

POLAND

EXECUTIVE SUMMARY

Poland is a republic with a multiparty democracy. The bicameral National Assembly consists of an upper house, the Senate (Senat), and a lower house (Sejm). The president, the prime minister, the Council of Ministers, and the Sejm share executive power. The national assembly elections in October were considered free and fair. Prime Minister Donald Tusk, leader of the ruling Civic Platform Party, governed in a coalition with a smaller political party. Security forces reported to civilian authorities.

Among the country's principal human rights problems were an inefficient judicial system and lengthy court procedures, which impeded the delivery of justice. During the year unknown persons carried out a number of attacks of symbolic vandalism against sites tied to the Holocaust or the German and Lithuanian ethnic minorities. There was also a substantial increase in government monitoring of phone locations and call logs without judicial review.

Other human rights problems included government delays complying with decisions of the European Court for Human Rights (ECHR) and delayed restitution of private property. Defamation laws restricted freedom of speech and press by criminalizing speech, publications, and material on the Internet that insulted or defamed public officials. Societal problems included discrimination against women in the labor market; sexual exploitation of children; trafficking in persons; and discrimination and violence against ethnic minorities and lesbian, gay, bisexual, and transgender (LGBT) persons. Violations of workers' rights to organize and join unions and to strike and antiunion discrimination also occurred.

The government generally enforced human rights and took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in the government.

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law prohibit such practices, and the government generally respected these provisions. There were problems, however, with police misconduct and abuse of prisoners. The criminal code lacks a clear, legal definition of torture, which authorities did not report as a separate crime. The law outlines disciplinary actions for police, which include reprimand, demotion in rank, and dismissal.

On July 12, the Council of Europe's Committee for the Prevention of Torture (CPT) issued a report on its visit to the country in 2009. During that visit the committee received a number of allegations of excessive use of force by police at the time of apprehension (e.g., kicks, punches, tight handcuffing). The mistreatment during questioning alleged by two detained persons was of such severity that it could be considered as amounting to torture (e.g., blows on the soles of the feet, the infliction of electric shocks on the genitals). The CPT stated that the investigations of such incidents were sometimes slow or delayed.

On May 19, the trial court in Kwidzyn sentenced two police officers for police brutality in Prabuty in 2008. The officers received suspended two-year terms. Three other police officers and one civilian employee were sentenced to several months in prison (also suspended). The case against one police officer was dismissed.

On August 1, the first medical unit for carrying out the forced chemical castration of convicted pedophiles opened in the town of Choroszcze near Bialystok. Under the law courts can decide whether offenders should undergo such treatment six months before their expected parole. Chemical castration is mandatory for an offender involved in incest or the rape of a person less than age 15. As of the end of September, there were no reports that judges ordered the chemical castration of any prisoners.

On November 22, police suspended a police officer for kicking a participant in the November 11 Independence Day demonstrations. While there was no report of

injury, prosecutors began an investigation into the case, and the police officer was under suspension at the end of the year.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards; however, prison medical staff vacancies and limited access to specialized medical treatment continued to be a problem. The government permitted monitoring visits by independent human rights observers. By the end of September, 95 prisoners, including 12 who committed suicide, had died in prison. Prisoners had access to potable water. Prisoners may file complaints with a prison ombudsman or the human rights ombudsman. Media report that authorities have expanded the use of electronic monitoring for nonviolent offenders. As of November 15, 1,556 people were serving sentences electronically monitored.

As of November 30, government statistics indicated 81,991 persons, including pretrial detainees, were incarcerated in prisons and detention facilities with a capacity for 82,364 persons.

As of November 30, approximately 2,598 prisoners (3 percent of the prison population) were women. Female prisoners were held either in dedicated detention facilities or in separate parts of joint facilities. As of October 20, there were 552 persons 18 years of age or younger (including three men who were age 16). While authorities generally separated juveniles from adults, in exceptional cases the law allows them to share housing in prisons and detention centers. Authorities usually sent juveniles (persons between the ages of 17 and 21) accused of serious crimes to pretrial detention.

As of November 30, according to the Central Prison Authority, there were 8,586 pretrial detainees, a decrease of almost 400 from November 2010. The number of pretrial detainees has gradually decreased since 2007.

Pretrial detainees were often held in prisons pending trial, but in areas separate from convicts. Conditions for pretrial detainees were generally similar to those for prisoners but on occasion were worse due to overcrowding and poorer facilities resulting from court-mandated restrictions on where a prisoner should be located while awaiting trial.

The country's criminal code sets the minimum cell size at 32 square feet per person, but prisoners may occupy smaller cells for a limited time. In the second

quarter of the year, 30 detainees were in cells smaller than the legally mandated minimum, according to government statistics. On October 19, the Supreme Court decided that failure to provide the minimum cell size violates prisoners' rights.

Prisoners and detainees had reasonable access to visitors and could participate in religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigations of credible allegations of inhumane conditions. Prisoners exercised this right either directly with prison officials and the Justice Ministry, or indirectly through local nongovernmental organizations (NGOs) or the human rights ombudsman.

