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Amnesty International Report 2017/18 - The State of the World's Human Rights - Poland

The government continued its efforts to exert political control over the judiciary, NGOs and the media. Hundreds of protesters faced criminal sanctions for participating in peaceful assemblies. Women and girls continued to face systemic barriers in accessing safe and legal abortion.

Legal, constitutional or institutional developments

In July, the European Commission stated that the independence of the Constitutional Tribunal had been “seriously undermined” and raised concerns that the constitutionality of Polish laws “could not be effectively guaranteed”. The government also attempted to extend its influence over other branches of the judiciary, including the Supreme Court, the National Council of the Judiciary and Common Courts.

Between May and July, Parliament adopted four laws on the reform of the judiciary. These provoked a strong response from the public, intergovernmental organizations and NGOs which expressed alarm over the waning independence of the judiciary and rule of law. The changes would have given the Minister of Justice control over the Supreme Court and would have also undermined the independence of the National Council of Judiciary, a self-regulating body of judges. On 24 July, the President vetoed two of the adopted laws, the amendment of the Law on the National Council of Judiciary and of the Law on the Supreme Court.

The President did, however, sign the amendment to the Law on Common Courts, which entered into force in August. The amendment empowered the Minister of Justice to appoint and dismiss presidents and vice-presidents of courts. In response, the European Commission started infringement proceedings against Poland for breaching EU law on the grounds that the law, which introduced different retirement ages for men and women judges, was discriminatory. The proceedings were pending at the end of the year. The Commission stated that it would also trigger proceedings under Article 7 (1), which could result in sanctions if any law giving the Minister of Justice control over the Supreme Court were adopted.

In October, the daily *Gazeta Wyborcza* reported that six prosecutors faced disciplinary proceedings for criticizing a 2016 reform that merged the functions of the national Prosecutor General and the Minister of Justice, giving the Minister undue influence over judicial proceedings.

In December, the Parliament adopted amendments to the Law on the National Council of Judiciary and of the Law on the Supreme Court which subjected the judiciary to the political control of the government. On 20 December, the European Commission, in an unprecedented move, triggered Article 7.1 of the EU Treaty against Poland. The process could lead to sanctions for undermining human rights and the rule of law in Poland.

Freedom of assembly

Public protests continued throughout 2017 in opposition to government policies and legislation on the judiciary, the right to peaceful assembly, the functioning of NGOs, media freedom, sexual and reproductive rights, and the right to housing. The largest demonstrations occurred in July, when thousands of people in over 100 cities took to the streets to protest against the reform of the judiciary. Law enforcement officials responded with heavy-handed security measures in the area around Parliament and at the Presidential Palace, inhibiting the demonstrators' ability to protest. The police contained groups of peaceful protesters; used constant and varied forms of monitoring and surveillance at the protests by surveillance teams that also asked protesters to provide identification; used threats of sanctions; and, for some, the pursuit of criminal charges and prosecutions. Dozens of protesters faced proceedings in court under the Code of Petty Offences and in some cases also under the Criminal Code; proceedings were still pending at the end of the year. Hundreds of others were summoned to police stations in relation to their participation in protests.

In April, an amendment to the Law on Assemblies that prioritized “cyclical” assemblies in central Warsaw, entered into force. The law had been used to ban alternative or counter-demonstrations in favour of monthly pro-government assemblies and to grant a pro-government group regular access to the public space near the Presidential Palace.

Freedom of expression – journalists

Using new powers conferred by the 2015 media law, the Minister of Treasury dismissed a number of directors and supervisory councils of public TV and radio stations. The Minister appointed new directors without consulting the independent National Broadcasting Council, resulting in government control over all public media outlets. By October, over 234 journalists working in public broadcasting, including trade union leaders, had been demoted, dismissed, or forced to resign.

Investigative journalist Tomasz Piątek was at risk of criminal charges for his book published in June that alleged a link between the Minister of National Defence and the Russian intelligence services. In late June, the Minister filed a criminal complaint against

Tomasz Piątek, alleging a violation of the laws on “using violence or unlawful threat [which] affects a government authority performing its duty” and “insulting a public official in the course and in connection with the performance of [their] duties”. On 26 June, the complaint was forwarded to the Regional Prosecutor’s Office in Warsaw. In October, the Minister publicly accused the journalist of aiming to prevent the reform of Poland’s army and that the allegations presented in the book were “an integral part of the hybrid war against Poland”. No charges against Tomasz Piątek had been formally pressed by the end of the year.

Sexual and reproductive rights

In October, the President expressed support for a legislative proposal drafted by anti-choice groups which would prohibit abortion in cases of severe or fatal fetal impairment.

In June, Parliament adopted an amendment to the Law on State Funded Health Services under which emergency contraception became accessible only on prescription, contrary to international recommendations on emergency contraception.

Freedom of association

On 4 October, one day after a national protest against restrictive policies on abortion, the police simultaneously raided four offices of women’s rights NGOs in different cities that had supported the action. The police confiscated hard drives and computer data, including databases with information on individuals and medical reports of victims of domestic violence. The authorities claimed that the action was part of an investigation of former staff members of the Ministry of Justice for alleged maladministration of funds.

In October, Parliament adopted the Law on the National Freedom Institute, a body that will decide on state funding to NGOs. Civil society groups raised serious concerns that the law provided for the Institute to be under the effective control of the government, which would potentially undermine the ability of organizations that were critical of the government to access such funds.

Counter-terror and security

The Council of Europe Commissioner for Human Rights and NGOs raised concerns over the lack of due process in cases of deportations where national security grounds were invoked.

In April, an Iraqi student was deported to Iraq after the Refugee Board rejected his asylum application alleging that he represented a “threat to national security”. The evidence against him, collected by the Internal Security Agency, was not made available

to his legal representatives. The NGO Helsinki Foundation for Human Rights argued that the denial of access to the case files had effectively prevented the applicant from knowing the detailed grounds for the rejection of his asylum claim. In August, the Foundation appealed against the decision.

Refugees and asylum-seekers

There were ongoing reports of push-backs of asylum-seekers at a border crossing with Belarus. The European Court of Human Rights requested information from Poland regarding four cases in which the applicants claimed that they were repeatedly denied entry to seek international protection and that this put them at risk of *refoulement* – forcible return to a country where they were at real risk of persecution. In late August, the NGO Human Constanta, which is based in Belarus, filed another case against Poland with the UN Human Rights Committee for the breach of the *non-refoulement* principle. The cases remained pending at the end of the year.

In June, the European Commission started infringement procedures against Poland, as well as the Czech Republic and Hungary, for refusing to participate in the refugee relocation scheme from EU member states such as Greece and Italy. In December, the European Commission decided to step up the action against all three countries and referred them to the Court of Justice of the European Union.

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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

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