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Freedom House

Nations in Transit 2020 - Poland

Semi-Consolidated Democracy

65

100

Democracy Percentage 65.48 100

Democracy Score 4.93 7

Last Year's Democracy Percentage & Status

67 100 Consolidated Democracy

The ratings are based on a scale of 1 to 7, with 7 representing the highest level of democratic progress and 1 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The Democracy Percentage, introduced in 2020, is a translation of the Democracy Score to the 0-100 scale, where 0 equals least democratic and 100 equals most democratic.

Score changes in 2020

- Civil Society rating declined from 5.75 to 5.50 due to attacks on the LGBT+ community and the increased prevalence of extremist and illiberal discourse.
- Local Democratic Governance rating declined from 6.00 to 5.75 due to additional burdens placed on local governments' budgets along with reductions in revenues, limiting their ability to fulfill their constitutional responsibilities.
- Judicial Framework and Independence rating declined from 3.75 to 3.50 due to the use of the disciplinary system to intimidate judges critical of the government's overhaul of the judiciary.

Executive Summary

By Anna Wójcik and Miłosz Wiatrowski

The quality of democratic governance in Poland continued to deteriorate in 2019, marking the fourth consecutive year of decline in the country and its lowest score in *Nations in Transit*. The most negatively affected areas were the judiciary, local democratic governance, and the pluralism of civil society.

The main political event of the year was the October parliamentary election, which decisively strengthened the mandate of the Law and Justice (*Prawo i Sprawiedliwość*, PiS) government. The PiS-led coalition, United Right (*Zjednoczona Prawica*), won a majority in the National Assembly's Sejm (lower house) with an unprecedented eight million votes—though the opposition won a fragile 51 to 49 seat majority in the Senate (upper house) and can slow down the legislative process through debate and deliberation. The election was preceded by a vicious campaign but also unprecedented mobilization, resulting in a 30-year record-high turnout.¹ Earlier, in May, the country also recorded high participation in the European Parliament elections.²

See also: PKW, 'Sprawozdanie z wyborów do Parlamentu Europejskiego przeprowadzonych 26 maja 2019 roku' [National Election Commission, Report on elections to European Parliament conducted on 26th May 2019], accessible at:

Even though the outcome of the elections reflected the deep political polarization of Polish society, the new parliament represents a broader spectrum of political views than the former. The largest opposition force is the center-right Civic Coalition (*Koalicja Obywatelska*, KO), while the left made a return with the united list of *Lewica* (Left), and the extreme right entered too, represented by the Euroskeptic *Konfederacja*. Consequently, PiS is flanked by critics on both sides, challenged on social policy commitments by Lewica and on cultural and economic issues by Konfederacja.

For much of the year, the PiS-led coalition continued to increase its popularity despite intense domestic and European Union (EU)-level criticisms of its moves to undermine judicial independence, media pluralism, and civil liberties. Significantly, substantive institutional changes remained in force, including modifications to the composition and functioning of the Constitutional Tribunal (CT, described in previous *Nations in Transit* reports) and the National Council of the Judiciary (NCJ)—both of which had been taken over by the ruling PiS through politicized appointments. In December 2019, three new appointments to the CT included two well-known former PiS members of parliament (MPs), one of whom had been a communist-era state prosecutor.

Attempts at subordinating the justice system to political power reached new lows as well. The NCJ started appointing judges to common courts and to certain chambers of the Supreme Court (SC),³ although uncertainty prevailed as to whether those chambers could still be considered independent courts. Following a landmark ruling by the Court of Justice of the European Union (CJEU), the SC in December ruled that the Disciplinary Chamber could no longer be considered an independent court.

Before and after the ruling, members of the legal profession continued to face significant pressure from the executive and legislative branches, notably through excessive use of disciplinary proceedings. In August, media outlets reported about an online smear campaign against judges, allegedly coordinated from within the Justice Ministry and supported by some NCJ officials. And in December, the governing coalition added fuel to the fire by introducing the so-called muzzle law, which would tighten the disciplinary system and set out harsh punishments for criticizing the government's overhaul of the judiciary. Domestic and international bodies and experts all agreed that the bill diminished Poland's judicial independence; they argued that it would put judges in the impossible situation of facing disciplinary actions for decisions required by the European Convention on Human Rights, EU law, and other international instruments, as well as by the Polish constitution.

Polish civil society remained vibrant but highly polarized. The year was marked by hate-motivated attacks, both verbal and physical, on the LGBT+ community, while PiS and the public media initiated lawsuits against critics. In January, Paweł Adamowicz, the longtime mayor of Gdańsk known for his progressive views, was murdered at knife-point during a large public charity event. Additionally, the government systematically degraded the social and institutional autonomy of the cultural sphere, channeling state funds to select organizations and initiatives, and appointing loyal supporters to helm museums and other cultural institutions.

Media freedoms continued to deteriorate. Having taken over the broadcasting supervisory bodies and the public broadcasters themselves, PiS announced plans to curb the remaining independent media during its second term. The governing party's electoral program contained a proposal that would set up a professional body endowed with the power to discipline journalists. Meanwhile, the public media remained involved in political campaigning in favor of PiS.

Local governments were put under financial strain as tax cuts announced by the central government reduced their revenues, while the educational reform, a salary increase for teachers, and a host of other factors will significantly increase local expenditures. Liberal mayors in charge of the largest Polish cities were often targeted by government criticism as well as negative propaganda by media outlets associated with the right-wing, populist ruling camp led by PiS.

Prime Minister Mateusz Morawiecki formed his second government cabinet in November, but PiS chairman Jarosław Kaczyński—who does not hold any formal position other than being an MP—continued to wield informal power behind the scenes. The government includes PiS coalition partners United Poland (*Solidarna Polska*, SP) and Alliance (*Porozumienie*), each controlling 18 seats in the Sejm, which are crucial for maintaining a majority. Justice Minister Zbigniew Ziobro from SP and Deputy Prime Minister and Minister of Science and Higher Education Jarosław Gowin from Alliance are powerful figures in the cabinet.

While there were a number of corruption allegations in the ruling camp during the year, they had no substantial impact on PiS's popularity. The fight against corruption remained one of the key stated objectives of the government, and almost half of all Poles were satisfied with its handling of the issue. A strong economy and an increase in private sector wages, however, led to a rise in food prices. Coupled with chronic underfinancing in the public sector, the increase prompted mass protests among teachers, doctors, and administrative staff. PiS's model of welfare state, which appeals to many voters, is focused primarily on supporting the family through social transfers and tax cuts, not on supporting the public sector.

At year's end, the ruling PiS party was engaged in a deep conflict with EU institutions over the rule of law while preparing for the presidential elections in 2020. President Andrzej Duda, actively campaigning for reelection, expressed his support for the judicial disciplinary system and launched attacks on judges and "foreign lawyers" interfering in Polish affairs on state TV and during meetings with voters. With the election and pending EU actions, the upcoming year is set to be pivotal for judicial independence, as well as for Poland's democratic trajectory.

National Democratic Governance 1.00-7.00 pts

Considers the democratic character of the governmental system; and the independence, 4.00 effectiveness, and accountability of the legislative and executive branches. 7.00

- In 2019, the ruling Law and Justice (PiS) party and its minor coalition partners, United Poland (SP) and Alliance, consolidated their grip on power, despite numerous high-profile scandals involving senior officials. Campaigning on the promise of a Polish model of welfare state and conservative cultural commitments, the PiS-led coalition triumphed in European Parliament and national elections. Still, the opposition won a fragile majority in the Senate (the National Assembly's upper house), gaining the opportunity to slow down the legislative process through debate and deliberation.
- The quality of parliamentarianism in Poland eroded during the outgoing Sejm (lower house), in no small part due to procedures instituted by the speaker, Marek Kuchciński.⁴ In 2019, as in previous years,⁵ legislation was rushed through the parliament, often adopted during lengthy sessions dragging well into the night and lacking substantial, pluralistic debate.⁶ In September, Kuchciński prorogued the parliament ahead of time, allowing members (MPs) to campaign for the general elections taking place on October 13.⁷
- Prime Minister Mateusz Morawiecki formed his second cabinet on November 15. While the ruling PiS won a majority, minor coalition parties control 36 out of the total 235 seats, giving their leaders clout in the government. Should SP or Alliance leave the ruling coalition, PiS would fall far short of a parliamentary majority. The composition of the cabinet had already changed before the elections as key ministers left for the European Parliament⁸ or resigned after scandals erupted.⁹ For the first time, a Ministry of Climate was created.
- Formally independent, the president of the republic, Andrzej Duda, is favorably disposed to the governing majority as demonstrated by the fact that between 2015 and 2019 he used his veto power only five times.¹⁰ Instead, President Duda has routinely chosen to ask for a review of legislation that has already been adopted and enforced in front of the Constitutional Tribunal (CT), another institution seen as loyal to the governing majority.¹¹ Duda also supported the highly controversial "muzzle law," which was criticized by domestic, European Union (EU), and international institutions as an unprecedented assault on judicial independence (see "Judicial Framework and Independence").
- The opposition won a slim majority in the upper house and elected Senator Tomasz Grodzki (Civic Platform, PO) as marshal (speaker) of the Senate. The upper house can slow down the legislative process by sending bills back to the Sejm, but, ultimately, the latter can override its veto. Still, this development for the opposition can prevent the fast-tracking of laws in the future.
- The composition of the Sejm of the IX term (2019–23) reflects a broader political spectrum than the previous one.¹² The center-right Civic Coalition (KO)—formed by PO, Modern, the Polish Initiative, and Greens—remains the largest opposition force with 134 seats. Lewica (Left) returned to the parliament after a four-year hiatus with 49 seats; the Polish Peasants Party (*Polskie Stronictwo Ludowe*, PSL) won 30 seats; while the far-right Konfederacja entered the Sejm for the first time, gaining 11 seats. The German Minority secured one seat.¹³
- PiS chairman Jarosław Kaczyński continued to act as a power behind the throne, and major reforms were often announced during his speeches.¹⁴ Still, there were a number of power shifts during the year; these were significant in light of the expected succession within PiS, given Kaczyński's advanced age and reported health problems. In August, the position of Justice Minister Zbigniew Ziobro—the mastermind behind the highly controversial and divisive judicial overhaul—seemed imperiled when media reported on an online hate campaign against judges allegedly supported from within his ministry.¹⁵ Yet the 2019 parliamentary elections strengthened Ziobro, who is also leader of United Poland. The elections equally helped Deputy Prime Minister and Minister of Science and Higher Education Jarosław Gowin, leader of Alliance. While the United Poland MPs supported the "muzzle law," which was a de facto ministerial project, Gowin's party distanced itself from the bill and suggested some amendments in the legislative process (but nevertheless voted for the law).¹⁶

