

POLAND 2021 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. The Organization for Security and Cooperation in Europe found the July 2020 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. The Organization for Security and Cooperation in Europe noted that there was overall confidence in the administration of the October 2019 parliamentary election.

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. Civilian authorities maintained effective control over the security forces. Some members of law enforcement entities committed abuses.

Significant human rights issues included credible reports of: several cases of unlawful or arbitrary killings by police forces; serious problems with the independence of the judiciary; restrictions on freedom of expression including criminal defamation and blasphemy laws; a report of mistreatment of irregular migrants from third countries; crimes involving violence or threats of violence targeting members of ethnic minorities; and violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons.

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

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

There were several reports that the government or its agents committed arbitrary or unlawful killings. On July 30, police took a 25-year-old intoxicated Ukrainian man in Wroclaw to a sobering-up station after being notified by paramedics that the man was acting aggressively in public. According to video recordings of the incident, after the man began to behave aggressively in the presence of police, several officers beat and choked the man until he stopped breathing and died. In September and October, the Wroclaw police commander expelled three police officers from the force because of these actions. On October 8, the Szczecin district prosecutor's office, which was investigating the case, announced charges against nine persons in relation to the case, including four police officers. Three police officers were charged with abuse of powers, abusing a detained person, and fatal beating, and the fourth officer was charged with allowing physical abuse of a detained person, which was against his official duties.

On August 6, a 34-year-old man under the influence of drugs died after being detained by police in the town of Lubin. Video of the events showed that when the man attempted to escape detention, four police officers beat and kicked him, kneeled on his body until he lost consciousness, and did not attempt to resuscitate him. He was later declared dead at a hospital. At year's end, the Lodz district prosecutor's office was investigating the case.

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 towards detainees. The law lacks a clear legal definition of torture, but all actions that could be considered torture are prohibited

under the 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. According to the Helsinki Foundation for Human Rights, there was growing concern over ill-treatment of persons taken into police custody. The foundation indicated police may lack sufficient knowledge on proper techniques to use against persons under the influence of drugs or other intoxicants, which may lead to excessive use of force against detainees.

According to an October 2020 report by the Council of Europe's Committee to Prevent Torture (CPT) based on a 2019 visit to the country (the most recent CPT report), police abuse of detainees was a problem. According to the CPT, "The ill-treatment allegedly consisted mainly of violently pushing a person face down to the ground (or facing towards a wall), kneeling over the person including on his/her face or stepping on him/her, occasionally accompanied by slaps, kicks and/or punches. There were also numerous allegations of painful and prolonged handcuffing behind one's back, and some persons alleged having been lifted by the handcuffs and/or dragged on the ground while cuffed. The delegation also heard a small number of allegations of physical ill-treatment consisting of slaps and, in one case, kicks in the course of questioning inside the police establishment."

On September 2, the European Court for Human Rights ruled the country violated Article 3 of the European Convention on Human Rights, which prohibits torture and inhuman and degrading treatment and punishment. The ruling concerned the 2015 arrest of two men who were beaten by police while in custody. A prosecutorial investigation did not lead to any charges. The court assessed the force used by police was excessive and disproportionate and caused serious suffering to the applicants amounting to inhuman treatment. The court ordered the government to pay damages to each of the applicants.

Impunity was not a significant problem in the security forces.

Prison and Detention Center Conditions

According to civil society organizations and the human rights ombudsperson's National Preventive Mechanism (NPM), overcrowding, insufficient prison medical

staff, and limited prisoner access to specialized medical treatment continued to be problems.

Physical Conditions: According to civil society groups and the NPM, the minimum cell space regulation of 32 square feet per prisoner is less than international standards. 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 with adult prisoners. Authorities usually sent to pretrial detention persons between the ages of 17 and 21 accused of serious crimes.

According to the Helsinki Foundation for Human Rights, deficiencies included inadequate medical staffing, poor quality of medical care offered by prison personnel, and limited access to specialized medical care outside prison facilities. The office of the human rights ombudsperson, which receives prisoners' complaints, noted the COVID-19 pandemic caused a significant increase in the number of complaints from prisoners regarding their medical care. The complaints included limited access to specialists and delays in performing scheduled visits and scheduled hospital treatment in nonprison health-care facilities. Prisoners also complained of ineffective medical treatment offered by the prison health service. The law permits authorities to commit prisoners to the National Center for the Prevention of Dissocial Behaviors. This may be applied when the prisoners have served their prison sentences and have undergone a custodial therapy program but 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 ombudsperson administered the NPM, an independent program responsible for monitoring conditions and treatment of detainees in prisons and detention facilities. During the COVID-19 pandemic, some prisons reduced access to in-person religious services for prisoners, although access to virtual or broadcast services was generally retained.

Independent Monitoring: The government allowed on a regular basis independent monitoring of prison conditions and detention centers by local human rights groups, the NPM, and the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment. Prison authorities limited access to prisons during the COVID-19 pandemic due to sanitary restrictions, making visits less frequent than in previous years. Some visits took place virtually.

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. 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 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. Representatives of the NPM observed some cases during the year in which detained persons were not comprehensively informed of their rights. There were also cases of detained persons who were not informed by the detaining police officers of the legal and factual grounds of their arrest. Only a

court may order pretrial detention.

The law states defendants and detainees have the right to consult an attorney at any time. According to the NPM, in practice most persons detained do not have access to legal assistance from the moment of apprehension. The NPM and Helsinki Foundation for Human Rights argued the binding legal regulations do not guarantee prompt and free contact with a lawyer immediately after arrest. The 2020 CPT report noted that the ability of detainees to access legal counsel before trial was “highly exceptional in practice,” and that deficiencies in access to legal counsel were “of deepest concern” and “persistent and systemic.” CPT noted that even in rare cases where detainees were given access to legal counsel, the “confidentiality of client-lawyer conversations was virtually never guaranteed.” The government provided free counsel to indigent defendants at the judicial stage of proceedings. There was a functioning bail system, and authorities released some detainees on bail. The percentage of detainees released on bail fell in recent years. According to the latest Justice Ministry statistics, in 2020, 8,000 detainees were released on bail while more than 12,000 were placed in pretrial detention, compared to 8,500 released on bail and more than 11,000 placed in pretrial detention in 2019.

Pretrial Detention: In its 2019 report, the Helsinki Foundation for Human Rights argued that prosecutors overly relied upon the system of pretrial detention. According to Court Watch Poland and the Helsinki Foundation for Human Rights, pretrial detention continued to be 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 civil society experts, judges approved 90 percent of prosecutors’ motions for pretrial detention. As of September 30, those in pretrial detention made up approximately 12 percent of the prison population. The Helsinki Foundation for Human Rights noted the average duration of pretrial detention in cases adjudicated by district courts was 15.3 months in 2020 compared with 14.1 months in 2019 and 12.9 months in 2018. In its September 7 report prepared for the Council of Europe, the National Bar Association noted the excessive length of pretrial detention constituted a systemic problem and was mainly caused by lengthy criminal proceedings.

