

Document #2025948

Freedom House

Freedom in the World 2020 - Poland

FREE

84 / 100

Political Rights (<https://freedomhouse.org/country/poland/freedom-world/2020#PR>) 35 / 40

Civil Liberties (<https://freedomhouse.org/country/poland/freedom-world/2020#CL>) 49 / 60

LAST YEAR'S SCORE & STATUS

84 / 100 Free

Global freedom statuses are calculated on a weighted scale. See the methodology. (<https://freedomhouse.org/reports/freedom-world/freedom-world-research-methodology>)

Overview

Poland's democratic institutions took root at the start of its transition from communist rule in 1989. Rapid economic growth and other societal changes have benefited some segments of the population more than others, contributing to a deep divide between liberal, pro-European parties and those purporting to defend national interests and "traditional" Polish Catholic values. Since taking power in late 2015, the populist, socially conservative Law and Justice (PiS) party has enacted numerous measures that increase political influence over state institutions and threaten to reverse Poland's democratic progress.

Key Developments in 2019

- The ruling PiS won October's elections to the Sejm, the lower house of parliament, taking 235 of the 460 seats. PiS narrowly lost control of the Senate, which can delay and amend legislation but has few other powers.
- Election observers from the Organization for Co-operation and Security in Europe (OSCE) raised concerns that a number of factors may have negatively impacted the fairness of the parliamentary elections, including the ruling party's use of public media to influence voters.
- Amid further infringement proceedings against Poland by the European Commission and a series of rulings by the European Court of Justice (ECJ) against

PiS's judicial reforms, the Polish Supreme Court issued a decision effectively invalidating parts of the reforms. In response, PiS pushed through legislation that would discipline judges who question the reforms.

- The year saw a record number of marches advocating for LGBT+ equality. However, they took place amid an intense anti-LGBT+ campaign led by the ruling party and the church, and some events saw attempts at obstruction. Białystok's march was attacked by protesters, and police made dozens of related arrests.

Political Rights

A Electoral Process

A1 0-4 pts

**Was the current head of government or other chief national authority 4 /
elected through free and fair elections? 4**

The president of Poland is directly elected for up to two five-year terms. The president's appointment of a prime minister must be confirmed by the Sejm, the lower house of parliament. While the prime minister holds most executive power, the president is also meant to have influence, particularly over defense and foreign policy matters.

Andrzej Duda, the candidate of national-conservative Law and Justice (PiS) party, won the second round of Poland's May 2015 presidential election with 52 percent of the vote, defeating incumbent Bronisław Komorowski. The latter was supported by the centrist Civic Platform (PO), which was then in power.

The current prime minister, Mateusz Morawiecki, was appointed in 2017 with the approval of the PiS majority of parliament. His mandate was bolstered by the victory of the PiS in 2019 legislative elections.

In practice, however, dominant influence over the government, including the choice of prime minister, is still exercised by long-time PiS party chairman Jarosław Kaczyński, who holds a seat in the Sejm but no formal executive authority.

A2 0-4 pts

**Were the current national legislative representatives elected through free 4 /
and fair elections? 4**

Members of the bicameral parliament are elected for four-year terms. The 460-seat Sejm, the lower house, is elected by proportional representation and holds most legislative authority. The 100 members of the Senate, the upper house, are elected in single-member constituencies. The Senate can delay and amend legislation, but has few other powers.

In the October 2019 parliamentary elections, PiS won a second term with 43.6 percent of the vote. This represented an increase of 6 percentage points from its results four years earlier, although this translated to the same number of seats in the Sejm, 235. This majority allows PiS to continue governing without formal coalition partners

(although within its electoral lists and parliamentary caucus are two smaller parties, United Poland and Agreement). PO finished second, with 134 seats. Four other parties or coalitions passed the threshold to enter parliament, including left-wing and far-right parties that had been absent during the previous term.

The PiS, however, narrowly lost control of the Senate, where an opposition coalition took 51 of 100 seats; PiS took 48.

