

„ObyPomoc” REPORT

11 April 2017 - 31 December 2017

This report was drawn up on the basis of information gathered from persons who turned for help to the legal assistance group operating within the Free Citizens of the Republic of Poland (Wolni Obywatele RP) Foundation. It includes only documented cases, among them: interrogations at police stations and at the prosecutors' offices as suspects or witnesses, imperative orders based on claims for punishment prepared by the police and proceedings conducted based on the regulations of the Penal Code.

The summary of this report contains the updated list of court cases, both those that have been finalized, as well as those that are still pending. The Annex at the end of the Report contains the list of legal regulations on the basis of which charges are formulated against the protesters.

Data is updated on a monthly basis.

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Proceedings that are pending based on the Code of Petty Offences

Event	Legal regulation	Description	Interrogations (police)	“Fast track” sentences ^a
COUNTER-MONTHLY CELEBRATIONS	Offences against public peace and order: art. 52 § 2 point 1, 2 art. 52 § 3 point 2 Offences against public peace and order: art. 63a § 1 Offences against traffic safety and order: art. 90 Offences against public decency: art. 141	<ul style="list-style-type: none"> protest against the unconstitutional regulations amending the Law on Assemblies, peaceful blockage of the march of the participants of the monthly celebrations, being in the vicinity of the march of a cyclical assembly placing stickers on barriers (e.g., invoices for the monthly celebrations) 	127	6 accused (XI W 1258/17) 2 accused (XI W 1957/17) 9 accused (XI W 2630/17) 6 accused (XI W 2631/17) 5+2 accused (XI W 1258/17) 14+2 accused (XI W 1258/17) 3+2 accused (XI W 3579/17) 1 accused (XI W 2596/17) 1 accused (XI-W-3691-17) 1 accused (XI-W-3580-17) 1 accused (XI-W-3681-17) 1+3 accused (XI W 3679/17) 1 accused (XI W 4483/17)
PROTESTS IN FRONT OF THE PARLIAMENT OF THE REPUBLIC OF POLAND (DECEMBER 2016)	Offences against public peace and order: art. 52 § 3 point 3 Offences against traffic safety and order: art. 90	<ul style="list-style-type: none"> protest against restricting freedom of the media blocking entry routes and entrances into the Polish Parliament on 16/17 and 20 December 2016. 	13	2+ 11 accused (XI W 1997/17)
PROTESTS AGAINST THE FAR-RIGHT: BLOCKING THE MARCH OF THE ONR (the National-Radical Camp) 29 Apr 2017	Offences against public peace and order: art. 52 § 2 point 1 art. 51 § 1	<ul style="list-style-type: none"> protest against the progress of fascism in Poland expressed by blocking the ONR March 	20	2+7 accused (XI W 2254/17) 2+ 3 accused (XI W 2200/17) 5+ 5 accused (XI W 2116/17) 5+ 9 accused (XI W 2060/17) 14+ 5 accused (XI W 2059/17) 4 accused (XI W 1999/17)

a) numbers in bold depict the number of people whose names the ObyPomoc group learned about in the course of the issued imperative orders

