



CULTURAL AND RELIGIOUS COUNTERREVOLUTION

Is Polish Law under the Threat of
Christian Fundamentalists' Ideology?
Publication – Context and Summary



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“Cultural and Religious Counterrevolution – Is Polish Law under the Threat of Christian Fundamentalists’ Ideology?”¹

Publication – Context and Summary

Introduction

The strength of democracy lies in pluralism and diversity. Today’s liberal democracy seeks to reflect these values in secular law which would be common for the entire society. So that everyone, at least in theory, was able to live in accordance with their beliefs and enjoy equal rights. These values are expressed in the Constitution of Poland of 1997. The preamble reads: “All citizens of the Republic, both those who believe in God as the source of truth, justice, good, and beauty, as well as those not sharing such faith but respecting those universal values as arising from other sources, are equal in rights and obligations towards the common good”. The first article of the Constitution states that “The Republic of Poland shall be the common good of all its citizens.”²

Our publication stems from serious concerns that in Poland, pluralism and related constitutional values are being jeopardized.

The publication “Cultural and Religious Counterrevolution” aims at identifying and exposing the activities and strategies of Christian fundamentalists who seek to abolish the principles of secular law in

1 The works on the publication ended in July 2019.

2 <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

Poland. The authors believe that the counterrevolution in Poland is being implemented by the Institute of Legal Culture, Ordo Iuris³.

And therefore lawyers, activists and politicians have laboriously broken through the maze of activities, campaigns, and texts of Ordo Iuris. We have undertaken the task of decoding the distorted meaning of words and sentences, we have clarified understatement while paying careful attention to the origins of reference material as well as the lack of proper references in the texts produced by the lawyers and experts collaborating with Ordo Iuris. The most common manipulation method, and thus creating ideologically loaded messages that pretended a reliable legal expertise, has been particularly hard to prove. Exposing this method required good knowledge of the subject and legal expertise. It was also time-consuming as it often took hours to analyse each text together with source materials. It was vital for us to clearly determine the way such manipulations are produced, but also to reveal how deceptive they are, and finally, to prove that they are not accidental at all, but constitute elements of a very coherent strategy.

We hope the results of our work will serve as a useful source for journalists, but also for lawyers who do not specialize in the discussed areas. We share the conviction that the revealed and described manipulation strategies constitute a significant threat. To those who are not familiar with the ideological background of the organization, the overall style gives a professional impression since biased fragments, distorted concepts, contorted content of the quotes are often juxtaposed with true information and reliable analysis. And thus, we recommend not to trust the texts produced by Ordo Iuris, but to scrupulously verify them.

3 Ordo Iuris Institute (in Latin: legal order) is a Polish non-governmental organization based in Warsaw. It was established in 2013 by the Pr. Piotr Skarga Foundation. Its main objective is to “study the legal culture and spiritual heritage, in which Polish culture is rooted, and to promote them in public life and within the legal system”. The Institute employs lawyers, collaborates with experts and several partner organizations. The organization is involved in academic, expert, and legal activities, it also recruits and educates young lawyers.

Finally, we would like to emphasize that we do not intend to oppose or undermine organisations that identify with conservative ideas. We see a value in the existence of entities that represent citizens with conservative world views. The core of healthy and liberal democracy are discussions and debates held both in public and private sphere and on topics where citizens' views differ. However, we are concerned about one specific goal which seems to motivate the activity of Ordo Iuris members. This goal is to bring such changes in secular Polish law so that it would reflect restrictively and fundamentalistically interpreted principles of Christian religion. We are concerned about the efforts of Ordo Iuris to carry out a cultural and religious counterrevolution in Poland. At the same time, we do not claim that this is the sole and exclusive purpose of their agenda. Nevertheless, for its importance, our publication focusses on this very aspect of their activity.

European sources of the cultural and religious counterrevolution

The starting point of this publication is the report: *Restoring the Natural Order: the religious extremists' vision to mobilize European societies against human rights on sexuality and reproduction*⁴ (hereinafter EPF Report 2018), published by the European Parliamentary Forum on Population and Development in Brussels. The Report focuses on the analysis of the Agenda Europe blog⁵, a pan-European project called *Restoring the Natural Order*⁶ (hereinafter RTNO-original manifesto), prepared and

4 <https://www.epfweb.org/node/690>

5 Agenda Europe is a blog run by persons representing the very conservative version of Christianity and wishing to promote society and law in Europe based on restrictive interpretation of the religious values, see: <https://agendaeurope.wordpress.com/about/>

6 Strategy for Europe drafted and promoted by the radically conservative faction of Christians aiming at reversing of the cultural revolution in Europe, see: <https://agendaeurope.files.wordpress.com/2019/05/rtno-2014.pdf>

gradually implemented in Europe by right-wing Christian fundamentalists.

According to the Report, the informal group formed in 2013 and its members declared that their goal was to reverse the ‘achievements of the cultural revolution’ of the 60’s in Europe⁷. The ‘cultural revolution’ that they aim at reversing and against which they operate is nothing else but emancipation of women, recognition of their equal rights, as well as equality of LGBT+ persons, national and ethnic minorities in both public and private sphere. **Equal rights for women mean access to contraception, to sexuality education and the right to terminate pregnancy;**

for LGBT+ persons – legalization of same-sex relationships, protection of trans and intersex persons’ rights, respecting their agency and their freedom of self-determination. Those specific regulations constitute a consequence of the development of human rights which guarantee equality of people irrespective of gender, origin, or skin colour and protect all of us against discrimination and harassment. The principles, we refer to, are based on the separation of Church and State. They operate under premises that we live in a diverse society consisting of religious people, agnostics and atheists, heterosexual and non-heterosexual persons, different national or ethnic groups.

According to the information from the Report, additionally confirmed by the Agenda Europe website⁸, radical right-wing Christian activists believe that liberalization of law, recognizing diversity of attitudes and beliefs among people is a negative phenomenon. **They question the division into private and public sphere and postulate that all people**

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7 <https://agendaueurope.files.wordpress.com/2019/05/rtno-2014.pdf> (Ibid.)

