

The machine of repression – will it get fine-tuned or will it grind to a halt?

Protesters in front of courts – the time for conclusions following 2 years of ObyPomoc actions.

The ObyPomoc Project of the Citizens of Poland civic movement began in March 2017. It was meant to serve as a contact point between those individuals who were being persecuted for their pro-democratic actions and lawyers who were prepared to provide them support and legal assistance. Our activities were motivated by a conviction that mutual solidarity between people being persecuted for their pro-democratic actions is necessary in order to prevent any atomisation of the resistance against the current authorities' destructive practice and the suppression of this resistance. During these 2 years we have managed to achieve much more, although our team is comprised of just a few people. ObyPomoc established contact with a group of about 80 lawyers who declared their readiness to help those who were being detained, interrogated or accused by the police. Many of them have actively defended the protesters in court rooms across the whole country.

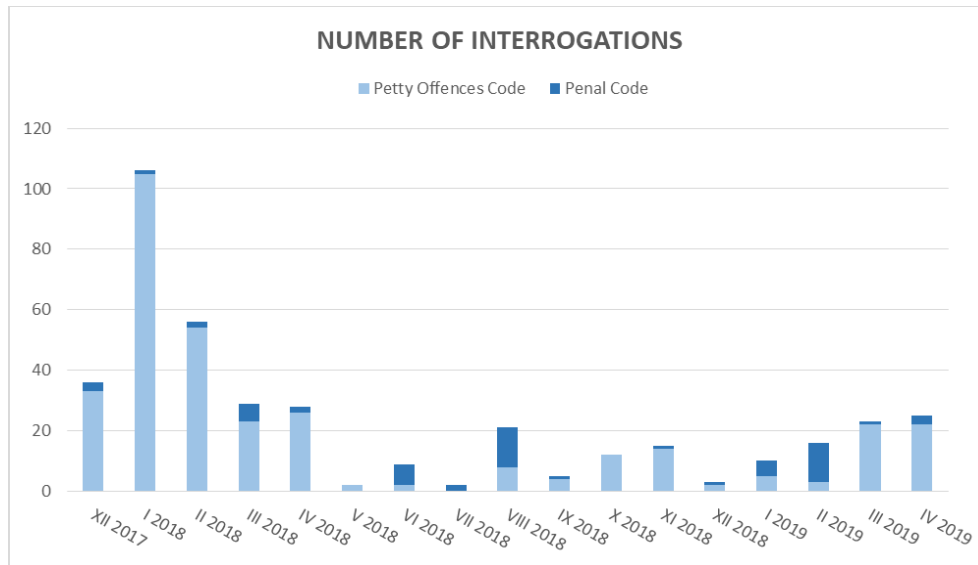
In the overwhelming majority of cases, lawyers provide *pro bono* assistance to the protesters, devoting long hours of their valuable time, which they most probably could spend in more interesting ways. There are no words that can express our gratitude, and it is history that will in the end repay them with the honours they deserve. Listing just some of the names would be unfair towards others; however, it would not be right not to mention the involvement of lawyers associated in the Warsaw Bar Association.

Though ObyPomoc acts within the framework of the Citizens of Poland movement, we try and provide assistance to every citizen who approaches us, without asking questions regarding their organisational affiliation. It has been thanks only to the admirable stand of the lawyers, that it was possible to ensure that almost all those in need have been helped. We have also been able to scrupulously collect information about the proceedings of police, prosecutor and court actions. The numbers that have been collected regarding interrogations, court cases, "fast track" sentences, court sentences in the First and Second Instances enable evaluation of the scale of what is happening. What is more, the texts of sentences passed by the judges and the public prosecutor, i.e., the police appeals, show in a convincing way the legal harassment that the current authorities are applying in order to produce a "chilling effect" and suppress social resistance against the manipulative actions of those in power, the support they offer to fascist-type groups and the creeping changes of the system in Poland. When reading these documents, it becomes visible how those who currently hold the coercive apparatus in their hands continuously force procedures which enable the police to abuse their power. The police intervenes in situations that in a civilised country do not call for intervention because pursuant to the assessment of judges, the actions of the protesters remain within the framework of constitutionally guaranteed rights of citizens, and of their rights to express opinion in the public sphere. It is possible to see that the police, instead of protecting peaceful demonstrations, is trying to discourage citizens from participating in them, using whatever excuse for demanding ID papers. At the same time, the police continues to ignore calls for action in response to the crimes being repeatedly committed during marches of the extreme right and continues to protect these marches under the pretence that they are legal, ignoring completely their aggressive and non-peaceful nature which legally strips these events of their right to protection as defined by Article 57 of the Constitution of the Republic of Poland, something that is clearly visible to the judges. The reaction of the police has been openly asymmetric.

ObyPomoc prepares reports which are updated every month. Based on documents that are sent to us, we are able to use credible numbers. The reports are available in the "ObyPomoc – Pomoc Prawna" menu on the Obywatele RP web page (<https://obywatele.org>).