Event	Legal regulation	Description	Interrogations (police)	“Fast track” sentences ^a
<p align="center">PROTESTS IN THE DEFENCE OF THE INDEPENDENCE OF COURTS (JULY 2017)</p>	<p>Offences against traffic safety and order: art. 90 art. 97 Offences against public peace and order: art. 51 § 1</p>	<ul style="list-style-type: none"> blocking entry routes and entrances into the Polish Parliament on 14/15 July and 20/21 July 2017 crossing the barriers and entering the premises of the Parliament of the Republic of Poland on 20 July 2017 protest in front of the seat of the PIS party on Nowogrodzka Str protest in front of J. Kaczyński’s house, Mickiewicza Str., 23 July 2017 	<p align="center">97 1 (witness)</p>	<p>2 accused (XI W 4338/17) 1+2 accused (XI W 3412/17) 6+7 accused (XI W 3417/17) 6+2 accused (XI W 3769/17) 5+2 accused (XI W 3416/17) 4+1 accused (XI W 3711/17) 1+3 accused (XI W 3408/17) 3+2 accused (XI W 3833/17) 2 accused (XI W 3836/17)* 5+10 accused (XI W 3409/17) 2+2 accused (XI W 3713/17)* 1+1 accused (XI W 4884/17) 1+3 accused (XI W 3718/17) 1 accused (IV W 1806/17)</p>
<p align="center">PROTESTS AGAINST THE FAR-RIGHT: 1 AUGUST 2017</p>	<p>Offences against public peace and order: art. 52 § 2 point 1</p>	<ul style="list-style-type: none"> protest against the progress of fascism in Poland expressed by banners „<i>Stop fascism</i>” etc. protest in Wrocław on Dominikański Square 	<p align="center">2 2 (witness)</p>	<p align="center">[no data]</p>
<p align="center">PROTESTS AGAINST THE FAR-RIGHT: BLOCKING THE MARCH OF THE „ALL-POLAND YOUTH” (MW) 15 AUGUST 2017</p>	<p>Offences against public peace and order: art. 52 § 2 point 1</p>	<ul style="list-style-type: none"> protest against the progress of fascism in Poland expressed by blocking the MW march 	<p align="center">44</p>	<p align="center">[no data]</p>
<p align="center">PROTESTS IN FRONT OF THE PARLIAMENT OF THE REPUBLIC OF POLAND (SEPTEMBER 2017)</p>	<p>Offences against public peace and order: art. 51 § 1</p>	<ul style="list-style-type: none"> crossing the barriers separating Wiejska Str, from the pavement on 24 September 2017 	<p align="center">1</p>	<p align="center">[no data]</p>

*) the order – a reprimand, costs of the court case transferred onto the State Treasury

a) numbers in bold depict the number of people whose names the ObyPomoc group learned about in the course of the issued imperative orders

Event	Legal regulation	Description	Interrogations (police)	“Fast track” sentences ^a
<p align="center">PROTESTS AGAINST THE FAR-RIGHT:</p> <p align="center">11 NOVEMBER 2017</p>	Offences against public peace and order: art. 52 § 2 pkt 1, 4 art. 52 § 3 pkt 2	<ul style="list-style-type: none"> • protest against the progress of fascism in Poland expressed by a demonstration attempt in the vicinity of the „Independence March” • protest by women from the Wolni Obywatele RP (ORP) and the Nationwide Strike of Women (OSK) from within the „Independence March” expressed by a banner „<i>Stop fascism</i>” and shouts of „<i>Women against fascism</i>” and others • protest in Wrocław, attempt at blocking the Independence March • protest in Warsaw, picketing on Smolna Str. 	<p align="center">11 1 (as a witness)</p>	<p align="center">[no data]</p>
<p align="center">OUTDOOR ACTION: PUTTING UP LEAFLETS, PAINTING WORDS ETC.</p>	Offences against public peace and order: art. 63a § 1	Protesting against the actions of PiS by: <ul style="list-style-type: none"> • spraying on pavements among others: „<i>enough of PiS propaganda</i>” „<i>Polish TV is lying</i>”, quotes from the letter of Piotr Szczęsny • projecting Piotr Szczęsny’s letter onto a wall • placing stickers with the text: „We won’t sit quiet” on the PiS office in Gdańsk 	<p align="center">10</p>	<p align="center">[no data]</p>
<p align="center">SUPPORTING PEOPLE BEING INTERROGATED (PICKETS IN FRONT OF POLICE STATIONS)</p>	Offences against State, self-government and social institutions: art. 65 § 2 Offences against public peace and order: art. 63a § 1	<ul style="list-style-type: none"> • supporting people being interrogated for standing with such banners like: "<i>We have laws/rights: the laws of logic, laws of physics and human rights</i>” „<i>We will not be intimidated</i>” 	<p align="center">21</p>	<p align="center">1 accused (VI W 2980/17)</p>

Event	Legal regulation	Description	Interrogations (police, the Internal Security Agency)	“Fast track” sentences
OTHER EVENTS	Offences against public peace and order: Art. 51 § 1 art. 52 § 1 art. 52 § 2 pkt 1, 2 Offences against traffic safety and order: art. 92 § 1 Offences against State, self-government and social institutions: art. 65 § 2	<ul style="list-style-type: none"> • protest against restrictions on freedom of movement around the Parliament of the Republic of Poland, attempts at crossing the barriers • pickets on Mickiewicza Str. in Warsaw • refusing to disclose personal data about employment during the interrogation • spontaneous assemblies (Citizens of the Republic of Poland do not respect the unconstitutional amendment to the Law on Assemblies) e.g., a demonstration without notification in front of the City Council of Warsaw, during which colour flares were set alight, a protest against the absence of any reaction to a similar situation during the Independence March on 11 Nov 2017 • activities on the social media 	14 2 (as a witness, Internal Security Agency)	[no data]

