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Country Report on Human Rights Practices 2018 - Poland

EXECUTIVE SUMMARY

Poland is a republic with a multiparty democracy. The bicameral parliament consists of an upper house, the senate (Senat), and a lower house (Sejm). The president and the Council of Ministers headed by the prime minister share executive power. Observers considered the October 21 nationwide regional and local elections free and fair.

Civilian authorities maintained effective control over the security forces.

Human rights issues included criminal defamation penalties and violence targeting members of ethnic minorities.

The government took steps to investigate, prosecute, and punish officials who committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices. There were reports of problems, however, with police misconduct and corrections officers' abuse of prisoners. The law lacks a clear legal definition of torture, but all actions that could be considered “torture”

are prohibited and penalized in criminal proceedings under other provisions of the law that directly apply the country's obligations under international treaties and conventions prohibiting torture. The law outlines disciplinary actions for police, including reprimand, demotion in rank, and dismissal. Civil society groups noted cases of police misconduct against persons in custody.

On January 30, the Lublin local court sentenced three former police officers to three- and one-year prison terms for using an electroshock weapon against two intoxicated men they detained in June 2017. The judge determined that this action met the definition of torture.

On July 12, the Wroclaw district court began a trial against four former police officers charged with abuse of power and physical and psychological violence against a 25-year-old man who died in police custody in Wroclaw in 2016. Video footage showed police beating and using an electroshock weapon on the man, who was handcuffed in a jail cell. In May 2017, the interior and administration minister had dismissed the Lower Silesia regional police commander, deputy commander, and the Wroclaw city police chief in response to the incident.

On July 25, the Council of Europe's Committee for the Prevention of Torture (CPT) published a report on its May 2017 visit to detention facilities in the country. The report cited a number of allegations of excessive force used at the time of apprehension against persons who did not resist arrest and a few allegations of punches and kicks in the course of questioning. The CPT concluded that persons taken into police custody in the country continued to run an appreciable risk of mistreatment.

On August 27, the human rights defender notified the prosecutor's office that police beat a 70-year-old man in their custody in Ryki on August 22 over suspicions he had vandalized the grave of a police officer.

Prison and Detention Center Conditions

Prison and detention center conditions were adequate. There were no significant reports regarding prison or detention center conditions that raised human rights concerns. Nonetheless, insufficient prison medical staff and limited prisoner access to specialized medical treatment continued to be problems.

Physical Conditions: While authorities generally separated juveniles from adults, the law allows shared housing in prisons and detention centers in exceptional cases. Juveniles were at times held together with adult prisoners. Authorities usually sent juveniles between the ages of 17 and 21 accused of serious crimes to pretrial detention.

The law permits authorities to commit prisoners to the National Center for the Prevention of Dissocial Behaviors when they have served their prison sentences and have undergone a custodial therapy program, but have mental disabilities believed to create a high probability they would commit another serious crime against a person.

Administration: Authorities investigated credible allegations of inhuman conditions and made their findings publicly accessible. The human rights defender may join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when these file a complaint or when information otherwise leads to an allegation of inhuman conditions. The human rights defender administers the national preventive mechanism, an independent program responsible for monitoring conditions and treatment of detainees in prisons and detention facilities.

Independent Monitoring: The government allowed independent monitoring of prison conditions and detention centers on a regular basis by local human rights groups as well as by the CPT. The Helsinki Human Rights Foundation and other local nongovernmental organizations (NGOs) made occasional visits to prisons.

Improvements: In response to reports of police mistreatment, the Ministry of Internal Affairs and Administration announced police officers would receive cameras to record all interventions. During the year police received more than 2,000 such cameras.

During the year the government continued implementation of a four-year, two billion zloty (\$450 million) prison administration modernization plan to improve the security of detention facilities, prison infrastructure and working conditions for prison guards from 2017 to 2020.

d. Arbitrary Arrest or Detention

The constitution and the law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Role of the Police and Security Apparatus

The police force is a national law enforcement body with regional and municipal units overseen by the Ministry of the Interior and Administration. The border guard is responsible for border security and combating irregular migration; it reports to the Ministry of the Interior and Administration. The Internal Security Agency (ABW) has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau (CBA) is responsible for combating government, business, and financial corruption. The prime minister appoints the head and deputy heads of the CBA and supervises the bureau, which may investigate any matter involving public funds. The prime minister supervises the heads of both ABW and CBA, which also report to parliament.

The 2016 counterterrorism law designates the ABW as the primary authority for combatting terrorism and increased its law-enforcement powers. The human rights defender withdrew its 2017 referral of the law to the Constitutional Court, stating that the judges selected to hear the case were not legally appointed to the Constitutional Court.

Civilian authorities maintained effective control over the police force, the border guard, the ABW, and the CBA, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

The constitution and the law require authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law. The constitution and the law allow detention of a person for 48 hours before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. The law allows authorities to hold terrorism suspects without charges for up to 14 days. The law sets a five-day limit for holding a juvenile in a police establishment for children if the juvenile escaped from a shelter or an educational or correctional facility. It allows police to hold for up to 24 hours in a police establishment for children a juvenile who is being transferred to a shelter or an educational or correctional facility, in case of a “justified interruption of convoy.” The law provides that police should immediately notify a detained person of the reasons for his or her detention and of his or her rights. Usually this information is initially delivered orally; later, at the police station, the detainee signs a statement that he or she has been advised of his rights and duties. Police give the detained person a copy of the report on his detention. Authorities generally respected these rights. Only a court may order pretrial detention.