Election observers from the Organization for Security and Co-operation in Europe (OSCE) concluded that the elections were generally conducted in a "professional and transparent" manner. However, they expressed concern that recent judicial reforms had left a "lack of trust in prosecutors and courts to handle election-related complaints independently"; that "regulations on campaigning by public officials and on the use of state resources in election campaigns remain insufficient"; and that "nationalist and homophobic rhetoric gave rise to a sense of threat." The OSCE mission also noted that voters' ability "to make an informed choice was undermined by a lack of impartiality in the media, especially the public broadcaster," which the PiS had effectively transformed into a government mouthpiece during its previous term.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented 3 / impartially by the relevant election management bodies? 4

Poland's electoral framework and its implementation have generally ensured free and fair elections, though legal changes introduced in 2017–18 threaten to increase political control over election administration. Amendments to the electoral code signed by President Duda in January 2018 endangered the independence of the National Electoral Commission (PKW), which manages elections and oversees party finances, including the power to withhold state subsidies. Previously, all nine members of the PKW were nominated by courts. Now, from the beginning of the new parliamentary term, seven members are to be chosen by parliament. The largest parliamentary group is allowed to pick no more than three, but PiS can also exert influence over the member picked by the Constitutional Tribunal (TK), which is currently led by PiS-installed judges.

One of the judicial reforms that came into force in 2018 gave authority to validate or reject election and referendum results to a newly created chamber of the Supreme Court—the Chamber of Extraordinary Control and Public Affairs—whose members are appointed by the now-politicized National Council of the Judiciary. The chamber's substantial power, along with its vulnerability to politicization, further threatened the integrity of electoral oversight.

Following the 2019 election, the PiS submitted requests to the Supreme Court for votes to be recounted in six Senate races it had lost. None of the results were overturned, and the opposition took control of the upper house.

B Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4

Poland's political parties organize and operate freely.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4

There have been multiple rotations of power among rival parties since the transition from communist rule. The PiS victory in the 2015 elections ended a two terms of governance by the PO, now in opposition. In the 2019 election, PiS won with the same slim majority in the Sejm, but lost control of the Senate. The Democratic Left Alliance (SLD) returned to Parliament, while four parties—Razem (Together), Wiosna (Spring), Konfederacja Wolność i Niepodległość (Confederation Liberty and Independence), and Zieloni (the Green Party)—entered for the first time. However, opposition parties face potential long-term obstacles including propaganda by PiS-controlled public media and legal changes related to electoral administration.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means? 4 / 4

Voters and politicians are generally free from undue interference by outside groups, though there are some concerns that the personnel changes associated with the PiS government's assertion of control over various state institutions could be exploited to mobilize political support among public employees ahead of future local and national elections.

Powerful priest Tadeusz Rydzyk, an ally of the PiS, uses his media outlets to support the government's message, and has received generous state grants for organizations under his control.

B4 0-4 pts

Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 4 / 4

Women have equal political rights but hold few cabinet positions, and 28.7 percent of the seats in the Sejm.

Ethnic, religious, and other minority groups enjoy full political rights and electoral opportunities. Electoral lists representing recognized national minorities are not subject to the minimum vote threshold for parliamentary representation.

C Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative 3 / representatives determine the policies of the government? 4

Freely elected officials generally determine and implement laws and policies without interference, though PiS chairman Kaczyński continues to play a dominant role in the government despite not holding any official executive position. PiS has also, throughout the party's time in power, sought to limit parliamentary scrutiny of legislation through various means, such as making use of private-members bills that require no consultation or impact assessments; introducing legislation unexpectedly at the last minute, sometimes in the middle of the night; and limiting opportunities for the opposition to question or amend legislation.

C2 0-4 pts

Are safeguards against official corruption strong and effective? 3 / 4

Cronyism, a problem under all previous Polish governments, appears widespread under PiS. The government has altered, lowered, or simply removed many criteria for staffing of public institutions, allowing for appointments based on party loyalty and personal connections.

In past years, the Supreme Audit Office (NIK), a state watchdog, has raised concerns about the misuse of public funds by the PiS government, occasionally prompting the party to take action such as donating scrutinized funds to charity. In August 2019, upon the expiration of the previous NIK chairman's term, the PiS parliamentary majority appointed the finance minister as its new head. He immediately came under scrutiny for alleged irregularities in his property declarations and links to a criminal group, and took unpaid leave as a consequence.

In February, Kaczyński was accused by an Austrian businessman of defrauding him out of several million złoty and of soliciting a bribe of 100,000 złoty (\$26,000) to be paid to a priest on the board of the Lech Kaczyński Foundation. Secret recordings of apparent discussions between the pair, published by *Gazeta Wyborcza*, lent credence to the claim. Kaczyński denies any wrongdoing, and prosecutors have been reluctant to investigate the allegations.