8 <https://agendaueurope.wordpress.com/on-the-agenda/>

live according to common moral principles compliant with ‘natural law’ understood as religious law originating directly from God. The second pillar of this ‘universal morality’ is formed by Christian values, interpreted in an extremely conservative way. The authors of the texts posted on the Agenda Europe website focus mainly on the sphere of human sexuality. They strive for issues such as divorce, contraception, sex life, access to abortion and assisted reproduction techniques, as well as sexual orientation, not to be a private matter of citizens’, but a matter regulated by the State in accordance with Christian doctrine⁹. This implies opposition to divorce and taking legal actions to limit them, a ban on contraception, a ban on abortion, stigmatization of non-heterosexual persons, as well as a ban on the use of the in vitro method. These areas are referred to as the key issues. Agenda Europe offers a coherent overview of the problems, indicates the connections between them and puts forward solutions to ‘restore natural order in accordance with natural law’, and thus dictated by religious commandments¹⁰.

The report indicates that the original founding group of radical right-wing Christian activists has grown significantly, attracting over 100 organizations from more than 30 European countries. In their home countries, these organizations introduce a common operating strategy through similar mechanisms and instruments. Media reports

9 ‘The acceptance of divorce, contraception, abortion, homosexuality, surrogacy, etc. has profound implications not only for those directly involved but also for society at large. Accepting these as merely “private matters” on which everybody should make his own decisions is tantamount to accepting that those with the lowest moral and cultural standards should be allowed to set society’s standards and make the rules for the rest of us. What results from this is nothing less than a process of de-civilisation.’
See: <https://agendaeurope.wordpress.com/on-the-agenda/> (Ibid.)

10 ‘But what is clear is that those wishing to overturn the cultural revolution and halt the civilizational decline of the West must be consistent in their arguments – otherwise they will not be heard. The purpose of this website, therefore, is to offer a coherent overview of marriage, life, and family issues, explaining how they interrelate and tracing a possible policy agenda that could be pursued to restore a legal order that is consistent with human dignity and the dictates of natural law.’
See: <https://agendaeurope.wordpress.com/on-the-agenda/> (Ibid.)

and the very activity of the Institute for Legal Culture, Ordo Iuris, both in terms of the selection of topics and methods of action, indicate that in Poland, the organization has taken up the task of carrying out the religious and cultural counterrevolution. Ordo Iuris operates by means of the methodology and the strategy described below.

Thematic scope of the cultural and religious counterrevolution

In line with the 2015 Strategy outlined in the EPF Report 2018¹¹, radical right-wing conservative activists identified **five distinct thematic strategies they would focus on to 'stop the liberalization of laws and customs'**:

1. **a strategy against euthanasia;**
2. **a strategy for religious freedom;**
3. **a strategy for marriage and the family;**
4. **a strategy opposing anti-discrimination legislation; and**
5. **a strategy against surrogacy.**

They coincide with the content of the Agenda Europa website, where areas such as family, marriage, contraception, termination of pregnancy, in vitro, euthanasia, organ transplantation and finally, sexual orientation issues are indicated¹².

Our publication focuses on the abovementioned themes as well. They have been divided into three main categories:

1. Sexual and reproductive rights;
2. Traditional and exclusive understanding of family;
3. Conscientiousness clause.

11 "Restoring the Natural Order: the religious extremists' vision to mobilize European societies against human rights on sexuality and reproduction", Brussels, April 2018, page 9. https://www.epfweb.org/sites/epfweb.org/files/rtno_epf_book_lores.pdf

12 <https://agendaeurope.wordpress.com/on-the-agenda/>

Strategy and methodology

The goal of returning to ultra-conservative values at a national and even European level requires the use of extensive strategies. Public debate needs to be formed so that public opinion recognizes the need for specific changes. It is also about evoking fear and creating belief that without bans or restrictions our civilization will immerse into chaos and nihilism.

These strategies are summarized in the Report which indicates four of them as the leading ones. For the purposes of our publication, these strategies have been named and described so that the reader can easily understand what activities we are talking about.

1. **The Reversal Strategy** involves using the weapons of our opponents and turning them against them. This strategy takes several forms. One of them is to refute the opponents' claim to 'victim status' by saying for instance that women and LGBT+ people are not discriminated against. The next stage is for religious people or Christians to position themselves as the new, real victims of the Cultural Revolution. By framing the conflict as one of defenders of faith versus intolerant, cultural revolutionaries, the concept of discrimination and intolerance against Christians, or 'Christianophobia' will blossom¹³. With the use of this strategy, the social power structures become reversed and the majority starts usurping the status of the discriminated group.
2. **The Strategy of Takeover** involves framing the issues of the conservative agenda in terms of 'rights' which leads to takeover of the human rights language. The key element of the strategy is what the progressive community has labelled as the 'colonization of human rights' – namely, the contortion of religiously-inspired positions

13 EPF Report 2018, page 15.

on sexuality and reproduction to artificially resemble classical human rights language¹⁴. The examples of rights newly created by the radicals include the 'right of fathers to prevent the abortion of their children; the right of parents to be the first educators of their children; the right of children to receive correct information, not propaganda on sodomy'¹⁵. In Poland, this strategy is often used to confer rights on a foetus and a family unit that appear to become distinct subjects of rights within the interpretation proposed by the Polish fundamentalist organisations.

3. **The Strategy of Maligning** and Smear Campaigning involves slurring and insulting opponents, and therefore people and organisations that do not support the religiously motivated changes in legislation. These opponents are identified as the abortion lobby, the lesbian and gay lobby, the radical feminist lobby, and militant atheists. The strategy is based on the constant criticism of the opponents and accusing them of preventing substantial debate, using aggressive means, being violent, which – as a consequence – leads to delegitimising their actions and even existence¹⁶. This method draws on one of the negotiation strategies, the so-called 'broken record' strategy which involves repeating the same message or a piece of information for several times and no matter what the other party says. It does not allow to enter any dialogue; it is entirely about pushing forward a specific message. This strategy is clearly visible in the language used against non-heterosexual people in general. They are constantly slandered, presented as immoral, aggressive, threatening children and adolescents, e.g. they fall victims of untrue language clusters such as 'gay and paedophile'.