The human rights ombudsman received 6,462 complaints from prisoners and relatives during the year, compared with 7,233 in 2010. Of these, 21 percent dealt with treatment by prison authorities, 18 percent with prison conditions, 17 percent with medical treatment, and 12 percent with contact with the outside world.

Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. At the request of the justice ministry, the human rights ombudsman administers the national preventive mechanism to investigate and monitor prison and detention center conditions. The office of the ombudsman publishes its findings and a summary of the recommendations it made to relevant authorities in an annual report.

The government allowed independent monitoring of prison conditions and detention centers on a regular basis by the human rights ombudsman. The ombudsman can join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when they have filed a complaint or when information otherwise leads to an allegation of inhumane conditions. During the year the ombudsman visited 29 prison and detention facilities, including pretrial and juvenile detention centers, as well as guarded centers for asylum seekers. The CPT listed prison overcrowding, poor medical care, mistreatment of prisoners by police officers, and the lack of a developed system of legal aid as the main problems affecting the country's prisons and detention facilities.

d. Arbitrary Arrest or Detention

The constitution and the law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The police force is a national law enforcement body with regional and municipal units overseen by the Minister of Internal Affairs. The Internal Security Agency (ABW) has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau (CBA) is responsible for combating government, business, and financial corruption. Both agencies report directly to the prime minister. The military has law enforcement responsibilities only for its own facilities.

Civilian authorities maintained effective control over the security forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

In most cases the constitution and the law require authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law in practice. The constitution and the law allow a person to be detained 48 hours before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. Authorities must promptly inform detainees of the charges against them. Detained persons may appeal the legality of their arrest, and this right was respected in practice. There was a functioning bail system, and most detainees were released on bail. Detainees have the right to counsel; the government provided free counsel to indigent defendants. Defendants and detainees have the right to consult an attorney at any time.

Pretrial Detention: The constitution prohibits detention for longer than 48 hours without specification of charges by a court. The law permits authorities to detain persons charged with a crime for up to three months. The CPT reported most juveniles were transferred to a remand facility within 72 hours of detention. A court may extend pretrial detention every six to 12 months, but the law specifies that the total time in detention may not exceed two years (in certain complex cases, the court may petition the Supreme Court for an extension beyond two years); however, in practice detention was frequently extended beyond two years.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice; however, the judiciary remained inefficient and did not enjoy public confidence.

Military courts, supervised by the minister of justice, have jurisdiction over crimes committed by military personnel while on duty. Military defendants enjoy the same rights as civilians.

The court system remained cumbersome, poorly administered, and inadequately staffed. The NGO Helsinki Human Rights Foundation described the judicial system as improperly structured and inefficient, with a poor division of labor between different courts. In addition cumbersome hiring procedures have created many vacancies among judges and support staff, further slowing the justice system. According to the General Prosecutor's Office, while the overall number of prosecutors was large (5,964), the number of prosecutors dealing with criminal offenses was inadequate. Some progress was reported in the computerization of the court system, but a continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

E-courts exist to adjudicate simple cases, which typically involve unpaid utility bills. A party files a claim on the e-court's Web site for civil pecuniary claims, and a judge can issue a writ of payment based on this electronic submission. Commercial and labor claims are eligible for adjudication by an e-court although nonpecuniary and family law claims are not. Defendants who dispute the judgment are referred to a regular court for trial. On April 6, Justice Minister Krzysztof Kwiatkowski reported that, after 15 months of operation, the e-court had dealt with more than 900,000 cases of the one million submitted. However, according to media reports, the e-court was thereafter flooded with additional cases, and as of September 21, as many as 350,000 cases were pending.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence and must be present during trial. Trials are usually public; however, 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. The law provides for juries, usually composed of two or three individuals appointed by local officials. In regional and provincial courts, a panel of one judge and two lay assessors try cases. Defendants may consult an attorney provided to

the indigent without cost, confront and question witnesses, present witnesses and evidence, and have access to government-held evidence. Prosecutors can grant witnesses anonymity if they express fear of retribution from defendants.

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

Individuals can and did file complaints against the government with the European Court of Human Rights (ECHR) regarding trial delays, the right to a fair trial, and the lack of due process.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

On January 26, the Parliamentary Assembly of the Council of Europe cited nine states, including Poland, for “worrying delays” in implementing ECHR orders. In the nine countries, the ECHR repeatedly found violations of the European Convention for Human Rights that seriously undermined the rule of law. The Committee of Ministers of the Council of Europe registered 760 complaints against Poland regarding improper implementation in the national legal system of the ECHR’s judgments.

According to the Helsinki Human Rights Foundation, the government mostly complied with ECHR judgments in cases that affected a large number of persons and in cases of particular legal importance in which systematic or legislative changes were required. The foundation claimed the government complied less often with decisions that did not attract media attention or were difficult to implement for political reasons, for example, ones involving reproductive rights or teaching ethics in schools.