There was a functioning bail system, and authorities released most detainees on bail. Defendants and detainees have the right to consult an attorney at any time. The government provided free counsel to indigent defendants. The July 25 CPT report stated that access to a lawyer while in police custody was problematic in practice. On July 30, the president signed an amendment to the law on free legal counsel to facilitate access to free legal services to all citizens unable to afford legal fees. Under the previous law, free legal counsel, including at the pretrial stage, was restricted to poor, young, and senior citizens, veterans, members of multichild families, and victims of natural disasters. Authorities did not hold suspects incommunicado or under house arrest.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, the government adopted measures during the year that some claim limited the scope of judicial independence. During the year the government continued to implement and introduce new measures related to the judiciary that drew strong criticism from some legal experts, NGOs, and international organizations. In April and May, the president signed into law amendments to the common courts law, the National Judiciary Council law, and the 2017 amendments to the Supreme Court law in response to the December 2017 European Commission rule of law recommendation and infringement procedure.

On July 2, the European Commission launched an infringement procedure against the country two days before provisions of the revised Supreme Court law lowering the mandatory retirement age for judges went into effect, affecting 27 of the 74 Supreme Court justices at that time. The chief justice of the Supreme Court refused to recognize the president's authority to force her retirement, arguing her constitutionally established length of term takes precedence over legislation lowering the mandatory retirement age for Supreme Court judges.

On August 2, the Supreme Court ruled to suspend further implementation of the mandatory retirement age provisions of the amended Supreme Court law, and requested that the European Court of Justice rule on whether these provisions comply with EU law. The president refused to acknowledge the Supreme Court's suspension of the mandatory retirement provisions. On September 24, the European Commission referred the country's amended Supreme Court law to the European Court of Justice (ECJ), stating “the Polish law on the Supreme Court is incompatible with EU law as it undermines the principle of judicial independence, including the irremovability of judges.” The European Commission asked the ECJ to review the law and order interim measures to restore the Supreme Court to its composition before the revised law was implemented. In September and October, the president continued to implement the amended Supreme Court law by appointing judges to the newly created disciplinary and extraordinary appeals chambers and to positions vacated by voluntarily retired judges. Some judicial experts, NGOs, and international organizations saw the president's appointments as an attempt to preempt any adverse ruling by the ECJ. On October 19, the ECJ issued an interim injunction requiring the government to reinstate those judges who had been retired under the amended law. On November 19, the government submitted legislation to automatically reappoint all justices retired under the Supreme Court law to fulfill the ECJ's interim measures, and President Duda signed the legislation into law on December 17. At the end of the year, the ECJ had not announced a date for considering the European Commission's case against Poland's Supreme Court law.

An increase in the average duration of judicial proceedings made the judiciary less effective. According to Justice Ministry statistics, the average trial lasted approximately 5.5 months in 2017, compared with 4.7 months in 2016 and 4.2 months in 2015. While the government claimed its judicial reforms were motivated at least in part to promote judicial efficiency, some legal experts asserted that the government's judicial reforms had the opposite effect.

The trial continued of a former chief judge of the Krakow Appellate Court accused of abuse of powers, participating in an organized criminal group, and accepting bribes. The case is part of a wider anticorruption investigation into the Krakow Appellate Court in which 26 persons were charged, 13 of whom remained in pretrial detention.

The trial also continued of the former head of the appeals prosecutor's office and Rzeszow regional prosecutor on charges of accepting bribes and abuse of power.

Trial Procedures

The constitution provides for the right to a fair public trial, and the judiciary generally enforced this right. Defendants enjoy a presumption of innocence and the right to prompt and detailed notification of the charges against them, with free interpretation for defendants who do not speak Polish from the moment charged through all appeals. They have the right to a fair and public trial without undue delay and the right to be present at their trial. Trials are usually public, although the courts reserve the right to close a trial in some circumstances, including divorce proceedings, cases involving state secrets, and cases whose content may offend public morality.

Defendants have the right to legal representation, and indigent defendants may consult an attorney provided without cost. The government must provide defendants and their attorneys adequate time and facilities to prepare a defense. Defendants may confront and question witnesses and present witnesses and evidence on their own behalf. Prosecutors may grant witnesses anonymity if they express fear of retribution from defendants. The prosecutor general may release to media information concerning any investigation, except if such information is classified, with due consideration to important public interests. Defendants may not be compelled to testify or confess guilt.

After a court issues a verdict, a defendant has seven days to request a written statement of the judgment; courts must provide a response within 14 days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals or organizations may seek civil remedies for human rights violations. The government's implementation of court orders, particularly for payment of damages, remained slow, and cumbersome.

After they exhaust remedies available in the domestic courts, persons have the right to appeal court decisions involving alleged government violations of the European Convention on Human Rights to the European Court for Human Rights.

The dispute regarding judicial appointments to the Constitutional Court in 2015 and 2016 was not resolved by the end of the year.

Property Restitution

The law provides for restitution of communal property, such as synagogues and cemeteries, seized during the Communist era or under Nazi occupation, but the process proceeded slowly during the year. By the end of September the property commissions had resolved 7,000 of slightly more than 10,500 communal property claims.

The government has put in place legal and administrative procedures for private property restitution, but NGOs and advocacy groups reported it did not make significant progress on resolution of Holocaust-era claims, including for foreign citizens. No comprehensive law addresses the return of or compensation for private property, but individuals may seek the return of confiscated private property through administrative proceedings and the courts. NGOs and advocacy groups described the current process as cumbersome and ineffective.