14 EPF Report 2018, page 16.

15 EPF Report 2018, page 16.

16 EPF Report 2018, page 17.

4. **The Strategy of Legitimation**¹⁷ of Individuals and Organizations comes down to gaining the status of a recognized interlocutor on the international level. This strategy involves creating the image of a specialist and professional organization which – through its membership in the internationally recognized forums – legitimizes its own voice in the debate. To achieve this goal, representatives of extremely conservative organizations apply for accreditation in the international institutions such as the United Nations or the Council of Europe. They are also active within the European Union institutions. Apart from other efforts, they actively operate within the institutions structures to be able to influence the procedures related to the appointment of international judges and other representatives. Ordo Iuris effectively undertakes such activities. The organization obtained a consultative status at the UN¹⁸ and is actively involved in international processes, pushing forward their vision of a society subordinated to religious commandments¹⁹.

Apart from the strategies diagnosed and described in the Report (presented above), the authors of this publication identified two additional strategies that shall be taken into consideration.

The first one is the strategy that Elżbieta Korolczuk, PhD, elaborated on in her paper *From God and Morality to the Defence of Human Rights – Strategies of Opponents of the Right to Abortion in Poland*²⁰ and which is the strategy of language manipulation.

17 EPF Report 2018, page 18.

18 <https://ordoiuris.pl/dzialalnosc-miedzynarodowa/ordo-iuris-uzyskalo-status-konsultacyjny-w-strukturach-onz>

19 Ordo Iuris takes part in the discussion on the Agenda 30 which consists of 30 balanced millennium goals set by the UN. Ordo Iuris sees them as a threat to the family, because same-sex relationships, contraception, and sexuality education for young people are allowed.

20 Korolczuk, Elżbieta, "Od Boga i Moralności do Obrony Praw Człowieka – strategie przeciwników prawa do aborcji w Polsce", Łódź 2018. See: <http://lodzkiedziewuchy.org.pl/wp-content/uploads/2019/07/Raport-El%C5%BCbiety-Korolczuk.pdf>

5. **The Strategy of Language Manipulation** is based on avoiding neutral terms and replacing them with one's own, loaded vocabulary. Instead of an 'embryo' or a 'foetus', the anti-rights groups use expressions such as an 'unborn child', instead of 'abortion' – 'murder', instead of 'in vitro' – 'eugenics', etc. While introducing definitions different from those that have been used in the common language and the legal language so far, the anti-rights groups additionally incorporate expressions suggesting that their extremist position is beyond any question. Examples of such expressions are: 'beyond any doubt', 'it is obvious', 'everyone knows'. Moreover, the strategy of language manipulation consists of using strongly judgemental expressions that help create a vision of the forces of good opposing the forces of evil. It is based on antonymies such as 'honest – dishonest', 'moral – immoral'. Representatives of Ordo Iuris often provide unconfirmed information, negate facts and experiences of people, or use them selectively: for example, they claim that women allegedly suffer from the so-called post-abortion syndrome. Another example of deliberate departing from the truth (confirmed by the internationally recognized scientific publications), is a claim that homosexuality is connected with paedophilia.

It is also worth to distinguish the sixth strategy, extremely important for lawyers as such and often used by lawyers from Ordo Iuris:

6. **The Strategy of Legal Manipulation.** This strategy involves presenting legal analysis of a given issue in a selective manner or with violation of the principles of legal interpretation. The goal is to distort the legal understanding of concepts such as discrimination, freedom of conscience and religion, and private life. Legal manipulation correlates with the strategy of legitimisation. A person who formally meets all the requirements for being an expert (a lawyer, a professor, etc.) interprets a legal concept, a legal act, or a court ruling. In this interpretation, however, he/she often adopts

the following measures: omitting inconvenient rulings; incorrect citation of sources which makes their verification difficult; juxtaposing the thesis of court judgement with a dissenting opinion on an equal footing (without a relevant description or indicating the hierarchy between texts); citing non-binding positions of the UN Commission together with official positions such as General Observations or rulings. Such manipulations make the incorrect data look convincing. Most importantly, texts written with the use of this strategy are extremely difficult to 'decode.' Their authors operate on the verge of producing fake news. While presenting their own interpretations of norms or judgments, they do not include all the data, but only carefully selected materials that fit their thesis. Therefore, we are not dealing here with legal interpretation and the argumentation, lawyers are accustomed to and perform in their work on a daily basis, but with journalistic writing that not only omits the principles of legal interpretation, but is often simply unreliable.

Our publication does not focus on one, **very frequent strategy applied by Ordo iuris that is increasingly present on their agenda, which is bringing legal actions against a number of individuals who criticize their activity or take action against their views.** For example, Ordo iuris submitted private indictment against an activist for women's rights and the Women's Strike activist, Marta Lempart²¹, sued a headmaster who reacted to the homophobic activities of a teacher²², took legal steps against Vice President of Warsaw Paweł Rابيةj because of his strong criticism of the

21 See: <https://twitter.com/martalempart/status/1086256378115751938>

22 Case of a teacher who encouraged the purchase of Gazeta Polska with the sticker "LGBT free zone" and posted content offensive to the LGBT + community on his Facebook profile. See: <https://queer.pl/news/203636/ordo-iuris-pozwalo-dyrektora-szkoly-za-sprzeciw-wobec-homofobii-nauczyciela> or <https://ordoiuris.pl/wolnosc-sumienia/dyrektor-grozil--nauczycielowi-ktory-krytykowal-ruch-lgbt-sprawa-trafi--do-sadu>

Małopolska School Superintendent or Ordo Iuris itself²³. Most recently, Ordo Iuris has lodged claims against MEP Radosław Sikorski who associated the organization with the support for the so-called “LGBT-free zones”²⁴. Moreover, according to media reports, the Ordo Iuris lawyers will represent Kaja Godek, a pro-life activist and the author of a draft bill banning abortion, debated by the Polish Parliament in April 2020, against Anja Rubik for alleged defamation²⁵. Such litigation activities have a chilling effect and may lead to intimidation and fear, making people afraid of harassment or losing their job.