Civil Judicial Procedures and Remedies

Individuals or organizations may seek civil remedies for human rights violations. They can and did appeal to the ECHR decisions involving alleged violations by the state of the European Convention on Human Rights after they had exhausted

avenues of appeal through domestic courts. However, the government's implementation of court orders, particularly for payment of damages, remained slow, cumbersome, and ineffective. Changes to civil procedures placed speed and efficiency ahead of individual rights, and the limited number of attorneys made it expensive to exercise the right to legal counsel.

The primary objective of the Justice Ministry's Human Rights Department is to promote human rights standards throughout the justice system. The department also responds administratively to allegations of human rights violations, including excessively long trials, excessive use of pretrial detention, and prison overcrowding. According to the Helsinki Human Rights Foundation, the department was particularly successful in promoting knowledge about ECHR verdicts by translating them into Polish, posting them on the ministry's Web site, and distributing them to domestic courts.

Property Restitution

The law provides for restitution of communal property seized during the Communist and Nazi eras, although the process proceeded very slowly during the year. There is no comprehensive law on returning or compensating for privately held property confiscated during those periods. Although President Bronislaw Komorowski publicly called for passage of private property restitution legislation early in the year, the government announced on March 10 that it would not pursue such a bill for budgetary reasons.

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

The law prohibits most such actions; however, the government did not always respect these prohibitions in practice.

The law allows electronic surveillance for crime prevention and investigation. There was neither independent judicial review of surveillance activities nor any control over the use of information obtained by monitoring private communications. A number of government agencies had access to wiretap information. In 2010, the last year for which statistics were available, the Office for Electronic Communications reported that law enforcement agencies requested access to telecommunication data 1.3 million times, 300,000 more than in 2009. Legislation gives agencies broad access to such data without requiring specific grounds for it. On January 17, the ombudsman appealed to the prime minister to revise the law, arguing that such easy access to telecommunications data violates

the constitution and the European Convention for Human Rights. On June 29, in a complaint to the Constitutional Court, the ombudsman questioned the legality of the vague provisions that give nine special services a broad right to wiretap individuals' telephone conversations. On August 1, the ombudsman questioned the legality of provisions which give law enforcement agencies and special services broad access to phone records. On December 11, the Prosecutor General agreed with the ombudsman's complaint that the powers granted to law enforcement and special services violate the rule of law and infringe upon constitutional guarantees of individual rights. At the end of the year the case remained before the Constitutional Court.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press; however, in practice laws restricted these freedoms. The government and courts have either upheld or instituted laws that criminalize defamation by individuals and the media, and limit editorial independence.

Freedom of Speech: Defamation includes publicly insulting, slandering, or libeling members of parliament, government ministers, or other public officials, as well as private entities and persons. Defamation outside the media is punishable by a fine and community service. On July 7, the Constitutional Court ruled that the maximum sentence of three years' imprisonment for insulting the president was constitutional. Maximum penalties were rarely applied; persons found guilty of defamation generally only faced fines. According to Ministry of Justice statistics for 2010, the last year for which statistics are available, no one was convicted for defamation of the president, but three persons were convicted for insulting constitutional organs of the state. Of the 187 people convicted of public defamation in 2010, 143 of them committed defamation outside the media.

On September 8, the appeals court in Wloclawek sentenced a 19-year-old student to 20 hours of community service for writing a vulgar antigovernment slogan on his school building.

On May 17, police detained soccer fans for hanging an offensive poster that criticized Prime Minister Donald Tusk and shouting insults about him. The fans

were protesting Tusk's decision to respond to soccer hooligan violence by closing some stadiums in May. The fans were required to pay administrative fines ranging from 500 to 1,000 zloty (\$155 to \$320).

The law prohibits hate speech, including dissemination of anti-Semitic literature and the public promotion of fascist, communist, or other totalitarian systems. On July 19, however, the Constitutional Court ruled that the parts of the provision dealing specifically with the production and storing of Communist materials for distribution were unconstitutional.

Freedom of Press: Defamation carried out through the mass media is punishable by imprisonment for up to one year. In 2010, the last year for which statistics were available, 44 persons were convicted of committing criminal defamation in the mass media and fined. Available information indicated this number included politicians pressing charges against each other, academics and experts who gave interviews or wrote articles for the media, and a few journalists. In May investigative journalist Jerzy Jachowicz was fined 16,000 zloty (\$5,000) for an article he published in 2007 about a former Communist secret service agent and his alleged connections with a Polish-American. In February journalist Dorota Kania was fined for publishing an article in 2007 about the same person. Both journalists filed suits in the ECHR.

Censorship or Content Restrictions: The constitution provides for freedom of the press and social communication, and the right to acquire and disseminate information. It prohibits censorship of the press or social communication. The law prohibits, under penalty of fines, the promotion of activities that are against government policy, morality, or the common good; and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." In practice the government rarely enforced this provision. The law also places some limits on editorial independence, for example, by specifying that journalists must verify quotes and statements with the person who made them before publication.

