

Amnesty International Report 2015/16 - The State of the World's Human Rights - Poland

Parliament failed to reform hate crime legislation. The government committed to relocate 5,000 refugees from Italy and Greece, amid a climate of intolerance and discriminatory speech, fuelled by some public officials. The domestic criminal investigation into the co-operation with the CIA and the hosting of a secret detention site was still pending.

Legal, constitutional or institutional developments

As of November, the Polish Ombudsman, national NGOs, the National Council of the Judiciary and other authorities expressed concerns regarding respect for the rule of law. They referred to the President's refusal to swear in five constitutional judges who had been elected by the previous Parliament (*Sejm*) and to the amendments of the Law on the Constitutional Court adopted by the newly elected Parliament. In December, the Constitutional Court confirmed the election of three out of five replacement judges. President Duda continued to uphold his position that the replacement judges were elected "illegally". President Duda also signed into law the constitutional tribunal bill, which said the court must approve rulings with a two-thirds majority, rather than the previous simple majority, and required 13 of the court's 15 judges to be present for the most contentious cases, instead of the previous nine. A new law on media giving the government direct control over management positions in public service broadcasters was widely criticized. A number of laws were rapidly adopted by Parliament without public consultation and debate.

Discrimination

Hate crimes

In March, the European Commission against Racism and Intolerance recommended extending the scope of provisions on racist and xenophobic crimes to crimes perpetrated with a homophobic or transphobic motive.

Parliament continued to discuss three joint bills aimed at providing protection against hate crime perpetrated on grounds such as sexual orientation, gender identity or disability. However, it failed to pass them before parliamentary elections in October.

Rights of lesbian, gay, bisexual, transgender and intersex people

On 26 May and 5 August, Parliament rejected two bills on civil partnerships, including for same-sex couples, without initiating a debate on the bills.

In September, Parliament approved the Gender Accordance Act, which established a framework for legal gender recognition of transgender people. On 2 October, President Duda vetoed the Act. Parliament failed to hold a vote on the presidential veto before parliamentary elections.

Roma

On 22 July, 10 Romani women, men and children were forcibly evicted from an informal settlement in the city of Wrocław. They were given no notice by municipal authorities and their houses and belongings were destroyed while they were at work.

Counter-terror and security

After the December 2014 release of a US Senate report documenting the torture of detainees secretly held by the US CIA from 2002-2006, former President Aleksander Kwasniewski and former Prime Minister Leszek Miller acknowledged their co-operation with the CIA and agreement to host a secret site.

The former President subsequently stated publicly that he took steps to end the activity at the site, amid pressure from other Polish officials who were concerned that coerced interrogations were being conducted there. The Polish criminal investigation into the secret site allegations, launched in 2008, continued and was criticized for severe delays.

In February, the European Court of Human Rights confirmed as final the July 2014 decisions in the cases of Zayn al-Abidin Muhammed Husayn (Abu Zubaydah) and Abd al-Rahim al-Nashiri. The Court had ruled against the Polish government for co-operating with the CIA in the enforced disappearance of the two men, their illegal transfer, secret detention and torture.

Poland submitted an action plan to the Council of Europe in August detailing the measures it had taken or would take to implement the final judgments in the men's cases. These included earlier actions in May, paying compensation, and the submission to US authorities of a diplomatic note requesting that the death penalty not be imposed or applied to Abd al-Rahim al-Nashiri in military commissions proceedings at the US detention facility in Guantánamo Bay, Cuba.

Refugees' and migrants' rights

The debates regarding relocation and resettlement of refugees took place in a climate of mounting discriminatory speech, fuelled by some public officials throughout the year.

In July, the government announced the resettlement of 900 Syrian refugees from Lebanon and 1,100 refugees currently in Italy and Greece within its relocation programme. In September, the government supported the EU plan to relocate 120,000 refugees from other European countries. On the basis of the agreed quotas, about 5,000 refugees would be relocated from Greece and Italy to Poland in the next two years. Following the parliamentary elections, the new government backtracked from the commitments under the EU resettlement and relocation scheme.

At the end of the year, integration measures remained insufficient and the authorities did not adopt a comprehensive integration strategy.

Authorities continued to use detention disproportionately for migrants and asylum-seekers. In September, the European Court of Human Rights communicated the case *Bistieva v. Poland* to the government. The applicant argued that the authorities' decision to detain her and her three children,

while waiting for the decision regarding their asylum claims, had violated their rights to private life and to liberty and security.

Women's rights

In April, Poland ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. However, at the end of the year, authorities had not yet adopted a comprehensive plan to implement the Convention.

Sexual and reproductive rights

In September, Parliament rejected a draft bill which aimed at banning abortion in all instances and removing any reference to prenatal diagnosis as well as the woman's right to information and testing.

On 7 October, the Constitutional Court ruled that the legal duty imposed on objecting doctors to refer women to an alternative facility or practitioners, in order for them to access legal abortion, was unconstitutional. This was in spite of the European Court of Human Rights' earlier ruling that the right of conscientious objections must not result in barriers for women to access legal abortion services in Poland.

Freedom of expression

In October the Constitutional Court ruled that the provision which criminalizes "offending religious feelings" was constitutional.

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