C3 0-4 pts

Does the government operate with openness and transparency? 2 / 4

The right to public information is guaranteed by the constitution and by the 2001 Act on Access to Public Information, but obtaining records and data from public institutions can be slow and difficult. The Chancellery of the Sejm has refused to release lists of judges who supported controversial new appointees to the National Council of the Judiciary, despite a ruling from the Supreme Administrative Court (NSA) ordering it to do so. The Chancellery cites personal data protection concerns to justify this failure.

The current government avoids consulting outside experts or civil society organizations on policy ideas and tends to introduce and pass legislation rapidly, with little opportunity for debate or amendment.

Civil Liberties

D Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media? 3 / 4

The constitution guarantees freedom of expression and forbids censorship. Libel remains a criminal offense, though a 2009 amendment to the criminal code eased penalties. In addition, Poland has a suite of harsh insult laws, including against blasphemy (punishable by up to two years in prison) and insulting the president (up to three years).

Poland's media are pluralistic and mostly privately owned. However, the public media and their governing bodies have been purged of independent or dissenting voices since PiS came to power in 2015. TVP, the public television broadcaster, promotes the government's message on topics ranging from peaceful antigovernment protests, which it depicts as attempted coups, to critical nongovernmental organizations (NGOs), which are portrayed as agents of the opposition or foreign forces. In 2019, news broadcasts on public television openly supported the ruling party's campaigns in the European and parliamentary elections, and sought to discredit the opposition, in flagrant breach of public media's statutory obligation to present news in a "reliable and pluralistic manner."

Since 2015, state-controlled companies have shifted their advertising to private media outlets that support the PiS government. More critical outlets have suffered a corresponding drop in advertising revenue, as well as a sharp decline in subscriptions from government ministries.

The PiS leadership in 2019 reiterated promises to pass a law "deconcentrating" and "repolonising" private media by reducing foreign ownership, a move that would disproportionately affect the outlets that most vigorously hold the current government to account. Senior party figures have suggested that German-owned media critical of the PiS government promote an interest of their German owners in undermining the Polish state. PiS's manifesto for the 2019 parliamentary election called for the creation of a "new media order" that would include a vague new law requiring self-regulation of journalists—a proposal viewed with suspicion by press freedom advocates.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief 4 / 4 in public and private?

The state respects freedom of religion. The PiS government is aligned with the Roman Catholic Church, which wields significant influence in the country. Religious groups are not required to register with the authorities but receive tax benefits if they do. Minority faiths are generally able to obtain registration in practice. There is a formal ban on state funding for church construction, but a church can obtain Culture Ministry funding in practice if, like the Temple of Divine Providence in Warsaw, it includes a museum.

D3 0-4 pts

Is there academic freedom, and is the educational system free from 3 / 4 extensive political indoctrination?

The ruling party has sought to discredit academics who challenge its preferred historical narrative, particularly with regard to the events of World War II. In February 2019, an academic conference in Paris featuring leading Polish Holocaust scholars was attacked by state television as a "festival of anti-Polish lies."

When the term of the director of the Polin Museum of the History of Polish Jews expired in February, the culture minister refused to renew it. The director then won the open contest for the job in May, but the culture minister has refused to sign off on his reappointment. The minister effectively confirmed the political nature of his opposition with blunt allegations that the director was making the museum a "stage for political actions against the current government;" he also criticized the director for refusing to host a conference about Lech Kaczyński.

D4 0-4 pts

Are individuals free to express their personal views on political or other 4 / sensitive topics without fear of surveillance or retribution? 4

- People are free to engage in private discussions on political and other matters without fear of harassment or detention by the authorities.

E Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly? 3 / 4

Freedom of assembly is generally respected in law and in practice. Public demonstrations are held with some regularity, though local authorities can limit demonstrations in their districts on grounds of maintaining public order.

A record number of LGBT+ equality parades took place in Poland in 2019, with many staged in smaller and eastern cities for the first time. Many of the events saw attempts at obstruction. Some mayors sought to ban them on safety grounds, but in each case courts overturned the bans on grounds that freedom of assembly cannot be denied on the basis of potential violence by opponents. Nationalist and conservative protesters also tried to physically block some marches, but were generally prevented from serious obstruction by police. However, LGBT+ marches on a few occasions turned violent, most notably in Białystok, where police detained 20 protesters on the day of the event, and afterward identified over 100 more who were suspected of committing crimes during the event, such as attacking participants by throwing eggs or firecrackers.