The National Radio and Television Broadcasting Council, a five-member body appointed by the National Assembly and the president, is responsible for protecting freedom of speech and has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, apportion subscription revenues to public media, and impose financial penalties on broadcasters. While council members are required to suspend their membership in political parties and public

associations, critics asserted that the council remained politicized. The president and the Sejm each select two members, and the Senate selects one member.

On October 4, the district prosecutor in Gdynia appealed the August 18 acquittal of heavy metal singer Adam Darski by the Gdynia district court. He was charged with offending religious feelings for tearing up a Bible and referring to the Roman Catholic Church as a “criminal sect” during a 2007 concert.

On August 11, the Warsaw Appeals Court upheld the 2009 decision of the National Radio and Television Broadcasting Council to fine the private television station TVN 471,000 zloty (\$147,000) for broadcasting a talk show in 2008 during which participants placed the national flag in dog excrement. The court stated that the show promoted the desecration of the national flag.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could usually engage in the expression of views via the Internet, including by e-mail. However, the law against defamation, which restricts freedom of speech, applies to the Internet as well.

On May 20, ABW agents raided the apartment of a student who ran the satirical Web site www.antykomor.pl based on charges of publicly insulting the president. The Web site mocked President Komorowski and allowed visitors to throw virtual objects like hammers or dog excrement at the president’s image. The agents searched the student’s house and seized his laptop and hard drives. On June 9, a court in Tomaszow Mazowiecki ruled that the prosecutor’s decision to order ABW to search the apartment was legal. On July 11, the district prosecutor in Sieradz refused to initiate an investigation into the abuse of powers by ABW and the local prosecutor.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

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

Protection of Refugees

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.

Safe Country of Origin/Transit: The law permits denial of refugee status based on safe country of origin or safe country of transit; however, the law also includes provisions to consider the protection needs of individuals with exceptional cases.

Nonrefoulement: In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Refugee Abuse: There were occasional reports of problems in the country's 13 detention centers for asylum seekers, which were located in the Warsaw, Bialystok, and Lublin areas and had a capacity of approximately 2,600 persons. The UNHCR reported no major or persistent problems in the centers, but asylum seekers complained about lack of access to medical specialists.

Employment: Persons granted asylum or refugee status had the right to work. However, Amnesty International reported they experienced difficulties finding jobs, due in part to poor integration programs.

Access to Basic Services: According to UNHCR, conditions in refugee centers were modest but met necessary requirements. Access to basic medical care was satisfactory, although asylum seekers complained about access to specialist medical care. Refugees also experienced language and cultural barriers and had limited access to higher education.

Temporary Protection: Until November 24, the government provided temporary protection to individuals who may not qualify as refugees and provided it to 282 persons, compared with 439 persons in 2010. Persons with temporary status also had the right to work, received social assistance, and participated in the government's integration programs.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: The parliamentary elections held on October 9 were considered free and fair. On December 14, the Supreme Court declared the elections valid, finding that the isolated cases of violations did not influence the outcome of the elections. The Office of Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe wrote in its report that the elections were pluralistic and democratic, with a high degree of public confidence in all stages of the election process.

Participation of Women and Minorities: On March 3, a new gender-parity law which mandates that one gender represent no more than 65 percent of the spots on political parties' election lists entered into force; it was applied for the first time during the October 9 parliamentary elections.

Following the October 9 elections, there were 111 women in the 460-seat Sejm and 13 in the 100-seat Senate. There were four women in the 20-member Council of Ministers. In addition, 16 women held ministerial-level positions. Eleven of the country's 51 members of the European Parliament were women.

In the October 9 elections, the second member of parliament of African descent, as well as the first transgender and first openly gay member of parliament won seats in the Sejm. There were no members of minorities in the cabinet. The law exempts parties of historic ethnic minorities, including Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian, and Jewish parties from the requirement that they must receive 5 percent of the vote nationwide to qualify for seats in individual districts. Based on this exemption, there was one member of the Sejm (representing the German minority in Silesia) and none in the Senate.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not always implement these laws effectively, and officials sometimes engaged in corrupt practices. Several government bodies, including the prime minister's plenipotentiary for the prevention of irregularities in public institutions and the CBA, were responsible for combating corruption. The CBA has broad powers to audit the financial holdings of public officials and fight corruption in public procurement. It also has authority to conduct searches, secretly videotape, and tap telephone conversations as well as to make arrests.

According to local and international NGOs, the level of corruption has decreased. World Bank governance indicators showed that, although corruption was remained a problem, indicators have improved since 2007. Citizens continued to believe that political parties and members of the legislative branch, the health care system, and the judiciary were the most corrupt.