Electoral Process 1.00-7.00 pts

Examines national executive and legislative elections, the electoral framework, the 6.50 functioning of multiparty systems, and popular participation in the political process. 7.00

- In 2019, PiS and its coalition partners triumphed in the European and parliamentary elections with record-high turnout, thus strengthening their mandate for governing. Still, the success of the opposition in the Senate was significant given that it managed to increase its share of seats and gain a majority. International and domestic bodies monitoring both elections noted editorial bias in the media, including the public broadcaster, during the campaigns.
- PiS campaigned in both the May elections to the European Parliament and October national elections on the promise of a Polish model of welfare state (or "prosperous state"), which emphasized solidarity as well as entrepreneurship.¹⁷ In addition, the party promoted a heavily conservative agenda, pledging to support the traditional family model and "defending" Poles against "the imposition of gender and LGBT ideologies."¹⁸

- In the October parliamentary elections, United Right (*Zjednoczona Prawica*, ZP), the coalition of PiS, United Poland (SP), and Alliance, won 43.59 percent of the votes, securing an absolute majority in the Sejm. The opposition Civic Coalition (KO) came in second with 27.40 percent, while Lewica (Left) received 12.56 percent, PSL 8.55 percent, and Konfederacja 6.81 percent.¹⁹
- The post-1989 record turnout in the European Parliament elections (at 45.68 percent)²⁰ in May and national parliamentary elections in October (at 61.74 percent)²¹ showed that parties successfully mobilized voters. Thanks to the high turnout, parties will receive significantly more in state subsidies as well.²² The government coalition not only strengthened its mandate but gained an impressive 8 million votes, 2.3 million more than in the 2015 elections.²³ Nonetheless, the individual who received the highest number of votes cast for a single candidate came from the opposition ranks: Małgorzata Kidawa-Błońska (PO) secured 416,030 votes, almost twice as many as Jarosław Kaczyński (PiS), who ran in the same district in Warsaw.²⁴
- Following the election, both ZP and KO asked for a recount in a small number of cases.²⁵ The Supreme Court, which considers election complaints, reviewed a total of 277 challenges and ruled that none of the 6 complaints submitted by the governing coalition were actionable.²⁶
- The OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a limited Election Observation Mission to Poland, which concluded that the "parliamentary elections were prepared well, but media bias and intolerant rhetoric in the campaign were of significant concern."²⁷ The problems highlighted in the ODIHR report included the "distinct editorial bias of the media, especially the public broadcaster"; the use of hostile, polarizing language in the campaign; and the active role of the Catholic Church, which supported PiS.
- Earlier in the year, PiS also triumphed in the European Parliament elections, receiving 45.38 percent of the vote and taking 27 seats. The broad opposition alliance European Coalition (*Koalicja Europejska*, KE)—composed of PO, PSL, SLD (Left), Progressive Liberals (*Nowoczesna*, N), and Greens—won 38.47 percent of the vote and 22 seats, while *Wiosna*, a left-wing party registered in 2018, won 6.6 percent and 3 seats in the European Parliament.²⁸

Civil Society 1.00-7.00 pts

Assesses the organizational capacity and financial sustainability of the civic sector; the legal and political environment in which it operates; the functioning of trade unions; interest 5.50 group participation in the policy process; and the threat posed by antidemocratic extremist 7.00 groups.

- Civil society in Poland remained vibrant but deeply polarized in 2019. During the year, civic actors and organizations mobilized chiefly around local cultural and economic issues. The space and funding for independent cultural institutions that do not support the government's traditionalist agenda continued to shrink, while women's rights and LGBT+ rights organizations came under increased pressure. Still, a record-high 24 equality parades and marches were held across the country.²⁹
- On January 13, Gdańsk mayor Paweł Adamowicz, a longtime supporter of equal rights, was murdered at knifepoint during a large public charity event in the city. The violent killing sparked a period of soul-searching and more than 50 marches against hate and violence.³⁰ Later, Adamowicz's widow, Magdalena Adamowicz, successfully ran for election to the European Parliament on an anti-hate speech agenda.³¹ Gdańsk's new mayor, Aleksandra Dulkiewicz, was also subject to hateful verbal attacks, including death threats.³² Still, in November, the prosecution discontinued investigations against protesters who had hung portraits of opposition politicians, including Paweł Adamowicz, on gallows on a square in Katowice two years earlier.³³
- The year was also marked by campaigns against the LGBT+ community. In February, liberal Warsaw mayor Rafał Trzaskowski signed an "LGBT+ Declaration," which provided guidance for the city's institutions in areas ranging from security to education, administration, and employment.³⁴ Subsequently, ruling party politicians, including Kaczyński himself,³⁵ and church leaders³⁶ launched a campaign against what they termed as "LGBT and gender ideologies." During the summer, several cities and provinces passed resolutions declaring themselves "zones free of LGBT ideology,"³⁷ while the right-wing weekly *Do Rzeczy* prepared "Stop LGBT" stickers. The distribution of the stickers was blocked by a court order.³⁸
- As a response, numerous equality marches took place across Poland. Local politicians attempted to cancel some of the marches for security reasons, but courts ruled in favor of freedom of assembly in all cases and the demonstrations were allowed to go forward.³⁹ In two instances, in Białystok and Lublin, counterprotesters attacked participants as well as journalists despite the presence of riot police.⁴⁰ Prime Minister Morawiecki condemned the violence.⁴¹
- Extremist and intolerant attitudes gained some ground during the year. In a public opinion poll about the dangers facing Poland in the twenty-first century, the most popular answer among male PiS voters under 40 was "the LGBT movement and gender ideology."⁴² In October, the extreme right-wing Konfederacja, known for the homophobic, misogynist, and anti-Semitic

views of several of its high-profile members, entered the Sejm for the first time, predominantly supported by young male voters.⁴³

- The Catholic Church, an influential force in Poland, continued to represent positions harmful to women's rights and gender equality.⁴⁴ The church was also beset by pedophilia scandals during the year. As a result, the church was the subject of numerous publications and media, most notably the independent documentary *Tell No One*, viewed over 20 million times on YouTube.⁴⁵ Arguably, the focus on "LGBT and gender ideologies" could in part be attributed to a desire by church leaders to deflect public outrage over actions by the clergy.
- The government increased pressure on independent cultural institutions that receive state support. Funding for European Solidarity Center (*Europejskie Centrum Solidarności*, ECS) in Gdańsk was drastically cut,⁴⁶ while Minister of Culture Piotr Gliński delayed the reappointment of Dariusz Stola, director of POLIN Museum of the History of Polish Jews in Warsaw—despite the fact that Stola won the competition.⁴⁷ During the year, the government also appointed new directors to the National Museum⁴⁸ and the Center for Contemporary Arts in Warsaw⁴⁹ as a sign of strengthening its cultural and historical policy.
- The National Institute of Freedom, which distributes state funding to NGOs, focused support on projects related to Christian heritage or national and local traditions.⁵⁰ As of July 2019, an estimated PLN 214 million were channeled from public funds to various organizations controlled by Father Tadeusz Rydzyk. The media mogul, who launched the fundamentalist Catholic Radio Maryja in 1991, is openly supportive of PiS.⁵¹
- Several strikes took place during the year. Climate marches occurred in a number of cities across the country, attracting predominantly young participants.⁵² Other strikes included teachers in April, justice system administrative staff in May, and doctors demanding higher wages and funding for public services in June.⁵³ The education reform, which led to layoffs and the closure of some schools, prompted the largest sectoral strike in more than two decades: in April, almost 75 percent of all schools went on strike as teachers demanded a sharp increase in salaries.⁵⁴ Although the strike was suspended without fully meeting teachers' conditions, the government promised modest wage increases.