During the year Warsaw city authorities continued publishing lists of properties under a 2016 law barring Warsaw public properties from being returned to their precommunist-era owners and extinguishing long-dormant claims after a six-month notice period if no claimant stepped forward to pursue a restitution case. The 2016 legislation was intended to end abusive practices in the trading of former property owners' claims. Nonetheless, NGOs and advocacy groups expressed serious concerns that it fell short of providing just compensation to former owners who lost property as a result of nationalization of properties by the communist-era government and also properties taken during the Holocaust era. The Constitutional Court upheld the legislation, and the law entered into force in 2016. By June 21, the city authorities published notifications for 206 properties, and issued 39 decisions, 33 of which denied the return of properties currently used for public purposes, including schools, preschools, a park, and a police command unit. The World Jewish Restitution Organization asserted that Warsaw City's administration of the law unjustly denied the time necessary for potential claimants, particularly Holocaust survivors and their heirs, to meet difficult documentary requirements for providing proof of ownership or inheritance.

On February 12, the head of the Council of Minister's committee that coordinates legislation announced that the comprehensive private property restitution draft legislation, announced by the Justice Ministry in October 2017 needed further amendments and analysis, including questions about its potential cost and compliance with national and international law. The proposed law would block any physical return of former properties, provide compensation of 20-25 percent of the property's value at the time of taking in cash or government bonds, and set a one-year claims-filing period. Critics have argued the legislation would exclude potential foreign citizen claimants, many of whom were Holocaust survivors or their heirs, and allow only direct heirs to file claims, a provision that in effect would exclude many heirs of survivors. As of early November the government had not announced any updates on the status of the draft law.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions but allows electronic surveillance with judicial review for crime prevention and investigation.

On March 14, the human rights defender withdrew his referral from the Constitutional Court of a 2016 law regulating police and security services surveillance, stating that there is no expectation of an unbiased and substantial review of the law in question by

the Constitutional Court. The human rights defender referred the law to the Constitutional Court in 2017, arguing it infringes on privacy rights and EU data privacy norms and does not provide sufficient protections for privileged communications (e.g., attorney-client, priest-penitent).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

While the constitution provides for freedom of speech and press, laws restrict these freedoms.

Freedom of Expression: The law prohibits hate speech, including the dissemination of anti-Semitic literature and the public promotion of fascist, communist, or other totalitarian systems.

Violence and Harassment: In January an Associated Press journalist in Warsaw was subjected to threats and harassment after the editor of the Ministry of Foreign Affairs internet news portal *polska.pl* published an article accusing the journalist and the Associated Press of reporting “fake news” and harming the country’s image internationally. In February the ministry terminated the employment of its news portal editor.

On November 23, Internal Security Agency officers visited the home of a cameraman for private television news channel TVN to deliver a summons for questioning by prosecutors on suspicion of propagating fascism related to an investigative television report that showed members of the Pride and Modernity Association dressed in Nazi military uniforms and celebrating Hitler’s birthday in April 2017. TVN issued a statement describing the summons as an attempt to intimidate journalists. At year’s end the case was still in process.

Censorship or Content Restrictions: The constitution prohibits censorship of the press or social communication. At the same time, laws regulating broadcasting and media prohibit, under penalty of fines, license revocation, or other authorized sanctions, the promotion of activities endangering health or safety, or the promotion of views contrary to law, morality, or the common good. The law also requires that all broadcasts “respect the religious feelings of the audiences and, in particular, respect the Christian system of values.” Laws also specify that journalists must be unbiased and balanced in their coverage and verify quotations and statements with the person who made them before publication.

The National Radio and Television Broadcasting Council, a five-member body appointed by the Sejm (two members), the Senate (one member), and the president (two members), is constitutionally responsible for protecting freedom of speech and has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, apportion subscription revenues to public media, and impose fines or other sanctions on all public and private broadcasters that violate the terms of their

licenses or laws regulating broadcasting and media. Council members are required to suspend their membership in political parties and public associations, but critics asserted that the council remained politicized.

Critics also alleged persistent progovernment bias in state television news broadcasts.

On January 10, the National Radio and Television Broadcasting Council announced it had cancelled a 1.48 million zloty (\$420,000) fine against private broadcaster TVN. The broadcasting council issued the fine in December 2017, after finding TVN had violated the broadcasting law, which prohibits programs or other content that would promote actions which violate the law, Polish national interest, morality and social good, incite hatred, or pose a threat to life, health or the natural environment. The fine was in response to a complaint about TVN’s news coverage of 2016 protests in front of the national parliament building and a sit-in by opposition members of parliament in the main chamber, which the Council had concluded was biased and threatened public safety by encouraging public participation in a demonstration the police had ruled illegal.

Libel/Slander Laws: Defamation is a criminal offense and includes publicly insulting or slandering members of parliament, government ministers, or other public officials, as well as private entities and persons. Defamation outside the media is punishable by a fine and community service. The courts rarely applied maximum penalties, and persons convicted of defamation generally faced only fines or imprisonment for up to one year. The maximum sentence for insulting the president or the nation is three years’ imprisonment. Journalists have never received the maximum penalty in defamation cases, according to the Helsinki Human Rights Foundation. Media owners, particularly of small local independent newspapers, were aware that potentially large fines could threaten the financial survival of their publications. According to Ministry of Justice statistics for 2017, the most recent data available, courts convicted one person of insulting the president and two persons for insulting constitutional organs of the government. In 2017 the courts fined two persons for public defamation. During the reporting period, one person was fined for public defamation of the nation or the Republic of Poland.

On February 6, the president signed into law amendments to the Institute of National Remembrance (IPN) law, which states that anyone who publicly assigns the “Polish state or nation” responsibility or joint responsibility for crimes committed by the Nazi Third Reich during World War II can be fined or imprisoned for up to three years. After signing the law, the president referred it to the Constitutional Court over concerns it violated free speech protections. On June 26, following significant international criticism of the law, the parliament voted to remove the provisions criminalizing attribution of Nazi crimes to the Polish state or nation, and the president signed the legislation the same day. The civil penalties in the law remained unchanged, as did the provisions criminalizing denial of purported Ukrainian World War II-era collaboration and war crimes.