There were no new, high-profile cases of government corruption, although there were developments in cases from previous years. On May 9, Walbrzych mayor Piotr Kruczkowski resigned following the decision of the district court in Swidnica on April 28 to annul the second round of the 2010 local government elections in Walbrzych because of vote buying. On September 2, a new trial began in the case of two individuals charged with attempting to bribe a former agriculture minister and deputy prime minister. The new trial came after an appeals court overturned the 2009 Warsaw Circuit Court's conviction of the two.

Financial disclosure laws oblige public officials to submit financial statements about financial assets, real property, stocks and bonds owned by the person and his or her spouse.

The constitution and the law provide for public access to government information, and in practice the government generally provided access to citizens and noncitizens, including foreign media. By law government refusal of information requests must be based on exceptional circumstances related to government secrets, personal privacy, and proprietary business data. Refusals may be appealed.

On September 25, the president signed a new law restricting public access to certain government information. The law allows the government to restrict access to protect “important economic interests of the state,” including the country’s negotiating positions in the international arena. The revision of the law was strongly criticized by local human rights NGOs and opposition parties, which argued that the new provisions are so general and imprecise that they may lead to unjustified limitation of access to public information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The country’s independent human rights ombudsman presents an annual report to the Sejm on the state of human rights and civic freedom in the country. The ombudsman generally had adequate resources, enjoyed the government’s cooperation, and was considered effective. In 2010, the most recent year for which statistics were available, the human rights ombudsman reported receiving 56,641 cases, a decrease of 8,567 from 2009.

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

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

The constitution prohibits discrimination in political, social, and economic life “for any reason whatsoever.” The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions. On January 1, a new antidiscrimination law entered into force that

prohibits discrimination on the grounds of race, ethnic origin, nationality, religion, belief, opinion, disability, age, or sexual orientation. The new law requires the ombudsman to monitor implementation of the principles of equal treatment, support victims of discrimination, and carry out independent research. Ombudsman Irena Lipowicz publicly stated, however, that her office did not have enough funding to monitor discrimination and would struggle to fulfill its additional duties.

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. According to national police statistics, during the first half of the year there were 688 reported cases of rape. However, NGOs estimated that the actual number of rapes was much higher because women often were unwilling to report rape due to social stigma. During the same period, police forwarded 509 possible rape cases to prosecutors and 55 to family court (for underage offenders) for indictment.

On March 25, the president signed into law a revision of the criminal code that introduced a punishment for stalking, with a term of up to 10 years in prison.

In March the Lodz Appeals Court reduced the sentence for former Sejm deputy Stanislaw Lyzwinski from five years' imprisonment to three years and six months for rape, repeatedly forcing four women to have sex, abetting a kidnapping, and extortion.

On October 21, the regional court in Ostroda began the trial of former Olsztyn mayor Czeslaw Malkowski on charges of rape, attempted rape, and sexual harassment of his female employees. The charges resulted from an almost three-year-long investigation of Malkowski, who was charged in 2008 with the sexual harassment of two female employees and the rape of a third.

Domestic violence against women continued to be a serious problem. Observers attributed an increase in the number of reported cases to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. While courts can sentence a person convicted of domestic violence to a maximum of five years in prison, most convictions resulted in suspended sentences. The law provides for restraining orders on spouses to protect against abuse; prosecutors have the authority to issue restraining orders without a court's

prior approval, but police do not have the authority to issue immediate restraining orders at the scene of an incident.

During the first half of the year, police identified 9,401 cases of domestic violence. Of these, 8,446 were forwarded for prosecution. During the first six months of the year, police reported that officers conducted 38,779 interventions related to domestic violence. According to prison authorities, at the end of the year, 5,191 individuals were serving prison sentences for domestic violence crimes.

According to some women's organizations, the number of women affected by domestic abuse was underreported, particularly in small towns and villages. The Women's Rights Center reported that police were occasionally reluctant to intervene in domestic violence incidents if the perpetrator was a member of police or if victims were unwilling to cooperate.

Centers for domestic violence victims operated by NGOs provided counseling for offenders and training for personnel who worked with victims. The government provided victims and families with legal and psychological assistance and operated 220 crisis centers and nine shelters for pregnant women and mothers with small children. In addition, 35 specialized centers were operated by local governments and funded by the government's National Program for Combating Domestic Violence. The centers provided social, medical, psychological, and legal assistance to victims and "corrective education" programs for abusers. In 2010, the last year for which statistics were available, the government allocated approximately 12.2 million zloty (\$3.8 million) for the centers' operating costs.

The government also spent 3.9 million zloty (\$1.2 million) during the year on programs to combat domestic violence. They were primarily corrective-education programs for abusers and training for social workers, police officers, and specialists who were the first contacts for victims of domestic violence. In addition the Ministry of Labor and Social Policy spent 330,000 zloty (\$105,000) to organize a conference on domestic violence, a national public awareness campaign, and research on the problem of domestic violence. Regional governments spent almost 2.6 million zloty (\$825,000) on training for first responders.

Sexual Harassment: The law prohibits sexual harassment. Persons convicted of sexual harassment may be sentenced up to three years in prison. The labor code defines sexual harassment as discriminatory behavior in the workplace, including physical, verbal, and nonverbal acts, violating an employee's dignity.

