

## Part III: Perspectives from Practice



# The role of Polish civil society in supporting EU activities as regards protection of judicial independence and other elements of the rule of law

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## 1 Introduction

There is no doubt that Poland has been experiencing a crisis of the rule of law since 2015. The crisis has included an attack on the independence of the Constitutional Court, the subordination of the prosecutor's office to political interests, the reduction of the independence of the judiciary and the reduced role of parliament. The concept of constitutional crisis is described in Prof. Wojciech Sadurski's excellent book *Poland's Constitutional Breakdown*<sup>1</sup>, as well as in the works of many constitutionalists.<sup>2</sup>

In a speech in the Senate of the Republic of Poland summarizing the term of office as the Polish Ombudsman in August 2020, I described how Poland was suffering due to the anti-constitutional current of changes. Through this I wanted to convey that, in essence, not only was the Constitution broken, but its values were being questioned. This happened not through a single action, but through a whole series of events – legal and political acts – which led to a change in political reality. Poland is a different state than it was in 2015. 2020 was a clear manifestation of this. For the first time in democratic Poland, presidential elections, planned in advance to be held on 10 May 2020, were not organized. No one has been held accountable for this, despite negative opinions of the Supreme Audit Chamber of May 2021 and the judgment of the Regional Administrative Court in Warsaw of 15 September 2020, finding that the prime minister gravely violated the principle of legalism.<sup>3</sup>

The crisis of the rule of law leads to specific consequences. Firstly, there is a growing sense of unpredictability and instability in the legal system and

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- 1 Wojciech Sadurski, *Poland's Constitutional Breakdown* (Oxford University Press 2019).
  - 2 E.g. Armin von Bogdandy et al. (eds), *Defending Checks and Balances in EU Member States* (Springer 2021).
  - 3 See e.g. *2021 Rule of Law Report. Country Chapter on the rule of law situation in Poland*, Commission Staff Working Document, Brussels, 20. July 2021, SWD(2021) 722 final,

thus in the definition of the individual–power relationship. Institutional changes concerning the National Council of the Judiciary and the Supreme Court, as well as disciplinary actions against judges, create a sense of threat to participants in the legal system and a sense of instability and chaos.

Second, a so-called dual state as defined by Ernest Fraenkel is gradually being constructed.<sup>4</sup> This is the prerogative state – making decisions and implementing them based solely on political will – and the normative state – leaving space for the legal regulation of social relations. The problem is that politics should never replace law. This conflict can be clearly seen in Jan Matuszyński's film<sup>5</sup> and Cezary Łazarewicz's reportage *Żeby nie było śladów* (*Leave No Traces*)<sup>6</sup> on the murder of Grzegorz Przemyk, when political decisions replace the law, when false scenography is created just to cover up the real responsibility.

Third, the crisis of the rule of law also creates a sense of political and legal irresponsibility for the decisions made and abuses, including violations of the law. This is particularly true of the political dependence of the prosecution service. How can the abuses carried out by the Minister of Justice, precisely enumerated by the Supreme Audit Office (e.g. in the context of the use of funds from the Justice Fund, administered by the Ministry of Justice), be accounted for when the Minister of Justice is also the Prosecutor General?

## 2 Judicial independence, the rule of law and the reaction of the European Union

Today we look at the crisis of the rule of law from a certain distance. Since 2015 the European Union has developed a set of mechanisms to counteract abuses. The Article 7 TEU procedure, the so-called nuclear option, proved

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<<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021SC0722&from=EN>> accessed 1 March 2023.

4 Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (Oxford University Press 1941).

5 *Leave No Traces* movie by Jan P. Matuszyński, presented at the Venice International Film Festival, <<https://www.labiennale.org/en/cinema/2021/lineup/venezia-78-competition/zeby-nie-bylo-sladow-leave-no-traces>> accessed 1 March 2023.