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, nongovernmental organizations (NGOs), and international organizations. The government argued reforms were necessary to improve efficiency in the judicial system and accountability.

Some legal experts and human rights groups expressed concern that the disciplinary system for judges undermined judicial independence. On July 14 and 15, the European Court of Justice (ECJ) issued two rulings against government changes to the judicial disciplinary system in recent years. On July 14, the ECJ issued interim measures ordering the government to cease disciplinary activities related to a February 2020 law that 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. The law also requires judges to disclose memberships in associations. On October 6, the vice president of the ECJ dismissed the country's request to repeal this decision.

On October 27, the ECJ imposed a daily fine of one million euros (\$1.15 million) against the country for the government's failure to suspend the Disciplinary Chamber, as ordered by the ECJ in its interim measures. On July 15, the ECJ issued a final ruling in a 2019 infringement procedure, saying the country's system of disciplining judges was inconsistent with EU law. The ECJ argued the Disciplinary Chamber of the Supreme Court did not provide full guarantees of impartiality and independence and, in particular, was not protected from the direct or indirect influence of the legislature and executive. On August 5, Supreme Court Chief Justice Malgorzata Manowska partially froze the disputed Disciplinary Chamber until legislative changes could be introduced. As of November 29, the partial freeze was in place through January 31, 2022. Despite the freeze, the Disciplinary Chamber suspended several judges during the year. For example, on November 16, the Chamber suspended and lowered remuneration of judge Maciej Ferek for questioning the legality of the appointment of three other judges.

Some legal experts and human rights groups expressed concern that the government's ability to transfer judges without their consent could be used to

punish or deter certain rulings and erode judicial independence. On October 6, the ECJ ruled “transfers [by the Ministry of Justice] without consent of a judge from one court to another or between two divisions of the same court are liable to undermine the principles of the irremovability of judges and judicial independence.” According to the ECJ, “such transfers may constitute a way of exercising control over the content of judicial decisions because they are likely not only to affect the scope of cases allocated to judges and the handling of cases entrusted to them, but also to have significant consequences on the life and career of those persons and, thus, to have effects similar to those of a disciplinary sanction.” The ruling concerned Waldemar Zurek, a judge who was transferred to another position without his consent in 2018.

Some legal experts and human rights groups expressed concern that the same individual held the position of minister of justice and prosecutor general, allowing that individual to have authority for personnel matters for both judges and prosecutors. The legal experts and NGOs criticized this structure for insufficient protections from political influence over criminal cases.

Trial Procedures

The constitution provides for the right to a fair and public trial. Judges generally exhibited independence and enforced this right. Defendants enjoy a presumption of innocence and the right to a 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. In practice, civil society observers noted concern regarding the growing delays in court proceedings, which they attributed to several factors, including the government’s judicial reforms, which they said increased judicial vacancies and lowered morale among judges, and a lack of sufficient alternative dispute mechanisms to handle simple cases, resulting in an increase in litigious civil and economic cases. Trials are usually public, although the courts reserve the right to close a trial in some circumstances, including divorce proceedings, cases involving state secrets, and cases whose content may offend public morality.

During the year courts considerably limited public access to hearings due to the

continuing pandemic. According to a Court Watch Poland report, during the year 10 percent of courts continued to ban audiences after reopening, while others limited numbers of external participants. According to Court Watch Poland, the regulations by individual courts to ban audiences from hearings exceeded the capacity requirements of COVID-19 restrictions and violated the constitution, which requires judgments to be announced publicly.

On May 28, parliament adopted a revision to the civil proceedings code, which, according to Court Watch Poland, further limited public access to court hearings. Under the revised legislation, judges may arbitrarily decide to hold civil hearings in camera, i.e., in private. Neither journalists nor persons asked for support by the parties to the dispute nor civil society groups monitoring the work of the courts would be able to participate in such hearings. 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. Defendants may not be compelled to testify or confess guilt. Defendants have the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

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 of Human Rights (ECHR).

Property Seizure and 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. Government property commissions have resolved 7,215 of slightly more than 10,500 communal property claims by religious groups. Heirless property reverts to the state.

During the year the government significantly altered legal and administrative procedures for private property restitution and compensation. The changes severely restricted the process for the return of or compensation for confiscated private property through administrative proceedings and courts. No comprehensive law addresses the return of, or compensation for, private property.

On June 24, parliament adopted a revision to the Code of Administrative Procedure that significantly restricted the ability of individuals to seek the return of private property seized under Nazi occupation or during the Communist era. The law made it impossible to challenge any administrative decision issued more than 30 years ago and ended any pending administrative challenges to those decisions. The legislation limited the primary process by which claimants can seek restitution or compensation for expropriated property, according to NGOs and lawyers specializing in the matter. Individuals who already successfully challenged administrative decisions were still able to seek return of their property or compensation in the courts. The president signed the legislation into law on August 14, and the law entered into force on September 16. On August 14, the World Jewish Restitution Organization issued a statement that said the law would make it “virtually impossible for all former Polish property owners to secure redress for property illegally seized during the Communist era.”

The Department of State’s *Justice for Uncompensated Survivors Today (JUST) Act* report to Congress, released publicly in July 2020, can be found on the Department’s website at <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

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media, and the government generally respected these rights.

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

In January the Warsaw district prosecutor's office initiated an investigation into independent newspaper *Gazeta Wyborcza* for the potential offense of religious feelings. The investigation was based on complaints by conservative lawmakers concerning an image the newspaper published in December 2020 of the Virgin Mary wearing the symbols of All-Poland Women's Strike (a feminist organization that opposes abortion restrictions). As of November the investigation continued. On February 16, the Warsaw-Mokotow regional court imposed a fine on Adam Darski, a heavy metal musician known as "Nergal," for offending religious feelings. Darski had posted a photograph of a damaged painting of the Virgin Mary with a shoe on her face on his Facebook page. Darski appealed the verdict and on August 18, the Warsaw-Mokotow regional court dismissed the case, finding Darski did not intend to offend religious feelings. The district prosecutor appealed the decision to the district court. On December 8, the Warsaw District Court struck down the Warsaw-Mokotow regional court's decision to dismiss the case.

