

POLAND 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Poland is a republic with a multiparty democracy. The bicameral parliament consists of an upper house (Senate) and a powerful lower house (Sejm). The president and the Council of Ministers headed by the prime minister share executive power. Incumbent President Duda was re-elected to a second five-year term after a second round of voting July 12. The Organization for Security and Cooperation in Europe conducted election observation. It found the presidential election was administered professionally despite legal uncertainty during the electoral process due to the outbreak of the COVID-19 pandemic and the rescheduling of the election to a later date. It also noted the public broadcaster “failed to ensure balanced and impartial coverage, and rather served as a campaign tool for the incumbent.” The government continued to implement judiciary-related measures that drew strong criticism from the European Commission, some legal experts, nongovernmental organizations, and international organizations.

The police force is a national law enforcement body with regional and municipal units overseen by the Ministry of Interior and Administration. The Border Guard is responsible for border security and combating irregular migration; it reports to the Ministry of Interior and Administration. The Internal Security Agency has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau is responsible for combating government, business, and financial corruption and may investigate any matter involving public funds. The prime minister appoints and supervises the heads and deputy heads of both offices, which also report to parliament. Civilian authorities maintained effective control over the security forces. Some members of law enforcement entities committed abuses.

Significant human rights issues included: criminal defamation penalties; violence or threats of violence targeting lesbian, gay, bisexual, transgender, or intersex persons; and crimes involving violence or threats of violence targeting members of ethnic minorities.

POLAND

The government took steps to investigate, prosecute, and punish officials who committed human rights abuses. There were no reports of security force impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices. There were reports of problems, however, with police misconduct and corrections officer abuse of prisoners. The law lacks a clear legal definition of torture, but all actions that could be considered “torture” are prohibited under other provisions of law and prosecuted consistent with the country’s obligations under international treaties and conventions prohibiting torture. The law outlines disciplinary actions for police, including reprimand, demotion in rank, and dismissal. Civil society groups noted cases of police misconduct against persons in custody.

On February 19, the Wroclaw District Court upheld the conviction of four former police officers who were found guilty of abuse of power and physical and psychological violence against a 25-year-old man who died in police custody in Wroclaw in 2016. Video footage showed police beating and using an electroshock device on the man while he was handcuffed in a jail cell. One defendant was sentenced to two and a half years in prison, and the others received two-year sentences. In addition, the court ruled the defendants could not work as police officers for eight and six years, respectively.

POLAND

On September 9, the National Preventive Mechanism (NPM) operating under the office of the commissioner for human rights (ombudsperson) published a report on police action against a group of demonstrators who held a spontaneous gathering on August 7, following the detention of an activist associated with the lesbian, gay, bisexual, transgender, or intersex community. The report described the treatment of detainees by police as “degrading” and in some cases “inhuman” (see section 6, Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity).

Impunity was not a significant problem in the security forces.

Prison and Detention Center Conditions

Prison and detention center conditions were adequate. There were no significant reports regarding prison or detention center conditions that raised human rights concerns. Nonetheless, insufficient prison medical staff and limited prisoner access to specialized medical treatment continued to be problems.

Physical Conditions: While authorities generally separated juveniles from adults, the law allows shared housing in prisons and detention centers in exceptional cases. Juveniles were at times held together with adult prisoners. Authorities usually sent juveniles between the ages of 17 and 21 accused of serious crimes to pretrial detention.

The law permits authorities to commit prisoners to the National Center for the Prevention of Dissocial Behaviors when they have served their prison sentences and have undergone a custodial therapy program, and continue to have mental disabilities believed to create a high probability they would commit another serious crime against a person.

Administration: Authorities investigated credible allegations of inhuman conditions and made their findings publicly accessible. The country’s human rights ombudsperson may join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when they file a complaint or when information obtained otherwise leads to an allegation of inhuman conditions. The

POLAND

ombudsperson administers the NPM, an independent program responsible for monitoring conditions and treatment of detainees in prisons and detention facilities.

Independent Monitoring: The government allows on a regular basis independent monitoring of prison conditions and detention centers by local human rights groups as well as by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment. The Helsinki Human Rights Foundation and other local nongovernmental organizations (NGOs) made occasional visits to prisons. Prison authorities, however, limited access to prisons during the COVID-19 pandemic due to sanitary restrictions.

Improvements: The government continued implementation of a two-billion-zloty (\$516 million), four-year (2017-20) prison administration modernization plan to improve the security of detention facilities, prison infrastructure, and working conditions for prison guards.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge in court the lawfulness of his or her arrest or detention, and the government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

The constitution and law require authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law. The constitution and law allow detention of a person for 48 hours before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. The law allows authorities to hold terrorism suspects without charges for up to 14 days. The law sets a five-day limit for holding a juvenile in a police establishment for children if the juvenile escaped from a shelter or an educational or correctional facility. It allows police to hold for up to 24 hours in a police establishment a juvenile who is being transferred to a shelter or an educational or correctional facility, in the case of a "justified interruption of convoy." The law provides that police should immediately notify a detained person of the reasons for his or her detention and of his or her rights. Usually this

POLAND

information is initially delivered orally; later, at the police station, the detainee signs a statement that he or she has been advised of his or her rights and duties. Police give the detained person a copy of the report on his or her detention. Authorities generally respected these rights. Only a court may order pretrial detention.

There is a functioning bail system, and authorities released most detainees on bail. Defendants and detainees have the right to consult an attorney at any time. The government provided free counsel to indigent defendants.

During the last five years, the number of those placed in pretrial detention steadily grew from 4,162 at the end of 2015 to 9,291 as of August 31. In its 2019 report, the Helsinki Human Rights Foundation argued that prosecutors overly relied upon the system of pretrial detention. According to Court Watch Poland's 2019 report, pretrial detention was often used as the default preventive measure, and judges often deferred to prosecutors' motions to place detainees in pretrial detention, without considering the use of other preventive measures such as bail, passport seizure, or police supervision. According to the Court Watch report, judges approved 90 percent of prosecutors' motions for pretrial detention.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, the government continued to implement judiciary-related measures that drew strong criticism from the European Commission, some legal experts, NGOs, and international organizations. The government argued reforms were necessary to improve efficiency in the judicial system and accountability.