A 2018 report by Amnesty International highlighted the growing pressures facing antigovernment protesters, including employment of force against demonstrators, the surveillance of activists, and the use of police custody and criminal charges.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that 3 / are engaged in human rights- and governance-related work? 4

Although NGOs have generally operated without government interference in Poland, public media and top government officials began systematically undermining the credibility of rights and governance-related groups in 2016, accusing many of lacking financial transparency and pursuing an opposition-led political agenda. A 2017 law that was widely condemned by domestic and international rights activists and by Poland's rights ombudsman centralized distribution of public NGO funding, including money from the EU and non-EU countries like Norway, through a new body, the National Freedom Institute, indirectly attached to the prime minister's office. As anticipated, when the National Freedom Institute distributed funds in 2019, the money went disproportionately to organizations that fit the government's ideological profile. This included a group involved in organizing the attempted protest blockade against Białystok's LGBT+ parade. Other recipients have direct ties to the government, including one association founded by a deputy minister and his sister, which was given 700,000 złoty (\$190,000) to organize a "discussion club."

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations? 4 / 4

Poland has a robust labor movement, though certain groups—including the self-employed, private contractors, and those in essential services—cannot join unions. Complicated legal procedures hinder workers' ability to strike.

F Rule of Law

F1 0-4 pts

Is there an independent judiciary? 1 / 4

Since taking power in 2015, the PiS government has moved aggressively to assert control over the judiciary. One of its first steps was to pass legislation designed to curb the powers of the Constitutional Tribunal (TK) and to install progovernment judges on its benches. In 2017, three significant judicial reforms were adopted. The first gave the justice minister the power to appoint and dismiss presidents and deputy presidents of courts. The second, which came into force in 2018, mandated that 15 of the 25 members of the National Council of the Judiciary (KRS), which is responsible for nominating judges, be appointed by the parliament instead of elected by the judiciary. And in July 2018, new, lower retirement ages for the Supreme Court came into force, effectively meaning that 27 out of 73 judges had to step down unless they were given the president's approval to remain. Other parts of the new Supreme Court law created powerful new chambers—the Chamber of Extraordinary Control and Public Affairs (responsible for declaring the validity of elections), and the Disciplinary Chamber. The law also established a new system of extraordinary appeals that would allow cases up to twenty years old to be reopened, potentially allowing retrospective, politically motivated abuses. Ignoring a Supreme Court order to suspend part of the reforms until the ECJ issued a ruling on them, the new KRS began an accelerated process of nominating new judges, many of whom have links to the ruling camp.

The European Commission launched infringement proceedings against Poland over the Supreme Court law, and the ECJ agreed to its request that Poland be ordered to suspend the new retirement age until a final ruling on the case. Consequently, the Polish parliament passed legislation reinstating the retired judges, which was signed into law by President Duda in December 2018. In 2019, the ECJ twice ruled that aspects of the law on retirement age had breached EU law.

In April 2019, the European Commission launched another infringement procedure, alleging that the Disciplinary Chamber established by the Supreme Court law undermined the independence of judges and failed to ensure "necessary guarantees to protect judges from political control." In June, the ECJ's advocate general issued an opinion that the KRS suffered from deficiencies that appeared likely to compromise its independence from legislative and executive authorities. In October, the European Commission formally referred Poland to the ECJ regarding the new disciplinary regime, citing unsatisfactory responses to its initial queries. In November, the ECJ decided that Poland's own Supreme Court itself must rule on the independence of the new Disciplinary Chamber.

The Supreme Court's Labor Chamber promptly ruled that "the KRS is not an impartial and independent body, while the Disciplinary Chamber [of the Supreme Court] is not a court within the meaning of EU and national law." In response, PiS rushed legislation through the Sejm to strengthen and expand disciplinary measures to punish individual judges who questioned the validity of the KRS, the new disciplinary chamber of the Supreme Court, or other aspects of the judicial reforms. Critics accused the party of attempting to "muzzle" judges. The government ignored requests from European Commission vice president Věra Jourová to halt the legislative process until proper consultation could take place. Poland's opposition-controlled Senate can now delay, but not block the passing of the bill into law.

In August and September 2019, media reports alleged that a deputy minister of justice had conspired with several newly appointed members of the KRS to harass and publicly compromise judges who had opposed the government's judicial reforms. The deputy minister subsequently resigned from his position.