On March 2, the Plock regional court acquitted three lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) rights activists charged with

offending religious sentiment in 2019. The activists had created and posted on various sites in the city of Plock images of the Virgin Mary with her halo painted in the colors of the rainbow flag. Some posters were allegedly placed on trash cans and portable toilets. The court noted the activists' actions were intended as a denunciation of a Catholic church in Plock for its Easter display describing "LGBT" as a sin. The court found the activists did not intend to offend religious sentiment and had exercised their freedom of expression. An appeal against the verdict was pending at year's end.

Freedom of Expression for Members of the Press and Other Media, Including Online Media: On March 1, state-controlled energy company PKN Orlen completed its purchase of regional publishing house Polska Press, which owns most of the country's regional newspapers. On March 5, the human rights ombudsperson asked the Warsaw District Court to halt the takeover, asserting that a state-controlled company would unduly influence the editorial policies of regional media. The ombudsperson argued that "a company controlled by the State Treasury, and through it by politicians exercising power, can easily influence the overall activities of individual editorial offices. In this way, they can transform the free press, whose inherent feature is honest and factual criticism of public authorities and persons holding public office, into news and propaganda newsletters that depend on that authority." On April 8, the Warsaw District Court suspended antitrust approval for PKN Orlen to purchase Polska Press. PKN Orlen said in response that its acquisition of Polska Press was effective before the court issued a decision and that the ruling did not restrict PKN Orlen in exercising its ownership rights from shares in Polska Press. By year's end PKN Orlen had replaced editors at almost all of the newspapers owned by Polska Press.

On August 11, the lower house of parliament (Sejm) voted to approve a draft amendment to the country's broadcasting law that would prohibit non-European Economic Area (EEA) companies from owning majority stakes in media, including through EEA holding companies. The government said the bill was intended to limit the malign influence of Russia and China. Media, opposition politicians, and civil society observers interpreted the legislation as targeting private television station TVN and its news channel TVN24, owned by U.S. company Discovery Inc. through its subsidiary registered in the Netherlands. TVN, the country's largest

independent broadcaster, is the only broadcaster with majority foreign ownership and is considered critical of the existing government. In response to the Sejm's approval of the legislation, spontaneous demonstrations took place in cities and towns around the country. On September 9, the Senate rejected the bill and sent it back to the Sejm. On December 17, the Sejm overrode the Senate's rejection and passed the legislation. Spontaneous demonstrations against the bill and supporting media freedom again took place in cities and towns around the country. President Duda vetoed the legislation on December 27, citing the consequences the legislation would have on the country's media freedom, investment climate, and international image.

In October, TVN Discovery Group filed a complaint with the Warsaw Provincial Administrative Court regarding the excessive length of proceedings by the National Broadcasting Council to approve an extension of news channel TVN24's broadcast license. The proceedings to extend the license lasted more than 19 months, with approval granted on September 22, four days before TVN24's license was to expire. TVN officials said there was no legal or formal justification for the "unprecedented" delay. The Code of Administrative Procedure obliges the Council to issue a decision "immediately," and within 60 days in particularly complicated cases. TVN officials and civil society organizations alleged the delay in approving the license was part of a government pressure campaign against TVN for its critical coverage of the governing party. The human rights ombudsperson said there was no legal rationale for the delay. At the same time it issued TVN24's license, the National Broadcasting Council released a nonbinding resolution claiming the law barred licensing to entities whose non-EEA ownership exceeded 49 percent, including through subsidiaries registered in the EEA, and indirectly called for Discovery to reduce its share of TVN's ownership. Media and civil society observers said the resolution was an attempt to bypass the legislative process and implement the provisions of the stalled broadcasting legislation.

On September 2, in response to an extraordinary increase of forced irregular border crossings by third-country migrants from Belarus, the government declared a 30-day state of emergency for 183 cities, towns, and villages in two provinces near the border with Belarus, which prohibited travel to the affected areas by nonresidents, including journalists. On October 1, the government extended the state of

emergency for another 60 days. On September 13, Reporters Without Borders declared “a press freedom state of emergency” in the country and criticized “arbitrary” restrictions on press freedom imposed by the government as part of the state of emergency, as well as the legislation to amend the country’s broadcasting law. On December 1, the revised law on the protection of state borders, which allowed limited media access to the border zone, entered into force. Under the new rules, media representatives were permitted to visit the Poland-Belarus border with permits issued by the commander of the relevant border guard post. The visits took place in an organized format and under the care of border guard officers. Some journalists criticized the restricted nature of the visits. More than 100 journalists participated in the trips by year’s end, according to the Center for Monitoring Press Freedom at the Association of Polish Journalists.

Violence and Harassment: On January 19, the Warsaw District Court upheld a February 2020 ruling by the Warsaw regional court that fined Michal Majewski, a reporter for the weekly *Wprost*, for protecting sources of information. The conviction referred 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 Press Freedom at the Association of Polish Journalists criticized the conviction as a clear violation of freedom of speech. The ruling was final.

In mid-July prosecutors discontinued an investigation into a November 2020 incident in which police shot a photojournalist in the face with a rubber bullet while he was covering violent clashes between police and groups of hooligans during the annual Independence March in Warsaw. Prosecutors claimed the journalist was not intentionally targeted. The photojournalist filed a complaint against the prosecutor’s decision with the Warsaw regional court.

On September 28, police detained two reporters working for the French-German television station ARTE and a journalist working for Agence France-Presse, all of whom claimed they mistakenly entered the area covered by the state of emergency near the Poland-Belarus border. Police seized their computers and mobile phones and detained them overnight. The following day the Sokolka regional court ruled the journalists violated the state of emergency, but the court did not impose a fine. In an October 8 letter to the chief commander of the national police, the human

rights ombudsperson noted the police actions might raise “doubts” from the perspective of the constitutionally guaranteed freedom of the press and the principle of protecting journalist confidentiality.

According to the Committee to Protect Journalists (CPJ), between November 14 and November 23, police detained at least seven journalists attempting to cover the situation at the border. For example, according to CPJ, on November 16, near the village of Wiejki (located outside of the emergency zone) a group of soldiers stopped a car carrying journalists Maciej Nabrdalik, Maciej Moskwa, and Martin Divisek. The soldiers forcibly pulled the journalists out of the car, handcuffed them, and held them for an hour while they searched the car, their mobile phones, and their cameras, and took notes related to the telephone numbers and other incoming information displayed on the lock screens of the journalists’ mobile phones. The government claimed the journalists’ vehicle did not have press markings, the journalists were taking photographs of a military installation without prior permission, and the journalists attempted to leave the scene when asked to cease taking pictures. The government also alleged that the journalists did not identify themselves as members of the press after being detained, but according to CPJ, audio recordings of the incident appeared to contradict this. In a November 20 interview, the minister of defense praised the soldiers’ behavior, saying “it is their duty to be firm.”