On April 8, the European Court of Justice (ECJ) issued interim measures ordering the government to suspend the work of the Supreme Court Disciplinary Chamber with regard to disciplinary cases against judges. The ECJ is evaluating an infringement proceeding launched by the European Commission in April 2019 and referred to the ECJ in October 2019. The commission argued that the country's disciplinary regime for judges "undermines the judicial independence of...judges and does not ensure the necessary guarantees to protect judges from political control, as required by the Court of Justice of the EU." The commission stated the

POLAND

disciplinary regime did not provide for the independence and impartiality of the Disciplinary Chamber, which is composed solely of judges selected by the restructured National Council of the Judiciary, which is appointed by the Sejm. The ECJ has yet to make a final ruling. The European Commission and judicial experts complained the government has ignored the ECJ's interim measures.

On April 29, the European Commission launched a new infringement procedure regarding a law that came into effect on February 14. The law allows judges to be disciplined for impeding the functioning of the legal system or questioning a judge's professional state or the effectiveness of his or her appointment. It also requires judges to disclose memberships in associations. The commission's announcement stated the law "undermines the judicial independence of Polish judges and is incompatible with the primacy of EU law." It also stated the law "prevents Polish courts from directly applying certain provisions of EU law protecting judicial independence and from putting references for preliminary rulings on such questions to the [European] Court of Justice." On December 3, the commission expanded its April 29 complaint to include the continued functioning of the Disciplinary Chamber in apparent disregard of the ECJ's interim measures in the prior infringement procedure.

According to Justice Ministry statistics, the average trial lasted 5.4 months in 2018, compared with 5.5 months in 2017 and 4.7 months in 2016. The EU Justice System Scoreboard reported the courts had become less efficient. In 2010 the court of first instance took an average of 49 days to issue a ruling. In 2017 the average increased to 73 days. Some legal experts cited these statistics as evidence that the government's judicial changes did not lead to greater judicial efficiency.

Trial Procedures

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence and the right to prompt and detailed notification of the charges against them throughout the judicial process, with free interpretation for defendants who do not speak Polish. They have the right to a fair and public trial without undue delay and the right to be present at their trial. Trials are usually public, although the courts reserve the right to close a trial in some circumstances, including divorce

POLAND

proceedings, cases involving state secrets, and cases whose content may offend public morality.

Due to the COVID-19 pandemic, courts suspended regular operations in April and May. After reopening in June, courts considerably limited public access to hearings due to the continuing pandemic. According to a September 25 Court Watch Poland report, some courts continued to ban audiences after reopening, while others limited numbers of external participants. In June, 36 percent of courts surveyed fully banned public access, 44 percent of courts introduced entry passes, and 17 percent limited the number of observers allowed to participate in the hearing. In August, 12 percent of courts surveyed did not allow the public to participate in hearings, 54 percent required entry passes, and 17 percent limited the number of those participating in the hearing. According to Court Watch Poland, the regulations to ban audiences from hearings violated the constitution, which requires judgments to be announced publicly.

Defendants have the right to legal representation, and indigent defendants may consult an attorney provided without cost. The government must provide defendants and their attorneys adequate time and facilities to prepare a defense. Defendants may confront and question witnesses and present witnesses and evidence on their own behalf. Prosecutors may grant witnesses anonymity if they express fear of retribution from defendants. The prosecutor general may release to media information concerning any investigation, except if such information is classified, with due consideration to important public interests. Defendants may not be compelled to testify or confess guilt.

After a court issues a verdict, a defendant has seven days to request a written statement of the judgment; courts must provide a response within 14 days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

POLAND

Civil Judicial Procedures and Remedies

Individuals or organizations may seek civil remedies for human rights violations. The government's implementation of court orders, particularly for payment of damages, remained slow and cumbersome.

After they exhaust remedies available in the domestic courts, persons have the right to appeal court decisions involving alleged government violations of the European Convention on Human Rights to the European Court for Human Rights.

The 2015 and 2016 disputes regarding judicial appointments to the Constitutional Tribunal remained unresolved.

Property Restitution

The law provides for restitution of communal property, such as synagogues and cemeteries, seized under Nazi occupation or during the Communist era, but the process proceeded slowly. The property commissions have resolved 7,173 of slightly more than 10,500 communal property claims by religious groups. Heirless property reverts to the state.

The government has put in place legal and administrative procedures for private property restitution, but NGOs and advocacy groups reported it did not make significant progress on resolution of Holocaust-era claims, including for foreign citizens. No comprehensive law addresses the return of, or compensation for, private property, but individuals may seek the return of confiscated private property through administrative proceedings and courts. NGOs and advocacy groups described the process as cumbersome and ineffective.

During the presidential campaign on July 8, President Andrzej Duda addressed the issue of restitution, stating the government would not pay damages for heirless property and declaring he would not accept any law that would privilege any ethnic group over others. He continued, "If someone wants compensation, please turn to those who caused World War II."

On September 17, parliament adopted further amendments to the Warsaw-specific 2015 law intended to end abusive practices in the trading of former property

POLAND

owners' claims. Among other things the revised legislation establishes new grounds on which the City of Warsaw must refuse the return of properties, for reasons outside claimants' control. The president signed the legislation on September 29. NGOs and advocacy groups expressed serious concerns that the 2015 law fell short of providing just compensation to former owners who lost property as a result of the nationalization of properties by the communist-era government, and also properties taken during the Holocaust era. Legal experts expressed concern that the law limited the ability of petitioners to reclaim property unjustly taken from their lawful owners. The World Jewish Restitution Organization asserted that the time limits included in the law were insufficient for potential claimants, particularly Holocaust survivors and their heirs, to meet difficult documentary requirements.

The Department of State's Justice for Uncompensated Survivors Today (JUST) Act report to Congress, released publicly on July 29, 2020, can be found on the Department's website: <https://www.state.gov/reports/just-act-report-to-congress/>.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions but allows electronic surveillance with judicial review for crime prevention and investigation. There were no reports that the government failed to respect those prohibitions.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of speech and press, and the government generally respected these rights.

Freedom of Speech: The law prohibits hate speech, including the dissemination of anti-Semitic literature, the public promotion of fascist, communist, or other totalitarian systems, and the intentional offense of religious feelings.

POLAND

Violence and Harassment: On February 3, the Warsaw regional court sentenced Michal Majewski, a *Wprost* weekly reporter, to a fine for protection of sources of information. The conviction refers to a 2014 incident, when Internal Security Agency officers tried to seize forcefully a laptop of one of the journalists who revealed a wiretapping scandal involving leading politicians. The Center for Monitoring Freedom of Speech at the Association of Polish Journalists criticized the conviction as a clear violation of freedom of speech. The ruling was subject to appeal.

On November 11, some police officers used violent crowd control measures against several journalists who were covering violent clashes between police and groups of hooligans during the annual Independence March that took place in Warsaw. Police shot one photojournalist in the face with a rubber bullet and used batons and a stun grenade against other journalists. After the incidents the government announced investigations into the police actions. On December 2, police officially apologized for the incidents and announced training for police officers.