The prosecutorial investigation into remarks alleging that Poles had killed more Jews than Nazis during the World War II occupation, published in a 2015 German newspaper interview with Polish-American Princeton University historian Jan Gross remained open at year’s end.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications or email without appropriate legal authority. The 2016 antiterrorism law authorizes the ABW to block websites without a prior court order in cases relating to combating, preventing, and prosecuting terrorist crimes, shut down telecommunications networks when there is a terrorist threat, and conduct surveillance of foreign nationals for up to three months without a court order. During the year there were no reports by media or NGO sources of the blocking of websites by the ABW.

The law against defamation applies to the internet as well. In 2017, the latest year for which statistics were available, prosecutors investigated 489 hate speech cases involving the internet, compared with 701 cases in 2016.

In 2017, according to data from the International Telecommunication Union, 18.48 percent of the population had a fixed broadband subscription, and 75.99 percent of the population used the internet.

Academic Freedom and Cultural Events

There were no reports of government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. The 2015 antiterrorism law permits restrictions on public assemblies in situations of elevated terrorist threats. During the year there were no cases of the prohibition of a public assembly due to an elevated terrorist threat.

In September the human rights defender published a report recommending the repeal of the 2017 amendments to the law on public assemblies that established special protections for “cyclical” or recurring assemblies. The defender asserted the amendments significantly limit the right of assembly by creating a hierarchy of assemblies entitled to greater and less protection. He also noted that, during 2016-2018, public institutions frequently violated the right to freedom of assembly by penalizing assembly participants.

On September 12, the Warsaw prosecutor’s office discontinued its investigation into an attack on counterdemonstrators during the November 2017 Independence March. Prosecutors asserted the attackers’ intention was to show dissatisfaction and not to physically harm the 14 counterdemonstrators they confronted. The prosecutors also explained that “the position of injuries indicate that violence was targeted at the less sensitive body parts,” concluding that the attackers’ intention was not to “endanger the victims.” On September 27, the Warsaw local court fined nine of the counterdemonstrators 200 zlotys (\$50) each for blocking a legal demonstration.

On October 13, police used tear gas, water cannons, and clubs to disperse roughly 200 counterdemonstrators trying to disrupt the Lublin Equality Parade. According to witnesses, the counterdemonstrators threw tomatoes, rocks, bottles, and firecrackers at marchers and police. No marchers were injured, but eight police were treated for injuries, and 21 counterdemonstrators were detained.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/ (<https://www.state.gov/religiousfreedomreport/>).

d. Freedom of Movement

The constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Authorities placed some asylum seekers in guarded centers for foreigners while they awaited deportation or decisions on their asylum applications. Border guards may place an individual in a guarded center only by court order. The law prohibits the placement of unaccompanied minors younger than age 15 in guarded centers. Border guards typically sought in this way to confine foreigners who attempted to cross the border illegally, lacked identity documents, or committed a crime during their stay in the country.

On April 10, the European Court of Human Rights (ECHR) ruled the country violated the European Convention on Human Rights by placing a Chechen family with small children in a guarded detention center for six months. The ECHR also ruled that the country unnecessarily violated without sufficient justification the family’s right to respect of private and family life.

Abuse of Migrants, Refugees, and Stateless Persons: In addition to the guarded centers for foreigners, the government operated 11 open centers for asylum seekers with an aggregate capacity of approximately 2,000 persons in the Warsaw, Bialystok, and Lublin areas. Some incidents of gender-based violence occurred, but UNHCR reported that local response teams involving doctors, psychologists, police, and social workers addressed these cases. UNHCR reported no major or persistent problems with abuse in the centers.

Protection of Refugees

Refoulement: On September 3, Amnesty International (AI) published a statement asserting that, on August 31, the Polish government unlawfully deported Azamat Baduyev, a Russian national granted asylum in Poland in 2007, to Russia. Baduyev had spent several years in Belgium before his deportation from there to Poland in 2017. After his deportation from Poland to Russia, AI reported that, according to eyewitnesses, on September 1, several dozen armed men wearing FSB and Ministry of Interior insignia took Baduyev from the house in Chechnya where he was staying to an unknown location with no explanation. In the statement, AI claimed that “by returning Azamat Baduyev to a country where his life and safety is at risk, the Polish government was clearly in breach of its international obligations.”

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Safe Country of Origin/Transit: The EU’s Dublin III Regulation, to which the country is subject, recognizes all EU countries as safe countries of origin and transit. The regulation also authorizes the governments of EU member states to return asylum seekers to the countries where they first entered the EU. The law permits denial of refugee status based on safe country of origin or safe country of transit but includes provisions that allow authorities to consider the protection needs of individuals in exceptional cases.

Employment: Asylum seekers are not allowed to work during the first six months of the asylum procedure. If the asylum procedure lasts longer than six months, they gain the right to work until the asylum decision is final.

Access to Basic Services: Asylum seekers faced language and cultural barriers, and had limited access to higher education. Children in centers for asylum seekers had free access to public education, but those placed with relatives in guarded centers for foreigners did not.

Temporary Protection: The government also provided temporary protection to 241 individuals who may not qualify as refugees during the first 10 months of the year.

Stateless Persons

According to UNHCR, there were 10,825 stateless persons in the country at the end of 2014, the most recent figures available.