According to the Women's Rights Center, sexual harassment continued to be a serious and underreported problem. Many victims did not report abuse or withdrew harassment claims in the course of police investigations due to shame or fear of losing their job. However, the media reported on certain high profile cases of sexual harassment. During the first six months of the year, police reported 32 cases of sexual harassment, compared with 52 cases during the first six months of 2010.

Reproductive Rights: Although the government generally recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, some restrictions existed. While there were no restrictions on the right to obtain contraceptives, religious, social, and economic factors limited their use, according to a local NGO, the Federation for Women and Family Planning. Prescription contraceptives were not included on the government list of subsidized medicines, which made them cost-prohibitive relative to average household income. The law does not permit voluntary sterilization. Health clinics and local health NGOs were permitted to provide information on family planning, including information about contraception, under the guidance of the Ministry of Health.

In June 2010 the UN special rapporteur on health issues, Anand Grover, cited serious impediments to women's access to certain reproductive health services, such as contraception and prenatal testing. Grover called for the provision of unbiased sexual education and better funding for contraceptives.

Discrimination: The constitution provides for equal rights for men and women in family law, property law, and in the judicial system; however, in practice there were few laws to implement this provision. Women held lower-level positions, frequently received lower pay than men for equivalent work, were fired more readily, and were less likely to be promoted.

On January 26, the Web site www.wynagrodzenia.pl reported a large discrepancy in the average salaries of men and women in a national survey of 2010. The survey found that women's salaries were on average approximately 33 percent lower than men's salaries.

The prime minister maintains a plenipotentiary for equal treatment with a mandate to counter discrimination and promote equal opportunities for all. Some women's rights groups and international organizations complained, however, that the

position was neither sufficiently resourced nor sufficiently independent from government influence to fulfill its mandate. The Ministry of Labor and Social Policy continued to promote gender mainstreaming in the labor market, including providing support for the Polish Women's Congress and funding public awareness campaigns.

Children

Birth Registration: Citizenship is acquired at birth if at least one parent is a citizen regardless of where the birth took place. Children born or found in the country with parents of unknown or stateless origin are also citizens. The government has in place a system of universal birth registration immediately after birth.

Child Abuse: Incidents of child abuse were reported; however, convictions for abuse were rare. The constitution and the law prohibit violence against children and provides for prison sentences ranging from three months to five years.

A government ombudsman for children's rights issued periodic reports on problems affecting children, such as pedophilia on the Internet, improving access to public schools for children with disabilities, and providing better medical care for children with chronic diseases. The ombudsman's office also operated a 24-hour hotline for abused children. In 2010, the last year for which statistics were available, the ombudsman received 19,665 complaints of infringements of children's rights under the country's laws, an increase of 5,205 from 2009. Of that number, almost 40 percent related to the right to be brought up in a family and cited such factors as: limitation of parental rights because of a divorce and the need for better support for foster families, 23 percent to the right to protection against abuse and exploitation, 11 percent to the right to education, and 9 percent to the right to adequate social conditions.

Sexual Exploitation of Children: The law prohibits sexual intercourse with minors younger than 15. The penalty for a conviction of statutory rape ranges from two to 12 years' imprisonment. Child pornography is also illegal. The production, possession, storage, or importation of child pornography is punishable by imprisonment for a period of three months to 10 years. According to the Ministry of Justice, 728 persons were convicted in 2010 of sexual intercourse with persons younger than age 15, and 25 persons were convicted of pimping with the involvement of a minor.

During the year police arrested 251 persons and confiscated computers and pornographic materials in two large, nationwide operations against child pornography and pedophiles. However, difficulty in meeting legal evidentiary standards led to few convictions in these cases.

According to the government and the Nobody's Children Foundation, a leading NGO dealing with trafficking in children, trafficking in children for sexual exploitation remained a problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

The Union of Jewish Communities estimated that the Jewish population numbered approximately 20,000. During the year a series of anti-Semitic incidents occurred in the northeastern and eastern parts of Poland, often involving desecration of symbolically significant property or places tied to the Holocaust. Synagogues and Jewish cemeteries were also targets of vandalism.

On August 31, the monument in the town of Jedwabne commemorating the mass killing of Jews burned alive by their Polish neighbors during World War II was defaced with Nazi swastikas and SS signs. The wall around the monument was covered with the words, "I don't apologize for Jedwabne!" and "They were easy to burn." On September 18, unidentified persons painted a swastika on the car of a historian specializing in Holocaust issues who worked at the Majdanek concentration camp museum near Lublin.

High-level government officials, including President Komorowski and Foreign Minister Radoslaw Sikorski, denounced anti-Semitic acts and supported tolerance, education, and interfaith dialogue. On September 8, the Prosecutor General's Office announced that it would monitor investigations into the anti-Semitic and xenophobic incidents that took place in the northeastern Podlaskie region. The governor of the region also denounced the incidents. Investigations into these incidents continued.