Independent Media 1.00-7.00 pts

Examines the current state of press freedom, including libel laws, harassment of journalists, and editorial independence; the operation of a financially viable and independent private press; and the functioning of the public media.

5.00
7.00

- The Polish media sector is robust and diverse, in both ownership structure and ideological spectrum. No new laws related to the media were introduced in 2019. However, prominent politicians from the governing party argued that there is a need to "repolonize" the sector, and critical outlets experienced pressure from the ruling party. Journalists continued to be routinely sued for defamation for their investigative pieces.
- In June, Deputy Prime Minister Jarosław Gowin claimed that if the governing party wins reelection, it would have to "face the challenge associated with the large share of foreign ownership of private media outlets," which can lead to a "conflict of interests."⁵⁵ The need to "re-polonize" private media was repeated in August by another Deputy Prime Minister, Piotr Gliński, who stated that "the respective bills are already drafted and will be presented after the elections."⁵⁶ Foreign owners dominate the market.
- The electoral program PiS presented in September included no proposals concerning media ownership. It did, however, contain a promise to regulate the journalistic profession by introducing a body that could decide who may work as a journalist (similar models exist in Poland for the legal and medical professions).⁵⁷ It also proposed to replace the country's current defamation laws with internal oversight in the hands of this new professional institution. Given government reforms in the judiciary, the plan raised serious concerns that the institution would silence critical outlets.
- Defamation is a criminal offense, and article 212 of the criminal code has been used by members of the ruling camp against investigative journalists on numerous occasions. In May, for example, PiS chairman Kaczyński sued *Gazeta Wyborcza* for a series of articles concerning his involvement in a real estate project.⁵⁸ PiS also sued Wojciech Sadurski, a well-known law professor, for a post on Twitter that referred to the party as an "organized crime group."⁵⁹ Also in May, a bill to reform the criminal code would have included additional criminal liability for defamation. It was removed through a Senate amendment after a wave of protests.⁶⁰
- The media sector's most significant ownership change occurred with the sale of Radio Zet, the second-largest private radio broadcaster, with a 12 percent share of the market.⁶¹ The radio was acquired by a consortium composed of Agora (the owner of the leading Polish newspaper, *Gazeta Wyborcza*) and SFS Ventures, a Czech fund linked to American billionaire and philanthropist George Soros.⁶² The transaction was under scrutiny by the Polish Competition Authority at year's end.⁶³
- There were several notable instances of violence and harassment directed towards journalists during the equality marches, including in the eastern cities of Białystok and Lublin.⁶⁴ In some

cases, police forcibly removed journalists from demonstrations claiming safety concerns, while, in effect, preventing them from doing their work.[65](#)

- Public radio and television continued to promote a one-sided, positive image of the ruling camp. During the fall parliamentary campaign, the TVP refused to air a public service announcement prepared by the Warsaw Regional Doctors' Council that addressed the appalling state of Poland's healthcare system,[66](#) while in the same period broadcasting an alarmist documentary titled "The Invasion" about a network of organizations that supposedly promote the "LGBT agenda" in Poland.[67](#) In October, TVP lost two electoral lawsuits brought by the far-right Konfederacja because it had omitted the party from its reported poll numbers.[68](#)
- State funding for the public broadcaster continued to grow during the year. After TVP's expenditures reached a record PLN 2.2 billion in 2018,[69](#) the governing party pushed through additional support amounting to PLN 1.3 billion in February 2019.[70](#) The decision drew particular ire as it came only a month after the murder of Gdańsk's mayor Paweł Adamowicz at a large public event. Both the mayor and the related charity[71](#) had been targets of critical coverage by TVP in advance of the tragic knife attack. According to a study commissioned by the mayoral office in Gdańsk, there were more than a thousand video items aired about Adamowicz on the main TVP1 channel and the 24/7 news channel, TVP Info, in 2018 alone.[72](#)

Local Democratic Governance 1.00-7.00 pts

Considers the decentralization of power; the responsibilities, election, and capacity of local governmental bodies; and the transparency and accountability of local authorities. 5.75 7.00

- Local and municipal authorities in Poland have broad competences but suffer from limited funding and frequent clashes with the central government. PiS sees municipal authorities as an impediment to its ability to govern, since elected officials from the ruling party control only 4 of the 107 largest Polish cities. Although no new laws were passed in 2019 that directly address the distribution of competences between the central and regional governments, the ruling camp did introduce a number of changes that negatively impact the financial situation of local governments.
- To help sway undecided voters, PiS unveiled a number of tax cuts in 2019. The cuts required budgetary adjustments during the year, worsening the financial situation of local and municipal authorities. The share of Personal Income Tax (PIT) that goes to local authorities accounts for 25 percent of local budgets on average.[73](#) The tax cuts, which include reducing the default rate of PIT by one percentage point and eliminating it completely for adults under 26, will decrease local revenues by PLN 6.6 billion annually, a drop of roughly 3-percent in total revenues.[74](#) Local governments already suffer from a mismatch between their robust responsibilities—including education and healthcare—and their limited ability to finance them.
- Local administrations were also burdened by the costs of a hastily rolled out education reform, which reached its apogee in September 2019. While the central government claimed that the reform would not have any impact on education-related expenditures, the Supreme Audit Office found that it led to a 12-percent rise in spending, half of that burdening local budgets.[75](#) In addition, the educational subsidy to municipalities, which was purportedly calculated to cover the cost of an increase in teacher salaries, was not sufficient to account for the wage hike and was designed to discriminate against large cities.[76](#) According to the Association of Polish Cities, the funding gap amounted to more than PLN 2 billion in 2018-19.[77](#) As a result, the costs of the government's promises were pushed onto localities, forcing them to cut expenditures elsewhere.
- The independence of local governments was often criticized by the ruling coalition and became the subject of national political controversies. Progovernment media, including the public broadcaster TVP, frequently attacked more liberal mayors of major cities such as Gdańsk, Warsaw, and Poznań. In June, after more than 800 local officials signed a declaration calling for further decentralization of Poland, prominent ruling camp politicians and state-owned media attacked the local officials for a purported assault on Polish sovereignty.[78](#)

Judicial Framework and Independence 1.00-7.00 pts

Assesses constitutional and human rights protections, judicial independence, the status of ethnic minority rights, guarantees of equality before the law, treatment of suspects and prisoners, and compliance with judicial decisions. 3.50 7.00

- Since PiS came to power in 2015, the governing party has moved to control the judiciary through legislative changes, a takeover of key institutions, court packing, smear campaigns, and excessive use of disciplinary proceedings against those critical of the changes. In 2019, authorities intensified the pressure on judges, prosecutors, and other members of the legal profession, exacerbating the conflict with EU institutions over the rule of law.
- The Constitutional Tribunal (CT), presided over by a close ally of PiS chairman Kaczyński since December 2016,[79](#) is favorably disposed to the ruling majority. According to a public opinion poll published in September, only 27 percent of Poles assess the CT's work positively.[80](#) The CT president's management style is divisive, and in October, a PiS-supported CT judge demanded the president's resignation in an open letter, alleging misuse of power.[81](#) In the same month, President Duda swore in three new CT justices, appointing two high-profile PiS politicians to

the bench: Krystyna Pawłowicz, a former PiS MP, is known for her sharp statements; Stanisław Piotrowicz, a former deputy Justice Minister, was a communist state prosecutor involved in the sentencing of opposition activists before 1989; and the third appointment, Jakub Stelina, is an academic from Gdańsk University.^{[82](#)}

