



Freedom in the World 2018 - Poland

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Freedom Status: Free

Aggregate Score: 85 (0 = Least Free, 100 = Most Free)

Freedom Rating: 1.5 (1 = Most Free, 7 = Least Free)

Political Rights: 1 (1 = Most Free, 7 = Least Free)

Civil Liberties: 2 (1 = Most Free, 7 = Least Free)

Quick Facts

Population: 38,400,000

Capital: Warsaw

GDP/capita: \$12,565

Press Freedom Status: Partly Free

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 2017:

- In July, President Andrzej Duda vetoed two of three highly controversial judicial reform bills put forward by PiS. The third bill, which he did sign, allowed the justice minister to appoint and dismiss the heads of district, regional, and appellate courts. In November, the justice minister used his new powers to remove 10 court officials in southern Poland.
- In December, new versions of the two vetoed bills were signed into law, effectively giving the PiS-dominated parliament control over the National Council of the Judiciary (KRS) and the Supreme Court, and forcing about 40 percent of incumbent Supreme Court justices into retirement.

- Duda signed a law in March that imposed new restrictions on public gatherings, and another in October to create an agency attached to the prime minister's office that would centralize control over public and European Union (EU) funding for nongovernmental organizations (NGOs).
- In late December, the European Commission launched proceedings against Poland under Article 7.1 of the Lisbon Treaty, declaring that the year's judicial reforms constituted a "clear risk of a serious breach of the rule of law in Poland." The process could theoretically lead to the suspension of Poland's voting rights within the EU.

POLITICAL RIGHTS: 36 / 40 (-1)

A. ELECTORAL PROCESS: 12 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 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 under the constitution, the president is also meant to have influence, particularly over defense and foreign policy matters.

Duda, the candidate of PiS, 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 center-right Civic Platform (PO), which had led the government since 2007.

A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4

Members of the bicameral National Assembly are elected for four-year terms. The 460-seat Sejm 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.

PiS won 37.5 percent of the vote in the October 2015 parliamentary elections, increasing its representation in the Sejm to 235 seats. This made it the first party in postcommunist Poland to win an outright parliamentary majority, allowing it to rule without coalition partners. Beata Szydło was elected prime minister, though her role was soon eclipsed in practice by that of PiS's chairman, former prime minister Jarosław Kaczyński. PO came in second with slightly more than 24 percent of the vote and 138 seats. Third and fourth place both went to new parties: Kukiz'15, a right-wing, antiestablishment party led by former rock musician Paweł Kukiz, which took 42 seats; and the probusiness party Modern, led by economist Ryszard Petru, which won 28. The agrarian Polish People's Party (PSL) won 5 percent of the vote and 16 seats. A representative of the ethnic German minority received the remaining seat. In the Senate, PiS took 61 seats, PO 34, and PSL 1.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4

Poland's electoral framework and its implementation have generally ensured free and fair elections, though pending legal changes in 2017 threatened to increase political control over election administration. In December, the Senate approved PiS-authored legislation that would transfer oversight of the 2018 local elections from local authorities to the National Electoral

Commission (PKW) and prevent reelection of any mayors or city council members who had already served two terms. The proposed law would also force all members of the PKW to stand down prematurely after the 2019 parliamentary elections, and change the way new members are selected. Currently, the commission is made up of active or retired judges nominated by the Constitutional Tribunal (TK), the Supreme Court, and the Supreme Administrative Court. The proposed law would empower the Sejm to nominate seven of the PKW's nine members, while the TK and the Supreme Administrative Court would nominate just one member each. The Supreme Court, which emphatically protested against the politicization of the judiciary during 2017, would lose any representation on the commission.

The proposed legislation, which was expected to pass through the Sejm in early 2018, also scrapped mail-in voting in local elections, banned candidates from simultaneously running for a mayoralty and a district council seat, and required video monitoring of polling stations.

Separately, a proposal to expand the boundaries of Warsaw, which PiS consistently loses in local elections, to incorporate more suburban municipalities was withdrawn in April due to a public outcry, though its PiS sponsors said they would continue to refine the measure.