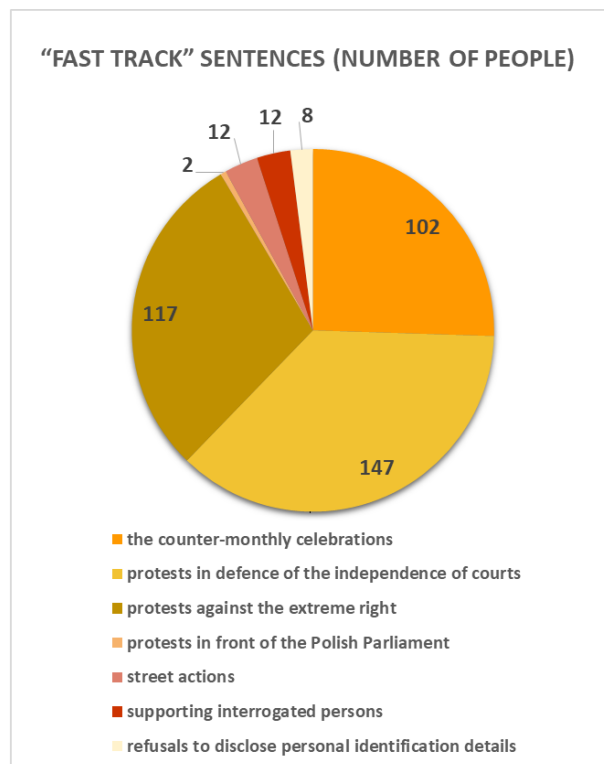
Over the past 2 years, ObyPomoc received information about **658** individuals against whom proceedings are pending in connection with protests. **661** summons have been sent for interrogations in connection with accusations on grounds of the Code of Petty Offences and **86** cases under the Penal Code. The police can be more or less eager to act depending on the month. The graph shows that we noted a peak in activities at the start

of 2018. After that, hopes held by the police that being summoned for interrogation will weaken the scale of civic involvement were dampened, whilst currently, the number of summons is on the rise again. These numbers constitute the bottom threshold because in reality, there are many more. ObyPomoc registers only those cases that are reported and we do not say that we have the whole picture.



Whether or not a citizen will come in or not for interrogation and what they will say or write in their statement is irrelevant because the police will anyway prepare a hefty motion for a penalty or will file charges. ObyPomoc has noted **198** court proceedings under the Code of Petty Offences with sometimes a dozen or several dozen people in the dock as defendants. The classification of the act is often absurd but in spite of that, the courts often believe the police and pass a so-called “fast track” sentence. And the sentence is passed without the accused being given any chance to defend themselves and present their arguments.

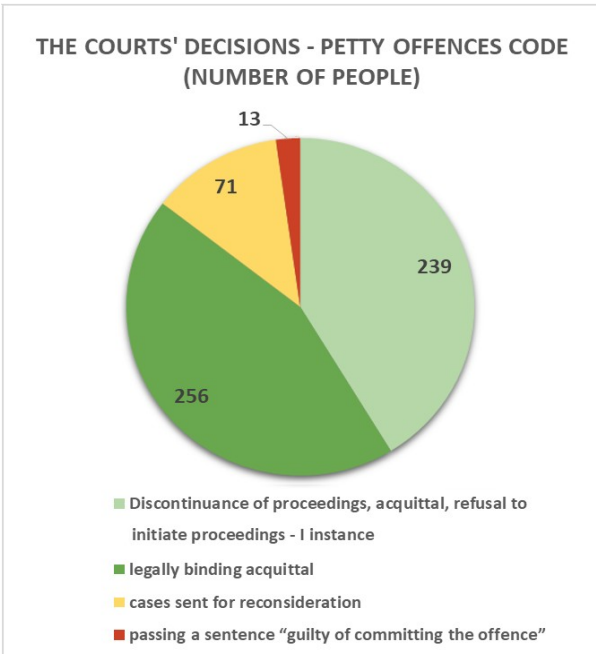
ObyPomoc has till now noted **123** “fast track” sentences involving **400** persons. Under the Code of Petty Offences, the penalties range from „a reprimand” to a fine of up to 500 zł. A most recent “fast track” sentence was passed which sentenced our colleague to a penalty of deprivation of liberty for supposedly violating of a policeman’s bodily integrity (art. 222 § 1 Criminal Code) during a demonstration that took place on 27 April 2018. A “fast track” sentence becomes legally binding if the accused does not deliver to the court an objection within 7 calendar days. Even the slightest formal oversight, something that does happen often when a person does not live at their address, and the sentence becomes legally binding without any evidence. What is more, as this so far one single case shows, this can happen not only in case of charges under the Code of Petty Offences but even those very grave ones under the Penal Code. An accused individual, without any court hearing and without being given any chance to present their arguments, can be sentenced for a crime and end up listed in the National Criminal Register.



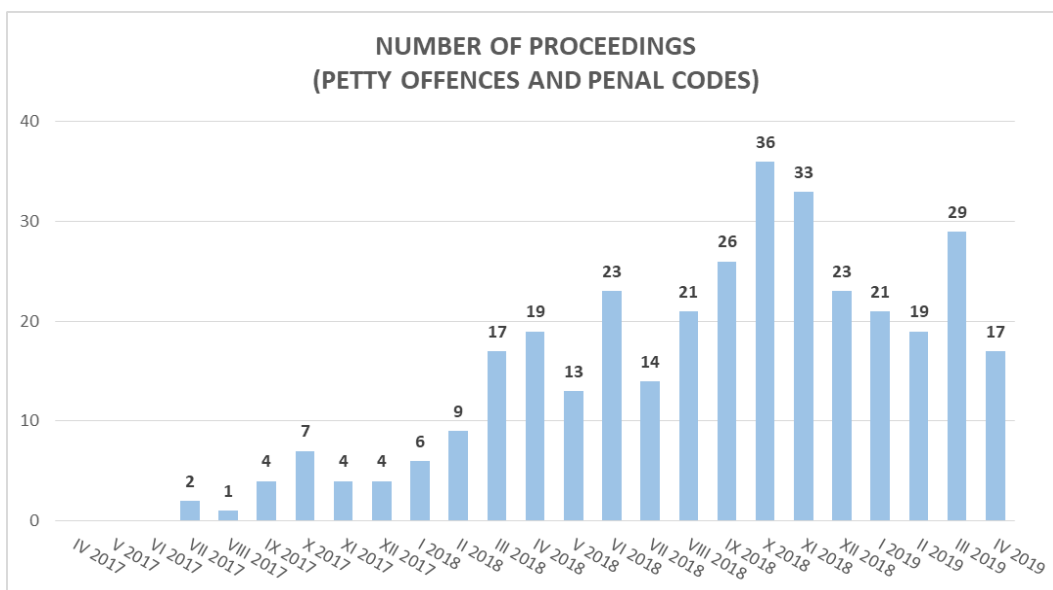
The recent ruling of the Supreme Court (III KK 647/18) concerning the cassation complaint submitted by the Commissioner for Human Rights with regard to a legally binding “fast track” sentence leaves no doubt that: „in principle, this instrument should not be used when the defendant pleads not guilty and presents different circumstances of the event.” It may therefore be concluded that “fast track” proceedings should be applied with much greater caution than they are at present.