- In March, the CT ruled that the new National Council of the Judiciary (NCJ), the body in charge of judicial appointments, conforms to the Polish constitution, yet only justices appointed by PiS were on the panel that delivered the judgment.^{[83](#)} The functioning of the NCJ has been controversial—the new body was established in 2018, after PiS dissolved the previous NCJ before it had finished its term. The majority of NCJ members are now political, not judicial, appointees.^{[84](#)} By the end of 2019, the president had sworn in 384 judges and assessors recommended by the new NCJ.^{[85](#)}
- A number of decisions impacting Poland's judiciary were handed down from the European level in 2019. In addition to an ongoing sanctions procedure regulated by Article 7 of the Treaty of the European Union, the Court of Justice of the European Union (CJEU) ruled that a number of PiS's key changes to the justice system violate judicial independence. In June, the court ruled that the government breached EU law by lowering the retirement age of Supreme Court judges and granting the president discretion to extend their term beyond the newly fixed retirement age.^{[86](#)} In November, the CJEU also ruled that the arbitrary power of the Justice Minister to postpone judges' retirement violated the EU's legal order.^{[87](#)} In addition, there were cases or preliminary questions pending before the CJEU at year's end related to the disciplinary system, compatibility of the NCJ with EU law, and the powers of the Justice Minister.^{[88](#)} among other issues.^{[89](#)}
- In a landmark decision in November, the Grand Chamber of the CJEU provided detailed criteria for determining whether a court could be considered independent within the meaning of EU law.^{[90](#)} The decision furnished criteria for the ruling of the Polish Supreme Court (SC); in December, the SC ruled that the new Disciplinary Chamber is not an independent court.^{[91](#)} The Disciplinary Chamber was added to the SC as part of the government's overhaul of the judiciary and is composed entirely of judges appointed under the ruling PiS.
- In 2019, the new disciplinary model for judges was already being enforced.^{[92](#)} The activity of disciplinary officers resulted in numerous proceedings against judges who had criticized the government's policy or referred preliminary questions to the CJEU,^{[93](#)} for example. In March, in an unprecedented decision, a judge was convicted in relation to one of her verdicts; the UN Special Rapporteur on Independence of Judges and Lawyers demanded answers from the Polish government, as the judge's ruling was in line with international legal standards.^{[94](#)}
- Throughout 2019, harassment and intimidation of judges and prosecutors intensified.^{[95](#)} In June, the Justice Ministry threatened law professors with civil actions for their open critiques of draft changes to the criminal code.^{[96](#)} In August, independent media outlets alleged that Justice Ministry officials and members of the NCJ had been involved in organizing an online troll farm that had launched an all-out campaign against individual judges, including the president of the Supreme Court.^{[97](#)} The Deputy Justice Minister resigned and sued the outlets that had disclosed the information.^{[98](#)} The NCJ, the government, and its supportive media downplayed the scandal, presenting it as an internal fight within the judiciary.^{[99](#)} Additionally, the public broadcaster engaged in a smear campaign against Human Rights Commissioner Adam Bodnar, who is known for his independence and commitment to rule of law and human rights in Poland.^{[100](#)}
- In the last week of December, the Sejm passed a law that provoked domestic and international outcry.^{[101](#)} Dubbed the “muzzle law” by its critics, the legislation institutes an even harsher disciplinary regime for judges, setting out punishments for questioning the status of courts in line with CJEU and SC judgments and, in particular, penalties for criticizing government reforms. It also changes the rules for selecting candidates for the First President of the Supreme Court—the last high-level judicial body not yet fully captured by the government. The Commissioner for Human Rights, the Legislative Offices of the Sejm and Senate, deans of law schools at 13 Polish universities, and international institutions like the Venice Commission and OSCE/ODIHR all concluded that the provisions of the “muzzle law” are incompatible with the Polish constitution as well as EU and international law.^{[102](#)}
- Despite the increased political pressure on judges, most courts in Poland continue to rule according to established law, defying politicians' expectations. In October, for example, a court in Warsaw ruled that the Justice Minister must issue an apology to a judge for defamatory statements.^{[103](#)} Judges and civil society also continued to mobilize in support of the rule of law, in the courts and in the streets.^{[104](#)} Still, according to a 2019 study by the Helsinki Human Rights Foundation, judges in Poland feel that their independence is threatened and that changes brought by the judicial overhaul have had a negative impact on their work.^{[105](#)}

Corruption 1.00-7.00 pts

Looks at public perceptions of corruption, the business interests of top policymakers, laws on financial disclosure and conflict of interest, and the efficacy of anticorruption initiatives. 4.25 7.00

- Combating corruption and strengthening state institutions remained at the center of the governing party's narrative in 2019. However, while Poles have a mostly positive view of the ruling camp's efforts to combat corruption in the private sector, the year was marked by a host of scandals involving high-ranking PiS politicians and their abuse of state resources for personal gain.
- In the run-up to the parliamentary elections, PiS used its successes in closing tax loopholes, the most notorious being the so-called VAT gap,¹⁰⁶ to bolster its case for reelection. In September, the parliamentary special committee in charge of investigating large-scale tax fraud between 2007 and 2015 issued its final report.¹⁰⁷ The committee, in which PiS had a representative majority, argued that former prime ministers Donald Tusk and Ewa Kopacz (both PO) should face charges in front of the State Tribunal. Tusk was accused of ignoring information concerning the rising VAT gap, while Kopacz was criticized for her failure to implement systemic solutions to the problem after she replaced Tusk.¹⁰⁸
- The opposition denounced the findings as overtly partisan, especially given that the VAT gap in 2006, under the previous PiS government, was higher than in 2007.¹⁰⁹ However, the governing party weaponized the committee's findings during the campaign, sending off a convoy of tanker trucks driving throughout the country emblazoned with claims that the state budget had lost PLN 20 million each day from 2007 to 2015 due to the inaction of the PO-PSL government.¹¹⁰
- In 2019, an outpouring of cases of high-level officials abusing their power for personal gain captured the headlines. In January and February, *Gazeta Wyborcza* published a series of articles based on tape recordings from June 2018 that included PiS chairman Kaczyński calling off a real estate investment in Warsaw by a foundation close to the party, which raised allegations that the party chairman had incited a business partner to offer a bribe.¹¹¹ While Polish law requires the prosecutor's office to decide on opening an investigation within 30 days of receiving a notice of potential wrongdoing, the prosecution waited nine months before refusing to start an investigation the day before the parliamentary election.¹¹²
- In August, media outlets reported that the Sejm speaker, Marek Kuchciński, had used a government airplane for private purposes, including flying his family to personal events.¹¹³ Kuchciński resigned following the reports. However, in October, he was reelected MP in his district of Krosno with a significant increase in votes over his 2015 race. The case demonstrated that even well-documented abuses by officials carry little weight for certain segments of the PiS electorate.¹¹⁴
- In September, the newly appointed head of the National Audit Office and former finance minister Marian Banaś was reported to have engaged in legally dubious practices concerning a building he owned in Kraków, including intentionally lowering the building's value in order to pay lower taxes.¹¹⁵ Banaś took an unpaid leave while the Central Anticorruption Bureau conducted an audit of the case but remained in office at year's end.
- Throughout the year, media outlets reported that the Justice Fund, created to support victims of crime and administered by the Justice Ministry, had channeled public funds to NGOs associated with Justice Minister Zbigniew Ziobro.¹¹⁶ had supported Ziobro's party electoral campaign,¹¹⁷ and had spent generously on its own public relations.¹¹⁸
- According to an October 2019 poll conducted by the Center for Public Opinion Research (CBOS), 45 percent of Poles viewed government efforts to limit corruption in a positive light, while only 11 percent found them insufficient.¹¹⁹ Yet Transparency International's Corruption Perceptions Index ranked Poland 41 out of 180 countries surveyed in 2019, a significant fall from the 29th spot in the 2016 ranking.¹²⁰

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Note

The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 7 representing the highest level of democratic progress and 1 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The Democracy Percentage, introduced in 2020, is a translation of the Democracy Score to the 0–100 scale, where 0 equals least democratic and 100 equals most democratic.

Footnotes

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Semi-Consolidated Democracy

65

100

Democracy Percentage 65.48 100

Democracy Score 4.93 7

Last Year's Democracy Percentage & Status

67 100 Consolidated Democracy

The ratings are based on a scale of 1 to 7, with 7 representing the highest level of democratic progress and 1 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The Democracy Percentage, introduced in 2020, is a translation of the Democracy Score to the 0-100 scale, where 0 equals least democratic and 100 equals most democratic.

Score changes in 2020

- Civil Society rating declined from 5.75 to 5.50 due to attacks on the LGBT+ community and the increased prevalence of extremist and illiberal discourse.
- Local Democratic Governance rating declined from 6.00 to 5.75 due to additional burdens placed on local governments' budgets along with reductions in revenues, limiting their ability to fulfill their constitutional responsibilities.
- Judicial Framework and Independence rating declined from 3.75 to 3.50 due to the use of the disciplinary system to intimidate judges critical of the government's overhaul of the judiciary.

Executive Summary

By Anna Wójcik and Miłosz Wiatrowski

The quality of democratic governance in Poland continued to deteriorate in 2019, marking the fourth consecutive year of decline in the country and its lowest score in *Nations in Transit*. The most negatively affected areas were the judiciary, local democratic governance, and the pluralism of civil society.

The main political event of the year was the October parliamentary election, which decisively strengthened the mandate of the Law and Justice (*Prawo i Sprawiedliwość*, PiS) government. The PiS-led coalition, United Right (*Zjednoczona Prawica*), won a majority in the National Assembly's Sejm (lower house) with an unprecedented eight million votes—though the opposition won a fragile 51 to 49 seat majority in the Senate (upper house) and can slow down the legislative process through debate and deliberation. The election was preceded by a vicious campaign but also unprecedented mobilization, resulting in a 30-year record-high turnout.¹ Earlier, in May, the country also recorded high participation in the European Parliament elections.²

See also: PKW, 'Sprawozdanie z wyborów do Parlamentu Europejskiego przeprowadzonych 26 maja 2019 roku' [National Election Commission, Report on elections to European Parliament conducted on 26th May 2019], accessible at:

Even though the outcome of the elections reflected the deep political polarization of Polish society, the new parliament represents a broader spectrum of political views than the former. The largest opposition force is the center-right Civic Coalition (*Koalicja Obywatelska*, KO), while the left made a return with the united list of *Lewica* (Left), and the extreme right entered too, represented by the Euroskeptic *Konfederacja*. Consequently, PiS is flanked by critics on both sides, challenged on social policy commitments by Lewica and on cultural and economic issues by *Konfederacja*.