B. POLITICAL PLURALISM AND PARTICIPATION: 16 / 16

B1. 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 are able to organize and operate freely. PiS won a narrow parliamentary majority in 2015, so it requires the support of other parties to obtain the two-thirds supermajority needed for any constitutional changes. Following the United Left (ZL) alliance's failure to cross the 5 percent electoral threshold for representation in 2015, there are no left-leaning parties in the parliament.

B2. 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, and the PiS victory in the last national elections ended a lengthy period of rule by the PO, now in opposition. However, opposition parties are currently weak and divided, and they face potential long-term obstacles including propaganda by PiS-controlled public media and legal changes related to electoral administration and public gatherings.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 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. In February 2017, a group of 10 schoolteachers who wore black to work in a sign of solidarity with October 2016 protests against PiS-proposed restrictions on abortion were investigated by a disciplinary committee, but they were eventually cleared of wrongdoing.

B4. 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 and hold senior positions in government, including about 28 percent of the seats in the Sejm. Both PO and PiS fielded female candidates for the position of prime minister in the 2015 elections.

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: 8 / 12 (-1)

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4 (-1)

Freely elected officials generally determine and implement laws and policies without interference, though there have been some irregularities in recent years. In December 2016, the two centrist opposition parties, PO and Modern, mounted a sit-in protest in the Sejm over media access to the parliament, prompting the chamber's PiS leadership to move the session to a separate room – from which opposition members and journalists were allegedly excluded – and pass the 2017 budget bill in a procedure that the opposition said was illegal. The opposition parties ended their protest in mid-January 2017, and President Duda signed the contested budget measure.

Also during the year, PiS chairman and Sejm member Jarosław Kaczyński continued to play a dominant role in the government despite his lack of any official executive position. He was seen as the driving force behind a December 2017 government shuffle that included the replacement of Prime Minister Beata Szydło with Mateusz Morawiecki. He also met with foreign leaders, gave authoritative media interviews, and appeared to drive the formulation of new legislative proposals.

Score Change: The score declined from 4 to 3 due to the irregular adoption of the 2017 budget and the informal government influence exercised by PiS chairman and parliamentary deputy Jarosław Kaczyński.

C2. 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 response to a related scandal in 2016, anticorruption investigators had initiated probes into many state-owned enterprises. Nevertheless, an old friend of the prime minister's was appointed in May 2017 to the board of Pekao, Poland's second-largest bank, though her only significant professional experience involved running a small-town health clinic.

It was reported in September that the government had diverted public funds earmarked for promoting Polish interests abroad into a domestic campaign supporting the ruling party's judicial reforms. A public relations company founded by two former employees of the prime minister's office was awarded a contract for the campaign through a nontransparent tender process.

C3. 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 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. The PiS government is also openly hostile to critical or independent media outlets and engages almost exclusively with state-run and progovernment outlets. Reporters from *Gazeta Wyborcza*, the country's largest daily, have difficulty gaining access to officials. Nevertheless, reporting on government activities and corruption remains fairly robust.

The courts' ability to uphold government transparency has been uneven. In November 2017, the Warsaw regional administrative court overturned a lower court verdict that had required the military counterintelligence service to reveal statistics on its domestic surveillance activities.

Following a hastily implemented reform of the education system in late 2016, a regional court in September 2017 ordered the Education Ministry to reveal the names of those who were paid for "expert advice" on new curriculums. The education minister refused and filed an appeal, citing the need to protect the experts from public ridicule.

CIVIL LIBERTIES: 49 / 60 (-3)

D. FREEDOM OF EXPRESSION AND BELIEF: 14 / 16

D1. 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. A person may be found guilty of blasphemy, punishable by a fine of 5,000 złoty (\$1,350) or up to two years in prison, even if the offense was unintentional. The state does not restrict internet access.

Poland's media are pluralistic and mostly privately owned. However, the public media and their governing bodies have been purged of dissenting voices since PiS came to power in 2015. TVP, the public television broadcaster, toes the government line on topics ranging from peaceful antigovernment protests, which it depicts as attempted coups, to critical NGOs, which are portrayed as agents of the opposition.

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. According to the National Court Register, the publisher of the right-wing *Gazeta Polska* saw its revenue increase by 70 percent in 2016 thanks to gains in advertising, despite falling sales.