Another increasingly dangerous aspect, not so widely tackled in the publication, is the gradually more evident connections of Ordo Iuris with the current authorities in Poland. There exist media reports stating that the Government of Law and Justice cooperates with the Ordo Iuris lawyers who are becoming more and more influential due to the web of connections with the government officials as well as the posts they hold in the structures of public organisations or institutions²⁶. In May 2020, the founder of the Ordo Iuris Institute, Aleksander Stępkowski, was appointed by the President of Poland for the position of a temporary president of the Supreme Court²⁷ and after appointing of the permanent president, he became a spokesperson for the Supreme Court, while another Ordo Iuris expert became a member of the Government Commission which is responsible for investigating the problem of

23 See: <https://wiadomosci.wp.pl/pawel-rabiej-w-tarapatach-fundacja-domaga-sie-przeprosin-6421660629522561a>

24 See: <https://ordoiuris.pl/dzialalnosc-instytutu/ordo-iuris-pozywa-radoslaw-sikorskiego-natematpl-publikuje-sprostowanie>

25 See: <https://kobieta.interia.pl/gwiazdy/news-kaja-godek-odpowiada-anji-rubik-bedzie-pozew,nld,4441266>

26 See: <https://www.polityka.pl/tygodnikpolityka/spoleczenstwo/1744974,1,pis-poslusznie-wykonuje-zalecenia-ordo-iuris-oto-kolejny-dowod.read>

27 See: <https://www.rp.pl/Sedziowie-i-sady/305159939-Kim-jest-Aleksander-Stepkowski---nowy-pelniacy-obowiazki-Pierwszego-Prezesa-Sadu-Najwyzszego.html>

paedophilia in Poland²⁸. The Ministries support activities of Ordo Iuris in various ways: they serve as patrons for the events organised by Ordo Iuris²⁹, they promote their ideas, or simply use the easily recognisable Ordo Iuris language in public debate. This is particularly worrying because since 2015, the legislative, executive, and increasingly also the judiciary authorities in Poland have been under control of Law and Justice party. The previously mentioned chilling effect has also affected this publication and caused that two authors were forced to remain anonymous for professional reasons. We decided to mention about it to show the scale of the problem. Limiting public debate by intimidation is slowly becoming a fact.

Publication structure and summary

This publication aims at showing how Ordo Iuris is gradually, systematically, and meticulously implementing the plan of 'restoring the natural order' in Poland. To achieve this goal, the organization applies all the strategies described above.

In this publication, we focus on activities of Ordo Iuris in the following three areas: sexual and reproductive rights; traditional understanding of the family; distortion of the concept of freedom of conscience and religion. Additionally, we present three basic spheres of Ordo Iuris activity: the area of litigation, the area of legislation, and finally, their activities on the international level. The spectrum of Ordo Iuris activity is rich, extensive, almost total. We hope that the information we have gathered will help readers see the full picture as well as understand the scope of undertakings aimed at 'restoring natural order' taking place in Poland right now.

28 See: <https://wiadomosci.gazeta.pl/wiadomosci/7,114883,25954853,rzecznik-praw-dziecka-powotal-pierwszego-czlonka-komisji-ds.html?fbclid=IwAR0TRN9wtBv64jDwcjWIL-C1dUyDmZpGU3JHGvc-TX2MkkSHRYcvlptw6gx4>

29 <https://ochronarodzinn.ordoiuris.pl/>

THE FIRST PART OF THE PUBLICATION consists of 7 texts divided into 3 thematic chapters, in which we thoroughly analyse legal documents, draft bills, press releases and comments produced by Ordo Iuris. This way, it was possible to reveal the vision of the state and society pushed forward by this organization.

1.

'No' to Reproductive Rights. How to Deprive Women of Control Over Their Bodies and Procreation in the Name of Religion.

In this chapter, we discuss how Ordo Iuris is moving towards legal changes that are designed to prohibit or significantly limit sexuality education, assisted procreation through in vitro methods, emergency contraception, and abortion.

The first paper entitled *Sexuality Education* outlines Ordo Iuris activities aimed at undermining the foundations of Polish and international law related to sexuality education and questioning the necessity and sense of conducting such classes at schools. **Ordo Iuris seeks to limit teaching about human sexuality at schools to lessons dedicated to family and marriage.** Com-

prehensive sexuality education, which is already a standard in Europe, constitutes a threat from the perspective of the Ordo Iuris fundamentalist ideology. Deliberately manipulating the law and the language, Ordo Iuris contrasts sexuality education with marriage, family, and parenthood, calling the latter constitutional values, while locating sexuality education in the area of 'competitive' ones. To achieve the intended effect, the organization proposes, e.g. changes in education law, but also offers legal assistance to parents who are ready to challenge schools offering some form of sexuality education. Ordo Iuris encourages parents' councils to actively oppose the offers of

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workshops and extracurricular activities conducted by external parties. *Ordo Iuris* consistently challenges international regulations, standards, and institutions, e.g. the UN Committee on the Rights of the Child, undermining its competence and the legitimacy of its comments.

In the second paper entitled *In vitro and Contraception*, we indicate how **Ordo Iuris seeks to subordinate infertility treatment to the doctrine of the Catholic Church. The emancipation of the human embryo, i.e. the imaginary, but also legal detachment from the body and life of a pregnant woman is clearly to serve this purpose.** The organization gets also involved in fighting against emergency contraception, which is similarly justified, and thus with the concern for the conceived form of the reproductive cell treated as a subject of the full spectrum of human rights. A striking example of the Strategy of Takeover are the activities consisting in constructing new categories of rights in order to properly 'define humanity, family, as well as desirable and possible forms of citizenship'³⁰. It has been particularly emphasized that during the debate on the Act on Infertility Treatment³¹ (hereinafter called the *In vitro* Act), the idea of a human embryo as a person with analogous rights to people already born has been consequently pushed forward³². The introduction of the concept of a 'conceived child' into Polish legislation and the consequences of so have already been the subject of legal commentaries, showing that the speculative detachment of the

30 Korolczuk, Elżbieta, „Wystarczy in vitro, aby zniknęły całe narody” [„In vitro is Enough for Nations to Vanish”]. Analysis of the selected in vitro rhetorical strategies applied by opponents in Poland: See: <https://pl.boell.org/pl/2013/12/07/wystarczy-vitro-aby-zniknely-cale-narody-analiza-wybranych-strategii-retorycznych>

31 Act of 25 June 2015 r. on Infertility Treatment, Dz.U.2015.1087.

32 Korolczuk, Elżbieta: “Many representatives of medical professions and organizations working for patients define infertility and assisted reproduction technologies as a health problem, while representatives of the Catholic Church and conservative politicians define it as a moral issue. According to the former, in vitro surgery is a medical service to which persons suffering from specific health problems should be entitled, as they are entitled to medical treatment as citizens. According to the latter, human embryos should be included in the category of citizens; their right to life should be vested in moral superiority over the right of potential parents to treatment and having biological children.”