Protesters quickly realised that ensuring an objection is filed on time is critical to avoid a “fast track” sentence unjustly entering into force. Objections are submitted as a routine even if the ruling involves a reprimand - the protesters simply do not consider themselves as guilty. The objection leads to a hearing before the Regional Court which may drag on for over a year, engaging judges, lawyers, police officers and the defendants and taking up the time of all the above, because there can be even more than 10 hearings. And then the sentence is passed in the First Instance.

So far, ObyPomoc has received the rulings passed by courts in case of **122** proceedings concerning pro-democratic protests with regard to **579** people facing charges under the Code of Petty Offences. **53** judges passed a sentence in these proceedings. Only **13** accused (10 rulings) were found guilty by the courts, i.e., 2%. What is more, all but one guilty sentences are not yet legally binding.



In the remaining cases (98%), judges acquitted the defendants, discontinued proceedings or refused to initiate the proceedings. **113** such sentences were passed in the 1st Instance, **45** of these cases involving **327** people have also been examined by District Courts (2nd Instance). In **34** of these cases, involving **256** people, the ruling was confirmed in the 2nd Instance and the decision of the court of 1st Instance about the absence of guilt became legally binding. These cases have been finalized. The court in the 2nd Instance sent back to courts of the 1st Instance for reconsideration only 11 cases (**71** people).



The majority of these cases are currently still in progress with new ones continuously being added because the police persists in taking down the IDs of protesters. The number of cases has stayed on the same level of 20-30 hearings a month over the past months. Almost every day, somewhere around Poland, a hearing is taking place regarding the protests of ordinary citizens accused by the police or prosecutor, and whose only wrongdoing is disagreeing with the actions of the authorities.

ObyPomoc keeps an agenda of hearings (<https://obywateleerp.org/kalendarz>) where it is possible to follow the dates of hearings held all over the country, for example in Wrocław, Łódź, Bydgoszcz, Katowice, Przemyśl, Gorzów, Hajnówka and other towns big and small. ObyPomoc makes sure that reports are made from these court hearings, and among other things, we document in them how the police itself, when answering before the judge, discredits the contents of their own applications of pressing for charges.

In case of objections under the Penal Code, ObyPomoc is following 11 cases involving 15 people. In 6 of these cases, acquittal rulings or discontinuance of proceedings have already been passed, with two already legally binding. One person has been found guilty, however this sentence is not yet legally binding.

So far, charges filed by the police against **578** people did not stand up in court. The very low percent of cases when the court did pass a guilty sentence allows for the conclusion that police abuse of power is of a systemic nature and not accidental. The current authorities are implementing the practice of harassing the opposition which boils down to intimidating the protesters by groundless ID checks and detainments, followed by filing of charges and court proceedings. The current authoritarian rule does not like any critical views of its actions, it prefers listening only to cheering supporters rather than to face citizens aware of their rights who have become accustomed to freedom of speech and freedom of assembly as guaranteed by Articles 54 and 57 of the Constitution of the Republic of Poland.

The charges are misguided for many reasons. As opposed to those who hold police forces in their hands, judges actually read the Constitution. Reading the texts of the rulings leaves no doubt of this. Judges show that the actions of the citizens who appear in court are not socially harmful despicable acts, they do not meet the criteria of a forbidden act, or they in fact constitute an expression of the necessary defence of a higher good. They put on the scales of justice and weigh the allowable borders of public debate and the benefit to society. They define these borders where the manifested content violates the protected interests of other persons, their human dignity or they undermine the foundations of the system of the Republic of Poland. Judges see that the sole reason behind the actions of citizens is their concern for Poland, and that these actions constitute a reaction to the authoritarianism, racism, fascism, xenophobia, lack of tolerance towards people who feel and think differently all of which are creeping in dressed up in a legalist costume. In this, they also draw support from the rulings of the Constitutional Tribunal, the Supreme Court, the European Court for Human Rights, the UN Human Rights Committee, the UN Committee on the Elimination of Racial Discrimination. They cite international agreements that have been ratified by Poland, and which Poland has committed to adhere to and execute, such as the Convention for the Protection of Human Rights and Fundamental Rights, the UN International Pact of Civil and Political Rights, the Charter of Fundamental Rights of the EU. They make us aware that by maintaining a peaceful character of actions, we are moving within the law. Quotes from the rulings (descriptions of actual hearings at the bottom of the text) speak for themselves:

The authorities' interference in the right to free peaceful assembly should be limited to the indispensable minimum.