Proceedings conducted based on the Penal Code

Event	Legal regulation	Description	Interrogations (police/prosecutor's office)	Court proceedings
COUNTER- MONTHLY CELEBRATIONS	Forcing official action: art. 224 § 2 Crimes against the freedom of conscience and freedom of religion: art. 195 § 1 Crimes against life and health: art. 160 § 1	The defendant used the expression: „I'll punch you in the ear” towards a policeman behaving aggressively. Disrupting alleged religious celebrations. Projecting statements onto the Observation Tower of St. Anne's Church. The Government Protection Bureau officials filed a report to the prosecutor's office stating that they were being blinded by the projector.	1 3 (as a witness)	1 defendant (V K 269/17)
DECEMBER PROTESTS 2016	Crimes against freedom: art. 191 § 1 art. 193	Protesting against the appropriation of the public space surrounding the Parliament which is becoming inaccessible for citizens, protesting against limiting the freedom of the media.	4 1 (as a witness)	[no data]
ENTERING PREMISES SURROUNDING THE PARLIAMENT OF THE REPUBLIC OF POLAND	Crimes against freedom: art. 193	Protesting against the appropriation of the public space surrounding the Parliament which is becoming inaccessible for citizens. The protest was expressed by entering green areas surrounding the Parliament of the Republic of Poland on 30 November 2016, 25 January 2017, 22 June 2017, 13 July 2017. Entering the venue of the Parliament with a valid pass and unfolding the Polish flag.	6 11 (as a witness)	4 defendants (K II 362/17) 2 defendants (K II 292/17)#
PROTESTS AGAINST THE FAR-RIGHT: 1 AUGUST 2017	Insulting a public official: art. 226 § 1	Protest against the progress of fascism in Polish public life: counter-demonstration with anti-fascist slogans alongside the march of the nationalists	1	1 defendant (K II 715/17)

#) legally binding acquittal

Proceedings conducted on the base of the Press Law

Event	Legal regulation	Description	Interrogations (police/prosecutor's office)	Court proceedings
COUNTER- MONTHLY CELEBRATIONS	art. 43	One of the demonstrators was accused by a right-wing journalist of hindering the carrying out of the job of a journalist	1	[no data]

SUMMARY

Petty Offences Code

- **367 investigations** (interrogations)
- **35 “Fast track” sentences for 210 people**, incl.:
 - for the counter-monthly celebrations – 13 orders (60 people)
 - for protests held in December – 1 order (13 people)
 - for blocking the march of the ONR – 6 orders (61 people)
 - for protests held in July – 14 orders (75 people)
 - for supporting interrogated persons – 1 sentence (1 person)

It should be noted that **92 people** on whom imperative orders were imposed did not approach the ObyPomoc group at the interrogation stage. The tables depict in bold those numbers whose names we learned about already at the stage of the “fast track” sentences.

- The Regional Police Station filed a complaint regarding discontinuance of proceedings by Regional Court Judge Łukasz Biliński against an individual who refused to give their place of employment during interrogation at the Police Station
- The decision reached by Regional Court Judges - Agnieszka Berezowska and Piotr Nowak led to discontinuation of proceedings against Agnieszka Markowska and Lucyna Łukian, participants of the picket in front of Jarosław Kaczyński’s house on Mickiewicza Str.
- Regional Court Judge Piotr Nowak refused to initiate proceedings against Wojciech Kinasiewicz who took part in a picket supporting persons being interrogated at the Police Station on Rydygiera Str.

Penal Code

- **14 investigations** (interrogations at the police station or prosecutor’s office), **20** persons were interrogated as witnesses
- **4 criminal cases** in which 8 people are appearing as defendants, and in particular:
 - art. 224 para 2 - 1 person
 - art. 193 - 6 people
 - art. 226 para 1 - 1 person

Press Law

1 person – a participant of the counter-monthly celebration was accused of disrupting the work of a journalist.

Finalized cases

1. For entering the premises of the Parliament of the Republic of Poland on 25 January 2017 - **Wojciech and Rafał** had been accused on the basis of art. 193 of the Penal Code.

