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HRW – Human Rights Watch

World Report 2023 - Poland

Government attacks on judicial independence and rule of law remained a serious concern. Women’s sexual and reproductive rights and activists continued to be under attack. Officials continued to use anti-LGBT rhetoric. Independent media outlets and journalists faced threats and obstacles in their reporting. While Poland admitted millions of people fleeing the war in Ukraine, unlawful pushbacks of migrants and asylum seekers from other parts of the world continued at the border with Belarus.

Judicial Independence

In its [Rule of Law report](#) published in July, the European Commission flagged that “serious concerns persist related to the independence of the Polish judiciary.” The government continued to ignore calls to address the lack of independence and effectiveness of the Constitutional Tribunal.

In March, the Constitutional Tribunal [confirmed](#) a motion by Minister of Justice and Prosecutor General Zbigniew Ziobro stating that the way the European Court of Human Rights (ECtHR) had interpreted Article 6(1)—the right to a fair trial—of the European Convention on Human Rights was unconstitutional. In response, 27 former Polish Constitutional Tribunal judges in a [public statement](#) called out the tribunal’s ruling, deeming it “another scandalous example of jurisprudence violating the Constitution.”

Also in March, 94 active and former judges of Poland’s Supreme Court called on Polish parliamentarians to fully implement judgments by the ECtHR and Court of Justice of the EU (CJEU) and scrap the politicized National Council of the Judiciary—the body responsible for nominating judges.

As a result of a 2021 CJEU ruling finding the Supreme Court’s Disciplinary Chamber unlawful and incompatible with European Union standards, [a bill passed](#) by the Sejm in May abolished the chamber in its existing form, while retaining some its functions in a new [Professional Liability Chamber at the Supreme Court](#).

The changes were largely cosmetic as they do not contain an obligation to reinstate unlawfully suspended judges and do not provide guarantees against influence by the executive for the functioning of an independent and impartial disciplinary system for judges. The changes failed to address the core issue of the continued appointment of judges to this new chamber in charge of disciplinary matters by the National Council of the Judiciary. Between June 2018 and June 2022, the Disciplinary Commissioner for Judges of Common Courts charged 127 judges with disciplinary offenses and filed indictments at lower courts in 38 cases. Courts delivered non-final sentences in 13 cases, among them two convictions.

The Supreme Court in June [ruled](#) that the country’s National Council of the Judiciary is inconsistent with the constitution due to political interference. The government rejected claims that the council was under political control.

The European Commission in July took further steps in its infringement procedure on the violations of EU law by the Constitutional Tribunal and issued a reasoned opinion against Poland, saying that it “no longer meets the requirement of an independent and impartial tribunal previously established by law.” It follows a 2021 ruling by the Constitutional Tribunal that found EU treaty provisions incompatible with the Polish constitution, thereby questioning supremacy of EU law and binding nature of CJEU rulings.

Freedom of Media

The government continued to interfere with the work of independent media outlets and journalists. Poland ranks 66, down from 64 in 2021, in the World Press Freedom Index of [Reporters Without Borders](#). In its [rule of law report](#), the European Commission stressed that the general environment for journalists continued to deteriorate and flagged concerns over restrictions on access to public information under the state of emergency.

Prior to lifting the state of [emergency](#) on its border with Belarus in July, authorities continued to prevent journalist from entering and reporting in the designated exclusion zone along the border with Belarus.

In two separate incidents in January, the adult children of two journalists, Wojciech Czuchnowski, a reporter at daily newspaper *Gazeta Wyborcza*, and Tomasz Lis, former editor-in-chief at *Newsweek Polska* weekly, [received death threats](#) saying “we will kill you because you betray the motherland.” Czuchnowski and Lis separately received similar threats. Both were known for reporting that was critical of the government. Police were investigating at time of writing.

In February, freelance journalist Pablo González was [arrested](#) by the Polish Security Services in Rzeszow close to the border with Ukraine, where he was reporting on the refugee crisis caused by Russia’s invasion. He was accused of conducting illegal espionage on behalf of the Russian state. González’s detention was twice extended by a Polish court. At time of writing, González remained in detention. Press freedom organizations raised concerns about the lack of evidence.

TVN24, a television station critical of the government, came under pressure in February after politicians from [the United Right coalition](#) tried to interfere with its editorial policy when three right-wing members of parliament were corrected by a TV-show host for making incorrect claims about rising energy prices. In addition, in a separate interview, Prime Minister Morawiecki the next day falsely accused TVN24’s parent company of unpatriotic behavior by broadcasting Russian propaganda.