On October 2, police entered the apartment of a journalist from the newspaper *Gazeta Wyborcza* and seized his computer equipment over alleged criminal threats sent to a member of parliament from the governing party. Warsaw police said police data indicated the threats came from a specific internet protocol and physical address. Police claimed no advance knowledge that the apartment belonged to a journalist and said regulations permitted them to conduct searches and seize equipment without a warrant. According to *Gazeta Wyborcza*, the journalist was ordered to hand over his work laptop, which contained material protected by journalistic confidentiality. Police also seized the journalist’s other laptops and his mobile phone. On the same day, the newspaper’s editorial team issued a statement that criticized the police action against the journalist, claiming it was an attempt to intimidate free media. The human rights ombudsperson’s office has sought an official explanation from Warsaw police.

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.” In September the National Broadcasting Council (KRRiT) fined the private television channel Zoom TV for broadcasting a dating game show titled “Naked Attraction,” in which contestants compete naked. The spokesperson for KRRiT explained the Council decided the broadcasting of the show violated the standards specified in the law with respect to the prohibition on promoting attitudes and views contrary to morality and the social good. KRRiT cited the presentation of scenes and content depicting men and women as sexual objects, which it said violated the human dignity of both sexes.

Critics alleged persistent progovernment bias in state television news broadcasts.

Libel/Slander Laws: Defamation by print and broadcast journalists is a criminal offense punishable by up to a one-year prison term. Defamation outside media is punishable by a fine and community service. In addition to defamation laws, laws cover public insult or slander of the president, members of parliament, government ministers and other public officials, the Polish nation, foreign heads of state and ambassadors, and private entities and persons, as well as insult or destruction of the national emblem, the flag, other state symbols, monuments, and sites that commemorate historical events or persons. The law also criminalizes offending religious sentiment by publicly insulting an object of religious worship or a place dedicated to public observance of religious services. Penalties for public insult range from a fine and community service for insulting a monument to up to a three-year prison term for slandering the president, foreign heads of state, the Republic of Poland, and the Polish nation. The courts rarely applied maximum penalties, and persons convicted of defamation and public insult generally faced fines or community service. Even if a court case ended with a conviction without punishment or with a small penalty, the person convicted had an official criminal record, which limited the person’s ability to hold public positions or access public

funds. According to the Helsinki Foundation for Human Rights, a growing number of defamation and public insult cases, especially with respect to offending religious sentiment, posed a real risk of limiting freedom of expression and could stifle free public debate.

On June 10, the Lublin District Court sentenced the pastor of a small evangelical church in the city of Lublin to eight months of community service and ordered him to cover court fees for publicly insulting the president and the Polish nation and for offending the religious feelings of Catholics. The conviction resulted from offensive statements the pastor made on his internet television channel.

On October 27, the Opole District Court ordered a former deputy agricultural minister and former politician with the Polish People's Party to pay a fine for publicly insulting the president by posting offensive comments regarding him on social media during the 2020 presidential election campaign. The verdict was subject to appeal.

In January the Warsaw district prosecutor's office discontinued an investigation against three persons charged with desecrating monuments and offending religious sentiment by placing rainbow flags on several monuments around Warsaw in July 2020, including on an historic religious statue in front of a Roman Catholic Church associated with Warsaw's occupation. Prosecutors determined the charged persons were not responsible for placing the flags.

The Helsinki Foundation for Human Rights reported that journalists convicted of defamation had never received the maximum penalty. According to the Helsinki Foundation, however, the criminal defamation law does have a chilling effect on journalists, especially in local media, because 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.

In March the Warsaw-Srodmiescie local prosecutor's office indicted Jakub Zulczyk, a writer, for publicly insulting the president by posting a message on his Facebook account in which he referred to the president as a "moron." If convicted, Zulczyk could face up to a three-year prison term. The trial began on November 16.

On June 29, the Kalisz regional court sentenced three men to two months of community work and a fine for publicly insulting the president by shouting offensive slogans against the president and trying to burn an election banner featuring the president at a high school graduation event.

According to the Helsinki Foundation for Human Rights and Court Watch Poland, there was an increasing problem with strategic lawsuits against public participation (SLAPPs), which are used by public institutions and officials, media companies, politicians, and individuals to suppress opposing opinions. The civil society organizations claim the use of SLAPPs created an unfriendly environment for media to operate and had a "chilling effect" on journalists, who may be reluctant to tackle sensitive topics for fear of being prosecuted. According to the Journalism Society's report published in May, the government or state-controlled institutions undertook 187 legal actions, both criminal and civil, against journalists over the last six years, of which the report categorized 66 as SLAPP litigation.

Nongovernmental Impact: On January 28, a reporter and a camera operator working for National Media (a right-wing outlet affiliated with the nationalist Independence March Association) reported they were attacked by demonstrators during an All-Poland's Women's Strike demonstration on January 27. According to National Media's director, demonstrators physically attacked the camera operator and damaged his equipment, and the reporter was temporarily stunned. On January 28, another reporter working for public radio in the city of Poznan reported he was attacked by demonstrators during a similar demonstration in Poznan.

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 Internal Security Agency 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 Internal Security Agency blocked websites.

The law against defamation and all other public insult laws apply to the internet.

Academic Freedom and Cultural Events

On March 5, according to press and NGO reports, the Ministry of Culture and National Heritage suspended an online film festival called Herstorie for Women's Day, which was scheduled to take place on the website of the government-run National Film Archive-Audiovisual Institute (FINA). Deputy Minister of Culture Jaroslaw Sellin reportedly ordered FINA director Dariusz Wieromiejczyk to remove the festival from the FINA website because it contained two films the ministry found objectionable – You are Overreacting, on domestic violence, and Vibrant Village, on a sex toy factory in Hungary. According to media reports, when Wieromiejczyk refused to comply, Culture Minister Piotr Glinski fired him. The film festival found a new partner and took place as scheduled. Both FINA and the Ministry of Culture made statements denying any connection between suspension of the festival and the content of the films. The Ministry of Culture stated that it fired Wieromiejczyk because he had allegedly violated labor law, the Public Finance Act, and other laws.

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.