Censorship or Content Restrictions: The constitution prohibits censorship of the press or social communication. Nevertheless, laws regulating broadcasting and media prohibit, under penalty of fines, license revocation, or other authorized sanctions, the promotion of activities endangering health or safety, or the promotion of views contrary to law, morality, or the common good. The law also requires that all broadcasts “respect the religious feelings of the audiences and, in particular, respect the Christian system of values.”

Critics alleged persistent progovernment bias in state television news broadcasts.

Libel/Slander Laws: Defamation by print and broadcast journalists is a criminal offense and includes publicly insulting or slandering the president, members of parliament, government ministers and other public officials, the Polish nation, foreign heads of state and ambassadors, private entities and persons, as well as insult or destruction of the national emblem, the flag, other state symbols, and monuments. Defamation outside media is punishable by a fine and community service. The courts rarely applied maximum penalties, and persons convicted of

POLAND

defamation generally faced fines or imprisonment of less than one year. The maximum sentence for insulting the president is three years' imprisonment.

On August 5, police charged three persons with desecrating monuments and offending religious sentiment by placing rainbow flags on several monuments around Warsaw, including an historic religious statue standing in front of a Roman Catholic Church associated with Warsaw's occupation. If convicted the three may face a fine for insulting the monuments and up to two years in prison for offending religious sentiment.

The Helsinki Foundation for Human Rights and the Association of Polish Journalists reported that journalists convicted of defamation had never received the maximum penalty. According to the Helsinki Foundation, however, the criminal defamation law may have a chilling effect on journalists, especially in local media, since local authorities may use the law against journalists. Media owners, particularly of small local independent newspapers, were aware that potentially large fines could threaten the financial survival of their publications. According to the Helsinki Foundation, there was a considerable increase in the number of convictions under the criminal defamation law over the last several years. The foundation observed that those seeking to protect their reputations were more likely to pursue criminal defamation charges than civil litigation. This may negatively affect the operation of local media outlets, which the foundation stated were often the only source of accountability for local officials. According to Ministry of Justice statistics for 2018, the most recent data available, courts convicted one person of insulting the president and three persons for insulting constitutional organs of the government. In 2018 the courts fined two persons for public defamation through media using the public prosecution procedure, when a private person presses criminal charges against another person. In 2018 there were 116 convictions for criminal defamation through media using the private prosecution procedure.

On September 2, the Supreme Court struck down a Lodz District Court judgment from February 2019 against investigative reporter Wojciech Biedron on charges of public insult of a judge for inaccurately reporting that a court had initiated disciplinary proceedings against the judge. The September 2 decision resulted

POLAND

from a complaint filed with the Supreme Court by the prosecutor general in September 2019. The case was sent back to the district court for a retrial.

Nongovernmental Impact: On July 7, unknown perpetrators vandalized the offices of the magazine *Fakty Social Dialogue*. The perpetrators wrote “Fakty TVN go away” on the office walls, apparently mistaking the magazine’s offices for those of private television station TVN’s flagship news program *Fakty*, which had broadcast criticism of the government. The magazine’s equipment and server room were destroyed, and hard drives from laptops and computers were stolen. The editor in chief of the magazine claimed the vandalism was the result of a campaign by the governing party against “opposition media.”

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications or email without appropriate legal authority. The law authorizes the (ABW) to block websites without a prior court order in cases relating to combating, preventing, and prosecuting terrorist crimes; shut down telecommunications networks when there is a terrorist threat; and conduct surveillance of foreign nationals for up to three months without a court order. During the year there were no reports by media or NGO sources that the ABW blocked websites.

The law against defamation applies to the internet as well.

Academic Freedom and Cultural Events

There were no reports of government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. The law permits restrictions on public assemblies in situations of elevated terrorist threats. During the year

POLAND

there were no cases of the prohibition of a public assembly due to an elevated terrorist threat.

Due to the COVID-19 pandemic, on March 13, the government limited public assemblies to a maximum of 50 persons. From March 31 to May 29, due to a declared “state of epidemic,” the government introduced a total ban on public assemblies. From May 30 to October 16, public assemblies of up to 150 participants were allowed, except for so-called spontaneous gatherings organized without prior notification to local authorities. On October 17, new regulations entered into force that allowed public assemblies of up to 10 participants in regions of the country with the highest numbers of COVID-19 infections and 25 participants in the remaining parts of the country. On October 24, public assemblies were limited to five participants nationwide. In a speech to the Senate on November 27, the ombudsperson expressed concerns that police were increasingly using excessive means of direct coercion against demonstrators over the course of the pandemic and urged the Senate to work on a bill “to make the police more oriented towards observing human rights.”

On May 16, police detained more than 380 persons following a protest by entrepreneurs in Warsaw against government policy towards businesses during the COVID-19 pandemic. Police used tear gas to disperse the protest. The government punished 220 persons for violating social distancing restrictions, and five were charged with more serious crimes, including assaulting police officers.

On October 27, following several days of large public demonstrations against an October 22 Constitutional Court ruling restricting abortion, Law and Justice Party Chairman and Deputy Prime Minister Jaroslaw Kaczynski released a video statement claiming protest organizers and protesters themselves were committing a “serious crime” by protesting during a period of heightened COVID-19 infections in the country. He said authorities had an “obligation to oppose such events.”

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

POLAND

d. Freedom of Movement

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In addition to guarded centers for foreigners, the government operated 10 open centers for asylum seekers with an aggregate capacity of approximately 1,900 persons in the Warsaw, Bialystok, and Lublin areas.

Abuse of Migrants, Refugees, and Stateless Persons: Some incidents of gender-based violence in the centers for asylum seekers occurred, but UNHCR reported that local response teams involving doctors, psychologists, police, and social workers addressed these cases. UNHCR reported no major or persistent problems with abuse in the centers.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

On July 23, the European Court of Human Rights ruled against the country, stating it violated the European Convention on Human Rights by not accepting a group of asylum seekers from Russia and not allowing them to file applications for international protection. The case originated in 2017 when several Russian asylum seekers of Chechen origin attempted to enter the country via Belarus but were repeatedly returned to Belarus. The Polish Border Guard refused to accept their applications for international protection even though some had documents that proved they were victims of torture and persecution. On July 24, the Warsaw

POLAND

branch of UNHCR appealed to the government to follow international law and allow asylum seekers to apply for international protection in the country.

