these funds should be operated by the National Center for the Development of Civil Society instead of the independent institution as it used to be in previous editions of distribution of these funds.<sup>28</sup>

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<sup>28</sup> Kościński P., *Gliński kroczy ścieżką Orbána. Rząd PiS chce przejąć miliony dla organizacji obywatelskich*, Wyborcza.pl, available at: <http://wyborcza.pl/7,75398,21582413,glinski-kroczy-sciezka-orbana-rzad-pis-chce-przejac-miliony.html>.