On May 10, the Warsaw prosecutor's office initiated a criminal investigation into the defamation of Foreign Minister Sikorski involving anti-Semitic comments posted on the Internet about his family.

During the year anti-Semitic behavior sometimes occurred at sporting events. In April the Polish antiracism "Never Again" Association and the Ukrainian Football without Prejudices organization issued a report documenting 36 anti-Semitic incidents during soccer games between September 2009 and March 2011. On September 30, soccer fans of the Warsaw Legia team displayed a large "Jihad Legia" banner during a match against the Israeli Hapoel Tel Aviv team. The Warsaw prosecutor's office subsequently declined to investigate the case on the grounds that displaying the banner was not a crime.

On May 30, the district prosecutor in Rzeszow indicted four soccer fans on charges of slandering Jewish persons in connection with the May 2010 incident involving fans' holding up a large banner with a Jewish caricature and an anti-Semitic slogan during a match in Rzeszow. On March 14, a trial opened against two other fans in the District Court of Rzeszow. The trials continued at year's end; each of the fans faced up to three years' imprisonment if convicted.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. The government restricts the right of persons with certain mental disabilities to vote or participate in civic affairs. The government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities.

The law states that buildings should be accessible for persons with disabilities, and at least three laws require retrofitting of existing buildings to provide accessibility. Public buildings and transportation generally were accessible.

The Ministry of Labor and Social Policy is responsible for disability-related matters. During the year the government plenipotentiary for persons with

disabilities organized training sessions for central and local government officials to encourage them to hire persons with disabilities. The state fund for rehabilitation of persons with disabilities continued a nationwide campaign encouraging companies to employ them. The fund granted money to NGOs to organize media campaigns on the rights of disabled persons.

National/Racial/Ethnic Minorities

The constitution gives ethnic groups who have been living on the territory of present-day Poland for more than 100 years additional rights to preserve their own language, customs, and culture. The law defines nine as so-called “national minorities” (Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian, and Jewish) and four “ethnic minorities” (Karaim, Lemka, Roma, and Tatar). The law also contains several provisions against hate crimes and incitement to violence based on ethnic origin; however, government enforcement efforts were sometimes ineffective.

Government agencies reported that their statistics did not show a rise in the total number of hate crimes. However, during the year there was a series of high-profile xenophobic incidents, including a number directed against symbolic places tied to Lithuanians and other minority groups. According to local NGOs, including Never Again, Open Republic, and the Helsinki Foundation for Human Rights, the incidents were more high profile and symbolic than in past years, but not necessarily more numerous. The government, while generally quick to denounce them on the national and sometimes local level, was generally unable to find the perpetrators of the incidents.

NGOs, media, and academic experts believed that the incidents were likely linked to a rise in the numbers and activities of extreme nationalist groups. Extremist groups, while still small in number, maintained a public presence in high-profile marches and on the Internet. The neofascist group Red Watch updated its Web site several times with the names and contact information of persons it considered traitors to the white race, including politicians and journalists.

On August 22, an unidentified arsonist set fire to the apartment of a Pakistani-Polish couple in the Podlaskie region’s capital of Bialystok. The couple escaped unharmed. Media and NGOs classified the attack as a xenophobic act, but the government believed it was committed as part of a nonxenophobic neighbors’ dispute.

Ethnic Lithuanians and Germans were the targets of symbolic acts of vandalism. On August 22, unknown perpetrators covered 28 Lithuanian-language signs in the Podlaskie region with the colors of the Polish flag and painted the insignia of the nationalist organization Falanga on a Lithuanian monument in a park. A day later, a monument to a Lithuanian poet was damaged. The governor of the Podlaskie province set up a special taskforce of police, the border guards, and the ABW to investigate the incidents. On October 14, vandals defaced a German community cultural center in Opole, one of a series of such incidents aimed against the German minority there.

There were also scattered incidents of racially motivated violence including verbal and physical abuse directed at Roma and persons of African, Asian, or Arab descent. The Ukrainian and Belarusian minorities continued to experience petty harassment and discrimination.

Societal discrimination against Roma continued. The 2002 national census recorded approximately 12,700 Roma, although the Romani community estimated the number to be much higher.

There were reports that some local officials discriminated against Roma by denying them adequate social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education.

In December 2010 some restaurants and clubs in Poznan denied entry to members of the Romani community. On February 22, the Poznan prosecutor refused to initiate a criminal investigation into these complaints, but two security guards who did not admit the Roma to a restaurant were charged with a petty offense and fined 1,000 zloty (\$310) each. The Roma Association appealed the case, and the prosecutor reopened it on April 14. The Roma Association reported that, despite government assistance programs, many Romani children did not attend public school. This was because of either financial constraints or fears that teachers would encourage assimilation and discourage traditional practices. However, according to the Ministry of the Interior and Administration, 2,764 of the 3,369 Romani children between the ages of six and 16 were enrolled in school in the 2009-10 school year, the latest data available. The association stated that inadequacies in Romani children's education made it impossible for Roma to escape their poverty. In October the association reported that many Romani children were placed in schools for children with mental disabilities, even though two-thirds were intellectually able to study in regular schools. Research by the

Jagiellonian University in Krakow showed that the improper placement might have resulted from improper testing by psychologists. On May 31, the Ministry of Internal Affairs and Administration reported that in 2010, 16.8 percent of Romani children were placed in schools for children with mental disabilities.