Safe Country of Origin/Transit: The EU's Dublin III Regulation, to which the country is subject, recognizes all EU countries as safe countries of origin and transit. The regulation also authorizes the governments of EU member states to return asylum seekers to the countries where they first entered the EU. The law permits denial of refugee status based on safe country of origin or safe country of transit but includes provisions that allow authorities to consider the protection needs of individuals in exceptional cases.

Freedom of Movement: Authorities placed some asylum seekers in guarded centers for foreigners while they awaited deportation or decisions on their asylum applications. Border guards may place an individual in a guarded center only by court order. The law prohibits the placement of unaccompanied minors younger than 15 in guarded centers. Border guards typically sought to confine foreigners who attempted to cross the border illegally, lacked identity documents, or committed a crime during their stay in the country.

Employment: Asylum seekers are not allowed to work during the first six months of the asylum procedure. If the asylum procedure lasts longer than six months, they may work until the asylum decision is final.

Access to Basic Services: Asylum seekers faced language and cultural barriers and had limited access to higher education. Children in centers for asylum seekers had free access to public education, in addition to other educational activities organized in the center, but those placed with relatives in guarded centers for foreigners did not.

Temporary Protection: The government also provided temporary protection to some individuals who did not qualify as refugees. Between August 18 and November 12, according to Ministry of Interior and Administration statistics, 1,050 Belarusian citizens entered the country under special procedures, including "humanitarian visas," refugee status, and special permissions from the Border Guard's chief commander. In addition, 330 Belarusians entered the country under

POLAND

the Ministry of Development program *Poland. Business Harbor*, which facilitates business activity for Belarusians who want to relocate their business to Poland.

g. Stateless Persons

According to a UNHCR report on global trends on forced displacement released on June 18, the government's Office for Foreigners officially registered 1,328 stateless persons at the end of 2019. UNHCR reported that because the government did not implement a formal procedure of identifying stateless persons, it was possible many stateless persons did not encounter authorities and were unreported in official statistics.

The law affords the opportunity for stateless persons to obtain nationality. A 2019 UNHCR report noted, however, that the government's lack of a formal procedure of identifying stateless persons led to protection gaps and exposed stateless persons to many negative consequences, including detention.

The 2019 UNHCR report noted several problems resulting from stateless status, including the inability to undertake legal employment or to access social welfare and health care. Stateless persons often lack identity documents, which limits their ability to perform many legal actions, such as opening a bank account or entering into a marriage. According to UNHCR, such problems made this group particularly vulnerable to poverty and marginalization.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The Organization for Security and Cooperation in Europe (OSCE) conducted an election observation mission and concluded in its preliminary findings that the June 28 first-round presidential election was administered professionally despite legal uncertainty during the electoral process related to the outbreak of the COVID-19 pandemic. The elections were originally

POLAND

scheduled for May 10; however, the opposition and members of the ruling coalition objected to holding the election due to the risks posed by the pandemic and differences over the implementation of postal voting. After members of the ruling coalition agreed on May 6 to postpone the election until the summer, the National Electoral Commission issued a resolution on May 10 stating it was not possible to conduct the vote that same day, and the Sejm set a new date.

According to the OSCE's report on the first-round election, the decision to continue with the election under the pandemic necessitated legal and practical adjustments that put at risk "the stability and clarity of the otherwise suitable election legislation." The report stated the changes "had practical implications for candidate registration, campaigning and campaign finance, voting methods, and resolution of election disputes." The report stated the election campaign was characterized by "negative and intolerant rhetoric further polarizing an already adversarial political environment." It also stated the public broadcaster "failed to ensure balanced and impartial coverage, and rather served as campaign tool for the incumbent." The OSCE noted that the second round of elections on July 12 was well managed and candidates were "able to campaign freely in a competitive runoff, but hostility, threats against media, intolerant rhetoric, and cases of misuse of state resources detracted from the process. The polarized media environment, and particularly the biased coverage by the public broadcaster, remained a serious concern." On August 3, the Supreme Court formally certified the results of the July 12 presidential runoff that resulted in the incumbent president's re-election. The OSCE's final report published on September 23 confirmed the initial findings and included 27 recommendations to improve the conduct of elections and "to support efforts to bring [the country] fully in line with...international obligations and standards for democratic elections."

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate. Women's political participation remained low, with women accounting for 5 percent of ministerial positions, 29 percent of local legislature positions, and 28 percent of national legislature (Sejm and Senate) positions.

POLAND

Section 4. Corruption and Lack of Transparency in Government

Corruption: The law provides criminal penalties for corruption by officials, and criminal prosecutions for official corruption occurred. There were reports of corruption that resulted in legal action.

On January 29, the Przemyśl District Court lowered a previous sentence for former head of Podkarpackie Province Mirosław Karapyta from four to three years in prison, reduced charges of attempted rape to sexual harassment, and dropped some charges for corruption. A year earlier the court found him guilty of nine charges, including two cases of attempted rape, accepting a personal favor in the form of sexual intercourse, and accepting expensive gifts in return for favors.

On February 28, the Wrocław Śródmieście Regional Court sentenced Józef Pinior, a former senator and member of European parliament, to 18 months in prison for corruption. The court found him guilty of accepting bribes from businessmen in return for intervening with various public institutions to get favorable decisions for their businesses. In September, Pinior filed an appeal against the court's ruling, claiming he was not guilty.

On July 20, the Central Anticorruption Bureau (CBA) detained Sławomir Nowak, former transportation minister under the prior Civic Platform (now opposition) government, on charges of corruption and leading an organized criminal group. His arrest resulted from a Polish-Ukrainian investigation into alleged corruption when he served as the president of the Ukrainian State Road Agency. Nowak was placed in pretrial detention on July 23.

Financial Disclosure: The law obliges elected and appointed public officials to submit financial statements concerning their financial assets, real property, stocks, and bonds. According to the NGO Stefan Batory Foundation, the CBA was able to screen fewer than 1 percent of all financial disclosure statements filed by politicians and senior officials. With the exception of certain situations provided for by law, the regulations protect information included in financial statements as

POLAND

“restricted access” information that may be made public only with the written permission of the provider.

In April the CBA stated that an audit of Supreme Audit Board head Marian Banas’ required financial declarations revealed Banas lowered the amount of his financial assets in declarations he filed between 2015 and 2019 by approximately 200,000 zloty (\$51,600) and failed to report undocumented income from 2018 to 2019 in the amount of 257,000 zloty (\$66,300). In November 2019 the CBA notified the Prosecutor’s Office of potential crimes committed by Banas related to false property declarations, concealing a property’s actual status, and undocumented sources of income. In December 2019 the regional prosecutor’s office in Bialystok opened an investigation. In 2019 the prime minister and other leaders of the ruling Law and Justice Party called on Banas to resign, but at year’s end he had not done so. Banas denied the allegations and sued the media outlet that uncovered the reported improprieties for defamation. The investigation into false financial disclosure statements continued at year’s end.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases.