The law affords the opportunity to gain nationality. The Halina Niec Legal Aid Center observed in its 2016 report on statelessness, however, that the government did not implement a formal procedure of identifying stateless persons, leading to protection gaps and exposing stateless persons to many negative consequences, including detention. In June a Helsinki Human Rights Foundation lawyer reported that the government had not implemented any specific procedures to facilitate the legalization of stateless persons in the country, resulting in difficulties in travel and personal transactions requiring identity documents.

UNHCR occasionally received complaints from stateless persons regarding problems with employment, mainly involving the lack of identity documents, which discouraged employers from offering employment to stateless persons.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The presidential elections and the parliamentary elections in 2015 were both considered free and fair. Nationwide local and regional elections on October 21 were considered free and fair.

Participation of Women and Minorities: No laws limit participation of women and members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

Corruption: The law provides criminal penalties for corruption by officials, and criminal prosecutions for official corruption occurred. There were reports of corruption during the year that resulted in legal action.

On January 11, a former deputy director of the Warsaw City property office was charged with accepting approximately 30 million zlotys (\$8 million) in bribes connected to a Warsaw property restitution case. The defendant was also previously charged in February 2017 with accepting a 2.5 million zloty (\$680,000) bribe in the same investigation. Prosecutors pressed charges against five Warsaw city officials in the ongoing investigation into private property restitution malfeasance.

On November 26, the CBA detained Marek Chrzanowski, the former head of the country's banking regulator. On November 14, Chrzanowski resigned from his position after media reports that he had solicited a large bribe from the owner of two banks in the country in exchange for favorable treatment. Chrzanowski denied the allegations.

Financial Disclosure: Various laws oblige elected and appointed public officials to submit financial statements about their financial assets, real property, stocks, and bonds. According to the Stefan Batory Foundation, an NGO, the CBA was able to screen less than one percent of all financial disclosure statements filed by politicians and senior officials. With the exception of certain situations provided for by law, the regulations protect information included in financial statements as “restricted access” information that may be made public only with the written permission of the provider.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases.

Government Human Rights Bodies: The law entrusts the human rights defender and the government plenipotentiary for civil society and equal treatment with the task of “implementing the principle of equal treatment.”

The country’s independent human rights defender processes complaints, conducts investigations, institutes and participates in court proceedings, undertakes studies, provides other public bodies with advice, proposes legislative initiatives, conducts campaigns, and cooperates with NGOs. The human rights defender has no authority to mediate disputes between private entities, even in cases of racial discrimination. The human rights defender presents an annual report to the Sejm on the state of human rights and civic freedom in the country.

The government plenipotentiary for civil society and equal treatment has a mandate to counter discrimination and promote equal opportunity for all. The plenipotentiary implements the government’s equal treatment policy, develops and evaluates draft acts, analyzes and evaluates legal solutions, and monitors the situation within the scope of application of the principle of equal treatment. The plenipotentiary is subordinate to the prime minister’s office, did not have the same institutional independence as the human rights defender, and did not have a separate budget.

Both chambers of parliament have committees on human rights and the rule of law. The committees serve a primarily legislative function and consist of representatives from multiple political parties.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by

up to 12 years in prison.

While courts may sentence a person convicted of domestic violence to a maximum of five years in prison, most of those found guilty received suspended sentences. The law permits authorities to place restraining orders without prior approval from a court on spouses to protect against abuse.

The Women’s Rights Center reported that police were occasionally reluctant to intervene in domestic violence incidents if the perpetrator was a police officer or if victims were unwilling to cooperate.

The law requires every municipality in the country to set up an interagency team of experts to deal with domestic violence. According to some NGOs, interagency teams focused on resolving the “family problem” rather than initially treating claims of domestic violence as criminal matters. In one case, on September 13, a woman who had made repeated reports to police that a former partner was threatening her was shot and killed. The main suspect was her former partner. At year’s end, prosecutors were investigating whether police took appropriate action in response to the victim’s prior complaints.

Centers for victims of domestic violence operated throughout the country. The centers provided social, medical, psychological, and legal assistance to victims; training for personnel who worked with victims; and “corrective education” programs for abusers.

Sexual Harassment: The law prohibits sexual harassment, and violations carry penalties of up to three years in prison. According to the Women’s Rights Center, sexual harassment continued to be a serious and underreported problem.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The constitution provides for the same legal status and rights for men and women and prohibits discrimination against women, although few laws exist to implement the provision. The constitution requires equal pay for equal work, but discrimination against women in employment existed (see section 7.d.).

Children

Birth Registration: A child acquires citizenship at birth if at least one parent is a citizen, regardless of where the birth took place. Children born or found in the country whose parents were unknown or stateless are also citizens. The government has a system of universal birth registration immediately after birth.

Child Abuse: A government ombudsman for children’s rights issued periodic reports on problems affecting children, such as the need for improved medical care for children with chronic diseases. The ombudsman’s office also operated a 24-hour free hotline for abused children. The government continued running public awareness campaigns, aimed at preventing physical violence or sexual abuse against children.

Early and Forced Marriage: The legal minimum age of marriage is 18, although the guardianship court may grant permission for girls as young as 16 to marry under certain circumstances.

Sexual Exploitation of Children: The law prohibits sexual intercourse with children younger than 15. The penalty for statutory rape ranges from two to 12 years’ imprisonment.

Child pornography is illegal. The production, possession, storage, or importation of child pornography involving children younger than 15 is punishable by imprisonment for a period of three months to 10 years. During the year police conducted several operations against child pornography and alleged pedophiles.

According to the government and the Children Empowerment Foundation, a leading NGO dealing with trafficking in children, trafficking of children for sexual exploitation remained a problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/providers/legal-reports-and-data.html> (https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/providers/legal-reports-and-data.html).