For much of the year, the PiS-led coalition continued to increase its popularity despite intense domestic and European Union (EU)-level criticisms of its moves to undermine judicial independence, media pluralism, and civil liberties. Significantly, substantive institutional changes remained in force, including modifications to the composition and functioning of the Constitutional Tribunal (CT, described in previous *Nations in Transit* reports) and the National Council of the Judiciary (NCJ)—both of which had been taken over by the ruling PiS through politicized appointments. In December 2019, three new appointments to the CT included two well-known former PiS members of parliament (MPs), one of whom had been a communist-era state prosecutor.

Attempts at subordinating the justice system to political power reached new lows as well. The NCJ started appointing judges to common courts and to certain chambers of the Supreme Court (SC),³ although uncertainty prevailed as to whether those chambers could still be

considered independent courts. Following a landmark ruling by the Court of Justice of the European Union (CJEU), the SC in December ruled that the Disciplinary Chamber could no longer be considered an independent court.

Before and after the ruling, members of the legal profession continued to face significant pressure from the executive and legislative branches, notably through excessive use of disciplinary proceedings. In August, media outlets reported about an online smear campaign against judges, allegedly coordinated from within the Justice Ministry and supported by some NCJ officials. And in December, the governing coalition added fuel to the fire by introducing the so-called muzzle law, which would tighten the disciplinary system and set out harsh punishments for criticizing the government's overhaul of the judiciary. Domestic and international bodies and experts all agreed that the bill diminished Poland's judicial independence; they argued that it would put judges in the impossible situation of facing disciplinary actions for decisions required by the European Convention on Human Rights, EU law, and other international instruments, as well as by the Polish constitution.

Polish civil society remained vibrant but highly polarized. The year was marked by hate-motivated attacks, both verbal and physical, on the LGBT+ community, while PiS and the public media initiated lawsuits against critics. In January, Paweł Adamowicz, the longtime mayor of Gdańsk known for his progressive views, was murdered at knifepoint during a large public charity event. Additionally, the government systematically degraded the social and institutional autonomy of the cultural sphere, channeling state funds to select organizations and initiatives, and appointing loyal supporters to helm museums and other cultural institutions.

Media freedoms continued to deteriorate. Having taken over the broadcasting supervisory bodies and the public broadcasters themselves, PiS announced plans to curb the remaining independent media during its second term. The governing party's electoral program contained a proposal that would set up a professional body endowed with the power to discipline journalists. Meanwhile, the public media remained involved in political campaigning in favor of PiS.

Local governments were put under financial strain as tax cuts announced by the central government reduced their revenues, while the educational reform, a salary increase for teachers, and a host of other factors will significantly increase local expenditures. Liberal mayors in charge of the largest Polish cities were often targeted by government criticism as well as negative propaganda by media outlets associated with the right-wing, populist ruling camp led by PiS.

Prime Minister Mateusz Morawiecki formed his second government cabinet in November, but PiS chairman Jarosław Kaczyński—who does not hold any formal position other than being an MP—continued to wield informal power behind the scenes. The government includes PiS coalition partners United Poland (*Solidarna Polska*, SP) and Alliance (*Porozumienie*), each controlling 18 seats in the Sejm, which are crucial for maintaining a majority. Justice Minister Zbigniew Ziobro from SP and Deputy Prime Minister and Minister of Science and Higher Education Jarosław Gowin from Alliance are powerful figures in the cabinet.

While there were a number of corruption allegations in the ruling camp during the year, they had no substantial impact on PiS's popularity. The fight against corruption remained one of the key stated objectives of the government, and almost half of all Poles were satisfied with its handling of the issue. A strong economy and an increase in private sector wages, however, led to a rise in food prices. Coupled with chronic underfinancing in the public sector, the increase prompted mass protests among teachers, doctors, and administrative staff. PiS's model of welfare state, which appeals to many voters, is focused primarily on supporting the family through social transfers and tax cuts, not on supporting the public sector.

At year's end, the ruling PiS party was engaged in a deep conflict with EU institutions over the rule of law while preparing for the presidential elections in 2020. President Andrzej Duda, actively campaigning for reelection, expressed his support for the judicial disciplinary system and launched attacks on judges and "foreign lawyers" interfering in Polish affairs on state TV and during meetings with voters. With the election and pending EU actions, the upcoming year is set to be pivotal for judicial independence, as well as for Poland's democratic trajectory.

National Democratic Governance 1.00-7.00 pts

Considers the democratic character of the governmental system; and the independence, effectiveness, and accountability of the legislative and executive branches. 4.00 7.00

- In 2019, the ruling Law and Justice (PiS) party and its minor coalition partners, United Poland (SP) and Alliance, consolidated their grip on power, despite numerous high-profile scandals involving senior officials. Campaigning on the promise of a Polish model of welfare state and conservative cultural commitments, the PiS-led coalition triumphed

in European Parliament and national elections. Still, the opposition won a fragile majority in the Senate (the National Assembly's upper house), gaining the opportunity to slow down the legislative process through debate and deliberation.

- The quality of parliamentarianism in Poland eroded during the outgoing Sejm (lower house), in no small part due to procedures instituted by the speaker, Marek Kuchciński.⁴ In 2019, as in previous years,⁵ legislation was rushed through the parliament, often adopted during lengthy sessions dragging well into the night and lacking substantial, pluralistic debate.⁶ In September, Kuchciński prorogued the parliament ahead of time, allowing members (MPs) to campaign for the general elections taking place on October 13.⁷
- Prime Minister Mateusz Morawiecki formed his second cabinet on November 15. While the ruling PiS won a majority, minor coalition parties control 36 out of the total 235 seats, giving their leaders clout in the government. Should SP or Alliance leave the ruling coalition, PiS would fall far short of a parliamentary majority. The composition of the cabinet had already changed before the elections as key ministers left for the European Parliament⁸ or resigned after scandals erupted.⁹ For the first time, a Ministry of Climate was created.
- Formally independent, the president of the republic, Andrzej Duda, is favorably disposed to the governing majority as demonstrated by the fact that between 2015 and 2019 he used his veto power only five times.¹⁰ Instead, President Duda has routinely chosen to ask for a review of legislation that has already been adopted and enforced in front of the Constitutional Tribunal (CT), another institution seen as loyal to the governing majority.¹¹ Duda also supported the highly controversial "muzzle law," which was criticized by domestic, European Union (EU), and international institutions as an unprecedented assault on judicial independence (see "Judicial Framework and Independence").
- The opposition won a slim majority in the upper house and elected Senator Tomasz Grodzki (Civic Platform, PO) as marshal (speaker) of the Senate. The upper house can slow down the legislative process by sending bills back to the Sejm, but, ultimately, the latter can override its veto. Still, this development for the opposition can prevent the fast-tracking of laws in the future.
- The composition of the Sejm of the IX term (2019–23) reflects a broader political spectrum than the previous one.¹² The center-right Civic Coalition (KO)—formed by PO, Modern, the Polish Initiative, and Greens—remains the largest opposition force with 134 seats. Lewica (Left) returned to the parliament after a four-year hiatus with 49 seats; the Polish Peasants Party (*Polskie Stronictwo Ludowe*, PSL) won 30 seats; while the far-right Konfederacja entered the Sejm for the first time, gaining 11 seats. The German Minority secured one seat.¹³
- PiS chairman Jarosław Kaczyński continued to act as a power behind the throne, and major reforms were often announced during his speeches.¹⁴ Still, there were a number of power shifts during the year; these were significant in light of the expected succession within PiS, given Kaczyński's advanced age and reported health problems. In August, the position of Justice Minister Zbigniew Ziobro—the mastermind behind the highly controversial and divisive judicial overhaul—seemed imperiled when media reported on an online hate campaign against judges allegedly supported from within his ministry.¹⁵ Yet the 2019 parliamentary elections strengthened Ziobro, who is also leader of United Poland. The elections equally helped Deputy Prime Minister and Minister of Science and Higher Education Jarosław Gowin, leader of Alliance. While the United Poland MPs supported the "muzzle law," which was a de facto ministerial project, Gowin's party distanced itself from the bill and suggested some amendments in the legislative process (but nevertheless voted for the law).¹⁶

Electoral Process 1.00-7.00 pts

Examines national executive and legislative elections, the electoral framework, the 6.50 functioning of multiparty systems, and popular participation in the political process. 7.00

- In 2019, PiS and its coalition partners triumphed in the European and parliamentary elections with record-high turnout, thus strengthening their mandate for governing. Still, the success of the opposition in the Senate was significant given that it managed to increase its share of seats and gain a majority. International and domestic bodies monitoring both elections noted editorial bias in the media, including the public broadcaster, during the campaigns.
- PiS campaigned in both the May elections to the European Parliament and October national elections on the promise of a Polish model of welfare state (or "prosperous state"), which emphasized solidarity as well as entrepreneurship.¹⁷ In addition, the party promoted a heavily conservative agenda, pledging to support the traditional family model and "defending" Poles against "the imposition of gender and LGBT ideologies."¹⁸