6 See information on the book by Cezary Łazarewicz: <<http://www.en.nurnberg.pl/2017/10/02/nike-2017-literary-prize-has-been-awarded-to-cezary-lazarewicz-for-his-reportage-zeby-nie-bylo-sladow-sprawa-grzegorza-przemyka/>> accessed 1 March 2023.

to be inadequate to address the rule of law crisis. It requires a unanimous vote in the European Council (minus the state under review), but the Polish and Hungarian governments mutually supported each other, thus preventing a unanimous vote.<sup>7</sup> Nevertheless, the European Commission started to extensively use infringement actions under Article 258 TFEU, and could rely on jurisprudence of the CJEU issued as a response to numerous preliminary reference cases from Polish courts. Furthermore, the European Commission developed a practice of preparation of annual rule of law reports that provide a comprehensive overview of the situation in all EU Member States. Finally, in December 2020, the Conditionality Regulation<sup>8</sup> was adopted. This mechanism makes respect for European values a condition for the transfer of EU money. The suspension of payments from the EU Recovery Plan was a similar, indirect method of disciplining Member States.

There were two important milestones in the development of the EU rule of law machinery. First, on 15 July 2021, the CJEU issued a judgment on the disciplinary mechanism operating in the Polish judiciary.<sup>9</sup> As a result of this judgment, Polish authorities cannot depart and claim non-enforcement. Such an approach has a consequence in the imposition of financial penalties, but also in difficulties in getting EU Recovery money. Thus, the European Union has leverage to put pressure on the Polish government. Second, CJEU judgments of 16 February 2022<sup>10</sup> concerning the Conditionality Regulation confirm that the protection of European values, the EU budget and solidarity among Member States are key priorities for the EU development. Therefore, after long legal battles and political discussions, it is now just a question of time when and how the Polish government will implement the CJEU case law concerning judicial independence. The first positive steps have already been taken – four suspended judges (including Judge Igor Tuleya and Paweł Juszczyszyn) could come back to adjudication.

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7 Kim Lane Scheppele, 'Can Poland be Sanctioned by the EU? Not Unless Hungary is Sanctioned Too' (*Verfassungsblog*, 24 October 2026) <<https://verfassungsblog.de/can-poland-be-sanctioned-by-the-eu-not-unless-hungary-is-sanctioned-too/>> accessed 1 March 2023.

8 Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, OJ L 433I, 22.12.2020, pp. 1–10.

9 CJEU, case C-791/19 *Commission v. Poland* (2021).

10 CJEU, case C-156/21 *Hungary v European Parliament and Council of the European Union* (2022); CJEU, case C-157/21 *Poland v. European Parliament and Council of the European Union* (2022).

The Disciplinary Chamber of the Supreme Court has been liquidated and replaced with the Chamber of Professional Responsibility. Nevertheless, some further actions are required.

Right now, after many political decisions and judgments of the CJEU (but also the European Court of Human Rights), one could interpret this situation as a victory for the European Commission and the wisdom of the Court of Justice of the European Union, including its Chief Justice Koen Lenaerts. He constantly repeated that “*You can’t be a member of the European Union if you don’t have independent, impartial courts operating in accordance with fair trial rule, upholding Union law.*”<sup>11</sup> The CJEU delivered upon his promise and provided the legal framework for the evaluation of judicial independence in Member States.

However, I claim that this process of change would not have happened without strong pressure coming from the Polish civil society and judges. Without their strategic actions, protests and continuous resistance, the European Commission would not have had enough legitimacy to undertake consistent and strategic actions to protect the rule of law in Poland.

### 3 Civil society in defence of the rule of law

The crisis of the rule of law has been an experience of many Polish citizens since 2015. Many of them experienced changes in Poland and were fearful for their own future and that of their children and grandchildren. Citizens worried about the prospects for Poland’s membership of the European Union. At the same time, Poland was experiencing economic progress, and Polish citizens, as a result of important social benefits, could participate in building a more egalitarian society. The rule of law threat was and still is not visible to many. Like in the painting by Bruegel, which probably inspired Polish poet Tadeusz Różewicz to write the following words: “*The ploughman ploughs the land, the shepherd watches over the flock.*” Nevertheless, the rule of law crisis marked a change in the functioning of civil society.

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11 Hans von der Burchard, ‘EU top court gears up for rule-of-law battle (of its life)’ (*Politico*, 17 December 2020) <<https://www.politico.eu/article/poland-hungary-rule-of-law-court-of-justice-of-the-european-union-gears-up-battle-of-its-life/>> accessed 1 March 2023.