Independent private media have also faced regulatory pressure. In December 2017, the National Broadcasting Council (KRRiT) imposed a fine of nearly 1.5 million złoty (\$415,000) on the private television station TVN24 for "promoting illegal activities and inciting violence" through its coverage of the previous year's antigovernment protests. The station's parent company was also contesting the government's claim that it owed 110 million złoty (\$30 million) in unpaid taxes.

For some time, the PiS leadership has been threatening to "deconcentrate" private media ownership, especially by foreign companies. The government often blames the presence of German and other foreign owners in the Polish media market for negative coverage of its activities.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

The state respects freedom of religion. The PiS government is aligned with the Roman Catholic Church, which wields significant influence in the country. Some prominent clergy members have distanced themselves from the ruling party, especially on its strong opposition to the settlement of Muslim refugees in Poland. However, others endorse the government's nativist and socially conservative policies, particularly its ongoing efforts to further restrict abortion. Conservative media outlets and related institutions founded by Father Tadeusz Rydzyk continue to receive special treatment and funding from the government.

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

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 January 2017, the Supreme Administrative Court approved the government's decision to merge a new, internationally respected World War II museum in Gdansk with another, yet-to-be-built museum, allowing the culture minister to change the facility's management and content.

Educational reforms that took effect in 2017 abolished middle schools and integrated them into elementary schools, putting thousands of principals out of work and allowing the Education Ministry to appoint new administrators. In addition to staffing changes, new history curriculums focused on the Polish state, military history, and Polish heroism. Sexual education no longer included information on contraception.

Under other legislation passed in December 2016, directors and deputy directors of state research institutes can be appointed without a competitive hiring process.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 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: 10 / 12 (-2)

E1. Is there freedom of assembly? 3 / 4 (-1)

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.

In December 2016, the Sejm passed controversial legislation that requires separate public gatherings to keep a distance of at least 100 meters from each other and gives priority to "cyclical" rallies organized in the same place on predictable dates. PiS, which sponsored the bill, said its intention was to prevent conflicts between demonstrators, but critics said it would allow the authorities to amplify some forms of public speech and suppress others. In March 2017, the TK deemed the legislation constitutional, though four judges appointed by the previous parliament were excluded from the decision; Duda then signed the bill into law.

There were several major antigovernment protests in 2017, but the largest episode – with tens of thousands of participants and lasting over a week in July – was triggered by PiS's plans to overhaul the judicial system. A report by Amnesty International alleged excessive police tactics in response to the July protests, including physical containment of groups of demonstrators, heavy-handed surveillance and requests for identification, summonses to police stations, and the pursuit of criminal charges against some participants.

Authorities also continued to pursue participants in December 2016 protests during 2017. In January, Warsaw police published photos of 21 unidentified protesters from December in an effort to track them down. Separately, at an October demonstration for reproductive rights in Wrocław, several participants were reportedly questioned by police and charged with disrupting a counterdemonstration.

The government was criticized for its handling of ultranationalist marches in November that featured racist, antisemitic, and xenophobic slogans as well as cases of violence against counterprotesters. Government figures were accused of being slow or reluctant to condemn the marchers' speech and actions, and some observers said police failed to prevent assaults.

Score Change: The score declined from 4 to 3 due to new legal restrictions on public gatherings, disproportionate police tactics against antigovernment protesters, and intimidation of counterprotesters at ultranationalist marches.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 3 / 4 (-1)

Although NGOs have generally operated without government interference in Poland, public media and top government officials began systematically undermining the credibility of such groups in 2016, accusing many of lacking financial transparency and pursuing an opposition-led political agenda. The smear campaign continued in 2017, and in October the president signed a new law that would centralize distribution of public NGO funding, including money from the EU and non-EU countries like Norway, through a new National Freedom Institute attached to the prime minister's office. Critics of the new funding mechanism warned that it could be used to muzzle criticism of PiS and starve projects that do not match the ruling party's perspective and priorities. The NGO law was widely condemned by domestic and international NGOs, as well as by Poland's human rights ombudsman.