Freedom of Peaceful Assembly

The law permits restrictions on public assemblies in situations of elevated terrorist threats. During the year there were no cases of the prohibition of a public assembly due to such a threat, but the government banned all public assemblies in

the area covered by the state of emergency near the border with Belarus. During the year the government gradually lifted restrictions on public assemblies related to the COVID-19 pandemic. Under the most recent regulations valid until November 30, public assemblies of up to 150 participants were allowed but the limits did not apply to fully vaccinated persons. In practice, authorities allowed demonstrations of thousands of participants and did not enforce assembly limits.

c. Freedom of Religion

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

d. Freedom of Movement and the Right to Leave the Country

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

In-country Movement: On September 2, the government declared a state of emergency in portions of two provinces near the border with Belarus, which prohibited travel to the affected areas by nonresidents, including journalists and civil society representatives. The declaration was made in response to an extraordinary increase of third-country migrants being forced across the Poland-Belarus border irregularly as part of what credible media outlets and nongovernmental organizations have reported as a migrant smuggling operation by the Belarus government intended to destabilize the EU. On October 1, the government extended the state of emergency for an additional 60 days.

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.

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. According to the Office of Foreigners, 7,235 individuals applied for international protection in the country from January 1 to December 7, compared to 2,616 in the same period of 2020. The main countries of origin of applicants were Belarus (2,096); Afghanistan (1,742); Iraq (1,302); Russia (937); and Ukraine (253). The government granted international protection between January 1 and November 30 to 979 persons given refugee status and 1,018 given subsidiary protection.

Due to the extraordinary increase in third-country migrants attempting to cross the border from Belarus into the country, the government issued a regulation on August 20 permitting the Border Guard to return migrants who crossed the border irregularly back to Belarus. In September the government declared a State of Emergency along the border. Government leaders, media outlets, and nongovernmental organizations referred to the increase as part of a Lukashenka regime effort at an orchestrated migrant-smuggling campaign against the EU. On September 15, President of the European Commission Ursula von der Leyen stated, “the regime in Minsk has instrumentalized human beings. They have put people on planes and literally pushed them towards Europe’s borders.”

While EU leaders expressed support for the country’s handling of the crisis, human rights organizations stated that this regulation violated international obligations regarding protection of asylum seekers in the country’s territory. In September parliament adopted a revision of the law on foreigners which legalized this practice, and the president signed the bill into law on October 21. On October 22, UNHCR issued an appeal to the governments of Poland and Belarus to honor their international obligations and provide international protection to those migrants who request it. These protections include the possibility to seek asylum, access to legal aid, information, and appropriate accommodation.

On August 24, UNHCR urged Polish authorities to make an individual assessment of each case before expelling migrants or preventing them from entering the country. In response, the MFA issued a statement on August 24 assuring that the government met all international obligations related to the Convention on Refugees. The government and the EU stated the Belarusian government was orchestrating migrant smuggling and manufacturing the migration crisis as

retaliation for EU sanctions against Belarus. Government officials claimed most of the migrants did not apply for asylum, did not want to remain in the country, and sought to transit to Germany.

On September 21, UNHCR and the International Organization for Migration (IOM) jointly called for immediate access to migrants on the border to provide medical assistance, food, water, and shelter. The statement said asylum seekers and migrants should never be used by states to pursue political goals. UNHCR and IOM also expressed concern on the alleged use of so-called pushbacks, i.e., pushing migrants back into Belarus, and called for the situation to “be managed in accordance with international legal obligations, and for [countries] to work collaboratively to resolve the situation, prioritizing human rights.”

In a November 24 report, Human Rights Watch reported that they had interviewed 15 individuals who described experiencing one or more pushbacks from the country to Belarus without due process. All stated that their pleas for protection and asylum were ignored by border guards and that when border guards apprehended them, they put them in vehicles, drove them to the border, and ordered them to return to Belarus. If an individual arrived in the country so ill that they required hospitalization, they were given treatment and documents permitting a six-month stay in the country but were often separated from family members who were returned to Belarus. Migrants described being subjected to “ping-pong” between the two countries, and Human Rights Watch reported that at least 13 migrants died from cold and hunger in the border zone.

On August 25, the ECHR issued interim measures and instructed the country to provide the group with food, water, and medical assistance. On September 27, the ECHR expanded the measures to instruct the country to provide the group with direct access to lawyers. On September 29, the government responded to the ECHR’s decision on interim measures, arguing the group of migrants was in Belarus and the government could not violate its territorial integrity.

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 from which 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.

Refoulement: There were allegations that the country expelled individuals seeking asylum from third countries back to Belarus, where they were likely to face abuse, including severe beatings (see *Access to Asylum* and EU regulations cited in *Safe Country of Origin/Transit* above and *Country Report on Human Rights Practices for Belarus*). There were no reports or allegations that Poland expelled Belarusian citizens seeking asylum back to Belarus or expelled individuals from third countries back to the countries from which they sought asylum.

Abuse of Migrants and Refugees: There was an allegation that authorities used disproportionate force against third-country migrants seeking to enter the country irregularly from Belarus. On November 16, several hundred irregular migrants attacked Polish police and border guards at the Kuznica-Bruzgi border crossing point with stones, metal pipes, wood sticks, and stun and teargas grenades provided by Belarusian services, according to the government. Media reported nine Polish personnel were hospitalized, including one with a probable fractured skull, in the incident. Human Rights Watch alleged the use of water cannons and tear gas by police and border guards in response to the migrant attack was disproportionate. There were no reports of serious injuries among the irregular migrants. The government stated Polish security services used these non-lethal measures under a state of emergency as a last resort, because the migrants were attacking at the instigation of Belarusian security services.

UNHCR reported no major or persistent problems with abuse in centers for asylum seekers. Some incidents of gender-based violence occurred in the centers, but UNHCR reported that local response teams involving doctors, psychologists, police, and social workers addressed these 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. According to the Legal Intervention Association, courts automatically

approved the legal motions of the border guards, resulting in many vulnerable migrants, including families with children, being placed in guarded centers. According to the association, the courts also automatically extended detention beyond the initial three months, which in practice meant many migrants stayed in guarded detention centers for extended periods of time. Children placed in guarded centers did not have access to public education and could participate only in limited educational activities organized on site. 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: There were no restrictions on refugees' ability to work. Nonetheless, employers generally preferred to hire persons with Polish, Russian, or Ukrainian language proficiency, which limited some refugees' ability to find a job. In addition, a demanding system for recognizing qualifications limited refugees' ability to work in their professions.

Temporary Protection: During the year, the government continued to provide temporary protection to some individuals who did not qualify as refugees. During the first seven months of the year, according to Ministry of Foreign Affairs statistics, 8,844 Belarusian citizens entered the country under special "humanitarian visas."

g. Stateless Persons

According to a UNHCR report on global trends on forced displacement released in June 2020 (the most recent report available), 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 lacked identity documents, which limited 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: According to a report of the Organization for Security and Cooperation in Europe (OSCE) on the first round of the 2020 presidential election, the decision to continue with the election during 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 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.”