With the crisis of the rule of law, processes are taking place that did not happen before. Before 2015, we could observe a process of pillarization of civil society, according to the theory of Prof. Gregory Ekiert of Harvard University.<sup>12</sup> More and more organizations were corresponding their programmes, ideas and activities to the main, leading political forces. Secondly, organizations became more and more professional, used new forms of activity, and raised funds for their activities. To a large extent, the Polish non-governmental sector was slowly approaching the one found in the earlier EU Member States, although of course this was a process stretching over time and nevertheless growing out of different traditions.

The 2015 transition triggered a new energy in civil society. Firstly, mass organizations, the so-called street opposition, emerged to protest against undemocratic changes. These included the Committee for the Defence of Democracy (*Komitet Obrony Demokracji*), brought to life thanks to a proclamation by Krzysztof Łoziński on 18 November 2015. Later on, Citizens of the Republic of Poland (*Obywatele RP*), referring to the tradition of civil disobedience, was established. The Podkarpackie Rebels (*Podkarpacki Rebeljanci*) and many other, sometimes smaller, local organizations should also be mentioned. Over time, they began to transform, experiencing various organizational and personal problems, but they became the exponents of a new form of activity. There were also individuals leading individual protests, such as Gabriela Lazarek from Cieszyn and Beata Katkowska from Gryfice. But also individuals who decided to sacrifice their lives in defence of values through self-immolation. I am thinking of the sacrifice of Piotr Szczęsny, who set fire to himself on 19 October 2017. In his manifesto, he wrote: “*I protest against the violation of democratic principles by those in power, in particular against the destruction (in practice) of the Constitutional Court and the destruction of the system of independent courts. [...]*”

NGOs reached out to possibilities offered by new technologies. A good example is the internet-campaign-oriented organization Democracy Action (*Akcja Demokracja*). Movements for discriminated and disadvantaged groups, such as the All-Poland Women’s Strike (*Ogólnopolski Strajk Kobiet*), Girls to Girls (*Dziewuchy Dziewuchom*) or LGBT+ organizations, have gained in importance. The organizations used de facto quite similar methods (protests, petitions, demonstrations, symbolism), but appealed to

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12 Grzegorz Ekiert, ‘The Dark Side of the Civil Society’ (*Concilium Civitas*, 24 June 2019) <<http://conciliumcivitas.pl/the-dark-side-of-civil-society/>> accessed 1 March 2023.

different traditions. For example, the Committee to Protect Democracy referred to Václav Havel's idea of the strength of powerless, the Women's Strike to feminist ideals.

Organizations that began to counter the rule of law crisis through legal means also began to play an important role. One should note here the Helsinki Foundation for Human Rights, the Civic Development Forum (*Forum Obywatelskiego Rozwoju*), the Wiktor Osiatyński Archive or the Free Courts Initiative (*Inicjatywa "Wolne Sądy"*). The latter organization has built a new narrative about why independent courts are essential for a functioning democracy. They have also shown how to effectively use social media in campaigning for such abstract values as judicial independence. This activity has been appreciated by international human rights circles.<sup>13</sup>

The professional organizations of judges and prosecutors have become particularly important. The Iustitia Judges' Association and the Themis Association, as well as Lex Super Omnia, not only represent the interests of their professional groups, but have become important entities providing civic education, the fight for democratic standards and the rule of law.

Organizations began to cooperate with each other, referring to the need to emphasize the importance of the Constitution and Poland's membership of the European Union. At the same time, initiatives began to emerge that represented these interests on an umbrella basis. One is the Committee for the Defence of Justice (*Komitet Obrony Sprawiedliwości*), which aims to jointly defend aggrieved judges and prosecutors against the disciplinary apparatus, as well as to represent them before international courts and tribunals. Another one is the Tour de Constitution (*Tour de Konstytucja*, Congress of Civic Democratic Movements), which is dedicated to promoting constitutional patriotism, with the support of decentralized structures of street opposition and legal circles.<sup>14</sup>

Initiatives based on crowdfunding have also started to emerge. This was particularly important due to constraints on free media and restrictions on artistic freedom, including limited public support to artists. There have also been initiatives that try to create a ground for reflection on the future of

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13 See e.g. 2022 Rule of Law Award by UIA International Association of Lawyers and LexisNexis, <<https://www.uianet.org/en/news/egyptian-human-rights-lawyer-mohamed-el-baqer-and-polish-initiative-wolne-sady-selected>> accessed 1 March 2023.