human foetus from the woman's body is a far-reaching abuse, which de facto creates legal fiction. This issue also became the subject of linguistic analyses, particularly in the context of the in vitro method; they pointed out the relationship between the language used to address in vitro and the construction of new legal categories³³. An obvious example of enforcing this concept is the amendment to the Act on Patients' Rights and the Ombudsman for Patients as well as the Act on Medical Activities proposed by Ordo Iuris in March 2018³⁴. The main purpose of the amendment was to include a fertilized human gamete and embryo in the understanding of the term 'patient'. In this article, the author thoroughly describes activities undertaken by Ordo Iuris to attack and put a halt to the local government initiatives intending to finance the in vitro fertilization procedure and the organization's action against the In vitro Act on the national level. Ordo Iuris has also used the false argument that a fertilized egg is a patient in order to attack and oppose EllaOne emergency contraception, stating that it leads to 'annihilation of life'.

In the third paper entitled *Termination of Pregnancy in the European Convention of Human Rights*, we show how Ordo Iuris employs manipulation strategies to push forward its theses. It is illustrated by two texts. In the first one: *Abortion on Demand and the European Convention on Human Rights*³⁵ by Grégor Puppincq, PhD, the author interprets the jurisprudence of the ECtHR in terms of legality of abortion. The second is a note by Joanna Banasiak, PhD, who criticises the ECtHR's judgment in the case of P. and S. v. Poland. **Both texts produced by Ordo**

33 Korolczuk, Elżbieta, „Wystarczy in vitro, aby zniknęły całe narody” [„In vitro is Enough for Nations to Vanish”]. Analysis of the selected in vitro rhetorical strategies applied by the opponents in Poland: See: <https://pl.boell.org/pl/2013/12/07/wystarczy-vitro-aby-zniknely-cale-narody-analiza-wybranych-strategii-retorycznych> (Ibid)

34 <https://ordoiuris.pl/dzialalnosc-instytutu/dziecko-poczete-tez-pacjent-ordo-iuris-wystepuje-z-inicjatywa-zmian>

35 See: <https://ordoiuris.pl/ochrona-zycia/aborcja-na-zadanie-i-europejska-konwencja-praw-czlowieka> [text in Polish]

luris experts constitute an example of selective interpretation of law and prove that Ordo Iuris systematically uses Legal Manipulation and Language Manipulation Strategies as well as the Strategy of Takeover to impose its position. The author of the first article creates a kind of a patchwork consisting of various cases, related to abortion one way or another. He does not give details of the factual background (as if it did not matter), neither does he mention the chronology of the issued cases, even though the ECtHR has repeatedly emphasized the information about the development of its case-law, and therefore dates are of crucial importance here. Such free juggling with cases without providing their context and neglecting the development of legislation related to abortion makes it impossible to draw general conclusions, and this is what the author does. Therefore, we decided to present these cases again, but with the relevant description of facts and completed with dates of the issued judgments. The author of the analysis refers to the three central principles that the European Court of Human Rights takes into account in its case-law and without which it is not possible to understand the full meaning of its judgments. These are: the principle of subsidiarity, the margin of appreciation principle and the principle of dynamic interpretation. None of them were reflected in the analysis carried out by the Ordo Iuris expert. In addition, **the Ordo Iuris expert separates the foetus, called a 'child', from a woman and her body.** As it appears, relentless repetition of fiction is a permanent element of the strategy adopted by Ordo Iuris, while – as it was reiterated by Lech Garlicki³⁶, following the wording of the German Constitutional Tribunal, 'mother and child are two in one' and this means that the life of a foetus cannot be treated in the same way as the life of a born child that can develop independently outside the mother's

As it appears, relentless repetition of fiction is a permanent element of the strategy adopted by Ordo Iuris

36 Polish judge at the European Court of Human Rights in 2002–2012.

body³⁷. Following what have been stated by the Human Rights Commission and later by the Court of Human Rights on numerous occasions, a woman does not lose her legal subjectivity due to pregnancy. Such an approach is directly related to the lack of a definition of the beginning of life in the European Court of Human Rights case-law, since neither the Commission³⁸ nor the European Court of Human Rights³⁹ took up the challenge of developing a clear definition. In his article, Grégor Puppincq gives a lot of attention to the respect of the right of a man with whom a woman is pregnant. He claims that a man may become a victim of a violation of the right to private life when a woman decides to terminate the pregnancy without his consent⁴⁰ and the consent of a potential grandmother⁴¹. This illustrates how the Strategy of Takeover in relation to rights is applied in practice. It translates into using the human rights language to create new rights in order to return to the concept of submission of women to men and giving a husband or an elder family member a full control over the body and life of a pregnant woman. **What is shocking, G. Puppincq's article also encourages 'potential fathers or grandparents' to file applications – on the grounds of Article 39 of the ECtHR's statute – to urgently take interim measures in order to prevent women from having abortion.** This kind of encouragement seems to suggest a pregnant woman's family members that she

37 See: Kotiuk, Irmina, *Polemika z opiniami dr. hab. Marka Dobrowolskiego (KUL) oraz dr. hab. Pawła Sobczyk (UO) przygotowanymi na zlecenie BAS na temat projektu ustawy „Zatrzymaj Aborcję”*. [Article in Polish where I. Kotiuk enters into discussion with the opinions presented by experts commissioned by the Parliamentary Bureau of Legal Analysis on the draft law “Stop Abortion”].

See: <https://oko.press/manipulacje-i-nadinterpretacje-w-opiniach-bas-projekt-zatrzymaj-aborcje-budzi-powazne-watpliwosci-konstytucyjne/>

38 A special body of the Council of Europe, active in the years 1954–1998.

39 See cases: *W. P. v United Kingdom*, application No. 8416/78; *H. v Norway*, application No. 17004/90; *Vo v. France*, application No. 53924/00.

40 See cases: *Boso v. Italy* application No. 50490/99; *W. P. v. United Kingdom*; *H. v Norway* (see the application numbers in the footnote 26).