- In the October parliamentary elections, United Right (*Zjednoczona Prawica*, ZP), the coalition of PiS, United Poland (SP), and Alliance, won 43.59 percent of the votes, securing an absolute majority in the Sejm. The opposition Civic Coalition (KO) came in second with 27.40 percent, while Lewica (Left) received 12.56 percent, PSL 8.55 percent, and Konfederacja 6.81 percent.¹⁹
- The post-1989 record turnout in the European Parliament elections (at 45.68 percent)²⁰ in May and national parliamentary elections in October (at 61.74 percent)²¹ showed that parties successfully mobilized voters. Thanks to the high turnout, parties will receive significantly more in state subsidies as well.²² The government coalition not only strengthened its mandate but gained an impressive 8 million votes, 2.3 million more than in the 2015 elections.²³ Nonetheless, the individual who received the highest number of votes cast for a single candidate came from the opposition ranks: Małgorzata Kidawa-Błońska (PO) secured 416,030 votes, almost twice as many as Jarosław Kaczyński (PiS), who ran in the same district in Warsaw.²⁴
- Following the election, both ZP and KO asked for a recount in a small number of cases.²⁵ The Supreme Court, which considers election complaints, reviewed a total of 277 challenges and ruled that none of the 6 complaints submitted by the governing coalition were actionable.²⁶
- The OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a limited Election Observation Mission to Poland, which concluded that the "parliamentary elections were prepared well, but media bias and intolerant rhetoric in the campaign were of significant concern."²⁷ The problems highlighted in the ODIHR report included the "distinct editorial bias of the media, especially the public broadcaster"; the use of hostile, polarizing language in the campaign; and the active role of the Catholic Church, which supported PiS.
- Earlier in the year, PiS also triumphed in the European Parliament elections, receiving 45.38 percent of the vote and taking 27 seats. The broad opposition alliance European Coalition (*Koalicja Europejska*, KE)—composed of PO, PSL, SLD (Left), Progressive Liberals (*Nowoczesna*, N), and Greens—won 38.47 percent of the vote and 22 seats, while *Wiosna*, a left-wing party registered in 2018, won 6.6 percent and 3 seats in the European Parliament.²⁸

Civil Society 1.00-7.00 pts

Assesses the organizational capacity and financial sustainability of the civic sector; the legal and political environment in which it operates; the functioning of trade unions; 5.50 interest group participation in the policy process; and the threat posed by 7.00 antidemocratic extremist groups.

- Civil society in Poland remained vibrant but deeply polarized in 2019. During the year, civic actors and organizations mobilized chiefly around local cultural and economic issues. The space and funding for independent cultural institutions that do not support the government's traditionalist agenda continued to shrink, while women's rights and LGBT+ rights organizations came under increased pressure. Still, a record-high 24 equality parades and marches were held across the country.²⁹
- On January 13, Gdańsk mayor Paweł Adamowicz, a longtime supporter of equal rights, was murdered at a knife-point during a large public charity event in the city. The violent killing sparked a period of soul-searching and more than 50 marches against hate and violence.³⁰ Later, Adamowicz's widow, Magdalena Adamowicz, successfully ran for election to the European Parliament on an anti-hate speech agenda.³¹ Gdańsk's new mayor, Aleksandra Dulkiewicz, was also subject to hateful verbal attacks, including death threats.³² Still, in November, the prosecution discontinued investigations against protesters who had hung portraits of opposition politicians, including Paweł Adamowicz, on gallows on a square in Katowice two years earlier.³³
- The year was also marked by campaigns against the LGBT+ community. In February, liberal Warsaw mayor Rafał Trzaskowski signed an "LGBT+ Declaration," which provided guidance for the city's institutions in areas ranging from security to education, administration, and employment.³⁴ Subsequently, ruling party politicians, including Kaczyński himself,³⁵ and church leaders³⁶ launched a campaign against what they termed as "LGBT and gender ideologies." During the summer, several cities and provinces passed resolutions declaring themselves "zones free of LGBT ideology,"³⁷ while the right-wing weekly *Do Rzeczy* prepared "Stop LGBT" stickers. The distribution of the stickers was blocked by a court order.³⁸
- As a response, numerous equality marches took place across Poland. Local politicians attempted to cancel some of the marches for security reasons, but courts ruled in favor of freedom of assembly in all cases and the demonstrations were allowed to go forward.³⁹ In two instances, in Białystok and Lublin, counterprotesters attacked participants as well as journalists despite the presence of riot police.⁴⁰ Prime Minister Morawiecki condemned the violence.⁴¹

- Extremist and intolerant attitudes gained some ground during the year. In a public opinion poll about the dangers facing Poland in the twenty-first century, the most popular answer among male PiS voters under 40 was "the LGBT movement and gender ideology."[42](#) In October, the extreme right-wing Konfederacja, known for the homophobic, misogynist, and anti-Semitic views of several of its high-profile members, entered the Sejm for the first time, predominantly supported by young male voters.[43](#)
- The Catholic Church, an influential force in Poland, continued to represent positions harmful to women's rights and gender equality.[44](#) The church was also beset by pedophilia scandals during the year. As a result, the church was the subject of numerous publications and media, most notably the independent documentary *Tell No One*, viewed over 20 million times on YouTube.[45](#) Arguably, the focus on "LGBT and gender ideologies" could in part be attributed to a desire by church leaders to deflect public outrage over actions by the clergy.
- The government increased pressure on independent cultural institutions that receive state support. Funding for European Solidarity Center (*Europejskie Centrum Solidarności*, ECS) in Gdańsk was drastically cut,[46](#) while Minister of Culture Piotr Gliński delayed the reappointment of Dariusz Stola, director of POLIN Museum of the History of Polish Jews in Warsaw—despite the fact that Stola won the competition.[47](#) During the year, the government also appointed new directors to the National Museum[48](#) and the Center for Contemporary Arts in Warsaw[49](#) as a sign of strengthening its cultural and historical policy.
- The National Institute of Freedom, which distributes state funding to NGOs, focused support on projects related to Christian heritage or national and local traditions.[50](#) As of July 2019, an estimated PLN 214 million were channeled from public funds to various organizations controlled by Father Tadeusz Rydzyk. The media mogul, who launched the fundamentalist Catholic Radio Maryja in 1991, is openly supportive of PiS.[51](#)
- Several strikes took place during the year. Climate marches occurred in a number of cities across the country, attracting predominantly young participants.[52](#) Other strikes included teachers in April, justice system administrative staff in May, and doctors demanding higher wages and funding for public services in June.[53](#) The education reform, which led to layoffs and the closure of some schools, prompted the largest sectoral strike in more than two decades: in April, almost 75 percent of all schools went on strike as teachers demanded a sharp increase in salaries.[54](#) Although the strike was suspended without fully meeting teachers' conditions, the government promised modest wage increases.

Independent Media 1.00-7.00 pts

Examines the current state of press freedom, including libel laws, harassment of journalists, and editorial independence; the operation of a financially viable and independent private press; and the functioning of the public media.

- The Polish media sector is robust and diverse, in both ownership structure and ideological spectrum. No new laws related to the media were introduced in 2019. However, prominent politicians from the governing party argued that there is a need to "repolonize" the sector, and critical outlets experienced pressure from the ruling party. Journalists continued to be routinely sued for defamation for their investigative pieces.
- In June, Deputy Prime Minister Jarosław Gowin claimed that if the governing party wins reelection, it would have to "face the challenge associated with the large share of foreign ownership of private media outlets," which can lead to a "conflict of interests."[55](#) The need to "re-polonize" private media was repeated in August by another Deputy Prime Minister, Piotr Gliński, who stated that "the respective bills are already drafted and will be presented after the elections."[56](#) Foreign owners dominate the market.
- The electoral program PiS presented in September included no proposals concerning media ownership. It did, however, contain a promise to regulate the journalistic profession by introducing a body that could decide who may work as a journalist (similar models exist in Poland for the legal and medical professions).[57](#) It also proposed to replace the country's current defamation laws with internal oversight in the hands of this new professional institution. Given government reforms in the judiciary, the plan raised serious concerns that the institution would silence critical outlets.
- Defamation is a criminal offense, and article 212 of the criminal code has been used by members of the ruling camp against investigative journalists on numerous occasions. In May, for example, PiS chairman Kaczyński sued *Gazeta Wyborcza* for a series of articles concerning his involvement in a real estate project.[58](#) PiS also sued Wojciech Sadurski, a well-known law professor, for a post on Twitter that referred to the party as an "organized crime group."[59](#) Also in May, a bill to reform the criminal code would have included additional criminal liability for defamation. It was removed through a Senate amendment after a wave of protests.[60](#)