Anti-Semitism

The Union of Jewish Communities estimated the Jewish population at 20,000. Anti-Semitic incidents continued to occur, often involving desecration of significant property, including synagogues and Jewish cemeteries, and sometimes involving anti-Semitic comments on radio and social media. Jewish organizations expressed concern about their physical safety and security.

There were reports of an increase in anti-Semitic speech following some negative public reaction to the amendments to the IPN law adopted by the lower house of parliament on January 26. The director of state-run television station TVP-2, Marcin Wolski, stated on camera that Nazi death camps could be called “Jewish death camps” as Jews operated the crematoria. During the same program, author Rafal Ziemkiewicz stated, “Jews also were part of their own destruction.” A presidential advisor stated Israel’s negative reaction to the law stemmed from a “feeling of shame at the passivity of Jews during the Holocaust.” Several television commentators and opinion writers argued the

Israeli government’s opposition to the IPN law was part of an effort to “soften up” Poland to get billions of dollars in property restitution for Jewish victims of the Holocaust.

On February 19, several Jewish organizations issued a joint statement expressing concern over a growing wave of intolerance, xenophobia, and anti-Semitism in the country. They warned of an increasing number of threats and insults directed at the country’s Jewish community and stated that they do not feel safe in the country. In April a Holocaust survivor of the Lviv (Ukraine) ghetto told those at a rally in Gdansk of her concern regarding the lack of reaction by the government.

In January authorities arrested and charged three individuals from a neo-Nazi group after an investigative television report showed members of the Pride and Modernity Association dressed in Nazi military uniforms celebrating Hitler’s birthday in April 2017. Senior officials strongly condemned the incident and called for dissolution of the association. On February 20, the government set up an interagency team for combatting promotion of fascism and other totalitarian ideologies. On April 10, the Gliwice district prosecutor filed a motion to dissolve the Pride and Modernity Association. On October 9, the Wodzislaw Slaski local court fined one of the participants in the April event 13,000 zlotys (\$3,500) after he pled guilty to public promotion of a totalitarian ideology and illegal possession of weapon.

On July 19, the Bialystok District Prosecutor’s office discontinued the investigation into the alleged desecration of the Jewish cemetery in the town of Siemiatycze in December 2017. The prosecutors concluded there was no desecration as the construction was approved through the county permitting process, the human remains were hard to see, and the contractors carrying out the work did not intend to desecrate the cemetery.

In January Holocaust survivors, Prime Minister Morawiecki, and other political and religious leaders gathered to mark International Holocaust Remembrance Day and commemorate the 73rd anniversary of the liberation of Auschwitz-Birkenau. In February the chairman of the Law and Justice Party, Jaroslaw Kaczynski, condemned anti-Semitism as a “disease of the mind and soul.”

On March 6, the lower house of parliament adopted a resolution condemning anti-Semitism to mark the 50th anniversary of the 1968 purges in which thousands of Jews were exiled from Poland. The resolution condemned all manifestations of anti-Semitism and the communists who organized the 1968 purges. In March parliament also passed, and the president signed, legislation making March 24 a national holiday commemorating Poles who saved Jews during World War II.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (<https://www.state.gov/j/tip/rls/tiprpt/>).

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities. While the government effectively enforced these provisions, there were reports of some societal discrimination against persons with disabilities. The government restricted the right of persons with certain mental disabilities to vote or participate in civic affairs.

The law states that buildings should be accessible for persons with disabilities, but many buildings remained inaccessible. Public buildings and transportation generally were accessible, although older trains and vehicles were often less so, and many train stations were not fully accessible.

National/Racial/Ethnic Minorities

A number of xenophobic and racist incidents occurred during the year.

On July 2, a joint report by the human rights defender and the OSCE Office of Democratic Institutions and Human Rights (ODIHR) concluded that only 5 percent of hate crimes against migrants from Muslim countries, sub-Saharan Africa, and Ukraine were reported to police.

On January 4, a man physically and verbally attacked a 14-year-old girl of Turkish origin in Warsaw. Prime Minister Morawiecki and Minister of Interior and Administration Blaszczyk condemned the attack and declared there is no room for racism in the country, and prosecutors launched an investigation into the attack.

On January 13, Minister of Interior and Administration Joachim Brudziński condemned xenophobic and aggressive behavior against those with differing their skin color, religion, or beliefs following an attack that day in which two men verbally assaulted two Syrian citizens in Wrocław. Police detained the men, who were charged with public insulting on the basis of national origin. The men could face up to three-years in prison if convicted.

On January 15, the Łódź District Court sentenced two men to two years in prison for attacking a kebab restaurant owner in Łódź. The attack took place in April 2017, when the men verbally assaulted and threw chairs at the restaurant owner and his staff.

On March 15, police arrested a man who took part in an August 2017 attack against a black Polish boxer at a Szczecin nightclub, shouting racial insults and attacking him with an axe. The victim was hospitalized. Police were searching for the main suspect at year's end.

On November 11, the government led a march through Warsaw in celebration of 100 years of Poland's regained independence. The march took place concurrently with the annual Independence Day March organized by a coalition of groups widely considered extremist in their ideologies, including the National Radical Camp (ONR) and All-Polish

Youth--Młodzież Wszechpolska. While most of the marchers--estimates ranged up to 250,000--carried Polish flags in line with a government request to carry only red and white flags and banners, some participants displayed signs and banners depicting white-supremacy symbols. An Italian neo-Fascist group also participated in the Independence Day march. A smaller counter protest took place at the same time. The two marches were peaceful.