Government Human Rights Bodies: The law entrusts the ombudsperson and the government plenipotentiary for equal treatment with the task of “implementing the principle of equal treatment.”

In cooperation with NGOs, the ombudsperson processes complaints, conducts investigations, institutes and participates in court proceedings, undertakes studies, provides other public bodies with advice, proposes legislative initiatives, and conducts public information campaigns. The ombudsperson has no authority to mediate disputes between private entities, even in cases of racial discrimination.

POLAND

The ombudsperson presents an annual report to the Sejm on the state of human rights and civic freedom in the country.

The government plenipotentiary for equal treatment has a mandate to counter discrimination and promote equal opportunity for all. The plenipotentiary implements the government's equal treatment policy, develops and evaluates draft acts, analyzes and evaluates legal solutions, and monitors the situation within the scope of application of the principle of equal treatment. In March the plenipotentiary's position moved to the Ministry of Family and Social Policy. The plenipotentiary also serves as a deputy minister. As such, it does not have the same institutional independence as the ombudsperson and does not have a separate budget.

Both chambers of parliament have committees on human rights and the rule of law. The committees serve a primarily legislative function and consist of representatives from multiple political parties.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by up to 12 years in prison.

While courts may sentence a person convicted of domestic violence to a maximum of five years in prison, most of those found guilty received suspended sentences. The law permits authorities to place restraining orders without prior approval from a court on spouses to protect against abuse.

On November 30, a new law entered into force introducing an immediate restraining order that may be issued by police who respond to a domestic dispute. Under the revised law, the perpetrator must immediately leave the location where the violence took place. The president signed the legislation into law on May 19.

POLAND

The Women's Rights Center reported that police were occasionally reluctant to intervene in domestic violence incidents, sometimes arguing there was no need for police intervention. The center also noted some women complained police did not properly respond to their calls because they were preoccupied with duties related to monitoring the implementation of COVID-19 restrictions. During the country's lockdown in March and April due to the pandemic, women's rights NGOs noted an increase in the number of calls to their hotlines from domestic violence victims.

The law requires every municipality in the country to set up an interagency team of experts to deal with domestic violence.

Centers for victims of domestic violence operated throughout the country. The centers provided social, medical, psychological, and legal assistance to victims; training for personnel who worked with victims; and "corrective education" programs for abusers.

Sexual Harassment: The law prohibits sexual harassment, and violations carry penalties of up to three years' imprisonment. According to the Women's Rights Center, sexual harassment continued to be a serious and underreported problem.

Reproductive Rights: Couples and individuals generally have the legal right to decide freely and responsibly the number, spacing, and timing of their children but had restricted access to the information and means to do so. On October 22, the Constitutional Tribunal outlawed abortion in all but limited circumstances, although the implementation of this ruling was delayed. NGOs noted that infertility treatments were only available to legally married couples defined as a man and a woman, restricting access by LGBTI couples and all single persons.

The law obliges both central and local governments to provide citizens with unrestricted access to methods and means serving "conscious procreation," implemented by the government as gynecological counseling for women and girls and access to contraception. While there were no legal restrictions on the right to obtain contraceptives, a patient's ability to obtain them was limited, according to NGOs. The Federation for Women and Family Planning (Federa) noted the government excluded almost all prescription contraceptives from its list of subsidized medicines, making them less affordable, especially for poor women in

POLAND

rural areas. The law also provides that doctors may refrain from performing health services inconsistent with their conscience. According to a report during the year by ASTRA (the Central and Eastern European Network for Sexual and Reproductive Health and Rights), doctors regularly used the conscience clause to refuse to write prescriptions for contraceptives. The report also noted that some pharmacies intentionally did not sell contraceptives or have them in stock. The law does not permit voluntary sterilization. According to Federa, young persons lacked sex counseling services.

Although women have the right to comprehensive medical services before, during, and after childbirth, home birth, while legal, is not subsidized by the National Health Fund. According to the Childbirth with Dignity Foundation, standards for perinatal and postnatal care written into the laws are adequate, but the government failed to enforce them effectively. A 2018 report by the Supreme Audit Office indicated women living in rural areas had limited access to medical services related to childbirth due to an insufficient number of gynecological and obstetric clinics in smaller towns and villages.

The government provided access to sexual and reproductive health services for survivors of sexual violence. According to women's rights NGOs, access was limited due to victims' fear of social stigma, some legal constraints, and the use of the conscience clause by medical doctors who refused to provide such services.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The constitution provides for the same legal status and rights for men and women and prohibits discrimination against women, although few laws exist to implement the provision. The constitution requires equal pay for equal work, but discrimination against women in employment existed (see section 7.d.).

Children

Birth Registration: A child acquires citizenship at birth if at least one parent is a citizen, regardless of where the birth took place. Children born or found in the

POLAND

country whose parents were unknown or stateless are also citizens. The government has a system of universal birth registration immediately after birth.

Child Abuse: A government ombudsperson for children's rights issued periodic reports on problems affecting children, such as the need for improved medical care for children with chronic diseases. The ombudsperson's office also operated a 24-hour free hotline for abused children. The government continued its public awareness campaigns, aimed at preventing physical violence or sexual abuse against children.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 18, although courts may grant permission for girls as young as 16 to marry under certain circumstances.

Sexual Exploitation of Children: The law prohibits sexual intercourse with children younger than 15. The penalty for statutory rape ranges from two to 12 years' imprisonment.

Child pornography is illegal. The production, possession, storage, or importation of child pornography involving children younger than 15 is punishable by three months' to 10 years' imprisonment. During the year police conducted several operations against child pornography and alleged pedophiles.

According to the government and the Children Empowerment Foundation, a leading NGO dealing with trafficking in children, trafficking of children for sexual exploitation remained a problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Union of Jewish Communities estimated the Jewish population at 20,000. Anti-Semitic incidents continued to occur, often involving desecration of

POLAND

significant property, including a synagogue and Jewish cemeteries, and sometimes involving anti-Semitic comments on television and social media. Some Jewish organizations expressed concern regarding the physical safety and security of their members.

On February 27, a member of the lower house of parliament, Janusz Korwin-Mikke, said, “As a result of the pogroms, the strongest and the most gifted [Jews] survived.... The Jews are a power because they had pogroms.” He added, “There are even theories that rabbis deliberately provoke pogroms precisely so that Jews survive and then there is natural selection.”