"one should refer to the case law of the European Court of Human Rights (ECHR), pursuant to which the right to assembly (...) cannot be subject to restrictive interpretation." (case IV W 1799/17)

"Pursuant to the stand presented numerous times in the case of the Constitutional Tribunal (CT), deprivation of liberty stemming from Article 57 of the Constitution should be only of exceptional nature. (...) it is obvious that people who participate in a peaceful public assembly, including a spontaneous assembly, have the right to have

banners with them. If only the content of the banners does not collide with any legally protected interests, it is impossible to talk of socially harmful behaviour." (case II W 414/18)

"Regulations which allow for interfering with the Law on Assemblies **have been limited only to exceptionally serious situations (...), in order for actions of the authorised state organs not to be overused and not to limit constitutional rights and liberties.**" (case V W 4255/17)

"...it arises from the case law of CT and ECHR that (...) **it is the (...) duty of public authorities** to undertake such actions which lead to the exercise of that right, that is to remove the obstacles which hinder it, and first and foremost to resign from any unjustified interference into this realm, **even in such case when the demonstration might annoy or bother others.**" (case XI W 1957/17)

"ECHR pointed out numerous times that **freedom to express opinions and views can be realised by such behaviour that, if it would be assessed outside the situational context and motivation, would be regarded as violation of public order.**" (case XI W 2973/17)

"**The behaviour of the defendants**, which involves standing and sitting in that location as indicated in the motion to press charges, **should first be assessed from the perspective of the constitutionally guaranteed freedom to express your views, (...) the public prosecutor has lost sight of the rights** of defendants who are entitled to exercise their right to freedom of speech and expression of views in public space. **Restrictions of the Law on Assemblies cannot go so far to deter in the future other people from public demonstration of their views. Penalizing persons who are peacefully demonstrating their views and criticism of another assembly definitely carries the undesirable deterring effect (...)** (important) for the functioning of a pluralist society." (case XI W 2973/17)

Counter-demonstrations are not „a disturbance” nor are they a provocation.

"The right to demonstrate in every democratic order **is closely linked to the right to counter-demonstrate**, when the participants of the latter manifest opinions different to those of their opponents. (...) Violation of freedom of assembly and public expression of own views can occur only when the possibility to gather and present own opinions is restricted to a degree when there are no conditions for those persons who wish to gather in such way to cooperate, or when their message becomes so restricted that it cannot reach the participants of this assembly." (case III W 533/18)

"If we were to accept the argument of the party filing the charges that **every shout** directed at the participants of an assembly is **a disturbance** as defined in Article 52 of the Code of Petty Offences (...) then it would be necessary to conclude that the **right to counter-demonstrate (protected by Article 57 of the Constitution of the Republic of Poland) is illusory. It is only in a non-democratic systems that certain defined subjects can as a rule enjoy completely undisturbed proceedings of the events they organise, because it is the authorities which organise public space in those systems (free from arguments and conflicts) and not society.**" (case XI W 2630/17)

"...**disturbance cannot be understood as every activity which exerts real influence on the participants of an assembly** because then all cases of enjoying freedom of speech which take place in connection with an assembly which involve the critical opinion of others would have to be regarded as disturbance (...). Presence alone of the defendants in that place where the assembly was reported to be taking place cannot in fact be regarded as a disturbance." (case XI W 2116/17)

"**The police cannot interfere** with the proceedings of a non-banned assembly **and force its participants to terminate participation** in an assembly that has not been dissolved because that would constitute a violation of the constitutional right to assembly (...), when demonstrators are not performing any acts of violence, **public authorities should manifest their tolerance towards peaceful assemblies, and lack of such tolerance constitutes violation of Article 11 ECHR.**" (case XI W 3412/17)

"The defendants shouting the word „liar” **cannot be defined as an excess** which violates the public order. (...). Exercising freedom of speech during a peaceful assembly **should not be regarded as belonging to the category of excesses** because this can lead to restriction of the public debate. **If we overlook (...)** determining **whether the deed against which charges have been filed is an excess**, something characterised by being in stark contrast to commonly accepted standards, then **it becomes very easy** not only to misinterpret but also **to distort the core meaning of this regulation (...), which may then be used as a tool to fight or even persecute individuals with political views** which oppose those officially approved..." (case XI W 1957/17)

"»Inciting interest« of that assembly's participants in connection with which the demonstration is being organised by communicating to them a message is fully understandable. The core essence of **the right for counter-demonstration, which falls under the protection of the Constitution**, is in fact the possibility for a critical message to reach also the participants of that assembly against which the counter-demonstration is being organised. What is more, as emphasised by the European Court of Human Rights, such a dispute between the participants of assemblies meeting in the public space **allows for provocative or unpleasant behaviour**, provided the demonstrators do not resort to acts of violence." (case XI W 1957/17)

Only peaceful demonstrations fall under protection by the Constitution, and what is more, assemblies which carry xenophobic, racist content or inspire to violence do not fall under this protection. Freedom of speech ends where the protected interests of other people is violated.

"...allowed **interference into freedom of assembly** are only such restrictions that are regarded as **absolutely necessary** in a democratic society. Such restrictions are exercised among others towards so-called "enemies of democracy", i.e., usually extremist organisations whose assemblies often are combined with the **questioning of the democratic order and presentation of racist, xenophobic content**. The borderlines drawn by the ECHR are the participants' violent intentions or attacks on the foundations of a democratic society. In such case when violence is incited or when the democratic system of the state is rejected, the authorities is obligated to react (...), because **freedom of assembly cannot lead to the affirmation of such action which pursues the obliteration of the democratic values system and its distortion to the detriment of citizens.**" (case XI W 2059/17)

"Pursuant to the judgement of the court, **no (...) rights that citizens enjoy under the Constitution give the right to manifest such views** which may be perceived as inciting hatred or as **political fights using forbidden methods which threaten the life and health of people holding different views.**" (case XI W 2060/17)