Also in October, a day after the national protest in defense of reproductive rights, police raided the offices of two women's rights organizations in four cities, seizing equipment and documents as part of an investigation into grants paid by the Justice Ministry under the previous government.

Score Change: The score declined from 4 to 3 due to a new law that centralizes government control over public NGO funding and an ongoing smear campaign against NGOs by progovernment media outlets.

E3. 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: 11 / 16 (-1)

F1. Is there an independent judiciary? 1 / 4 (-1)

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 TK, and it subsequently refused to publish TK decisions that it considered invalid. By the end of 2016, after a lengthy dispute over the tribunal's membership and authority, the TK was dominated by progovernment judges. In its March 2017 ruling on the law on public gatherings, the 15-member TK excluded three judges based on a complaint from the justice minister, and a fourth was sent on compulsory leave, allowing the law to win approval with a seven-to-four vote.

In July, the parliament adopted three sweeping government-backed judicial reform laws. President Duda signed one of them, granting the justice minister the power to appoint and dismiss the presidents and deputy presidents of district, regional, and appellate courts; the justice minister used this authority in November, removing 10 court officials in southern Poland.

Faced with sustained demonstrations and international objections, Duda broke with the PiS leadership and vetoed the other two bills, which focused on the Supreme Court and the KRS. However, he signed slightly revised versions of those measures in late December. The KRS law allows the Sejm to elect a majority of the council, which plays a key role in judicial appointments and dismissals. A majority of KRS members had previously been chosen by fellow judges. The Supreme Court law lowered the mandatory retirement age for the court's judges from 70 to 65, obliging some 40 percent of sitting members – including the court's president, a vocal defender of its independence – to retire. Among other problematic provisions, the law created an extraordinary chamber of the Supreme Court to hear special appeals of final judgments, allowing such judgements to be overturned based on vague criteria including "social justice," and gave the state president expanded influence over the appointment of the Supreme Court president as well as the court's rules and structure. The extraordinary chamber and a disciplinary chamber would both include lay members chosen by the Senate, and the two chambers' heads would be appointed by the state president.

Score Change: The score declined from 2 to 1 due to legal changes that dramatically increased elected officials' influence over the Supreme Court, the National Council of the Judiciary, and lower courts across the country.

F2. 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, which can be lengthy in practice, and there is a large backlog of cases.

Legislation signed in February 2016 gave law enforcement agencies broad authority to monitor citizens' communications activity, including the ability to access metadata without a court order. A counterterrorism law signed in June of that year empowered authorities to monitor the movements of foreign citizens without prior court approval, and permitted terrorism suspects to be held without charges for up to two weeks. It also contained ambiguous provisions on collecting individuals' data, arresting civilians, prohibiting demonstrations, and blocking internet access.

F3. 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. 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. Some groups, particularly the Roma, experience discrimination in employment and housing, racially motivated insults, and occasional physical attacks. Members of the LGBT (lesbian, gay, bisexual, transgender) community continue to face discrimination. Hate crimes, particularly against Muslims or people believed to be Muslim by their attackers, have risen significantly over the last two years. Protests and small-scale riots broke out in early January 2017 after a Polish citizen was allegedly stabbed to death by a Tunisian national in the town of Elk. The unrest included vandalism, clashes with police, and violent attacks on perceived foreigners in other Polish cities.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 14 / 16

G1. 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. 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. Separately, state-owned entities such as the insurance company PZU have been acquiring stakes in Polish banks in recent years, raising concerns that the government is effectively renationalizing the financial industry.

G3. 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. A bill that would have removed most of these exceptions and imposed five-year prison terms for illegal abortions triggered mass protests and failed to pass in 2016. However, a law enacted in November of that year introduced financial incentives for women to carry fetuses with severe disabilities or terminal illnesses to term.

Domestic violence remains a serious concern. In 2016, the government withdrew funding from the Women's Rights Center (CPK), an NGO that has provided support to victims of domestic violence for over 20 years. The state's justification was that the center offers help only to women, rather than to all victims of abuse. The CPK was one of the women's rights groups whose offices were raided in October 2017.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 3 / 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, Romany children in particular are used for forced begging, and foreign migrant workers are vulnerable to conditions amounting to forced labor.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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