During the year there were several attacks on Jewish properties and houses of worship. Examples included: defacement in mid-March by unknown perpetrators of a plaque commemorating the local Jewish community and Jewish residents of the city of Szczecin, who were killed during World War II in the Belzec extermination camp; the breaking of a synagogue’s windows on April 14 in the city of Wroclaw by a man who used neo-Nazi speech and gestures; and the tipping over of dozens of tombstones by unknown perpetrators in three Jewish cemeteries in the city of Zabrze and the towns of Dobrodzien and Tarnowskie Gory in September.

In mid-June a narrative appeared in public media during the presidential campaign that drew accusations of anti-Semitism from the domestic and international Jewish community. On June 15, the state-run television broadcaster ran a story claiming that the main challenger to the incumbent president would use public funds to “compensate Jews” with respect to private property restitution should he be elected president. It also claimed the candidate’s approach to restitution “was not based on Poland’s interests” and included images of Israel, George Soros, the Auschwitz-Birkenau concentration camp, and money falling out of a bag. On June 16, American Jewish Committee Central Europe acting director Sebastian Rejak sent a letter to the Polish Media Ethics Council stating that public television coverage could “incite hatred and contempt towards Jews in the world and Polish Jews.” On June 18, Chief Rabbi of Poland Michael Schudrich and the Union of Jewish Communities in Poland released a joint statement that declared, “public media should educate and integrate, not divide” and added, “we must all speak against the

POLAND

use of anti-Semitism or hatred of any other group for political purposes.” On June 29, the OSCE issued a first-round presidential election assessment that stated public television had become “a campaign tool for the incumbent” with reporting that had “clear xenophobic and anti-Semitic undertones.”

A trial of six persons accused of publicly promoting Nazism in 2017 by organizing a celebration of Hitler’s birthday in a forest, donning Wehrmacht uniforms, and burning a swastika continued at year’s end. The incident was secretly filmed and later broadcast by undercover television journalists. The main organizer of the event, a member of the neo-Nazi Pride and Modernity Association, pleaded not guilty, claiming the event was private. In August 2019 in a separate case, the Gliwice Regional Court decided to dissolve Pride and Modernity, stating that the event was tantamount to approval or even affirmation of Hitler and Nazism. In November 2019 the legal representative of the association appealed against the decision. On February 5, the Gliwice District Court suspended the appeal procedure due to the continuing separate trial into irregularities related to the registration of the association.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities. The government did not effectively enforce these provisions, and there were reports of societal discrimination against persons with disabilities. The government restricted the right of persons with certain mental disabilities to vote or participate in civic affairs.

The law states that buildings should be accessible for persons with disabilities, but many buildings remained inaccessible. Public buildings and transportation generally were accessible, although older trains and vehicles were often less so, and many train stations were not fully accessible.

POLAND

The law states that education is obligatory for all children, including those with disabilities. Children with disabilities may attend schools where they are integrated with children without disabilities, or they may attend separate schools, depending on the significance of their disability.

Members of National/Racial/Ethnic Minority Groups

A number of xenophobic and racist incidents occurred during the year. Several incidents tied to the COVID-19 outbreak occurred in the early days of the pandemic.

On February 28, a bridal store in Warsaw refused to serve two female customers of Indonesian origin because employees thought they might be infected with COVID-19.

On March 25, three men attacked a young Chinese woman who worked at the Silesian University in the town of Sosnowiec. The men surrounded her and shouted “coronavirus” and “China” at her. Police detained one man who was charged with assaulting the woman on the grounds of her national origin, for which he could face up to a three-year prison term.

On November 11, the annual Independence Day March in Warsaw was again organized by a coalition of groups, including the National Radical Camp and All Polish Youth, widely deemed extremist and nationalist in their ideologies. Unlike previous years there were no reports of slogans targeting national or ethnic minorities, but violence occurred mainly between some march participants and police. There was also an incident where participants threw flares at a building displaying a rainbow flag and the logo of a women’s rights group, starting a fire (no injuries were reported).

Societal discrimination against Roma continued to be a problem. The 2011 national census recorded 16,723 Roma, although an official government report on the Romani community estimated that 20,000 to 25,000 Roma resided in the country. Romani community representatives estimated that 30,000 to 35,000 Roma resided in the country.

POLAND

Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, media, and education.

During the year the government allocated 11.2 million zloty (\$2.88 million) for programs to support Romani communities, including for educational programs. The Ministry of Education helped finance school supplies for Romani children. The Ministry of Interior and Administration provided school grants for Romani high school and university students, postgraduate studies on Romani culture and history in Krakow, and Romani-related cultural and religious events.

The Ukrainian and Belarusian minorities continued to experience harassment and discrimination. On February 9, seven men verbally and physically attacked a group of five foreigners from Ukraine, Belarus, and Russia in the city center of Torun. One of the attackers, who turned himself in to police, was charged with using violence and making threats against others on the grounds of their national identity. On February 18, the man was placed in pretrial detention for three months. Police were searching for other perpetrators at year's end.

On May 23, a man physically attacked a Ukrainian man and insulted his nationality in a store in the city of Gdansk. Police intervened and charged the man with public insult on the grounds of national identity. The man pleaded guilty and received 10 months of community service.

On June 27, a man attacked a Belarusian security guard in a store in Krakow after the guard asked him to leave the store for not wearing a face mask. The man verbally abused the guard and spat on him several times. On July 2, police detained the man and charged him with public insult on the grounds of national identity, for which he may face up to a three-year prison term.

During the year there were incidents of xenophobic attacks targeting those of African and Middle Eastern descent.

On July 14, two men attacked and shouted racist insults at a man of African descent at a bus stop in the town of Wieliczka. A bystander defended the victim and was also brutally attacked. On July 17, police detained one of the attackers and charged him with public incitement to hatred on the grounds of nationality,

POLAND

inflicting bodily harm, and making death threats. The man was placed in pretrial detention for three months.

On August 2, a group of six men verbally and physically assaulted a group of four foreigners, including citizens of Nigeria, Saudi Arabia, and Tunisia, on a street in Krakow. Four of the suspects were arrested and faced up to five years in prison for violence on the grounds of race or nationality. Police continued to search for the other two perpetrators at year's end.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

While the constitution does not prohibit discrimination on the specific grounds of sexual orientation, it prohibits discrimination “for any reason whatsoever.” The laws on discrimination in employment cover sexual orientation and gender identity but hate crime and incitement laws do not. The government plenipotentiary for equal treatment is charged with monitoring discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals and groups. LGBTI advocacy groups, however, criticized the plenipotentiary office for a lack of interest and engagement in LGBTI issues. The ombudsperson also continued to work on LGBTI human rights cases.