41 *P. and S. v. Poland*, application No. 57375/08, judgment of 30 October 2012.

has no subjectivity. This is a truly horrendous vision of depriving women of the right to control their own bodies and lives. The procedure under Article 39 of the ECtHR's statute is used exceptionally and applied only where there is an imminent risk of irreparable harm. Ordo Iuris expert, who is additionally a lawyer, presents it as a legal possibility to force a woman to remain in an unwanted pregnancy, even when it could be legally terminated, for example, due to foetal defects or for the fact that the pregnancy resulted from a criminal act.

The second analysed text is the article *Substantial legal problems as to the judgment of the European Court of Human Rights in the case P. and S. v. Poland*⁴² written by Joanna Banasiuk, PhD, a former vice president of Ordo Iuris. The mentioned article is a classic example of exaggerating and demonizing abortion and its consequences. The allegedly negative effects of abortion on the body and psyche of women would justify the multiplication of legal barriers to access legal abortion. These ideological and not medically-based arguments are the ground for the criticism of the ECtHR's judgment in this case. The ECtHR found that Poland had failed in fulfilling its obligations resulting from the Convention as the state institutions unlawfully prevented a 14-year-old girl whose pregnancy had been a result of a criminal act from accessing legal abortion. The imposed obstacles not only involved refusing the access to medical treatment, but also deprivation of liberty, separation the minor from parents and exposing the girl to pressure from priests. **In our analysis of the article, we present how Ordo Iuris uses non-substantive and false information about abortion to discredit the judgment which does not favour their worldview.**

To sum up, the first chapter draws a picture of a state where sexuality education is not only unavailable but even punished, access to contraception is restricted and women are legally forced to carry unwanted

42 Polish title: „Zasadnicze wątpliwości prawne co do treści wyroku ETPCz w sprawie P&S przeciwko Polsce”, <https://ordoiuris.pl/ochrona-zycia/zasadnicze-watpliwosci-prawne-co-do-tresci-wyroku-etpcz-w-sprawie-ps-przeciwko-polsce>

pregnancies while at the same time couples are denied the right to the in vitro infertility treatment. We indicate activities and measures taken by Ordo Iuris that have already contributed to the present situation and alarm about the frightening pace of the still ongoing process. We also demonstrate how the analyses made by Ordo Iuris experts distort and manipulate law, omit uncomfortable passages to create the impression that the persecution of women is legally permissible and even necessary.

2.

Traditional Understanding of the Family. How to Exclude in the Name of Religion.

In the second chapter, we describe legal actions taken by Ordo Iuris to prevent LGBT+ people from coexisting in the society on an equal footing, having families and family life. Using the Strategy of Maligning, Ordo Iuris has made an enemy of this social group, simultaneously idealizing and absolutizing the pattern of a traditional family, i.e. a religiously sanctioned relationship between a woman and a man exercising unrestrained control and power over children.

Ordo Iuris presents all the measures taken by authorities, courts, or international organizations in terms of LGBT+ persons as an anti-family and anti-Christian propaganda.

In the first paper, *Crusade Against the Rights of LGBT+ People*, the author describes manipulation strategies used by Ordo Iuris, when discussing documents, usually of a legal nature (judgments, draft bills), related to the broadly understood LGBT+ topic. The Ordo Iuris experts are trying to show that anti-discrimination activities aimed at protecting LGBT+ rights are completely unnecessary because in their view, the Polish law does not discriminate LGBT+ persons. Ordo Iuris presents all the measures taken by authorities, courts, or international organizations in terms of LGBT+ persons as an anti-family and anti-Christian propaganda.

In this case, we are clearly dealing with both Reversal Strategy and Intimidation Strategy. Practitioners of these strategies indicate that LGBT+ persons are not the real victims; it is a Catholic family that falls victim to discrimination. To prove this thesis, Ordo Iuris engages in court proceedings, prepares the so-called legal analyses and positions on the international guidelines and standards, issues opinions on draft laws, and finally, publishes quasi-journalistic statements. As we mentioned before, Ordo Iuris uses all the manipulation strategies to push forward its agenda. The author of the analysis thoroughly discusses the procedures that Ordo Iuris adopts when commenting on the Committee of Ministers of the Council of Europe recommendations on measures to combat discrimination on grounds of sexual orientation or gender identity⁴³. She also describes the involvement of Ordo Iuris in combating the so-far one and only draft law on gender reconciliation in the history of Polish Parliament⁴⁴. In their analysis, Ordo Iuris lawyers questioned the existence of transgenderism per se and made mistakes of a legal nature, at the same time, using the Language Manipulation Strategy by repeating a series of strongly negative expressions. We present the arguments used by Ordo Iuris to discredit the judgements favourable to the LGBT+ community (i.e. *Conan v. Romania*), but also all their critical commentaries related to the documents highlighting the multidimensional discrimination against non-heterosexual persons, such as the EU Fundamental Rights Agency (FRA) document on the situation of LGBT+ persons *Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU*. We expose the abuses and inconsistencies that Ordo Iuris commits when commenting on these materials. We hope that our exposure of such manipulations will prove helpful in the work of non-heterosexual persons' allies.

43 <https://www.coe.int/en/web/sogi/rec-2010-5>

44 Parliamentary document No. 1469 [druk sejmowy].

The first article is complemented by the second one entitled '*Natural Family*' – *Fight with the Most Vulnerable and the Issue of Violence in the Family*, which examines the means Ordo Iuris applies to promote an extremely conservative family life model. **According to the organization, the exemplary European family consists of the spouses who are connected by the holy sacrament and who bring up children according to the**

hierarchical patterns known before the second half of the previous century. In their vision of society, there is no place for LGBT+ people or for single parents.