According to the OSCE report, the 2019 parliamentary elections were well prepared and there was overall confidence in the election administration, but media bias – particularly in the public media – and intolerant rhetoric in the campaign, including instances of nationalist and homophobic rhetoric, were of significant

concern. According to the OSCE, the dominance of the governing Law and Justice Party in public media (via changes made in 2015 and 2016 allowing for more direct political influence over the country's public broadcasters) amplified its electoral advantage.

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 9 percent of ministerial positions, 29 percent of local legislature positions, and 27 percent of national legislature (Sejm and Senate) positions.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and criminal prosecutions for official corruption occurred. There were no reports of high-profile government corruption during the year.

On March 3, the Wroclaw District Court upheld the February 2020 ruling of the first instance court which sentenced Jozef Pinior, a former senator and member of the European Parliament, to 18 months in prison for corruption. The verdict is final. 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.

The investigation against Slawomir Nowak, transportation minister under the prior Civic Platform government, on charges of corruption and leading an organized criminal group, continued at year's end. During the year, the Warsaw district prosecutor's office pressed additional corruption charges against Nowak. Nowak was released from pretrial detention on April 12, after spending more than eight months in detention. His arrest resulted from a Polish-Ukrainian investigation into alleged corruption when he served as the president of the Ukrainian State Road Agency in 2017-19.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human

Rights

Several 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 constitution and the law entrust the ombudsperson with defending human and civil rights. The law states that the children's rights ombudsperson is responsible for protecting the rights of children. The law entrusts the government plenipotentiary for equal treatment with the task of "implementing the principle of equal treatment." Both ombudspersons are appointed by the Sejm and confirmed by the Senate. Civil society observers continued to assess the office of the human rights ombudsperson as independent and effective in defending human and civil rights, but the children's rights ombudsman was not. In cooperation with NGOs, the ombudsperson processes complaints, conducts investigations, institutes and participates in court proceedings, undertakes studies, provides other public bodies with advice, appeals to authorities to take legislative or legal action, and conducts public information campaigns. The ombudsperson has no authority to mediate disputes between private entities, even in cases of racial discrimination. The ombudsperson presents an annual report to the Sejm on the state of human rights and civic freedom in the country.

The children's rights ombudsperson serves as a guardian of children's rights, in particular the right to life and health, the right to being brought up in the family, the right to decent social living conditions, and the right to education. The children's rights ombudsperson processes complaints, conducts investigations, participates in court proceedings, and may demand concrete actions to be taken by public institutions to protect children's rights.

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. The sitting plenipotentiary serves as a deputy minister in the Ministry of Family and Social Policy. As such,

the position does not have the same institutional independence as the human rights 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 and Societal Abuses

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. While domestic violence is illegal and 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 September 16, the Council of Europe's Expert Group on Action against Violence against Women and Domestic Violence published its first evaluation report on the implementation of the Council of Europe's Convention on Preventing and Combatting Violence against Women and Domestic Violence (so-called Istanbul Convention). The report praised a November 2020 law that introduced an immediate restraining order that may be issued by police who respond to a domestic dispute. Under the new law, the perpetrator must immediately leave the location where the violence took place. The Women's Rights Center noted that during the first six months since the law's entry into force, police used the new mechanism in only a small fraction of documented instances of domestic violence. According to the foundation, this may indicate police were not properly trained in the use of the new mechanism. 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 law requires every municipality in the country to set up an interagency team of experts to deal with domestic violence.

Centers for survivors of domestic violence operated throughout the country. The

centers provided social, medical, psychological, and legal assistance to survivors; training for personnel who worked with survivors; 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: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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 noted the government excluded almost all prescription contraceptives from its list of subsidized medicines, making them less affordable, especially for poor women in rural areas. The law also provides that doctors may refrain from performing health services inconsistent with their conscience. According to a 2020 report by 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 did not stock or sell contraceptives.

The law does not permit voluntary sterilization. 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. Women had access to emergency health care, including services for the management of complications arising from abortion. 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 sexual violence survivors, including emergency contraception for survivors of rape. According to women's rights NGOs, access was limited due to survivors' fear of social stigma, some legal constraints, and the use of the conscience clause by medical doctors who refused to provide such services. According to a September report by the Council of Europe Expert Group on Action against Violence against Women and Domestic Violence, the country lacked rape crisis and sexual violence centers offering medical care, high-quality forensic examination, and immediate short- and long-term trauma support delivered by trained professionals.

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.).

Systemic Racial or Ethnic Violence and Discrimination

The constitution prohibits discrimination in political, social, and economic life "for any reason whatsoever." The law on discrimination in employment covers nationality, ethnic origin, and race. The law also bans discrimination of members of national and ethnic minorities and penalize incitement to hatred, public insult, and violence against others on the grounds of national, ethnic, and racial differences.

Romani leaders complained of discrimination in employment, housing, banking, the justice system, media, and education. In December 2020 the government adopted a new 10-year program on social and civic integration of Roma people, with particular focus on education and living conditions of the Romani community. During the year the government allocated 11.7 million zloty (\$2.9 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 events.

The country's Ukrainian and Belarusian minorities continued to experience harassment and discrimination. On January 21, the Torun District Court began a trial of three men charged with using violence and making threats against others on the grounds of their national identity. The trial concerns a February 2020 incident in which several men verbally and physically attacked a group of five foreigners from Ukraine, Belarus, and Russia in the city center of Torun.

On May 31, a man approached three Belarusian nationals speaking their native language as they walked down the street in Krakow. He asked where they were from, and when they answered, he threatened them with a knife and used pepper spray against them. On July 9, police detained the perpetrator.

During the year there were incidents of xenophobic attacks targeting persons of African descent.

In March the Krakow district prosecutor's office indicted two men who in July 2020 allegedly attacked and shouted racist insults at a man of African descent at a bus stop in the town of Wieliczka. The two men also allegedly attacked a bystander who had defended the victim.

On June 27, police detained a man who verbally abused and threatened four men from the Republic of the Congo and Rwanda at a lake area in Krakow. The man was charged with public insult of a group on racial grounds.

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

Child Abuse: The law bans all forms of violence against children and requires the ombudsperson for children's rights to undertake actions aimed at protecting children from violence, cruelty, exploitation, demoralization, neglect, or other ill treatment. The ombudsperson's office also operated a 24-hour free hotline for abused 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 La Strada Foundation, a leading NGO assisting trafficking victims, trafficking of children for sexual exploitation remained a problem.