During the year several government officials made anti-LGBTI or homophobic public statements. In presidential campaign remarks on June 13, President Andrzej Duda asserted “LGBT ideology” was a form of “neo-Bolshevism” and “even more destructive” than Communism itself. Former interior minister and sitting Member of European Parliament Joachim Brudzinski wrote on Twitter on June 13 that “Poland without LGBT is most beautiful.” Minister of Education and Science Przemyslaw Czarnek stated on June 13 (he was not yet minister at the time) that LGBTI persons were “not equal to normal people.” On July 30, Deputy Minister of State Assets Janusz Kowalski declared the entire country should be an “LGBT-free zone.” He added that a law should be adopted to prohibit public funding of any activities of organizations that explicitly promote “LGBT.” At an election rally on July 1, President Duda said adoption by same-sex couples constituted experimentation on and enslavement of children. On August 25, then minister of

POLAND

education Dariusz Piontkowski defended the education superintendent of Lodz Province for saying the “LGBT virus...of ideology” was “much more dangerous” than COVID-19. On September 14, Law and Justice Party chairman and soon-to-be deputy prime minister Jaroslaw Kaczynski said “LGBT ideology” was a threat “to the very foundations of our civilization.”

On August 7, authorities used force to detain 48 persons in Warsaw during a protest against the pretrial detention of an LGBTI activist. The representatives of the National Preventive Mechanism (NPM) operating under the human rights ombudsperson investigated the mass arrest and released a report on September 7 that stated the treatment of detainees by police “constituted degrading treatment, and in some cases...inhuman treatment.” The NPM interviewed 33 of the 48 detainees, who complained, inter alia, about disproportionate use of force by police, use of homophobic or transphobic comments by police, lack of access to food and drinking water, not being promptly informed of the right to a lawyer, and difficulty in contacting or meeting with a lawyer. In an August 8 press conference, the minister of justice stated police had behaved professionally. On September 2, the deputy minister of interior and the chief of police briefed a Sejm committee on the August 7 events and argued the police reaction was appropriate and proportional to the situation.

During the year there were several verbal and physical attacks against members of the LGBTI community. On August 11, two perpetrators using homophobic language brutally beat a man in Poznan. The man sustained a broken nose and concussion as a result of the attack. The attackers were charged with bodily injury and theft. On August 14, an activist affiliated with LGBTI rights groups reported he was physically and verbally attacked in Warsaw because he was holding hands with his LGBTI partner. He reported he had a broken tooth and a black eye and that his partner suffered bruises on his body. Police opened an investigation into the incident.

During the year local governments around the country adopted “family rights charters,” bringing the total number who had adopted such charters or separate declarations rejecting “LGBT ideology” to more than 90 since 2019. These legally nonbinding documents focused in varying degrees on preventing “LGBT ideology”

POLAND

in schools, called for protection of children against moral corruption, and declared marriage as a union between a woman and a man only. LGBTI NGOs stated the declarations may have a chilling effect on institutions subordinate to local governments and may increase the number of hate crimes. On July 14, the Gliwice administrative court struck down a declaration adopted by the Istebna municipality as a result of a complaint filed by the human rights ombudsperson in December 2019. The court ruled the declaration violated administrative law and the constitution, in particular the ban against discrimination on the grounds of sexual orientation and gender identity. Minister of Justice and Prosecutor General Zbigniew Ziobro sent appeals against the ruling and a similar one regarding a declaration in the Klwów municipality to the Supreme Administrative Court in September. Meanwhile, on June 23 and 24, the Kraków administrative court rejected the ombudsperson's complaints against the municipality of Lipinki and the county of Tarnów, arguing that the declarations neither limited nor interfered with the constitutional rights and freedoms of any group of citizens and did not discriminate against any person. On August 18, Ziobro defended local communities that signed such declarations and emphasized the declarations referred to "ideology," not individuals. Ziobro argued that while local authorities did not persecute LGBTI persons, they also did not accept "offensive actions" of LGBTI groups that tried to "impose their ideology" on others.

On February 11, the Supreme Administrative Court dismissed the final appeal of a same-sex couple who wanted to register the birth of their foreign-born child in the country. The child was born abroad to the two women, and his foreign birth certificate listed them as his parents. Polish birth certificates list spaces for a mother and a father. The Supreme Administrative Court found that a woman could not be listed in the space provided for a father's name, and a man could not be listed in the space provided for a mother's name.

A 2019 survey conducted by Pew Research Center found a rise in tolerance toward the LGBTI community in the country, with almost half of citizens (47 percent) declaring society should accept homosexuality, compared with the 2002 edition of the survey, in which 40 percent of those polled expressed acceptance.

Section 7. Worker Rights

POLAND

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the rights of workers to form and join independent trade unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination and provides legal measures under which workers fired for union activity may demand reinstatement. Individuals who are self-employed or in an employment relationship based on a civil law contract are permitted to form a union.

Government workers, including police officers, border guards, prison guards, and employees of the supreme audit office, are limited to a single union. Workers in services deemed essential, such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades, do not have the right to strike. These workers have the rights to protest and to seek resolution of their grievances through mediation and the court system.

Trade unions are registered when at least 10 eligible persons adopt a resolution to form a trade union. Newly established trade unions must appoint a founding committee consisting of three to seven persons. A new trade union must register with the National Court Registry within 30 days of the resolution. The court may remove a trade union from the registry only if a trade union adopts a resolution to dissolve; is no longer able to operate due to the bankruptcy, liquidation, or reorganization of the company in which the trade union operated; or if a trade union has fewer than 10 members for more than three months.

Legal strike ballots require the support of the majority of union voters. To allow for required mediation, a strike may not be called fewer than 14 days after workers present their demands to an employer. The law obligates employers to report workplace group disputes to the district inspection office in their regions.

Cumbersome procedures made it difficult for workers to meet all of the technical requirements for a legal strike. What constitutes a strike under the law is limited to strikes regarding wages and working conditions, social benefits, and trade union rights and worker freedoms. The law prohibits collective bargaining for key civil servants, appointed or elected employees of state and municipal bodies, court judges, and prosecutors.

POLAND

The penalties for obstructing trade union activity range from fines to community service. The government did not effectively enforce applicable law. Resources, inspections, and remediation efforts were not adequate, and the small fines imposed as punishment were an ineffective deterrent to employers. Administrative and judicial procedures were subjected to lengthy delays and appeals. Unions alleged that the government did not consistently enforce laws prohibiting retribution against strikers.