"...**a racist or xenophobic statement**, even if it is not directly addressed to concrete individuals who belong to a specific race, denomination, national or ethnic group **violates the rights of all members of such a group (...). Excluding certain groups**, for whom supposedly there is no place in society **constitutes a clear abuse of freedom of speech (...)**. Pursuant to Article 257 of the Penal Code: »Whoever publicly insults a group within the population or a particular person because of their national, ethnic, race or religious affiliation, or because of their lack of any religious denomination, or for these reasons breaches the personal inviolability of another individual, is subject to deprivation of liberty of up to 3 years.« (...) In the court's view, the proceedings of the assembly (...) and the behaviour of its participants indicate **crossing the borders of public debate**, in which there can be no place for manifestations of xenophobia and religiously motivated hostility and (...) due to the clearly xenophobic and hateful content presented at the National-Radical Camp (ONR) assembly, its **participants cannot invoke exercising their right of freedom of speech (...)**. ECHR clearly states that **statements which constitute hate speech**, that insult individuals or groups **are not protected** under Article 10 ECHR (...) **the authorities are not just in the right but they are obligated** to undertake without hesitation such action which will prevent acts of xenophobia, racism and intolerance. (...) The assessments presented at the assembly (of ONR – editor's remark) (...) are not shared by the huge part of society but it is clear there must be room for them in a pluralist society. There are though, **limits to the freedom of expression, and human dignity** is certainly among them, and **racist, xenophobic statements or the undermining of the democratic foundations of the Republic of Poland's system (...)** strikes at them. These limits, in the court's view, were overstepped by participants of the ONR assembly, and so, **they no longer had the right to legal protection** as participants of an assembly nor could they invoke freedom of assembly. (...) **Statements which violate the rights of other people cannot lay claim to protection** by the state (...) **freedom of speech cannot hold precedence over the protection of rights and liberties of other persons....the right to freedom from inciting racism, antisemitism, xenophobia is a good that has to be protected by the state "** (case XI W 2059/17)

"...in every case, a public assembly must be of a peaceful nature – only such an assembly enjoys legal protection under the Constitution of the Republic of Poland, the International Pact of Civic and Political Rights or the European Convention of the Protection of Human Rights and Fundamental Liberties (...) it is without any doubt that the slogan "death to the enemies of the fatherland" is a highly controversial slogan, especially in such a situation when according to the declarations of some participants of the Independence March, representatives of left wing movements and religious and national minorities are enemies of the fatherland (...) **it is not possible to regard the Independence March in that place and time to constitute a peaceful public assembly – on the contrary.**" (case II W 475/18)

The actions of those who are peacefully protesting are not socially harmful, and judges sometimes point out that they are socially desirable.

"In order to be responsible for committing an act defined in Article 51 paragraph 1 of the Code of Petty Offences, **it is necessary to define the concept of an excess**. It will be that **act which is in stark contrast to the standards of behaviour accepted under the given circumstances**" (case V W 4255/17)

"...only they who **commit a socially harmful deed are subject to being responsible** for an offence (...). **The defendant's behaviour (...) did not strike at any good protected by the law**. The **legal norm** does not forbid (...) violation or threat of a legal good in a general way, but it does **forbid behaviour which leads to the threat of legal goods** to a degree exceeding the level of acceptance and tolerance of risky behaviours. In the doctrine and in the case law, it is stressed that **a punishable act can only be such an act which is a criminal act**." (case II W 414/18)

"**The court did not determine that the defendant's behaviour was reprehensible**, as they did not revert to violence or aggression, and only manifested their objection to the assembly taking place (...). The defendant's behaviour (...), **expressed by sitting on a public road in the course of a peaceful assembly that had not been dissolved should be treated as exercising the constitutionally guaranteed freedom of expressing one's opinion** (...). **Articulating protests at a different time and place, unrelated to the ONR assembly**, against which the defendants were demonstrating, **would not make it possible to reach the public opinion with their message**. **Penalising people who are peacefully demonstrating their views and their criticism towards another assembly clearly carries with it the undesirable deterrent effect**." (case XI W 2116/17)

"...the motivation of persons participating at that critical time in the counter-demonstration to the Independence March in no way **can be considered reprehensible** and socially harmful or in violation of the rules of social conduct" (case II W 475/18)

"...the defendants' behaviour produced first and foremost **beneficial social consequences**. (...) such a protest showed that there **is no agreement in the Polish society to hostility towards others**, and that free people do not consent to excluding certain individuals or groups because of their origin or religion." (case XI W 2059/17)

Spontaneous assemblies are legal.

"The right to hold a spontaneous demonstration may precede over the obligation to obtain prior notification for a public gathering..." (case III W 533/18)

"**The authorities should protect and facilitate** the holding of spontaneous assemblies as long as they are of a peaceful character (See guidelines for the organisation of security and cooperation in Europe). (...) Just like a planned assembly, spontaneous assemblies impact on shaping public opinion, and indirectly on governance and thus become an instrument for exercising other rights or liberties. Spontaneous assemblies enjoy therefore constitutional protection and **are not illegal** (Constitutional Tribunal ruling dated 10 July 2008 signature p 15/08 thesis 8.6" (case IV W 1886/17)

"It also must be underlined that the possibility to respond spontaneously and peacefully to a given certain event, incident, another assembly or statement constitutes an important element of the freedom of assembly. **Spontaneous assemblies should be treated as an expected (rather than exceptional) feature of a healthy democracy**." (case IV W 1886/17)

