

The Enlarged European Home Needs Enhanced Networks of Watchdogs

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This paper attempts to show, on the example of Poland, that the enlarged European Union needs strategies for supporting local civil society “watchdogs” currently grappling with multiple problems in the new EU member States.

Background

During the past 15 years of comprehensive political, economic and social changes Poland has undergone a transition from an authoritarian regime to a rule-of-law country. This process was significantly shaped by pressure from international organisations and institutions, including the European Union. One of the most important changes has been a rise in opportunities for citizens’ self-organisation. People can now genuinely exercise their right to freedom of speech, directly take part in political and decision-making processes (e.g. meaningfully vote for candidates of their choice and/or run for public office), freely gather and associate on the grass-roots level, and last but not least establish organisations (both for-profit and not-for-profit) complementing the State in delivering social assistance and addressing social problems. The most important consequence of such transformation lies in changing relations between State and citizens. Now every act undertaken by the authorities, both at the central and local levels, must be based on law and citizens can monitor the authorities’ activities.

At the same time, however, new problems have also emerged. One of the most important challenges to recently won freedoms and human rights in the “new” Poland is a rise and spread of what may be termed “octopuses”, informal and corrupt networks functioning outside of law which, even in the absence of overt criminal activities, are able to disrupt the proper functioning of the Government and administration. Disturbingly, such “octopuses” exist not only within the Government but also within local communities. Indeed, it is safe to say the “octopuses” spreading within local communities are even more dangerous than those penetrating the central Government, because their activities may more directly interfere with the normal course of citizens’ daily lives.

Watchdogs without Teeth

Citizens’ main weapon against abuse of power is transparency, which would allow the maintenance of control over public administration and help deter corruption. Transparency is necessary for empowering the proper functioning of the rule of law. In practice, however, and in spite of the new Access to Public Information Act in Poland, [\[1\]](#) very often the public is unaware of activities of the administration, particularly of the local authorities, e.g. how decisions are taken, in what way public money is spent, and so forth. The scope of civil society engagement is very limited. There is a severe lack of civil society watchdogs in Poland. Although there are almost 200 operating watchdogs, the most relevant among them appear to be legal clinics, which merely give advice or occasionally take up individual cases, but do not engage in active monitoring, lobbying or interventions for transparency of the Government [\[2\]](#) . Polish watchdogs are mainly concerned with “soft” human rights and environmental issues, but much less with the more difficult question of corruption.

Most of the *real* watchdogs in Poland struggle with internal and external limits to their activities and even to the very existence. The most significant of the “internal” obstacles are: lack of skilled staff, shortage of experience and know-how, and under-developed ethics. The primary “external” obstacle is lack of material (financial and institutional) support. It is, indeed, extremely difficult to find appropriate sources of funding because, as a rule, the Government and businesses who could provide funding are themselves the main object of scrutiny of the watchdogs, thus creating a “conflict of interest”. In turn, limited funding makes it difficult to employ or engage skilled personnel (such as qualified lawyers), to purchase necessary equipment, or to undertake watchdog activities on a wide scale. Alongside “grass-roots” civil society organisations, another extremely important factor in ensuring transparency is the media – newspapers, radio and television. However, many media, particularly local, are also often unable to serve their watchdog role, and oversee the actions of local authorities, due to their material dependence on the authorities. Some media are owned by the municipal authorities; others are owned by large, sometimes foreign, media groups. The few independent media are frequently subjected to intimidation and even outright coercion, for example through losing advertisement opportunities to sustain themselves, or through litigation threats in the case of unfavourable for authorities publications.

Last but not least, there are also watchdogs and media that pursue private rather than public objectives, such as individuals who engage with watchdogs and/or media to win municipal (re)elections, to obtain publicity, or for the sake of financial gains (for example foreign grants). Thus, even those watchdogs whose task it is to safeguard against corrupt practices appear themselves not entirely free from corruption. [3] As a result, both credibility of watchdogs and their efficiency are substantially reduced. Low efficiency of undertaken interventions and actions on occasion itself leads to unethical behaviour of some organisations (or their activists). For instance, the fact that due to their limited resources watchdogs only manage to achieve limited success causes frustration and prompts some watchdog activists to seek immediate gains for themselves or their organisations (e.g. take bribes) [4].

The problems described above leave a great chunk of the public administration virtually free of societal supervision and control. Powerful institutions left to operate without control tend to reduce their standards and this leads to a violation of citizens' rights. Accordingly, in Poland there is a vicious circle: in the absence of efficient watchdogs the State is not interested in making or enforcing good laws, while citizens are apathetic and disenchanted in exercising their rights, including insisting on transparency and accountability of government.

Such problems are evident in all CEE countries that join the European Union, and need to be addressed as a matter of priority, if the enlarged Union truly values "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities". [5]

Food for thought for the future EU

So what can Europe do beyond enlargement for further democratisation and increased transparency in the new member States?