Trade union representatives stated that violations of freedom of association and the right to collective bargaining occurred. While many workers exercised the right to organize and join unions, many small and medium-sized firms, which employed a majority of the workforce, discriminated against those who attempted to organize. The government enforced applicable law, but penalties for violations were not commensurate with those for other laws related to the denial of civil rights.

Labor leaders continued to report that employers regularly discriminated against workers who attempted to organize or join unions, particularly in the private sector. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing of the workplace. Some employers sanctioned employees who tried to organize unions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Nevertheless, forced labor occurred.

The government effectively enforced the law. Penalties for forced labor violations were commensurate with those of other serious crimes. In 2019, the most recent year for which statistics were available, the government assisted in removing 154 victims from forced labor.

There were reports that foreign and Polish men and women were subjected to forced labor in construction, agriculture, and restaurants and that children were subjected to forced begging (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

POLAND

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. The labor inspector issues a permit on the basis of psychological and medical examinations. Child labor is not allowed if the work may pose any threat to life, health, or physical and mental development of the child, or may conflict with the child's education. The law prohibits all of the worst forms of child labor. The government effectively enforced applicable law prohibiting employment of children younger than 16, and penalties were commensurate with those of other serious crimes.

Some children younger than 18 engaged in hazardous work in agriculture, primarily on family farms. Migrant Romani children from Romania were subjected to forced begging. Commercial sexual exploitation of children also occurred (see section 6, Children).

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment or occupation in any way, directly or indirectly, on all grounds, in particular on the grounds of race, sex, color, religion, political opinion, national origin, ethnic origin, disability, sexual orientation, age, or trade union membership, and regardless of whether the person is hired for definite or indefinite contracts, or for full- or half-time work. The law does not specifically prohibit such discrimination based on language, HIV-positive status, gender identity, or social status. According to the Polish Society for Antidiscrimination Law, by law the accused must prove that discrimination did not take place. In the case of labor contracts that are protected by law, antidiscrimination measures are adequate, and judges know how to apply them. Civil contracts are protected under antidiscrimination law, which prohibits unequal treatment in employment on the basis of gender, race, ethnic origin, nationality, religion, belief, viewpoint, disability, age, or sexual orientation. According to the society, it is relatively straightforward for claimants to assert discrimination occurred during court proceedings; however, very few employees come forward and report discrimination at the workplace. The government enforced applicable

POLAND

law, but penalties for violations were not commensurate with those of similar laws related to civil rights.

On September 29, the Warsaw District Court ruled an employer discriminated against a transgender woman worker by requiring her to wear a male uniform. The woman's lawyer said it was the first time that a Polish court affirmed a legal prohibition on discrimination against transgender persons in the workplace.

On May 28, the Warsaw district prosecutor's office announced charges against a human resources manager at an IKEA store for dismissing an employee after he posted quotes from the Bible on the company's intranet website to imply gay persons deserved death. Prosecutors argued the manager violated the employee's religious rights. On June 2, several dozen NGOs working on nondiscrimination and equal treatment issued a statement protesting the decision to press charges, arguing that the manager properly fulfilled her duties by preventing discrimination in the workplace. On November 27, the Krakow District Court began a criminal trial against the human resources manager. On November 10, a labor branch of the Krakow court started a labor dispute case against IKEA that was initiated by the fired employee. The employee demanded compensation and the right to return to work.

Discrimination in employment and occupation occurred with respect to gender, age, minority status, disability, political opinion, sexual orientation, gender identity, and trade union membership. According to NGOs, sexual harassment at the workplace was an underreported problem, and police statistics showed a low number of identified offenses (107 in 2019, the latest statistics available).

Discrimination against Romani workers also occurred (see section 6, Members of National/Racial/Ethnic Minority Groups).

e. Acceptable Conditions of Work

The national monthly minimum wage and the minimum wage for formal work agreements meet the social minimum monthly income level. There is no minimum wage for informal work agreements. There were reports of employers withholding wages or underpaying laborers under informal work agreements, particularly Ukrainian migrant workers in the construction and agriculture industries.

POLAND

The constitution provides every employee the right to statutorily specified days free from work as well as annual paid holidays.

The law defines strict and extensive minimum conditions to protect worker health and safety and empowers the National Labor Inspectorate (NLI) to supervise and monitor implementation of worker health and safety law and to close workplaces with unsafe conditions. Workers could remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation. While the NLI's powers are limited to the formal economy, one of its responsibilities is to inspect the legality of employment, which can contribute to limiting work in the informal economy and ensuring employees who are hired in the informal economy are provided with appropriate occupational health and safety conditions.

Resources were inadequate to enforce effectively minimum wage, hours of work, and occupational health and safety in the formal or informal sectors. Penalties for violations were commensurate with those of other similar laws. The number of labor inspectors was not sufficient to enforce compliance. Labor inspectors had the authority to conduct unannounced inspections and initiate sanctions.

According to the inspectorate's 2019 report, labor rights violations primarily concerned failure to pay or delayed payment of wages, failure to pay for overtime work, and failure to sign a labor contract in situations when the job performed constituted regular labor. Most wage payment violations occurred in the processing and trade services industries. Seasonal workers were particularly vulnerable to such violations. The national inspectorate's report did not cover domestic workers because inspectors could only conduct inspections in businesses, not private homes. Another common problem was inaccurate timekeeping records for hours worked.

The large size of the informal economy--particularly in the construction and transportation industries--and the low number of government labor inspectors made enforcement of the minimum wage difficult. The Main Statistical Office definition of informal economy includes unregistered employment performed without a formal contract or agreement and is not counted as a contribution to social security and from which income taxes are not deducted. According to the

POLAND

Central Statistical Office, in 2017 (the latest year for which data were available) 5.4 percent of the workforce (880,000 persons) worked in the informal economy.

In 2019 the NLI launched a three-year information and education campaign to improve work-related health and safety standards in meat-processing companies and continued similar programs targeting construction companies, small businesses, and agricultural employers.

Employers routinely exceeded standards limiting exposure to chemicals, dust, and noise. According to the NLI's 2019 report, the majority of work-related accidents occurred in industrial processing companies, at construction sites, and in trade. The report also noted poor organization of work processes, lack of proper supervision of employees, inadequate training of employees in work-related health and safety standards, and inadequate measures by employers to prevent accidents were among the leading causes of workplace accidents. The Central Statistical Office reported 83,205 victims of workplace accidents, including 184 fatal accidents during 2019.