

incident as a hate crime and called on the authorities to investigate.

1. "Philippines: Widespread killings, rampant impunity show real state of nation", 26 July
2. Philippines: Government Review a Woefully Insufficient Response to Victims Of "War on Drugs" (Index: ASA 35/4911/2021), 22 October
3. "Philippines: ICC launches probe in deadly "war on drugs", seeks to end impunity", 16 September
4. "Philippines: Brutal government crackdown against activists must end now", 8 March
5. "Philippines: Anti-Terror Act remains dangerous and fundamentally flawed", 9 December
6. Philippines: End Attacks Against Indigenous Peoples (Index: ASA 35/3677/2021), 11 February
7. Philippines: Amendments to Dangerous Drugs Act an alarming kneejerk reaction to PNP-PDEA shootout", 3 March
8. "Philippines: Country faces health and human rights crisis one year into the Covid-19 pandemic", 26 April
9. "Philippines: Maria Ressa and Dmitry Muratov's Nobel Peace Prize win is a victory for press freedom Globally", 8 October
10. Philippines: Undermining Workers' Rights: Labour Rights Abuses in Nickel Supply Chains (Index: ASA 35/4389/2021), 26 August

POLAND

Republic of Poland

Head of state: **Andrzej Duda**

Head of government: **Mateusz Morawiecki**

The authorities continued to erode the independence of the judiciary and the European Court of Human Rights (ECtHR) ruled that two of Poland's high judicial bodies did not meet fair trial standards. There was a further rollback of sexual and reproductive rights. Criminal charges used to curtail freedom of expression were dropped, or the activists acquitted. Several regional councils withdrew anti-LGBTI declarations but violations of LGBTI rights continued. Border guards pushed asylum seekers back to Belarus. Poland did not implement the ECtHR ruling regarding Abu Zubaydah, who remained held in the US detention facility in Guantánamo Bay, Cuba.

RIGHT TO A FAIR TRIAL

The government continued to target judges and prosecutors who raised concerns over the lack of independence of the judiciary. In January, the National Prosecutor transferred seven prosecutors to new posts within 48 hours and hundreds of kilometres away from their place of residence. Six of the prosecutors were members of an association defending the rule of law. NGOs criticized the transfers as punitive.

International concern over the erosion of judicial independence continued.¹ In March, the European Commission (EC) referred Poland to the EU Court of Justice over its 2020 law on the judiciary, which prevents courts in the country from submitting requests to the Court of Justice for preliminary rulings in relation to disciplinary proceedings against judges. In July, the Court of Justice ruled that the Disciplinary Chamber of Poland's Supreme Court lacked the independence and impartiality required by EU law.

In response, Poland's Constitutional Tribunal held that such rulings were not compatible with the Constitution and asserted the primacy of Polish law over EU law. In November, the Constitutional Tribunal declared Article 6 (the right to a fair trial) of the European Convention on Human Rights incompatible with the Constitution. In December, the EC launched another infringement procedure against Poland over the rulings of the Constitutional Tribunal.

The ECtHR also ruled that Poland's Constitutional Tribunal and the Supreme Court's Disciplinary Chamber failed to meet fair trial requirements. In May, in *Xero Flor v Poland*, the ECtHR held that the actions of the legislature and the executive amounted to unlawful external influence in the election of three judges of the Constitutional Tribunal in 2015. In July, in *Reczkowicz v Poland*, the ECtHR held that the Disciplinary Chamber was not an independent tribunal as irregularities in the appointment of its judges severely compromised its legitimacy.

In April, the ECtHR formally requested a response from Poland about alleged

violations in the case of Judge Paweł Juszczyszyn, who had been suspended by the Disciplinary Chamber in 2020 after he questioned the independence of the National Council of the Judiciary.

Judge Igor Tuleya, an outspoken critic of government interference with judicial independence, continued to face criminal proceedings after the Disciplinary Chamber removed his immunity in 2020.²

WOMEN'S RIGHTS

In October, the Group of Experts (GREVIO) monitoring implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) urged Poland to fully incorporate the notion of freely given consent, as required by the Istanbul Convention, and to ensure appropriate sanctions for all non-consensual sexual acts. GREVIO also criticized Poland for the lack of action on domestic violence.

SEXUAL AND REPRODUCTIVE RIGHTS

There was a further rollback on sexual and reproductive rights.³ In January, the Constitutional Tribunal published a ruling that the law permitting abortions in cases of severe fetal impairments was unconstitutional. Hospitals in Poland stopped providing abortion services in cases of such impairments to avoid medical staff facing criminal liability. In July, the ECtHR formally requested a response from Poland in the cases of 12 individuals who claimed that the country's abortion legislation violated their right to a private and family life and the prohibition of torture and other ill-treatment.

FREEDOM OF ASSEMBLY

The publication of the Constitutional Court ruling banning abortions in cases of severe fetal impairments triggered protests in January and February. During demonstrations held on 27 January in Warsaw, the police arrested 20 protesters and filed 250 cases alleging administrative offences. The police took the arrested

protesters to stations outside Warsaw, which hindered their access to lawyers.

FREEDOM OF EXPRESSION

In March, the District Court in Płock acquitted three activists who faced charges of "offending religious beliefs" for possessing and distributing posters and stickers depicting the Virgin Mary with an LGBTI rainbow halo. An appeal by the prosecutor was pending at the end of the year.

In June, the police closed the investigation into a charge of "theft and burglary" allegedly committed by two activists involved in a 2020 poster campaign accusing the government of manipulating Covid-19 statistics.

In November, a district court in Warsaw convicted journalist Ewa Siedlecka of criminal defamation for articles she wrote in 2019. She had exposed a hate campaign linked to the then deputy justice minister, which targeted judges opposing "reforms" which undermined judicial independence.

LGBTI PEOPLE'S RIGHTS

In response to continuing violations of LGBTI people's rights, the European Commission launched infringement procedures. In September it requested that five regional councils withdraw anti-LGBTI declarations adopted in 2019, making it a condition of receipt of EU funding. In response, also in September, four regional councils withdrew such resolutions.

REFUGEES' AND MIGRANTS' RIGHTS

Border guard officials admitted pushing back asylum seekers to Belarus. Between 18 and 19 August a group of 32 asylum seekers from Afghanistan, who had entered from Belarus, was pushed back to the Belarussian side of the border. All 32 tried to seek international protection in Poland but Polish border guards would not allow them to access Polish territory. Despite two orders by the ECtHR, Poland failed to provide the group with food, water, shelter, medical assistance and access to lawyers.⁴

In October, parliament adopted amendments to the Law on Foreigners and