It can be assumed that Ordo Iuris wants to undo the social changes that have occurred in the area of empowering women and children in the family. Their agenda was discussed based on two examples. The first consists of the analysis of the so-called legal opinions regarding the issue of combating domestic violence, drafted by Ordo Iuris and published on their website. The second text under our scrutiny refers to the Ordo Iuris position on the new Family and Guardianship Code proposed by the former Ombudsman for Children, Marek Michalak. Ordo Iuris lawyers strongly criticize all the external mechanisms of control over a family which aim at protecting children from violence. According to Ordo Iuris, a family based on biological bonds is the best environment for a child, basically regardless of any circumstances. Moreover, parent-child relationship should be based on the strong parental authority. In the Ordo Iuris view, mechanisms that enable children to be protected against abuse are superfluous and even dangerous. The organization is trying to influence public opinion and academic debate. Ordo Iuris focuses on publishing legal opinions and, if possible, participates in legislative work. Lawyers working for the organization strongly rely on the concept of a 'natural family', to which they are trying to attach only positive connotations, using Language and Facts' Manipulation Strategies. For this purpose, they deny

It can be assumed that Ordo Iuris wants to undo the social changes that have occurred in the area of empowering women and children in the family.

the occurrence of negative phenomena in the ‘natural family’, such as violence. **Ordo Iuris also applies the Strategy of Legal Manipulation, claiming that a ‘natural family’ is a constitutional value.** Such an approach opens the door to applying the Strategy of Takeover and demanding the protection of the allegedly jeopardized rights of a ‘natural family’. This way, Ordo Iuris prepares the ground for allegations against Christianophobia. It is not difficult to guess that a ‘natural family’ at risk is a Christian family living in Europe.

3.

Freedom of Conscience and Religion. How Religion Justifies Discrimination.

The third chapter addresses the broadly understood issue of the conscience clause and the coexistence of people with different worldviews in a society.

The first paper entitled *Freedom of Conscience and Belief According to Ordo Iuris* relates to the issue of the ‘conscience clause’ in the context of reproductive rights and access to medical services such as abortion, contraception or even laboratory tests related to them. The author demonstrates how Ordo Iuris tries to introduce the broadly understood ‘conscience clause’ to the Polish law. This aims at enabling almost everybody and in every situation to refuse to perform the service in the case when the service provider does not approve of or disagrees with the views of the person in need of the service. Then, it would be sufficient to state that the service is contrary to the conscience of the person refusing the service.

In practice, Ordo Iuris seeks only to protect the Catholic worldview, while all activities resulting from a different worldview and aimed at limiting the omnipresence of the Catholic religion in e.g. public health-care are treated as ‘Christianophobia’. Due to the fact that – according to the provisions in force – doctors, nurses, and midwives can already

use the 'conscience clause', Ordo Iuris is pushing hard for the extensive interpretation of the 'conscience clause'. According to the interpretation proposed by Ordo Iuris, doctors, nurses, midwives (and in the future, also other medical professionals) shall be able to use the clause in order to refuse any action or service such as providing/prescribing a medicine or giving medical advice. However, primarily, the so-called 'conscience clause' is supposed to be a tool to block or significantly limit access to abortion, contraception, prenatal tests, in vitro, sexuality education and services for LGBT+ people. The Ordo Iuris methods of constructing legal arguments around such a vision are described in the article on the example of the following analysis: (i) the ruling of the Constitutional Tribunal of 7 October 2015 (case K 12/14) regarding the duty of a doctor who, relying on the conscience clause, refuses to provide a service to indicate the other doctor who could perform the required service; (ii) critical comments of Ordo Iuris to the draft bill on a secular state prepared by the Polish Initiative Association; and (iii) the leaflet about of the conscience clause for pharmacists prepared by Ordo Iuris. **The abovementioned endeavours illustrate manipulation strategies used by Ordo Iuris, such as the Reversal Strategy, according to which all the restrictions imposed on the use of the 'conscience clause' are interpreted and presented as a violation of the Catholics' freedom of conscience and religion, while at the same time, they ignore the need to protect and balance the rights of others, including non-believers.**

The second paper entitled *Manipulations with the Conscience Clause Versus the Right of LGBT+ People* complements the former one, but also constitutes a warning as it describes how arguments based on the right to freedom of conscience and religion are used to discriminate against LGBT+ people. The author analyses the case of a printer from Łódź who refused the LGBT Business Forum Foundation to print a roll-up with their logo and name. The author reports on the court proceedings against the printer, which in consequence led to the judgment of the

Constitutional Tribunal of 26 June 2019 (case K 16/17)⁴⁵. This case is a perfect illustration of how Ordo Iuris systematically and persistently strives for legal changes aimed at realizing the vision of the almost anarchized society, where personal beliefs may constitute grounds for refusing services.

THE SECOND PART OF THE PUBLICATION consists of three texts that attempt to show how Ordo Iuris works in the previously mentioned thematic areas. **Our goal is to describe the momentum of their activities, their regularity and scale. This allows to estimate the seriousness of the dangers, we are being confronted with.**

1.

Activities of Ordo Iuris in the Field of Judicial Proceedings.

The first article aims at presenting the category of court cases, in which Ordo Iuris gets involved. Strategic litigation, known from the common law system, is a type of legal action undertaken in the public interest in order to resolve important social issues, change practices or laws violating individual freedoms or rights, draw public attention to a specific problem and gain the most extensive publicity possible. In the continental law system, which is in force in Poland, strategic litigation is gaining more and more importance, mainly due to the growing importance of the European Court of Human Rights. Cases for litigation are carefully selected. It is a legally available and often desirable tool used by traditional legal and human rights organisations. Ordo Iuris takes advantage of it to introduce the pushed solutions into the Polish

⁴⁵ The Constitutional Court in this judgment held that Article 138 Code of Minor Offenses in the part providing for a punishable refusal to provide a service without a valid reason is incompatible with Art. 2 of the Constitution. The latter Article of the Constitution refers to the principle of social justice.

legal order. The article analyses the materials published on the Ordo Iuris website in the section called 'Legal Interventions'. In addition, the author thoroughly studied the materials from the court records of the proceedings in the case, in which Ordo Iuris lawyers acted as legal representatives, their pleadings to courts, as well as the rulings and documents they referred to in their correspondence with the courts. **Careful examination of these sources reveals the manipulations used by the organization to prove that: (I) the state allegedly excessively interferes with family life; (II) Christians in Poland are discriminated against, cannot freely express their views in public space and are subject to various attacks; (III) the radical feminist, lesbian and homosexual lobby promotes atheism, abortion and homosexuality.** Ordo Iuris lawyers are trying to convince the courts that their view is shared by the legal doctrine and applied by the courts. The descriptions of Ordo Iuris strategic litigation activities described on the website present lawyers of this organization as human rights defenders, respected experts whose opinions have a real impact on legislative processes and case law⁴⁶. Importantly, the described strategies of legal manipulation are also used in court pleadings, and thus, it is extremely important to decode the distortions and understatements in order to prevent misinterpretation of legal norms, including international law.

2.

Ordo Iuris Activity in the Parliament of the Republic of Poland.