Institutionalized Children: On September 2, media reported on the systematic use of physical and psychological violence at the Youth Educational Center in Renice, a correctional education facility for boys between ages 12 and 18. Media reported students in the facility were subjected to abuse, including severe beatings, by other students and by educators. Following the reports, the government decided to close the facility. The Szczecin district prosecutor's office was appointed to investigate the allegations and scrutinize earlier prosecutorial activities regarding cases of abuse at the facility.

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, while other estimates, including by Chief Rabbi of Poland Michael Schudrich, put the number as high as 40,000. Anti-Semitic incidents continued to occur, often

involving desecration of 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. During the year there were several attacks on Jewish properties and houses of worship.

On April 20, a member of the lower house of parliament from a small opposition party, Janusz Korwin-Mikke, referred to Adolf Hitler in a video posted online as “a great, in fact the greatest, European socialist” and argued there was no evidence Hitler was aware of the Holocaust.

On January 12, police detained three men who painted neo-Nazi symbols on the outer wall of the Jewish cemetery in Oswiecim (the town adjacent to the former German Nazi concentration and extermination camp Auschwitz-Birkenau). On January 13, the local prosecutor’s office charged two of the men with public promotion of fascism and the third with destruction of a monument (the cemetery wall is registered as a provincial monument). At year’s end, the men were not in pretrial detention and their trial had not been scheduled.

On June 26, three teenagers vandalized 67 tombstones in the Jewish cemetery in the town of Bielsko-Biala. Some tombstones were broken and others were tipped over. On June 28, police identified the perpetrators and handed the case over to the family court.

On October 5, anti-Semitic graffiti were found on nine wooden barracks at the Auschwitz-Birkenau former concentration camp. The graffiti included statements in English and German and two references to Old Testament sayings frequently used by anti-Semites. Police were searching for perpetrators at year’s end.

On November 11, an anti-Semitic demonstration occurred in the city of Kalisz. Participants burned a book symbolizing the Statute of Kalisz, a 13th-century document that regulated the legal status of Jews in Poland and granted them special protections. Some march participants also chanted “Death to Jews.” On November 14, President Duda responded on his Twitter account, writing: “I strongly condemn all acts of anti-Semitism. The barbarism perpetrated by a group of hooligans in Kalisz contradicts the values on which the Republic of Poland is

based. And in view of the situation on the border and propaganda campaigns against Poland, it is even an act of treason.” On November 15, Interior Minister Mariusz Kaminski announced police had detained three men for allegedly organizing the march. The men were charged with public incitement to hatred, public insult on national grounds, and public incitement to commit crimes against persons based on their national and religious identity. They spent two weeks in pretrial detention and then were released on bail.

According to the Never Again Association, anti-Semitic discourse appeared in the public sphere and on social media, in particular during the legislative process of revisions to the Code of Administrative Procedure, which affected the restitution process. For example, on July 10, former anti-Communist oppositionist Andrzej Michalowski participated as a guest in a debate on state-run public radio and said the Jewish lobby was trying to interfere with legislation affecting heirless property. 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 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.

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

Persons with disabilities could not access education, health services, public buildings, and transportation on an equal basis with others. 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. A 2018 report by the Supreme Audit Chamber,

the latest report available, noted there are still many technical barriers that prevent persons with disabilities from freely accessing museums, libraries, or cultural centers. The report also noted regulations regarding access to public buildings were imprecise and not properly enforced.

The 2019 accessibility law requires all public institutions to provide access for persons with special needs, including persons with disabilities, in three main areas: access to buildings, digital services, and information and communication services. During the year the government continued implementing the “Accessibility Plus” program for the years 2018-25, whose main goal is to ensure unlimited access to goods and services and to create the possibility of full participation in social and public life for individuals with special needs. According to the 2020 report on implementation of the program, during the year, the government continued to implement programs aimed at improving access to schools, universities, public health institutions, and door-to-door transportation services. The government plenipotentiary for persons with disabilities, who also serves as deputy minister in the Ministry of Family and Social Policy, monitors the implementation of the government’s policy regarding vocational and social inclusion and employment of 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.

On April 9, a well-known YouTube user posted a video showing himself and two acquaintances abusing a man with an intellectual disability by ordering him to perform degrading and humiliating tasks. On April 19, police arrested the man. Prosecutors charged the three individuals with mentally abusing a person with disabilities. On September 10, the trial against the man and his two acquaintances began.

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 parents may choose to send them to

segregated schools, depending on the significance of the disability.

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 LGBTQI+ individuals and groups. LGBTQI+ advocacy groups, however, criticized the plenipotentiary office for a lack of interest and engagement in LGBTQI+ questions. The ombudsperson also continued to work on LGBTQI+ human rights cases.

During the year some government officials made anti-LGBTQI+ or homophobic public statements. On June 23, Education and Science Minister Przemyslaw Czarnek criticized participants in LGBTQI+ pride parades for causing “public demoralization” and promoting “deviancy.” He said that those who participated in such parades “do not have the same public rights” as “a person behaving in accordance with standards and norms, who does not demoralize.” On June 28, Czarnek said the country should adopt a law that prohibits schools from using materials seen as promoting homosexuality.

During the year there were several physical and verbal attacks against members of the LGBTQI+ community. On February 17, a man approached a gay couple holding hands in Warsaw and stabbed one of the men. Police published a sketch of the suspect, but no arrests had been made as of November.

On March 17, several members of an LGBTQI+ sports group were attacked during an outdoor training session in the city of Gdansk. Several men disrupted the training, shouted homophobic slurs, and physically attacked two men in the sports group who were later taken to the hospital for medical evaluation. In July the Gdansk district prosecutor’s office discontinued its investigation into the incident. On May 26, an unknown perpetrator physically attacked a man in Wroclaw because he appeared to be gay, according to the victim. Police published a

photograph of the suspect from surveillance cameras, but no arrests were made as of November. On February 25, the Czestochowa regional court convicted a night club security guard for physically attacking a woman who was wearing clothing with a rainbow-colored heart. The court imposed a three-year ban on working as a security guard and a three-year restraining order to protect the victim. The court also ordered the perpetrator to pay a fine and compensation to the victim. On May 9, the Poznan regional court sentenced a man to 18 months of community service for attacking an LGBTQI+ couple in Poznan in December 2020. The couple was walking along the street in the city center when a man verbally abused them and threatened them with a knife.

On July 14, the European Commission initiated an infringement procedure against the country for failure to fully and appropriately respond to the Commission's inquiry regarding the nature and impact of what LGBTQI+ activists and critics call "LGBT-free zone" resolutions adopted by dozens of local governments across the country in 2019 and 2020. These resolutions did not explicitly call for "LGBT-free" zones but focused in varying degrees on preventing "LGBT ideology" in schools, called for protection of children against moral corruption, and declared marriage as a union between a woman and a man only.