14 Lena van Holt, 'Last stop for democracy: on tour with Poland's rebel judges' (*Guardian*, 20 September 2021) <<https://www.theguardian.com/world/2021/sep/20/last-stop-for-democracy-on-tour-with-polands-rebel-judges>> accessed 1 March 2023.



Poland beyond traditional polarization and divisions in society. One should note here especially *Projekt Spięcie*, which engages representatives of the most important Polish think tanks and ideological circles in conversation.<sup>15</sup>

NGOs defending the rule of law have indirectly become an exponent of the idea that Poland's *raison d'état* should rely on Poland's stable membership of the European Union. They have managed to establish interesting cross-border ties with organizations from other countries. An example of absolute commitment to the idea of European integration was the March of a Thousand Gowns in January 2020, an unprecedented event in the history of the European Union, when judges from more than 20 Member States marched through the streets of Warsaw in defence of judicial independence.<sup>16</sup>

There is certainly the other side of the coin. The above organizations are examples of grassroots movements motivated by the energy and values of their members and supporters. However, the state has also started to shape the space for civil society activities in its own way.

#### *4 Overcoming obstacles by civil society – fight for the rule of law when the space for operation is shrinking*

The crisis of the rule of law also has the effect of reducing the space for civil society activity. This is a concept commonly mentioned in the literature.<sup>17</sup> Its essence boils down to restrictions on the exercise of freedom of speech, freedom of peaceful assembly, freedom of association and the right of access to public information. In short, the exercise of political rights which are the essence of democracy. It is an ongoing process, influenced by the political and legal environment.

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15 Tina Rosenberg, 'The Magazines Publishing One Another's Work' (*New York Times*, 29 January 2019) <<https://www.nytimes.com/2019/01/29/opinion/poland-journalism.html>> accessed 1 March 2023.

16 See speech by Krystian Markiewicz, President of Association of Polish Judges "Iustitia" at the March of 1000 Gowns, <<https://www.iustitia.pl/en/3596-krystian-markiewicz-president-of-the-association-of-judges-iustitia-a-statement-from-the-march-of-1000-gowns-11-january-2020-warsaw>> accessed 1 March 2023.

17 E.g. Adam Ploszka, 'Shrinking Space for Civil Society: A Case Study of Poland' (2000) 26 *European Public Law* 941; see also European Parliament resolution of 8 March 2022 on the shrinking space for civil society in Europe (2021/2103(INI)), <[https://www.europarl.europa.eu/doceo/document/TA-9-2022-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0056_EN.html)> accessed 1 March 2023.

The most important methods of curtailing freedom of association and restricting the operation of independent NGOs and activists include(d):

- financial support for organizations favourable to the authorities, including the creation of their own organizations by the authorities (so-called GONGOs);
- creating a situation of dependency for independent organizations (e.g. those providing charity work), thereby silencing their criticism;
- lack of funding for certain activities that serve the public interest, but are carried out by organizations critical of the authorities (e.g. those dealing with women's rights or the rights of refugees and migrants);
- harassment and repression of some NGO activists, mostly through the use of the prosecutor's office;
- the use of emergencies (pandemic and state of emergency) to limit the possibilities for action;
- SLAPP-type lawsuits (strategic lawsuits against public participation) against critics of the authorities;
- lack of access to state-controlled media for NGO leaders and independent thinkers, and thus limiting space for public discussion on important issues (which, after all, should serve all citizens);
- limiting the capacity of private media, through financial dependence on public authority or other forms of creating a "chilling effect";
- tacit acceptance of violent actions by police during demonstrations.

An important concept for defining our reality is "discriminatory legalism". This is a situation where the law is enforced ruthlessly against ideological and political opponents, and is disregarded (or not applied) in the case of violations committed by allies of power. In other words, the law becomes an instrument of repression. A teenager is summoned to family court for using a megaphone (and violating noise standards), while a fascist using hate speech for years can escape any repercussions.<sup>18</sup>

Krzysztof Podemski points out that Poland is undergoing a process of de-democratization according to Charles Tilly's theory<sup>19</sup> – a weakening of the

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18 Adam Bodnar, „Für meine Feinde das Gesetz“: Das Rechtsverständnis der PiS-Regierung in Polen' (2021), 71 *Osteuropa* 99, 99–111.