On 17 August 2017, **Regional Court Judge Jakub Kamiński passed a sentence of acquittal (II K 292/17)**. Following an appeal submitted by the prosecutor, the appeal hearing was held on 30 October 2017 in the regional court. **Judge Krzysztof Chmielewski announced the legally binding sentence of acquittal (X Ka 1113/17)**.

Agenda of the coming hearings – January - February 2018

XI Department of the Regional Court for Warszawa-Śródmieście, Marszałkowska 82, entrance from Żurawia Str.:

1. For participating in the events of 16/17 December 2016 in front of the Parliament of the Republic of Poland, case XI W 1997/17, art 52 para 3 of the Petty Offences Code and others, **time of the hearing: 3 January 2018 r**, 09:30, room 450

Defendants:

Mateusz, Piotr, Arkadiusz, Piotr, Bartłomiej, Marcin, Jarosław, Karol, Jerzy, Antoni, Jan, Rafał, Arkadiusz

2. For talking with the policeman on 10 May 2017, case V K 269/17, art.224 para 2 of the Penal Code, **time of the hearing: 10 January 2018**, 10:00 hrs, room 379

Defendant:

Tadeusz

3. For the attempt at blocking the ONR march on 29 April 2017, case XI W 2059/17, art. 52 para 2 point 1 of the Petty Offences Code, **time of the hearing: 31 January 2018**, 09:30, room 242

Defendants:

Jan, Katarzyna, Szczepan, Jacek, Maria, Konrad, Kinga, Przemysław, Tomasz, Jacek, Michał, Maria, Lucyna, Monika, Laura, Andrzej, Arkadiusz, Franciszek, Andrzej

4. For an attempt at blocking the Smoleńsk March on 10 March 2017, case XI W 1258/17, art. 52 para 2 of the Code of Offences, art. 141 of the Code of Offences, **time of the hearing: 8 February 2018**, 9:30, room 578

Defendants:

Marek, Monika, Wojciech, Paweł, Michał, Tadeusz, Paweł

6. For entering the premises of the Parliament of the Republic of Poland on 30 November 2016 (so-called violation of the peace of the home), case K II 362/17, art. 193 of the Penal Code, dated 20 October 2017 r. **Regional Court Judge Jakub Kamiński announced the sentence of acquittal. The Prosecution submitted an appeal. The District Court accepted the appeal and transferred the case for review to the Regional Court for Warsaw-Śródmieście in Warsaw.**

Defendants:

Tadeusz, Paweł, Ewa, Wojciech

ANNEX

Persons who report to the ObyPomoc group as well as activists of the Wolni Obywatele RP Movement are faced with charges arising from the Petty Offences Code, Penal Code as well as the Press Law. The following constitutes the contents of those laws cited in the Report.

Code of Petty Offences

Offences against public order and peace:

Art. 51

§ 1. Whoever by way of shouting, noise, alarm or any other excess actions disturbs public peace, order, night rest or causes depravation is subject to a penalty of arrest, restriction of freedom or a fine.

§ 2. If the deed referred to in § 1 is of a disorderly nature or the perpetrator carries it out when being under the influence of alcohol, a narcotic or another substance or agent with similar effects is subject to a penalty of arrest, restriction of freedom or a fine.

§ 3. Inciting and aiding are punishable.

Art. 52

§ 1. Whoever participates in an assembly when carrying weapons, explosive materials, fireworks or other hazardous materials or tools – is subject to the penalty of arrest for up to 14 days, a penalty of restriction of freedom or the penalty of a fine.

§ 2. Whoever:

- 1) disturbs or attempts to disturb the organisation or the process of a non-banned assembly,
- 2) organizes an assembly without the required notification or heads such an assembly or a banned assembly,
- 3) heads an assembly after it has been dissolved,
- 4) unlawfully occupies or refuses to leave a location site lawfully used by another person or organisation as an organiser or head of an assembly – is subject to the penalty of restriction of freedom or a fine.

§ 3. Whoever:

- 1) when heading or organizing an assembly purposely does not take the necessary steps to ensure that the assembly proceeds in compliance with the laws and regulations and to prevent that any damage is caused which is the fault of the participants of the assembly,
- 2) does not adhere to the demands or orders of the leader of the assembly or its organizer, as described in the Act of 24 July 2015 – Law on Assemblies (Journal of Law, part 1485),
- 3) refuses to leave the site of the assembly after it is dissolved

– is subject to a fine.

§ 4. Inciting and aiding are punishable.