The commission expressed concerns the declarations may violate EU law regarding nondiscrimination on the grounds of sexual orientation. On September 3, the European Commission sent a letter to five provinces that adopted the resolutions, urging them to abandon the declarations and notifying them the commission had suspended discussions on payment of several billion euros in EU funds because of the adoption of the declarations. On September 15, the country's deputy minister for funds and regional policy sent a letter to all local governments to review declarations to ensure the texts did not contain any discriminatory elements. By the end of September, all five provinces as well as several lower local government units had either repealed or revised the declarations to attempt to satisfy commission concerns. As of October 18, the commission had not commented if the changes were sufficient to restore funding.

On July 2 and September 24, the Supreme Administrative Court returned four legal challenges by the ombudsperson against anti-LGBTQI+ resolutions to provincial administrative courts for another review regarding the municipalities of Lipinki

and Niebylec, and the counties of Tarnow and Ryki. Earlier in 2020 and in February of 2021, provincial courts had rejected the complaints, arguing that the declarations could not be reviewed by administrative courts.

As a result of a complaint filed by the human rights ombudsperson in 2019, in July 2020 the Gliwice Provincial Administrative Court struck down a declaration adopted by the Istebna municipality. The court ruled the anti-LGBTQI+ 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 2020, but the court had not issued a ruling as of December 6.

On January 12, the human rights ombudsperson announced the Supreme Administrative Court ruled in December 2020 that a transgender person who underwent gender reassignment procedure abroad had the right to receive a passport with her new legal identity. Authorities initially refused to update the citizen's documents to reflect the change.

Section 7. Worker Rights

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 Audit Office, police, border guards, and fire brigades, do not have the right to strike. These workers have the right 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 a majority of union voters. To allow for mandatory 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 region.

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, 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.

According to trade unions, existing legal provisions regarding freedom of association and the right to collective bargaining are adequate but there are concerns with enforcement. The government did not effectively enforce applicable laws. The penalties for obstructing trade union activity range from fines to community service. They were not commensurate with the penalties for other laws related to the denial of civil rights. Resources, inspections, and remediation efforts were not adequate, and according to trade unions, the penalties allowed by law were too small to deter future violations. Administrative and judicial procedures were subjected to lengthy delays and appeals.

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, several large international companies discriminated against those who attempted to organize. Union discrimination typically took the

forms of intimidation, attempts to challenge the legality of trade union activity, or termination of work contracts without notice or without a justified reason. For example, media reported banking company mBank fired Mariusz Lawnik on November 17 for allegedly “harassing employees” after Lawnik posted a message regarding a newly established trade union on the company’s intranet.

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 2020, the most recent year for which statistics were available, the government assisted in removing 70 victims from forced labor.

There were reports that foreign and Polish men and women were subjected to forced labor in agriculture, restaurants, construction, domestic work, and the garment and fish processing industries, 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/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all the worst forms of child labor. 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 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 private family farms. Romani children, primarily 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 part-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 law, but penalties for violations were not commensurate with those of similar laws related to civil rights.

At year's end the Krakow District Court continued a criminal trial against a human resources manager at an IKEA store for dismissing an employee after the employee 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. In a separate proceeding, a labor branch of the Krakow court continued a labor dispute case against IKEA that was initiated by the fired employee. The employee demanded compensation and the right to return to work. The court had not issued a ruling at year's end.

According to trade union representatives, discrimination in employment and

occupation occurred with respect to gender, age, 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 (83 in 2020, the latest statistics available). Discrimination against Romani workers also occurred (see section 6, Systemic Racial or Ethnic Violence and Discrimination).

e. Acceptable Conditions of Work

Wage and Hour Laws: The national monthly minimum wage and the minimum wage for formal work agreements met the social minimum monthly income level.

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

The National Labor Inspectorate (NLI) is responsible for enforcement of wage and hour laws. Labor inspectors have the authority to make unannounced inspections and initiate sanctions. According to trade union representatives, the NLI is committed to eliminating violations of wage and hour laws, but due to an insufficient number of labor inspectors and limitation of resources to conduct inspections, the NLI is not able to ensure compliance with existing laws.

The government did not effectively enforce minimum wage and overtime laws, but the penalties were commensurate with those for similar crimes. According to trade union representatives, the most common labor rights violations concerned failure to pay wages, delayed payment of wages, and failure to formally register and pay for overtime work. According to the NLI's 2020 report, most wage payment violations occurred in trade and repair services as well as in industrial processing industries. Seasonal and migrant workers were particularly vulnerable to such violations. The NLI's report did not cover domestic workers because inspectors could only conduct inspections in businesses, not private homes.

During September 20-24, the NLI participated in the "action week" of the EU-wide information campaign "Rights for all seasons," which focused on employment of seasonal and migrant workers. The campaign included training, distribution of educational materials, and press publications devoted to this matter. As part of the campaign, the NLI provided free legal counselling services by telephone in Polish, Ukrainian, and Russian on various aspects of legal employment, focusing

specifically on seasonal and migrant workers.

Occupational Safety and Health: The law defines strict and extensive minimum conditions to protect worker health and safety. Inspections for occupational safety and health were conducted by the same inspectors under the same authorities as for wages and hours. Resources were inadequate and the government did not effectively enforce occupational health and safety in the formal or informal sectors. Penalties for violations were commensurate with those of similar laws.

During the year the NLI continued a three-year information and education campaign which began in 2019 to improve work-related health and safety standards in meat-processing companies and continued in programs targeting construction companies, professional drivers, forestry companies, small businesses, and agricultural employers.

Employers routinely exceeded exposure standards for limits on chemicals, dust, and noise. According to the Central Statistical Office's 2020 report, the majority of work-related accidents occurred in mining and quarrying, water supply, sewage and waste management, and ecological reclamation. According to the NLI's 2020 report, which investigated 1,775 work-related accidents that happened in 2020, most accidents occurred in industrial companies and at construction sites. The report noted some of the leading causes of workplace accidents were poor organization of work processes, inadequate supervision of employees, inadequate training of employees in work-related health and safety standards, and inadequate measures by employers to prevent accidents. The Central Statistical Office reported 62,740 victims of workplace accidents, including 189 fatal accidents, during 2020.

Informal Sector: The Main Statistical Office's definition of the informal economy included unregistered employment performed without a formal contract or agreement and where wages do not count as contributions to social security or have income taxes deducted. 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. Workers in the informal sector are not covered by wage, hour, and occupational safety and health laws and

inspections. While the NLI's powers are limited to the formal economy, one of its responsibilities is to inspect 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. According to the 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. According to trade union representatives, many migrant workers from Ukraine work in informal economy.