19 Krzysztof Podemski, 'Proces de-demokratyzacji systemu politycznego a demokratyczne ruchy społeczne: Przypadek Polski 2015–2018' [Process of de-democratization of the political system and the democratic social movements: Case of Poland 2015–2018] in Jacek Kołtan and Grzegorz Piotrowski (eds), *Kontrrewolucja u bram* [Counter-revolution at the Gate] (Europejskie Centrum Solidarności 2000).

four dimensions of consultation, i.e. “any public means through which citizens express their collective preferences about state personnel and policies”. These dimensions include the breadth, equality, protection and mutual commitment of consultation. On the other hand, there is a consolidation of the power of the state through an increase in its redistributive actions in the sphere of resources, forms of activity, and human relationships. This is an abrupt, sudden process, based essentially on an elite decision, not preceded by the mobilization of the masses. Redistribution not only concerns material resources, but is also a redistribution of dignity. This allows the whole process of de-democratization to take place.

### *5 Civil society changing its character as a result of the rule of law crisis*

There is no doubt that civil society has changed its character. Civil society has learned new forms of action, such as the organization of mass demonstrations or expressing non-violent dissent. Rooting itself in the structures of the EU and the Council of Europe has created the opportunity to pursue strategic litigation, including achieving landmark judgments (such as the CJEU judgment of 15 July 2021 regarding the Disciplinary Chamber in the Supreme Court). For many, the post-2015 events have become a watershed in terms of life path choices. As Prof. Marcin Matczak<sup>20</sup> writes, this was not a planned choice. Specific activities, attitudes, appearances made them public figures overnight: “Everyone is patting you on the back and congratulating you on your courage, and you’re just starting to get scared, because it all seems to have gone too far.”

For some people, the crisis of the rule of law has become a personal challenge, a huge professional risk, a moment when reality has said “check” to them. Probably many of them would like to practise their profession as a judge or prosecutor normally. However, in extraordinary times, times of trial, there is no space for ordinary behaviour. Such an approach would mean compromising, saying goodbye to ideals, to professional dignity, to everything that independent judges or prosecutors have learned. They believed it is their responsibility to fight for ideals, for the dream of a free and democratic Poland. They took a huge professional risk, not knowing whether the wind of history would not blow them away in a moment.

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20 Marcin Matczak, *Jak wychować rapera? Bezradnik* [How to raise a rapper. A joyless guide] (Społeczny Instytut Wydawniczy Znaki 2021), 23.

They paid a huge price for this. A number of judges have been suspended in their professional functions. A number of them were the subject of disciplinary proceedings or other forms of reprisals.<sup>21</sup> Prosecutors were forcibly posted, such as the first one – Mariusz Krasoń – forcibly sent from Kraków to Wrocław, without taking into account that he had to look after his sick parents. One should also mention human rights defenders who were suffering the consequences of their activities and civic courage (such as Marta Lempart).

Forty-five years ago the Workers' Defence Committee (*Komitet Obrony Robotników, KOR*) was founded. It was then that the intelligentsia created a programme of support for the workers. KOR opened the way for change, for the creation of "Solidarity". For the 45th anniversary, KOR members formulated a letter to judges, prosecutors, lawyers and solicitors. They wrote:

"On the 45th anniversary of the founding of the KOR, we – its members and collaborators – address today's defenders of human and civil rights, defenders of the rule of law: judges, lawyers, solicitors and prosecutors – we admire you and thank you.

To all of you who adjudicate in accordance with the law and your conscience, and in your proceedings are guided by the principles of dignity and integrity – as you have sworn to do. To all of you who stand by these principles tenaciously, despite political pressure and persecution.

There are numerous groups in Poland who are resisting – fighting for women's rights, for workers' rights, for climate protection, for education, for the preservation of independent media. But your fight is to defend the very essence of democracy: it is to protect the right of citizens to dissent, it is to maintain a framework of security for citizens and to put limits on state oppression. This is fundamental for the future of Poland and for society, however divided it may be. That is why we are grateful to you. And we stand behind you with a wall."