Strategies for promoting and enhancing the rule of law in these countries must contain such crucial element as **support and development of local watchdogs** engaged in independent monitoring and evaluation of ongoing activities of public administration in practice. This is especially important in the fields of access to public information, decision-making processes, spending public monies, preparation and conduct of elections as well as monitoring the pre-electoral environment.

Enhancing the rule of law also requires development of networks of organisations and institutions supporting watchdogs. Such networks are in themselves an essential factor of democratisation, and could provide essential material resources, and occasionally take over issues raised by local watchdogs when efforts by local activists alone are insufficient or even present a danger of persecution for such watchdogs.

The effectiveness of local watchdogs depends to a great extent on principles and know-how. So a very important role for networks should be **developing standards of ethics** (e.g. elaborating objective reporting criteria, preventing conflict-of-interest situations within watchdogs [6], among others), and developing solid framework **monitoring mechanisms**, which would enable effective advocacy for adopting new and better legislation, enforcing the existing laws, and developing better public policies.

Discussion about strategies to enhance civil society control over actions of public administration and transparency of public institutions would not be complete without addressing the issue of **measuring the effectiveness and efficiency of watchdogs** and their networks themselves. However, in practice this is a formidable – if at all possible – task, since practically every indicator is almost bound to be weak or insufficient. Nevertheless, the "monitoring of monitors" and evaluation of their impact is crucial.

Measuring (the volume of engaged participants may be seen as one tangible indicator of watchdog effectiveness, as are the number of founded new watchdogs and, importantly, their duration. The measurable outcomes of watchdog activities can then be: an increased number of brought legal cases, as well as of public-interest lobbying initiatives, and overall civil mobilisation of local communities clearly traceable to watchdogs' activities. These must lead to positive changes in functioning of public administration, and in the changing direction and depth of public policies. A tremendously useful instrument for monitoring watchdog activities can also be "**maps**" of civic engagement: a catalog of the watchdogs operating across the country and the main focus of their activities [7]. "Maps" at the local, regional and country (or federal level could help indicate which watchdogs operate in which geographical areas and in what concrete problems/issues they are involved. Such maps could also reveal the "grey zones", i.e. without any ongoing watchdog monitoring activity, and thus prompt developing ways of establishing and supporting new watchdogs there [8].

In conclusion

There are already some limited examples of "good practices" of supporting watchdog networks in Poland, such as the Helsinki Foundation for Human Rights and Anti-Corruption Programme at the Batory Foundation. The HfoHR

shared its experiences in the recently published textbook “Monitoring Human Rights”. [9] Also, the Anti-Corruption Programme [10] is involved in two types of activity: creation of Local Civic Groups and preparing instruments such as “Transparent Commune”. [11] But these lonely swallows do not yet make summer. Democratisation and increasing transparency need a wider and sustained network of such institutions and initiatives.

The enlarged Europe needs enhanced networks of civil society watchdogs engaged in monitoring of the functioning of government, local as well as central. Such independent monitoring could greatly help reduce, halt and deter the proliferation of “octopuses”. The European Union should therefore become more involved in developing adequate conditions for the effective functioning of local watchdogs by supporting civil society networks in the new member States, as well as in remaining and prospective candidates for future accession.

Footnotes

[1] Adopted in 2002. See at <http://www.sejm.gov.pl>.

[2] Based on the author’s doctoral dissertation “Watchdogs as constituent of the regime governed by the rule of law”, Silesian University, Katowice 2003, (manuscript in Polish).

[3] See for example Sorin Dan Sandor, “Great expectations - Can civil society tackle corruption in Central and Eastern Europe? ” available at: <http://www.eumap.org/articles/content/94/944/>.

[4] In Poland such cases, termed *eko-haracz* (“eco-tribute”), are connected with investments. Several of particularly notorious cases received coverage in the main Polish media (see: “Polityka”, “Wprost” and “Newsweek”).

[5] The “Copenhagen criteria”, defined by the European Council in Copenhagen (1993).

[6] That is, local watchdogs should not be actors in local politics or directly engaged decision-making.

[7] P. Frączak, „Tychy. The City. Case study of local activity”, in: R. Skrzypiec, ed., *Local citizens’ activity, Research Center on Local Activity*, Association „Asocjacje”, Warsaw, 2002 (in Polish).

[8] We prepared a map on local civic engagement in protecting citizens rights in Tychy (Upper Silesia, Poland). See, „The Map of the Citizens’ Activity in the Field of Citizen’s Rights”, Association „Green Federation”, Tychy, 2001 (in Polish).

[9] See HfoHR, Warsaw, 2000 (in Polish) at <http://www.hfhrpol.waw.pl>.

[10] A joint initiative of the Batory Foundation and HfoHR, see <http://www.batory.org.pl>.

[11] Instrument supporting societal control over operation of public administration, *ibid*.