Sexual Orientation and Gender Identity

Government officials and aligned organizations continued to publicly smear lesbian, gay, bisexual, and transgender (LGBT) people.

The more than 90 regions and municipalities who declared themselves “LGBT Ideology Free” or adopted “charter of family rights” contribute to create a climate of fear among LGBT people. In February 2022, Parliament [passed legislation](#) granting government “educational welfare officers” authority to decide on types of extracurricular or educational activities in schools, and established a complex bureaucracy for approving or refusing activities—measures seen as a smoke screen to attack LGBT and reproductive rights. Poland’s President [vetoed](#) the law in March 2022.

In a positive move in June, the Supreme Administrative Court [ordered](#) four municipalities to revoke their “LGBT Ideology Free” declaration as they were deemed discriminatory and pose a risk of violence against LGBT people.

Activists were subjected to SLAPP (strategic lawsuits against public participation) suits. SLAPPs are civil lawsuits intended to intimidate, censor, and silence critics by burdensome legal defense costs. In May, a [lower court](#) in Rzeszow rejected a case from the Niebylec commune against LGBT activist Bartosz Staszewski for alleged defamation over social media posts and media comments referring to the commune as an “LGBT Free-Zone.” Niebylec was one of dozens of communities in Poland, which in 2019 passed a resolution to “stop LGBT ideology.”

Women’s Rights

Attacks on women’s sexual and reproductive rights and women’s rights activists continued.

Marta Lempart, a prominent women’s rights activist, during the year had at least 10 lawsuits and charges filed against her because of her work. In total, Lempart has had over 100 lawsuits and charges filed against her for her work. In April, [Justyna Wydrzyńska](#), an activist with Abortion Without Borders, was charged with assisting someone to have an abortion and illegal “marketing” of medication for helping a domestic violence survivor access pills for a self-managed medication abortion. Wydrzyńska’s trial was postponed three times due to key witnesses failing to appear; at time of writing, the next hearing was scheduled for January 2023. [In November](#), parliament voted to strip MP Joanna Scheuring-Wielgus of her immunity so that she can be charged with offending religious beliefs for holding a banner in church supporting women’s right to abortion in October 2020.

Women’s rights organizations reported an increase in women reaching out to seek information about sexual and reproductive health and access to abortion. Between October 2020, when the Constitutional Tribunal virtually banned access to legal abortions, and November 2022, at least five women died after being denied abortions despite facing pregnancy complications. In September, prosecutors in Katowice [charged three doctors](#) with endangering the life and health of a woman who [died from sepsis](#) after her water broke at 22 weeks but doctors did not terminate the pregnancy; two of the doctors in the case were also charged with manslaughter.

In June, [the minister of health](#) signed a regulation requiring Polish doctors to record pregnancies in a national database, which took effect in [October](#). Women’s and reproductive rights groups have raised concerns that such sensitive health data could be misused by authorities to intimidate or prosecute women who, for instance, experience spontaneous miscarriages.

Migration and Asylum

By end of September, due to Russia’s full-scale invasion of Ukraine in February, over 6 million refugees had [crossed](#) into Poland and over 1,391,000 were provided temporary protection under the EU Temporary Protection Directive. [In the large numbers](#) of people fleeing to Poland and ensuing chaotic circumstances at the border and collection points, women and girls were at particular risk of trafficking, exploitation, and gender-based violence due to security

gaps and lack of prevention and response measures in the reception efforts in Poland. Women and girls fleeing the war in Ukraine also face [difficulties accessing safe and legal abortion](#), as well as emergency contraception, due to Poland's highly restrictive laws.

While extending a warm welcome to most refugees fleeing Ukraine, unlawful pushbacks of migrants and asylum seekers from other countries to Belarus, sometimes violent, continued. In May, three local Polish border police commanders [confirmed the practice](#) of pushbacks. While a September 2021 state of emergency was lifted on July 1, 2022, in theory allowing access to the exclusionary zone close to the border, activists reported volunteers continued to be prosecuted on bogus human smuggling charges.

In two cases, in [June](#) and September, courts in Poland ruled the practice of pushbacks unlawful.

In July, Felipe González Morales, the UN special rapporteur on the situation for migrants, [called on](#) Polish authorities to halt pushbacks to Belarus.

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