It was an important, symbolic letter, connecting generations of Polish activism and Polish history. At the same time, that standing up for values was not the experience of the whole of society, but only of certain judges and civil society leaders. Many Polish citizens accepted the new rules of the

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21 See e.g. description of different forms of reprisals against Judge Waldemar Żurek in the Strasbourg case *Waldemar Żurek przeciwko Polsce*, ECtHR, case no. 39650/18 *Żurek v. Poland* (2022).

game, accepted some form of compromises in their daily life or even started to opportunistically participate in dismantling rule of law and democratic guarantees. Taking this into account one should even more appreciate the work of those who resisted.<sup>22</sup>

### *6 Lessons for the rule of law in other EU Member States*

The lesson of resistance by Polish civil society and judicial associations should be an important guide for other EU Member States and their judiciaries. Rule of law and judicial independence should not be taken for granted. In the case of populist motivations, the judiciary could become the subject of attack even in established democracies. A good example is the reaction of Boris Johnson to the decisions of the UK Supreme Court on the prorogation of the work of parliament<sup>23</sup>. Even in a well-established democracy, a leading politician started to undermine the credentials and legitimacy of judges.

In contemporary democracies there are different ways via which guarantees of judicial independence might be the subject of pressure. They may include legislative changes, cuts in budget, using the administration of justice as a way of exerting pressure on judges or forms of individual pressure from the executive branch, media or corporations. Moreover, pressure may be wielded via social media, due to its omnipresence and direct way of engaging citizens. Judges and courts may usually speak only via judgments or other judicial pronouncements. Sometimes they have to issue controversial decisions, being against the expectations of larger groups of citizens. In such a situation, courts might be especially vulnerable to unjust criticism and having their legitimacy undermined. In this new communication environment, courts may not be fully equipped to resist such dynamics of pressure.

That is why there is a need for strong civil society that would be able to defend the judiciary when it is under threat. It should be the responsibility of the state to have this in mind and to support civil society organizations, think tanks and universities that are ready to provide such indirect support to the operation of judiciary. Moreover, educational programmes concern-

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22 See on this Adam Bodnar, 'Polish Road toward an Illiberal State: Methods and Resistance' (2021) 96 *Indiana Law Journal* 1059.

23 *R (on the application of Miller) v The Prime Minister*, [2019] UKSC 41, <<https://www.supremecourt.uk/cases/docs/uksc-2019-0192-judgment.pdf>> accessed 1 March 2023.

ing the role of the judiciary in a society are needed in order to raise awareness of judicial decision-making among school pupils, students and ordinary citizens.

In this regard, the Polish example of a fight for the rule of law could be interesting for other countries. Poland is not only a laboratory of different negative practices affecting the rule of law. Polish civil society has built good practices of resistance as well as new educational techniques concerning the judiciary. In particular, one should highlight the recognition of the importance of communication for the public's understanding of why independent courts are important for citizens – the use of virtual reality to illustrate the consequences of the loss of the rule of law (Dr Konrad Maj, SWPS University) or the 'Free Courts' activity of illustrating the consequences of the loss of the rule of law from the perspective of an ordinary citizen – with the use of short video messages and their distribution via social media.

One of the values of the European treaties is the protection of civil society. Specifically, Article 2 TEU (second sentence) provides that European values (including the rule of law) should be common to the Member States *"in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail"*.

This means that the rule of law should not be protected in isolation, but by building a civil society able to protect it. Taking into account the Polish example and good practices, the European Union should promote programmes supporting the involvement of non-governmental organizations in the protection of constitutional democracy. Such a task should also be on the shoulders of particular EU Member States. Even where good programmes of civic education and support for non-governmental organizations exist, those states should reflect on whether the response to actual or potential threats to the rule of law is sufficient.

Marian Turski on the 75<sup>th</sup> anniversary of the liberation of the Nazi concentration camp in Auschwitz stated that we should follow the 11<sup>th</sup> Commandment – We cannot be indifferent.<sup>24</sup> I understand this statement that we must recognize that the public sphere concerns each of us, and thus requires our personal, real commitment. We must show solidarity

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24 *"Never be a bystander whenever a minority is discriminated against."* The speech by Marian Turski at the memorial ceremony on 27 January 2020 in Auschwitz, <<https://auschwitz.info/en/commemoration/commemoration-2020-75th-anniversary-of-the-liberation/2020-01-27-marian-turski-the-eleventh-commandment.html>> accessed 1 March 2023.

and support to all those who suffered. But we also have to build, on the basis of this experience, public programmes and policy ideas that would lead us to create a strong and resilient civil society, responsible for shaping modern citizenry. The Polish example shows how the rule of law might be vulnerable and that its protection requires great care in every EU Member State and in strategic EU policies.