"The public prosecutor is ignoring, and this happens to be something very important for evaluating the behaviour of the defendants, that (...) **the defendants were taking part in a peaceful spontaneous assembly** (...). The calls made by police officers to leave the location of the assembly (...), this being obvious, **cannot be a substitute for the required by law decision to dissolve the assembly**. Such calls **cannot produce any effects** (...). **The defendants did not arrive in the area surrounding the Sejm (Parliament) to disrupt or impede the passage of vehicles or pedestrians** (...). **The defendants were demonstrating their view in that place, and they were acting within the law**. (...) In case of a spontaneous assembly, the organs of the Gmina (administrative unit in Poland, comparable to a county - editor's remark) have no possibility to change traffic rules. This cannot of course mean that such assemblies cannot take place. The **state public services** present on the spot of such an assembly **should attend to ensuring appropriate changes to the organisation of traffic in order to enable a spontaneous assembly**." (case XI W 3412/17)

"...in the Tribunal's view (ECHR) **it should be excluded to impose sanctions on persons who are behaving peacefully** (...) public authorities should exercise tolerance towards a demonstration whose participants are not aggressive and are not resorting to violence, **even if it was not called in line** with the laws regulating freedom of assembly, for example, if it had not been notified, contrary to the requirements." (case XI W 2256/18)

"In this given case, **there existed statutory pre-conditions for dissolving the spontaneous assembly**, however the police officer **in charge of the actions did not take a decision about dissolving** the assembly. The procedure for dissolving the assembly had not been fulfilled (...), therefore, it is not possible to accuse the defendant of committing a forbidden act as stated in the filed charges..." (case III W 542/18)

Displaying content in public view is forbidden only in non-public space, while being allowed in public space. Pursuant to Article 63a of the Code of Petty Offences, it is possible to display in public view but it is not allowed to place it.

"The legislators (...) differentiate between two causative forms – depending whether the perpetrator commits their act **in a public space or in a place other than a public space.**" (case II W 414/18)

"Pursuant to the instructions arising from Article 63A para 1 of the Code of Petty Offences, that action of a perpetrator is penalized which involves placing an announcement in a public space not meant for the purpose (...) or a drawing or placing it in public sight in another place without consent of the administrator of the location. „It is not possible to say that the defendants "placed" the said two banners in a public place not meant for that purpose. (...) the concept of "placing" indicates displaying something in a manner that is more or less stationary (...). Persons participating in a peaceful assembly **have the right to have with them banners. Provided the contents of these banners do not impinge on any good which is protected by the law, it is not possible to talk of socially harmful behaviour.**" (case II W 182/18)

Police behaviour often does not arise from the need to maintain order.

"...the decision to remove the demonstrators was dictated by something else than safety reasons, so therefore an attempt was made on a good protected by the law and this good being the right to assembly had been sacrificed" (case XI W 2987/17)

"The actions of the police which led to dispersing participants of the counter-demonstration (...) were under the circumstances adequate and desirable. However, **decisions to file criminal charges against the protesters** and to send them to court for penalisation (...) are no longer sufficiently justified and **constitute a disproportionate reaction of the state** to the circumstances under which the defendants were active and the consequences of these actions. At the same time, even if this was not the objective the public prosecutor had in mind, **it may discourage others** from active presentation of their views and from taking part in counter-demonstrations." (case XI W 2973/17)

"**The police cannot intervene** in the proceedings of a non-banned assembly **forcing its participant to refrain from participation** in an assembly that has not been dissolved because that would constitute a violation of the constitutional right to assembly (...), in such a situation when the protesters are not conducting acts of violence, **public authorities should manifest their tolerance towards peaceful assemblies** and the absence of this tolerance is a violation of Article 11 ECHR." (case XI W 3412/17)

"...notification of an assembly should be verified in greater detail (...) the relevant authority should at least try and determine what security is at the disposal of the physical person who is submitting notification of the march and that would make it possible to determine what really the goal of the assembly is (...). Proceedings of the assembly(...), already when its participants began marching **gave reason for its dissolution** because of the slogans presented which contained clearly xenophobic content (...) under these circumstances, it is difficult to understand the public prosecutor's decision to file charges (...) **it is not possible to notice here even the minimum of tolerance for a peaceful counter-demonstration** but on the contrary, the public authorities have shown they are being unjustifiably active, something that was not visible in their actions towards the participants of the ONR assembly, who, while the defendants sat down on the street, **shouted xenophobic slogans with no reaction on the part of the authorities who are supposed to safeguard order** (...). Considering such proceedings of the assembly, it is difficult to understand the passivity of the police officers who were present on the spot (...) police officers **should have approached the representative of the Gmina's authorities** to come immediately to the location of the assembly and dissolve it on grounds of violating rules of criminal law." (case XI W 2059/17)

Independence of judges, their sober judgements that do not yield to pressures exerted by the authorities in power constitutes a huge support for the citizens. If judges survive the attack on their independence and the current line of case law continues, then we will be able to defend the European model of social order, the indicator of which is regarding citizens as persons before the law. We do not want to become objects in the actions of the authorities, toys in the hands of the executive governance. The protests are only and exclusively about that, about protecting the freedom and dignity of people, about defending the foundations of civilised order in our country. Sometimes citizens reach for civil disobedience measures which may be unnerving for some. However, they are never a manifestation of anarchy or lack of respect for the law, but at most an act of desperation stemming from awareness that the current authorities are appropriating areas of social life that are not the authorities' to appropriate, and that the civilised channels of communication between citizens and those in power have been dismantled and changed into a machine of propaganda, lies and manipulation.