Art. 63a

§ 1. Whoever places in a public place that is not for such a purpose an announcement, poster, placard, appeal, leaflet, wording or drawing or places them in public sight in another location without the consent of the administrator of this location, is subject to the penalty of restriction of freedom or a fine.

§ 1a. Inciting and aiding are punishable.

§ 2. In such case when the offence is committed, it is possible to decide about the confiscation of objects that are used or meant for conducting the offence, even if they are not the property of the perpetrator, as well as a punitive damages at the level of up to 1500 zlotys or the obligation to restore the site to its previous state.

Art. 65

§ 1. Whoever purposefully misleads a State body or an institution authorized by the Act of Law act to check documents:

- 1) regarding own or another's identity,
 - 2) regarding own citizenship, occupation, place of employment or residence,
- is subject to a fine.

§ 2. The same penalty affects that person who contrary to the obligation does not inform the relevant State body or institution, authorized by the Act of Law the information or documents regarding circumstances referred to in §1.

Offences against traffic safety and order:

Art. 90

Whoever impedes or disrupts traffic on a public road, in a residence area or in a traffic zone is subject to a fine or reprimand.

Art. 92

§ 1. Whoever does not comply with a traffic sign or signal or to the signal or order of a person authorized to direct traffic or to control road traffic is subject to a fine or reprimand.

§ 2. Whoever to avoid control does not comply with the signal of the person authorized to control road traffic that commands stopping the vehicle is subject to the penalty of arrest or a fine.

§ 3. In such case when an offence as referred to in § 2 is committed, a ruling may be passed to ban this person from driving vehicles.

Art. 97

A road user or another person present on a public road, in a residential zone or traffic zone, including owner of the vehicle or the person in possession of the vehicle, who violates other regulations of the Road Traffic Act dated 20 June 1997 or other regulations issued arising from the said Act, is subject to a penalty fine of up to 3000 zlotys or reprimand.

Offences against public decency:

Art. 141

Whoever presents in a public place an indecent announcement, statement or drawing, or uses indecent words, is subject to the penalty of restriction of freedom, a fine of up to 1500 zlotys or reprimand.

Penal Code

Crimes against life and health:

Art. 160

§ 1. Whoever exposes a human being to an immediate danger of loss of life or a serious bodily injury, is subject to a penalty of deprivation of liberty for up to 3 years .

Crimes against freedom:

Art. 191

§ 1. Whoever uses violence towards a person or an unlawful threat to force a person to commit, refrain from or endure a particular act is subject to a penalty of deprivation of liberty for up to 3 years.

Art. 193

Whoever breaks into somebody else's house, apartment, premises or fenced grounds or contrary to the demands of an authorised person does not leave such a site is subject to a fine, restriction of freedom or deprivation of liberty for up to one year.

Crimes against the freedom of conscience and religion:

Art. 195

§ 1. Whoever maliciously disturbs the public conduct of a religious act of a Church or another religious association that have a settled legal status is subject to a fine, restriction of freedom or imprisonment for up to 2 years.

§ 2. The same penalty shall be imposed on anyone who maliciously interferes with a funeral, mourning ceremonies or rite.

Forcing of official actions:

Art. 224

§ 1. Whoever, by using violence or an unlawful threat, affects the official acts of a government authority, other public authority or territorial self-government shall be subject to the penalty of deprivation of liberty for a term of up to 3 years.

§ 2. The same penalty shall be imposed on whoever by using violence or an unlawful threat to forces a public office or person assigned to assist them in undertaking or halting a legal official function.

§ 3. If as the result of the deed referred to in § 2, the consequences are as described in art.156 § 1or in art. 157 § 1, the perpetrator is subject to the penalty of deprivation of liberty for a term between 3 months to 5 years.

Insulting a public official:

Art. 226

§ 1. Whoever insults a public official or a person assigned to assist them, during and in connection with the out official duties, is subject to the penalty of restriction of freedom or deprivation of liberty of up to one year.

§ 2. The regulations of art. 222 § 2 apply mutatis mutandis.

§ 3. Who publicly insults or offends a constitutional body of the Republic of Poland is subject to a fine, a penalty of restriction of freedom or deprivation of liberty for up to 2 years.

Press Law

Art. 43

Whoever, by using violence or an unlawful threat with the aim of forcing a journalist to publish or refrain from publishing a press material or undertaking or refraining from a press intervention is subject to the penalty of deprivation of liberty for up to 3 years.