Societal discrimination against Roma continued to be a problem. The 2011 national census recorded 16,723 Roma, although an official government report on the Romani community estimated that 20,000 to 25,000 Roma resided in the country. Romani community representatives estimated that 30,000 to 35,000 Roma resided in the country.

Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, media, and education.

During the year the government allocated 10 million zlotys (\$2.8 million) for programs to support Roma communities, including for educational programs. In addition, the Ministry of Education helped finance school supplies for Romani children. The Ministry of Interior and Administration provided school grants for Romani high school and university students, postgraduate studies on Romani culture and history in Krakow, and Romani-related cultural and religious events.

The Ukrainian and Belarusian minorities continued to experience harassment and discrimination. In April an extremist group called “Szturmowcy” (“storm troopers”) hung anti-immigrant posters around the town of Zyrardow near Warsaw. The posters asserted foreigners were taking jobs from Polish workers, and called for boycotting a local job agency for recruiting migrant workers from Ukraine, Moldova, Uzbekistan and Bangladesh to work in Polish companies.

On August 1, the Warsaw city authorities revoked permission for a march by the ONR to commemorate the anniversary of the Warsaw Uprising. City officials said participants displayed symbols promoting totalitarian regimes. In response to the city’s order, police dispersed the assembly, although dozens of marchers continued down the planned route. Minister of Internal Affairs and Administration Brudzinski criticized the Warsaw authorities for terminating the march.

Red Watch, a webpage run by a Polish neo-Nazi group Blood and Honor, listed politicians and activists by name, describing them as “traitors of the race.” The entries often included the home addresses and telephone numbers of the persons listed. Authorities stated they could do nothing because the site’s servers were located outside the country.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

While the constitution does not prohibit discrimination on the specific grounds of sexual orientation, it prohibits discrimination “for any reason whatsoever.” The laws on discrimination in employment cover sexual orientation and gender identity, but hate crime and incitement laws do not. The prime minister’s plenipotentiary for civil society and equal treatment is charged with monitoring discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals and groups. LGBTI advocacy groups, however, criticized the plenipotentiary’s office for a lack of interest and engagement in LGBTI issues. The human rights defender also continues to work on LGBTI human rights cases.

NGOs and politicians reported increasing acceptance of LGBTI persons by society but also stated that discrimination was still common in schools, workplaces, hospitals, and clinics. NGOs maintained that most cases of such discrimination went unreported.

On August 19, unknown perpetrators verbally and physically attacked an LGBT couple near one of the Gdansk beaches because they were holding hands.

On June 14, the Supreme Court rejected Justice Minister and Prosecutor General Zbigniew Ziobro’s appeal against a 2016 lower court decision finding a printer who refused services to the LGBT Business Forum Foundation in 2016 guilty of a misdemeanor.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the rights of workers to form and join independent trade unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination, and provides legal measures under which workers fired for union activity may demand reinstatement. On July 25, the president signed the revision of the law on trade unions to expand the right to form a union to persons who entered into an employment relationship based on a civil law contract, or to persons who were self-employed. The law is the result of the 2015 the Constitutional Court ruling that found any limitation to the freedom of association violates the constitution, and required the government and parliament to amend the law on trade unions.

Government workers, including police officers, border guards, prison guards, and employees of the supreme audit office, are limited to a single union. Workers in services deemed essential, such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades, do not have the right to strike. These workers have the rights to protest and to seek resolution of their grievances through mediation and the court system.

Trade unions are registered when at least 10 eligible persons adopt a resolution to form a trade union. Newly established trade unions must appoint a founding committee consisting of three to seven persons. A new trade union must register with the National Court Registry within 30 days of the resolution. The court may remove a trade union

from the registry only if a trade union adopts a resolution to dissolve; is no longer able to operate due to the bankruptcy, liquidation, or reorganization of the company in which the trade union operated; or if a trade union has fewer than 10 members for more than three months.

Legal strike ballots require the support of the majority of union voters. To allow for required mediation, a strike may not be called fewer than 14 days after workers present their demands to an employer. The law obligates employers to notify the district inspection office in their region about a group dispute in the workplace. Cumbersome procedures made it difficult for workers to meet all of the technical requirements for a legal strike. What constitutes a strike under the labor law is limited to strikes regarding wages and working conditions, social benefits, and the trade union rights and freedoms of workers. The law prohibits collective bargaining for key civil servants, appointed or elected employees of state and municipal bodies, court judges, and prosecutors.

The penalties for obstructing trade union activity range from fines to community service. The government did not effectively enforce applicable laws. Resources, inspections, and remediation efforts were not adequate, and the small fines imposed as punishment were an ineffective deterrent to employers. Administrative and judicial procedures were subject to lengthy delays and appeals. Unions alleged that the government did not consistently enforce laws prohibiting retribution against strikers. On May 28, the state-owned national airline LOT fired trade union leader Monika Zelazik, who tried to organize a strike at the company in May. In July the Chief Labor Inspectorate initiated legal proceedings against LOT management claiming that Zelazik's firing constituted a violation of the law on trade unions. On October 22, LOT fired 67 employees for organizing a strike on October 18 that the company described as illegal. On November 1, LOT management and trade unions signed an agreement ending the strike, and all 67 fired employees returned to work. On November 20, the Warsaw local court rejected a motion by LOT management challenging the legality of the October strike.

Trade union representatives stated that violations of freedom of association and the right to collective bargaining occurred. While many workers exercised the right to organize and join unions, many small- and medium-sized firms, which employed a majority of the workforce, discriminated against those who attempted to organize. The government enforced applicable laws but penalties were insufficient to deter violations.