- The media sector's most significant ownership change occurred with the sale of Radio Zet, the second-largest private radio broadcaster, with a 12 percent share of the market.⁶¹ The radio was acquired by a consortium composed of Agora (the owner of the leading Polish newspaper, *Gazeta Wyborcza*) and SFS Ventures, a Czech fund linked to American billionaire and philanthropist George Soros.⁶² The transaction was under scrutiny by the Polish Competition Authority at year's end.⁶³
- There were several notable instances of violence and harassment directed towards journalists during the equality marches, including in the eastern cities of Białystok and Lublin.⁶⁴ In some cases, police forcibly removed journalists from demonstrations claiming safety concerns, while, in effect, preventing them from doing their work.⁶⁵
- Public radio and television continued to promote a one-sided, positive image of the ruling camp. During the fall parliamentary campaign, the TVP refused to air a public service announcement prepared by the Warsaw Regional Doctors' Council that addressed the appalling state of Poland's healthcare system,⁶⁶ while in the same period broadcasting an alarmist documentary titled "The Invasion" about a network of organizations that supposedly promote the "LGBT agenda" in Poland.⁶⁷ In October, TVP lost two electoral lawsuits brought by the far-right Konfederacja because it had omitted the party from its reported poll numbers.⁶⁸
- State funding for the public broadcaster continued to grow during the year. After TVP's expenditures reached a record PLN 2.2 billion in 2018,⁶⁹ the governing party pushed through additional support amounting to PLN 1.3 billion in February 2019.⁷⁰ The decision drew particular ire as it came only a month after the murder of Gdańsk's mayor Paweł Adamowicz at a large public event. Both the mayor and the related charity⁷¹ had been targets of critical coverage by TVP in advance of the tragic knife attack. According to a study commissioned by the mayoral office in Gdańsk, there were more than a thousand video items aired about Adamowicz on the main TVP1 channel and the 24/7 news channel, TVP Info, in 2018 alone.⁷²

Local Democratic Governance 1.00-7.00 pts

Considers the decentralization of power; the responsibilities, election, and capacity of local governmental bodies; and the transparency and accountability of local authorities.

5.75
7.00

- Local and municipal authorities in Poland have broad competences but suffer from limited funding and frequent clashes with the central government. PiS sees municipal authorities as an impediment to its ability to govern, since elected officials from the ruling party control only 4 of the 107 largest Polish cities. Although no new laws were passed in 2019 that directly address the distribution of competences between the central and regional governments, the ruling camp did introduce a number of changes that negatively impact the financial situation of local governments.
- To help sway undecided voters, PiS unveiled a number of tax cuts in 2019. The cuts required budgetary adjustments during the year, worsening the financial situation of local and municipal authorities. The share of Personal Income Tax (PIT) that goes to local authorities accounts for 25 percent of local budgets on average.⁷³ The tax cuts, which include reducing the default rate of PIT by one percentage point and eliminating it completely for adults under 26, will decrease local revenues by PLN 6.6 billion annually, a drop of roughly 3-percent in total revenues.⁷⁴ Local governments already suffer from a mismatch between their robust responsibilities—including education and healthcare—and their limited ability to finance them.
- Local administrations were also burdened by the costs of a hastily rolled out education reform, which reached its apogee in September 2019. While the central government claimed that the reform would not have any impact on education-related expenditures, the Supreme Audit Office found that it led to a 12-percent rise in spending, half of that burdening local budgets.⁷⁵ In addition, the educational subsidy to municipalities, which was purportedly calculated to cover the cost of an increase in teacher salaries, was not sufficient to account for the wage hike and was designed to discriminate against large cities.⁷⁶ According to the Association of Polish Cities, the funding gap amounted to more than PLN 2 billion in 2018-19.⁷⁷ As a result, the costs of the government's promises were pushed onto localities, forcing them to cut expenditures elsewhere.
- The independence of local governments was often criticized by the ruling coalition and became the subject of national political controversies. Progovernment media, including the public broadcaster TVP, frequently attacked more liberal mayors of major cities such as Gdańsk, Warsaw, and Poznań. In June, after more than 800 local officials signed a declaration calling for further decentralization of Poland, prominent ruling camp politicians and state-owned media attacked the local officials for a purported assault on Polish sovereignty.⁷⁸

Judicial Framework and Independence 1.00-7.00 pts

Assesses constitutional and human rights protections, judicial independence, the status of ethnic minority rights, guarantees of equality before the law, treatment of suspects and prisoners, and compliance with judicial decisions. 3.50
7.00

- Since PiS came to power in 2015, the governing party has moved to control the judiciary through legislative changes, a takeover of key institutions, court packing, smear campaigns, and excessive use of disciplinary proceedings against those critical of the changes. In 2019, authorities intensified the pressure on judges, prosecutors, and other members of the legal profession, exacerbating the conflict with EU institutions over the rule of law.
- The Constitutional Tribunal (CT), presided over by a close ally of PiS chairman Kaczyński since December 2016,⁷⁹ is favorably disposed to the ruling majority. According to a public opinion poll published in September, only 27 percent of Poles assess the CT's work positively.⁸⁰ The CT president's management style is divisive, and in October, a PiS-supported CT judge demanded the president's resignation in an open letter, alleging misuse of power.⁸¹ In the same month, President Duda swore in three new CT justices, appointing two high-profile PiS politicians to the bench: Krystyna Pawłowicz, a former PiS MP, is known for her sharp statements; Stanisław Piotrowicz, a former deputy Justice Minister, was a communist state prosecutor involved in the sentencing of opposition activists before 1989; and the third appointment, Jakub Stelina, is an academic from Gdańsk University.⁸²
- In March, the CT ruled that the new National Council of the Judiciary (NCJ), the body in charge of judicial appointments, conforms to the Polish constitution, yet only justices appointed by PiS were on the panel that delivered the judgment.⁸³ The functioning of the NCJ has been controversial—the new body was established in 2018, after PiS dissolved the previous NCJ before it had finished its term. The majority of NCJ members are now political, not judicial, appointees.⁸⁴ By the end of 2019, the president had sworn in 384 judges and assessors recommended by the new NCJ.⁸⁵
- A number of decisions impacting Poland's judiciary were handed down from the European level in 2019. In addition to an ongoing sanctions procedure regulated by Article 7 of the Treaty of the European Union, the Court of Justice of the European Union (CJEU) ruled that a number of PiS's key changes to the justice system violate judicial independence. In June, the court ruled that the government breached EU law by lowering the retirement age of Supreme Court judges and granting the president discretion to extend their term beyond the newly fixed retirement age.⁸⁶ In November, the CJEU also ruled that the arbitrary power of the Justice Minister to postpone judges' retirement violated the EU's legal order.⁸⁷ In addition, there were cases or preliminary questions pending before the CJEU at year's end related to the disciplinary system, compatibility of the NCJ with EU law, and the powers of the Justice Minister,⁸⁸ among other issues.⁸⁹
- In a landmark decision in November, the Grand Chamber of the CJEU provided detailed criteria for determining whether a court could be considered independent within the meaning of EU law.⁹⁰ The decision furnished criteria for the ruling of the Polish Supreme Court (SC); in December, the SC ruled that the new Disciplinary Chamber is not an independent court.⁹¹ The Disciplinary Chamber was added to the SC as part of the government's overhaul of the judiciary and is composed entirely of judges appointed under the ruling PiS.
- In 2019, the new disciplinary model for judges was already being enforced.⁹² The activity of disciplinary officers resulted in numerous proceedings against judges who had criticized the government's policy or referred preliminary questions to the CJEU,⁹³ for example. In March, in an unprecedented decision, a judge was convicted in relation to one of her verdicts; the UN Special Rapporteur on Independence of Judges and Lawyers demanded answers from the Polish government, as the judge's ruling was in line with international legal standards.⁹⁴
- Throughout 2019, harassment and intimidation of judges and prosecutors intensified.⁹⁵ In June, the Justice Ministry threatened law professors with civil actions for their open critiques of draft changes to the criminal code.⁹⁶ In August, independent media outlets alleged that Justice Ministry officials and members of the NCJ had been involved in organizing an online troll farm that had launched an all-out campaign against individual judges, including the president of the Supreme Court.⁹⁷ The Deputy Justice Minister resigned and sued the outlets that had disclosed the information.⁹⁸ The NCJ, the government, and its supportive media downplayed the scandal, presenting it as an internal fight within the judiciary.⁹⁹ Additionally, the public broadcaster engaged in a smear campaign against Human Rights Commissioner Adam Bodnar, who is known for his independence and commitment to rule of law and human rights in Poland.¹⁰⁰
- In the last week of December, the Sejm passed a law that provoked domestic and international outcry.¹⁰¹ Dubbed the "muzzle law" by its critics, the legislation institutes

an even harsher disciplinary regime for judges, setting out punishments for questioning the status of courts in line with CJEU and SC judgments and, in particular, penalties for criticizing government reforms. It also changes the rules for selecting candidates for the First President of the Supreme Court—the last high-level judicial body not yet fully captured by the government. The Commissioner for Human Rights, the Legislative Offices of the Sejm and Senate, deans of law schools at 13 Polish universities, and international institutions like the Venice Commission and OSCE/ODIHR all concluded that the provisions of the “muzzle law” are incompatible with the Polish constitution as well as EU and international law.[102](#)

- Despite the increased political pressure on judges, most courts in Poland continue to rule according to established law, defying politicians’ expectations. In October, for example, a court in Warsaw ruled that the Justice Minister must issue an apology to a judge for defamatory statements.[103](#) Judges and civil society also continued to mobilize in support of the rule of law, in the courts and in the streets.[104](#) Still, according to a 2019 study by the Helsinki Human Rights Foundation, judges in Poland feel that their independence is threatened and that changes brought by the judicial overhaul have had a negative impact on their work.[105](#)