Ordo Iuris Institute participates in the legislative processes regarding topics they consider especially important. Ordo Iuris lawyers propose draft bills or support projects implementing their agenda. In Ordo Iuris communication, manipulation of the provisions present in the Constitution plays a significant role and the language is ideologically

46 See: <https://ordoiuris.pl/adw-jerzy-kwasniewski>

loaded; abortion means murder, sexuality education equals sexualisation of children, and LGBT+ persons are associated with paedophilia and sexual deviations. Ordo Iuris also extensively lobbies in the Polish Parliament. According to the data available on the Ordo Iuris website, in 2014–2019, representatives of the organization gave 24 speeches in the Polish Parliament⁴⁷ and provided almost 190 various legal analyses⁴⁸, half of which concerned draft bills debated in the Polish Parliament. **Ordo Iuris lawyers presented their opinions about almost every bill or regulation which concerned reproductive rights⁴⁹**, family life⁵⁰, children’s rights⁵¹, LGBT+ persons⁵², the conscience clause⁵³ or broadly understood worldview issues⁵⁴. Ordo Iuris also participates in public consultations of draft bills prepared by the government. Media reported on the allegedly exceptionally close cooperation between the organization lawyers and the government on the controversial proposal to amend the Bill on Preventing and Combating Domestic Violence⁵⁵.

47 See: <https://ordoiuris.pl/sejm?page=0>

48 See: <https://ordoiuris.pl/analizy>

49 See: <https://ordoiuris.pl/ochrona-zycia/analiza-aksjologiczna-projektow-ustaw-dotyczacych-zaplodnienia-vitro>, <https://ordoiuris.pl/edukacja/analiza-poselskiego-projektu-ustawy-o-zmianie-ustawy-o-systemie-oswiaty-i-zmianie>

50 See: <https://ordoiuris.pl/rodzina-i-malzenstwo/projekt-ustawy-o-zwiazkach-partnerskich-autorstwa-poslow-po>, <https://ordoiuris.pl/rodzina-i-malzenstwo/analiza-projektu-ustawy-o-umowie-partnerskiej> or: <https://ordoiuris.pl/wolnosc-gospodarcza/rzadowy-projekt-ustawy-o-zmianie-ustawy-o-pomocy-panstwa-w-nabyciu-pierwszego>

51 See: <https://ordoiuris.pl/wolnosc-gospodarcza/analiza-poselskiego-projektu-ustawy-o-zmianie-kodeksu-pracy-i-niektorych-innych>

52 See: <https://ordoiuris.pl/rodzina-i-malzenstwo/analiza-poselskiego-projektu-ustawy-o-uzgodnieniu-plci>

53 See: <https://ordoiuris.pl/wolnosc-sumienia/analiza-projektow-ustaw-dot-zmiany-regulacji-institucji-klauzuli-sumienia>

54 See: <https://ordoiuris.pl/rodzina-i-malzenstwo/analiza-projektu-ustawy-o-ratyfikacji-konwencji-rady-europy-o-zapobieganiu->; <https://ordoiuris.pl/wolnosc-gospodarcza/analiza-poselskiego-projektu-ustawy-o-zmianie-kodeksu-pracy-i-niektorych-innych>; <https://ordoiuris.pl/wolnosc-sumienia/analiza-projektow-ustaw-autorstwa-poslow-tr-zmieniajacych-ustawe-o-gwarancjach>

55 <https://www.polityka.pl/tygodnikpolityka/spoleczenstwo/1744974,1,pis-poslusznie-wykonuje--zalecenia-ordo-iuris-oto-kolejny-dowod.read>

The topic became the subject of public debate. Therefore, it is justified that we decided to take a closer look at the legislative agenda of Ordo Iuris. The authors of this publication do their best to at least partially show the scale of the activities undertaken by Ordo Iuris as well as the direction they are heading to.

3.

Ordo Iuris' International Activity.

Ordo Iuris seeks to present and push forward their views on the international level. Their presence on the international forum is aimed at expressing the alleged concern for the realisation of the idea of human rights. For this purpose, it is necessary to be active in the structures of supranational institutions and to create an impression that the views or ideas propagated by Ordo Iuris are universal, although they have nothing to do with the universality if we take into consideration the contemporary understanding of human rights. **Through their presence and activity on the international forum, Ordo Iuris implements the Strategy of Legitimization. Like other such groups, seeking to restore the so-called 'natural order', Ordo Iuris seeks to gain recognition on forums such as the United Nations, the European Union, the Council of Europe, and the OSCE.** It should be emphasized that the issues raised by Ordo Iuris on the international level do not differ from those, on which the organization focuses its activities in Poland. Presentations, reports, and analyses delivered to the relevant institutions and bodies of international organizations follow a coherent ideological agenda.

Conclusion

We hope that our analysis will serve as a helpful guide on how to deal with Ordo Iuris materials. The authors warn about the pitfalls to look out for and suggest where to look for support to decode understatement, manipulation, and misrepresentations. The status of public trust professions is extremely important in a democratic and legal state. Lawyers belong to this category. **Interpretation of law, public dispute about the meaning of a legal norm and a discussion about values cannot take place in interpretive chaos. Departing from the principles of legal interpretation and logic in exegesis of a legal text, analysis or judgment is an unacceptable phenomenon as it leads to falling into the trap of the unlimited freedom and arbitrariness of legal interpretation.** For this reason, it is so important for legal reasoning – although involving certain freedom – to be embedded within certain frameworks. When it is not the case, legal interpretations become journalism, and not an expert analysis.

The authors of this publication hope that the prepared material will support all those who feel lost in the storm of legal concepts and will help decode the message pushed forward and imposed by Ordo Iuris. The prepared articles constitute at least a counterweight to the arguments of Ordo Iuris activists, who relentlessly claim that their legal solutions result from the Constitution, international law, or are simply “obvious”. We show that this is not the case. Moreover, it is legitimate to state that it is quite the opposite. It is also vital for us to draw attention to the scale of the activities undertaken by Ordo Iuris to push for their main goal and thus denying the rights of women and non-heterosexual people.

Finally, it is relevant here to quote the Latin sentence that is written on the Supreme Court Building in Poland: ***lura non in singulas personas, sed generaliter constituuntur*** – **The laws are made not for individuals but for everyone, and we are all diverse.**