Authoritarianism wants to rob us of rights we have learned to consider to be as natural as breathing. Since state institutions have surrendered, with a few exceptions, to the pressure of authoritarian rule which regards laws of a democratic state as a mere nothing, then it is up to ordinary citizens and their actions whether we shall be stripped of these rights and our country will be transformed into a grotesque monarchy alike to Alfred Jarry's "King Ubu". Citizens are the last resort for protecting our shared freedom. We appeal therefore for citizens not to yield to intimidation. Only the joint resistance of citizens is capable of turning around the current civilisation collapse. The ObyPomoc data makes it possible to conclude that no person who did not give up on their court battle to be regarded as Innocent, with the exception of one legally binding sentence for refusing to disclose place of employment, has been penalised. This is a lesson worth disseminating. It is also a lesson that can be used to call also for others to exercise more boldly their constitutional civil rights. Let us hope that the coming ObyPomoc reports do not show a reversal of the admirable current situation.

Michał Dadlez - and the ObyPomoc team: Małgorzata Nowogońska, Magda Bakun, Ewa Trojanowska, Dorota Przerwa, Agnieszka Dzikowska, Danuta Zawadzka, Piotr Stańczak.

ObyPomoc is able to act thanks to *pro bono* assistance of lawyers. This does not mean that we incur no costs. We search for funds to run the office, prepare materials for the lawyers, for reimbursement of travel expenses etc. If you want us to continue helping those who are being persecuted, please donate to: <https://obywateleerp.org/wspieraj> or to the money collection: <https://zrzutka.pl/6tkf94>.

The above quotes come from the written justification of cases that were subject of court proceedings in Regional and District courts in Warsaw and in Wrocław. Some Counsels engaged by ObyPomoc prefer to remain anonymous.

Warsaw: Regional Court for Warsaw-Śródmieście (XI), Regional Court for Warsaw-Żoliborz (IV), Regional Court for the Capital City of Warsaw (V), Regional Court for Warsaw-Mokotów (III), District Court

IV W 1799/17 for the picket in front of J. Kaczyński's house on Mickiewicz Str. in Warsaw on **23 July 2017 r.**, art. 52 § 2 point 2 Code of Petty Offences and for the fact that „the defendant held a banner: „ *THERE IS NO STATUTE OF LIMITATIONS ON BETRAYING YOUR COUNTRY* ” art. 63a § 1 Code of Petty Offences, number of defendants – 1. 1st Instance - 22 November 2017, Agnieszka Berezowska, Regional Court Judge, acquittal.

IV W 1886/17 the case against Iwona and others for the picket in support in front of the Police Station on Rydygiera Str. **22 July 2017**, art. 52 § 2 point 2 and art. 63a § 1 Code of Petty Offences for „organising an assembly without permission and presenting content without permission”, number of defendants – 4. 1st Instance - 27 December 2017, Renata Kielak-Komorowska, Regional Court Judge, acquittal. Defence Counsel - Kazimierz Pawelec

XI W 1957/17 the case against Arkadiusz and Maciej for disturbing public order during the monthly commemorations on **10.04.2017** „in such a way that during the ceremony commemorating the victims of the Smolensk catastrophe he shouted loud and used loudspeakers, and in this way attracted interest of the participants of the celebration, disturbing this way its proceedings”, art. 51 § 1 Code of Petty Offences – 1st Instance - 7 March 2018, Łukasz Biliński, Regional Court Judge, acquittal. Defence Counsel - Krzysztof Stępiński

XI W 2059/17 case for „attempting to disturb proceedings of a non-banned assembly by blocking the route of the march of »commemorating the foundation of ONR« **29 April 2017 r.**”, art. 52 § 2 point 1 Code of Petty Offences, number of defendants – 18, 1st Instance – 4 October 2018, Łukasz Biliński, Regional Court Judge. 2nd Instance **X Ka 117/19** – ruling dated 12 March 2019, Eliza Proniewska, District Court Judge, legally binding acquittal. Defence Counsels – lawyers: Katarzyna Gajowniczek-Pruszyńska, Ewelina Zdunek, Marta Seredyńska, Marek Małecki, Maria Sankowska-Borman, Jakub Wende, Maria Radziejowska, Karolina Margulewicz - Fortuna

XI W 2060/17 case for „attempting to disturb proceedings of a non-banned assembly by blocking the route of the march of »commemorating the foundation of ONR« **29 April 2017 r.**”, art. 52 § 2 point 1 Code of Petty Offences, number of defendants – 14, 1st Instance – 15 November 2018, Adam Pruszyński, Regional Court Judge, acquittal. 2nd Instance **X Kz 40/19** – ruling dated 20 February 2019, Katarzyna Wróblewska, District Court Judge, legally binding acquittal.

XI W 2116/17 case for „attempting to disturb proceedings of a non-banned assembly by blocking the route of the march of »commemorating the foundation of ONR« **29 April 2017 r.**”, art. 52 § 2 point 1 Code of Petty Offences, number of defendants – 6. 1st Instance – 12 June 2018, Justyna Dałkowska, Regional Court Judge. 2nd Instance **X Kz 1067/18** – ruling dated 28 September 2018, Leszek Parzyszek, District Court Judge, the case was sent for reconsideration.

XI W 2256/17 case for the fact that on **11 November 2017**, the defendants stood in the vicinity of the planned route of the march of the so-called „Independence March” holding banners, containing, among others, inscriptions „WARSAW DEFILED”, art. 52 § 2 point 1 Code of petty Offences, number of defendants – 6. 1st Instance – 8 November 2018, Łukasz Biliński, Regional Court Judge, acquittal.