Labor leaders continued to report that employers regularly discriminated against workers who attempted to organize or join unions, particularly in the private sector. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing of the workplace. Some employers sanctioned employees who tried to organize unions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Nevertheless, forced labor occurred.

The government effectively enforced the law. Penalties for forced labor violations were sufficiently stringent to deter violations. In 2017, the most recent year for which statistics were available, the government assisted in removing 74 victims from forced labor.

There were reports that foreign and Polish men and women were subjected to forced labor in construction, agriculture and restaurants and children were subjected to forced begging (see section 7.c., Child Labor).

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (<https://www.state.gov/j/tip/rls/tiprpt/>).

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. The labor inspector issues a permit on the basis of psychological and medical examinations. Child labor is not allowed if the work may pose any threat to life, health or physical and mental development of the child, or will conflict with the child's education. The government effectively enforced applicable laws but penalties were not sufficient to deter violations.

Some children younger than 18 engaged in hazardous work in agriculture, primarily on family farms. Migrant Romani children from Romania were subjected to forced begging. Commercial sexual exploitation of children also occurred (see section 6, Children).

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment or occupation in any way, directly or indirectly, on the grounds of race, sex, color, religion, political opinion, national origin, ethnic origin, disability, sexual orientation, age, trade union membership, and regardless of whether the person is hired for definite or indefinite contracts, or for full- or half-time work. The law does not specifically prohibit such discrimination based on language, HIV-positive status, gender identity, or social status. According to the Polish Society for Antidiscrimination Law, by law the accused must prove that discrimination did not take place, but judges often placed the burden on the victim to prove that discrimination occurred. The government enforced applicable laws, but penalties were not sufficient to deter violations.

Discrimination in employment and occupation occurred with respect to gender, age, minority status, disability, political opinion, sexual orientation and gender identity, and trade union membership. According to an EC report on equality published in March, the gender wage gap in 2016 was 7.2 percent. Discrimination against Romani workers also occurred (see section 6).

e. Acceptable Conditions of Work

The national monthly minimum wage and the minimum wage for formal work agreements meet the social minimum monthly income level. There is no minimum wage for informal work agreements. The government effectively enforced wage laws but penalties were not sufficient to deter violations; there were reports of employers withholding wages or underpaying laborers on informal work agreements, particularly among Ukrainian migrant workers.

The constitution provides every employee the right to statutorily specified days free from work as well as annual paid holidays.

The law defines strict and extensive minimum conditions to protect worker health and safety, and empowers the National Labor Inspectorate (NLI) to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. Workers could remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation. The NLI's powers are limited to the formal economy; it does not have authority to monitor implementation of worker health and safety laws in the informal economy, private farms, and households.

Resources were inadequate to enforce effectively minimum wage, hours of work, and occupational health and safety in the formal or informal sectors. The number of labor inspectors was not sufficient to deter violations.

According to the inspectorate's 2017 report, the most frequent labor rights violations concerned failure to pay or delayed payment of wages, failure to pay for overtime work, and failure to sign a labor contract in situations when the job performed constituted regular labor. Most wage payment violations occurred in the services, construction, and processing industries. Seasonal workers were particularly vulnerable to such violations. The national inspectorate's report did not cover domestic workers because inspectors could only conduct inspections in businesses, not private homes. The second-most common problem was inaccurate timekeeping records for hours worked.

Employers often ignored requirements regarding overtime pay. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage. The large size of the informal economy--particularly in the construction and transportation industries--and the low number of government labor inspectors made enforcement of the minimum wage difficult. The Main Statistical Office definition of informal economy includes unregistered employment performed without a formal contract or agreement, and is not counted as a contribution to social security and from which income taxes are not deducted. According to the Central Statistical Office, in 2017 (the latest year for which data were available), approximately 5.4 percent of workforce (880,000 persons) worked in the informal economy.

Trade union leaders stated penalties for employers were not sufficient to deter violations. In the case of serious violations, labor inspectors may submit the case to a court, which may impose a fine of up to 30,000 zloty (\$7,600). According to labor laws, persons who maliciously violate the labor rights of employees may face up to two years' imprisonment. International observers noted that the NLI's mandate both to confirm the legal status of workers and to monitor working conditions creates a potential conflict of interest.

During the year the NLI continued a public awareness campaign to lower the number of work-related accidents in logging and timber companies and conducted a “Work Legally” public awareness campaign promoting legal employment. In addition, the NLI continued a prevention and information campaign--“Construction Site. No More Accidents!”--that targeted construction companies and included training on work safety standards for employees and employers. During the year the NLI implemented its “Respect Life--Safe Work on Private Farms” campaign and visited many private farms to assess safety conditions and organized a number of competitions for individual farmers.

In the first half of the year, the Central Statistical Office (CSO) reported 37,007 victims of workplace accidents, a decrease of 2,086 from the same period in 2017. The highest number of victims worked in industrial processing, trade, car repairs, the health-service sector, transportation, warehouse management, and construction. The CSO reported 73 work-related deaths during the first six months of the year, in comparison with 93 death accidents during the same period in 2017. The CSO reported most of fatal accidents occurred in construction, industrial processing, and transport. In 2017 the inspectorate investigated 2,479 accidents in which there were deaths or injuries, including 263 workers killed and 924 persons seriously injured. The NLI reported that, as in previous years, most of the fatal accidents occurred in the construction, industrial-processing, transport, farming and forestry, mining, and trade industries. Employers routinely exceeded standards limiting exposure to chemicals, dust, and noise. According to the inspectorate's 2017 report, inadequate training of employees, the poor quality of job-related risk assessment tools, and inadequate measures by employers to prevent accidents were the leading causes of workplace accidents.

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