F2 0-4 pts

Does due process prevail in civil and criminal matters? 3 / 4

Defendants generally enjoy due process protections in Poland, though the law allows for extended pretrial detention, and there is a large backlog of cases. The decision by the PiS government to merge the roles of justice minister and prosecutor general "creates potential for misuses and political manipulation" of the justice system, according to the Venice Commission.

Legislation introduced in 2016 gave law enforcement agencies broad authority to monitor citizens' communications activity, including the ability to access metadata without a court order, monitor the movements of foreign citizens without prior court approval, and hold terrorism suspects without charge for up to two weeks. It also contained ambiguous provisions on collecting individuals' data, arresting civilians, prohibiting demonstrations, and blocking internet access.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 4 / 4

Civilians are largely free from extralegal violence, though some incidents of abuse by police have been alleged in the context of antigovernment demonstrations. Human rights groups have reported inadequate medical care in prison facilities.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population? 3 / 4

Women and ethnic minorities generally enjoy equality before the law. LGBT+ people continue to face discrimination. While public support for LGBT+ rights, including same-sex civil partnerships, has been rising in recent years, 2019 saw major setbacks as an intense anti-LGBT+ campaign stoked fears. The effort was led by the ruling party, which promised to protect children from "imported LGBT ideology," and the church, with the Archbishop of Kraków describing LGBT as a "rainbow plague" bearing similarities to communism.

Because Poland's law against inciting hatred covers racially, ethnically, or religiously motivated crimes, but not those based on sexuality or gender identity, public figures have been free to make slurs that would be prosecuted if targeted at other types of minorities.

G Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 4 / 4

People in Poland typically enjoy freedom of travel and choice of residence, employment, and institution of higher education.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 4 / 4

Citizens have the right to own property and establish private businesses. However, a 2016 law imposed onerous restrictions on sale and ownership of agricultural land, ostensibly to protect small-scale farmers. State and religious institutions are not bound by the new restrictions.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4

Under Polish law, abortion is permissible through the 12th week of pregnancy if a woman's health or life is in danger, if the pregnancy is a result of a criminal act such as rape, or if the fetus is severely damaged. Bills that sought to further restrict abortions, including the imposition of prison terms for illegal abortions, triggered mass protests in 2016 and 2018, prompting parliament to back down. Senior PiS figures and the president have made clear that they still intend to ban what they call "eugenic abortion," in practice meaning cases of a congenital disorder of the fetus. A group of over 100 lawmakers, most from the ruling party, have asked the Constitutional Tribunal to rule on whether such abortions violate the constitution's protection of human life and dignity.

Since 2017, contraceptive pills have been available by prescription only, making Poland one of only two EU countries in which such a restriction is in place. A report by the NIK found that in many, especially rural, parts of Poland, gynecologists are rare; many women must travel to obtain care, and reliable and timely access to contraception and other sexual-health services are thus more difficult to obtain.

Same-sex civil partnerships, marriage, and adoption are not permitted, as Poland's constitution describes marriage as being between a man and a woman.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic 3 / exploitation? 4

The law provides meaningful protections against abusive working conditions and child labor, especially in the formal sector. The authorities work to combat human trafficking, but women and children are still subjected to trafficking for sexual exploitation and foreign migrant workers are vulnerable to conditions amounting to forced labor.

State-owned entities have been expanding their already considerable presence in various sectors, such as banking, often by buying out foreign owners, as the government effectively renationalizes parts of the economy. Hiring for senior positions at such firms is often based on political loyalty or connections rather than merit, a longstanding issue under various governments that has grown more widespread under the current administration.

ecoi.net summary:

Annual report on political rights and civil liberties in 2019



Country:

Poland

Source:

[Freedom House](https://www.freedomhouse.org/en/source/11154.html) [\(/en/source/11154.html\)](https://www.freedomhouse.org/en/source/11154.html)

Original link:

<https://freedomhouse.org/country/poland/freedom-world/2020>
(<https://freedomhouse.org/country/poland/freedom-world/2020>)

Document type:

Periodical Report

Language:

English

Published:

4 March 2020

Document ID:

2025948

Austrian Red Cross

Austrian Centre for Country of Origin and Asylum Research
and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien

T (Telefon) +43 1 589 00 583

F (Fax) +43 1 589 00 589

info@ecoi.net

ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