XI W 2630/17 case for the attempt to block the counter-monthly **10 June 2017**, art. 52 § 2 point 1, art. 52 § 3 point 2 Code of Petty Offences, number of defendants – 18. 1st Instance – 12 April 2018 r, Łukasz Biliński, Regional Court Judge, acquittal. 2nd Instance **X Kz 693/18** – ruling dated 20 July 2018, Grażyna Puchalska, District Court Judge, case sent for reconsideration. Defence Counsels – Krzysztof Stępiński, Jarosław Kaczyński

XI W 2973/17 case for the attempt to block the counter-monthly **10 June 2017**, art. 52 § 2 point 1, art. 52 § 3 point 2 Code of Petty Offences, number of defendants – 22. 1st Instance – 26 April 2018, Łukasz Biliński, Regional Court Judge, acquittal. 2nd Instance **X Kz 810/18** – ruling dated 20 August 2018, Leszek Parzyszek, District Court Judge, case sent for reconsideration. Defence Counsel - Michał Zacharski

XI W 2987/17 case against Jarosław accused of blocking traffic during the night **16/17 December 2016 r**, art. 90 Code of Petty Offences. 1st Instance – 28 June 2018, Paweł Macuga, Regional Court Judge, acquittal. 2nd Instance **X Kz 925/18** – ruling dated 13 August 2018, Piotr Bojarczuk, District Court Judge, case sent for reconsideration.

XI W 3412/17 case for disrupting traffic on the line of the driveway into the Sejm (Parliament) **14 July 2017**, art. 90 Code of Petty Offences, number of defendants – 3. 1st Instance – 15 March 2018, Łukasz Biliński, Regional Court Judge, acquittal. 2nd Instance **X Kz 467/18** – ruling dated 24 May 2018, Krzysztof Chmielewski, District Court Judge, legally binding acquittal.

XI W 3767/17 case for disrupting traffic on the line of the driveway into the Sejm (Parliament) **14 July 2017**, art. 90 Code of Petty Offences, number of defendants – 6. 1st Instance – 13 March 2018, Łukasz Biliński, Regional Court Judge, acquittal. 2nd Instance **X Kz 424/18** – ruling dated 29 May 2018, Mariusz Iwaszko, District Court Judge, case sent for reconsideration. Defence Counsel - Jarosław Kaczyński

XI W 3577/17 case for the attempt at blocking the counter-monthly **10 May 2017**, art. 52 § 2 point 1 Code of Petty Offences, number of defendants – 7. 1st Instance – 14 April 2018, Łukasz Biliński, Regional Court Judge, acquittal. 2nd Instance **X Kz 725/18** – ruling dated 27 September 2018, Hubert Zaremba, District Court Judge, legally binding acquittal.

Defence Counsel - Jarosław Kaczyński

V W 4255/17 the case against Arkadiusz and others for „disturbing peace and public order” **24 July 2017**, in front of the Headquarters of the Law&Justice Party, Nowogrodzka Str. in Warsaw, art. 51 § 1 Code of Petty Offences, number of defendants – 10. 1st Instance – 18 January 2018, Anna Ziemińska, Regional Court Judge, acquittal. The Public Prosecutor did not file a motion for reconsideration, the acquittal became legally binding.

Defence Counsel - Kazimierz Pawelec

III W 533/18 for the attempt to block the March of „the Cursed Soldiers” **1 March 2018**, Rakowiecka Str., Warsaw, art. 52 § 2 point 1 Code of Petty Offences, number of defendants – 6. 1st Instance - 22 November 2018, Katarzyna Anna Kruk, Regional Court Judge, acquittal.

Defence Counsel - Radosław Baszuk

III W 542/18 for the attempt to block the March of „the Cursed Soldiers” **1 March 2018**, Rakowiecka Str., Warsaw, art. 52 § 2 point 1 Code of Petty Offences, number of defendants – 1. 1st Instance - 26 October 2018, Łukasz Malinowski, Regional Court Judge, acquittal.

Defence Counsel - Radosław Baszuk

Wrocław: Regional Court for Wrocław Śródmieście

II W 182/18 case against Ewa, Małgorzata, Włodzimierz and Izabela for organising a picket in support of the persons being interrogated in connection with peaceful protests, Trzemeska Str., Wrocław, art. 52 § 2 point 2 and for holding banners: „*We will not be intimidated*”, „*We have laws/rights: the laws of logic, laws of physics and human rights - ObywateleRP*”, art. 63a § 1 Code of Petty Offences, number of defendants – 4. 1st Instance - 29 March 2018, Wojciech Sawicki, Regional Court Judge, acquittal.

Defence Counsels - Miłosz Śliwiński, Marcin Haško, Dariusz Krupa, Beata Ćwik

II W 414/18 case against Patryk for „displaying in public view without consent of the administrator of the venue a banner with the inscription: „*We have laws/rights: the laws of logic, laws of physics and human rights - ObywateleRP*”, art. 63a § 1 Code of Petty Offences, number of defendants – 1. 1st Instance – 8 June 2018, Wojciech Sawicki, Regional Court Judge, acquittal.

Defence Counsels - Marcin Haško, Beata Ćwik

II W 475/18 case for having on **11 November 2017** „in Wrocław, on Kazimierza Wielkiego Str. disrupted the proceedings of a non-banned assembly by standing together with other person and blocking the passage of the march”, art. 52 § 2 point 1 Code of Petty Offences, number of defendants – 8. 1st Instance - 30 October 2018, Wojciech Sawicki, Regional Court Judge, acquittal. 2nd Instance **IV Ka 91/19** – ruling dated 2 May 2019, Krzysztof Głowacki, District Court Judge, legally binding acquittal.

Defence Counsels – Legal Councillor Adam Furtak, lawyers: Dariusz Krupa, Aleksander Sikorski and Miłosz Śliwiński

V W 615/18 case against Rafał for „displaying in public view without consent of the administrator of the venue a banner with inscriptions: „*We will not be intimidated*” and „ *We have laws/rights: the laws of logic, laws of physics and human rights - ObywateleRP*”, art. 63a § 1 Code of Petty Offences, number of defendants – 1. 1st Instance – 29 March 2018, Izabella Gabriel, Regional Court Judge, acquittal.