Corruption 1.00-7.00 pts

Looks at public perceptions of corruption, the business interests of top policymakers, laws on financial disclosure and conflict of interest, and the efficacy of anticorruption initiatives. 4.25 7.00

- Combating corruption and strengthening state institutions remained at the center of the governing party’s narrative in 2019. However, while Poles have a mostly positive view of the ruling camp’s efforts to combat corruption in the private sector, the year was marked by a host of scandals involving high-ranking PiS politicians and their abuse of state resources for personal gain.
- In the run-up to the parliamentary elections, PiS used its successes in closing tax loopholes, the most notorious being the so-called VAT gap,[106](#) to bolster its case for reelection. In September, the parliamentary special committee in charge of investigating large-scale tax fraud between 2007 and 2015 issued its final report.[107](#) The committee, in which PiS had a representative majority, argued that former prime ministers Donald Tusk and Ewa Kopacz (both PO) should face charges in front of the State Tribunal. Tusk was accused of ignoring information concerning the rising VAT gap, while Kopacz was criticized for her failure to implement systemic solutions to the problem after she replaced Tusk.[108](#)
- The opposition denounced the findings as overtly partisan, especially given that the VAT gap in 2006, under the previous PiS government, was higher than in 2007.[109](#) However, the governing party weaponized the committee’s findings during the campaign, sending off a convoy of tanker trucks driving throughout the country emblazoned with claims that the state budget had lost PLN 20 million each day from 2007 to 2015 due to the inaction of the PO-PSL government.[110](#)
- In 2019, an outpouring of cases of high-level officials abusing their power for personal gain captured the headlines. In January and February, *Gazeta Wyborcza* published a series of articles based on tape recordings from June 2018 that included PiS chairman Kaczyński calling off a real estate investment in Warsaw by a foundation close to the party, which raised allegations that the party chairman had incited a business partner to offer a bribe.[111](#) While Polish law requires the prosecutor’s office to decide on opening an investigation within 30 days of receiving a notice of potential wrongdoing, the prosecution waited nine months before refusing to start an investigation the day before the parliamentary election.[112](#)
- In August, media outlets reported that the Sejm speaker, Marek Kuchciński, had used a government airplane for private purposes, including flying his family to personal events.[113](#) Kuchciński resigned following the reports. However, in October, he was reelected MP in his district of Krosno with a significant increase in votes over his 2015 race. The case demonstrated that even well-documented abuses by officials carry little weight for certain segments of the PiS electorate.[114](#)
- In September, the newly appointed head of the National Audit Office and former finance minister Marian Banaś was reported to have engaged in legally dubious practices concerning a building he owned in Kraków, including intentionally lowering the building’s value in order to pay lower taxes.[115](#) Banaś took an unpaid leave while the Central Anticorruption Bureau conducted an audit of the case but remained in office at year’s end.
- Throughout the year, media outlets reported that the Justice Fund, created to support victims of crime and administered by the Justice Ministry, had channeled public funds to NGOs associated with Justice Minister Zbigniew Ziobro.[116](#) had supported Ziobro’s party electoral campaign,[117](#) and had spent generously on its own public relations.[118](#)

- According to an October 2019 poll conducted by the Center for Public Opinion Research (CBOS), 45 percent of Poles viewed government efforts to limit corruption in a positive light, while only 11 percent found them insufficient.¹¹⁹ Yet Transparency International's Corruption Perceptions Index ranked Poland 41 out of 180 countries surveyed in 2019, a significant fall from the 29th spot in the 2016 ranking.¹²⁰

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Note

The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 7 representing the highest level of democratic progress and 1 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The Democracy Percentage, introduced in 2020, is a translation of the Democracy Score to the 0–100 scale, where 0 equals least democratic and 100 equals most democratic.

Footnotes

- ¹ PKW, 'Obwieszczenie Państwowej Komisji Wyborczej z dnia 14 października 2019 r. o wynikach wyborów do Sejmu Rzeczypospolitej Polskiej przeprowadzonych w dniu 13 października 2019 r.' [National Election Commission Announcement of 14th October 2019 on the results of elections to Sejm of the Republic of Poland conducted on 13th October 2019], accessible at: https://pkw.gov.pl/pliki/1571084597_obwieszczenie_sejm.pdf, PKW, 'Obwieszczenie Państwowej Komisji Wyborczej z dnia 14 października 2019 r. o wynikach wyborów do Senatu Rzeczypospolitej Polskiej przeprowadzonych w dniu 13 października 2019 r.' [National Election Commission Announcement of 14th October 2019 on the results of elections to Senate of the Republic of Poland conducted on 13th October 2019], accessible at: https://pkw.gov.pl/pliki/1571084827_obwieszczenie_senat.pdf.
- ² PKW, 'Obwieszczenie Państwowej Komisji Wyborczej z dnia 27 maja 2019 r. o wynikach wyborów posłów do Parlamentu Europejskiego przeprowadzonych w dniu 26 maja 2019 r.' [National Election Commission Announcement of 27th May 2019 on the results of election of deputies to European Parliament conducted on 26th of May 2019], accessible at: https://pkw.gov.pl/pliki/1558966697_Obwieszczenie_Panstwowej_Komisji_Wy...
- ³ Sąd Najwyższy. Izba Kontroli Nadzwyczajnej i Spraw Publicznych – sędziowie [Supreme Court. Extraordinary Control and Public Affairs Chamber – judges], accessible at: <http://www.sn.pl/osadzienajwyzszym/SitePages/Organizacja.aspx?ListName=...>
- ⁴ See Balicki, M., (2019), 'The worst Sejm in three decades destroyed Polish parliamentarism', Rule of Law in Poland, 11th October 2019, accessible at:
- ⁵ On the quality of legislative procedure and legislation in 2017–2018, see: 'XI Komunikat Obywatelskiego Forum Legislacji o jakości procesu legislacyjnego na podstawie obserwacji prowadzonej w okresie od 16 listopada 2017 do 15 maja 2018 roku', Fundacja im. Stefana Batorego, accessible at: .

On the quality of legislative procedure and legislation in 2018, see: 'XII Komunikat Obywatelskiego Forum Legislacji o jakości procesu legislacyjnego na podstawie obserwacji prowadzonej w okresie od 16 maja do 15 listopada 2018 roku oraz podsumowujący aktywność legislacyjną rządu i parlamentu w trzecim roku ich działalności', Fundacja im. Stefana Batorego, accessible at: .
- ⁶ Pankowska, M., 'PiS o 1:30 w nocy odebrał sędziom prawo odwołań od decyzji KRS' [At 1:30 in the night PiS took judges away the right to appeal to NCJ decisions], OKO.press, 26.04.2019, accessible at: .
- ⁷ Ziolkowski, M., 'Undemocratic but Formally Lawful: The Suspension of the Polish Parliament', Verfassungsblog, 25.08.2019, accessible at:
- ⁸ Among them former PM Beata Szydło, Deputy Justice Minister Patryk Jaki, former Education Minister Anna Zalewska responsible for controversial education reform, former Minister of Labour and Social Policy Elżbieta Rafalska, former Chief of Staff in Chancellery of PM Beata Kempa.
- ⁹ Notably Deputy Justice Minister Łukasz Piebiak.

- [10](#) 'Pięć nierozpatrzonych wet Dudy to decyzja polityczna. "Kaczyński nie chciał, żeby były głosowane w Sejmie", [dziennik.pl](#), 29.08.2019, accessible at:
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- [13](#) 'Dane o posłach wg stanu na dzień wyborów,' [Sejm.gov.pl, http://www.sejm.gov.pl/Sejm9.nsf/page.xsp/poslowie_poczatek_kad](http://www.sejm.gov.pl/Sejm9.nsf/page.xsp/poslowie_poczatek_kad)
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- [16](#) Wójcik, A. 'Polish President doing his best to attack every judge and lawyer in Europe,' [Ruleoflaw.pl](#), 24 December 2019, accessible at: .
- [17](#) PM Morawiecki during parliamentary election campaign articulated that "Polish model of welfare state is the title of our program" and that it means "a good cooperation between various dimensions of economic, social, public and financial life" and stressed the need to cohesion of solidarity and entrepreneurship.

Source: 'Premier: stoimy u progu wielkiej szansy budowy państwa dobrobytu' [Prime Minister: we are at a threshold of having a chance to build a welfare state], [Polsatnews.pl](#), 28.09.2019, accessible at: .
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- [20](#) PKW, 'Obwieszczenie Państwowej Komisji Wyborczej z dnia 27 maja 2019 r. o wynikach wyborów posłów do Parlamentu Europejskiego przeprowadzonych w dniu 26 maja 2019 r.' [National Election Commission Announcement of 27th May 2019 on the results of election of deputies to European Parliament conducted on 26th of May 2019], accessible at: .

See also: PKW, 'Sprawozdanie z wyborów do Parlamentu Europejskiego przeprowadzonych 26 maja 2019 roku' [National Election Commission, Report on elections to European Parliament conducted on 26th May 2019], accessible at:
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