Approximately 80 percent of Roma were unemployed nationally, but levels of unemployment in some regions reached nearly 100 percent.

The government allocated approximately 10 million zloty (\$3.1 million) to the annual program for Roma, which included educational and other projects to improve health and living conditions and reduce unemployment. The program also focused on civic education and provided grants for university and high school students.

On July 29, the Sejm established August 2 as the official Roma and Sinti Genocide Remembrance Day. On the day, the Sejm joined the Romani and Sinti communities in commemorating the extermination of the Romani camp at Auschwitz-Birkenau in August 1944.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

NGOs, including the Helsinki Foundation for Human Rights, reported increasing acceptance of LGBT persons by society and the government. However, they stated that discrimination was still common in schools, the workplace, hospitals, and clinics. For example, LGBT persons were sometimes prevented from donating blood. During the year there were some reports of skinhead violence and societal discrimination against LGBT persons.

NGOs maintained that few cases of discrimination against LGBT persons were actually reported. A survey conducted by the Campaign against Homophobia for the *2010 Hate Crime Report* of ODIHR concluded that 92 percent of hate crime incidents against LGBT persons were not reported to police.

On May 21, an estimated 400 persons took part in Krakow's seventh annual Equality March (formerly called the March for Tolerance) to call for an end to prejudice against gay men and lesbians. Police were unable to prevent scuffles between the marchers and approximately 100 members of the nationalist group National Rebirth of Poland. Several journalists were caught in a scuffle involving tear gas and batons, and at least three participants were assaulted on the streets of

the city center. Police detained 13 persons on charges of public disorder and one for attacking a police officer.

On June 11, between 4,000 and 6,000 persons participated in Warsaw's 10th Equality Parade. A group of 500 counterdemonstrators from the National Radical Camp, the All-Poland Youth association, and fans of the Legia soccer team attempted to interrupt the event by shouting discriminatory slogans and throwing firecrackers at police officers and participants. According to police the parade and counterdemonstrations proceeded without any major incidents and no one was hurt.

The prime minister's plenipotentiary for equal treatment monitors LGBT problems. LGBT groups criticized the plenipotentiary for making controversial statements about these problems and for not doing enough to combat discrimination against LGBT persons.

Other Societal Violence or Discrimination

During the first six months of the year, the government's AIDS Center reported one official incident of discrimination against a person with HIV/AIDS and a mental illness. The person was refused readmission to a state-funded home for persons with mental disabilities. The patients' rights ombudsman intervened and ordered the patient admitted to the home.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution and the law provide that all workers, including civilian employees of the armed forces, police, and border guards, have the right to establish and join independent trade unions without previous authorization or excessive requirements. Foreign and migrant workers also have the right to unionize. The law allows unions to conduct their activities without interference. The constitution guarantees the right to organize workers' strikes or other forms of protest for trade unions, but specifies that for protection of public interest, specific laws may limit or forbid the conduct of strikes by specified categories of employees or in specific areas. Workers deemed to be in essential services, such as security forces, the Supreme Chamber of Audit, police, border guard, and fire brigades, do not have the right to strike. These workers have the right to protest and seek resolution of their grievances through mediation and the court system. The constitution

guarantees freedom of association in trade unions, occupational organizations of farmers, and employers' organizations.

The law obligates employers to notify the district inspection office in their region about a group dispute in the workplace. The law places some conditions on strikes: 50 percent of employees at the company and industry level need to vote in favor, and a strike cannot be called earlier than 14 days after the workers present their demands to the employer.

The constitution and the law provide for and protect enterprise-level collective bargaining over wages and working conditions, although some civil servants are restricted in this right. A tripartite commission composed of unions, employers, and government representatives was the main forum that determined minimum national wage and benefit increases in sectors such as social services. Key public-sector employers may not negotiate with labor without the extensive involvement of the ministries to which they are subordinate. The constitution guarantees trade unions the right to bargain, particularly for the purpose of resolving collective disputes and to conclude collective labor agreements and other arrangements. The law provides for parties to take group disputes to formal mediation, then to the Board of Social Arbitration in either the district court or Supreme Court depending on the number of employers involved, and, as a last resort, to strike. The law prohibits antiunion discrimination, although the constitution only guarantees the freedom of association in trade unions. Trade unions report that the law does not provide adequate means of protection against discrimination.

Cumbersome procedures made it difficult to meet all of the legal technical requirements for strikes in many cases. Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them were minimal. Unions alleged that laws prohibiting retribution against strikers were not enforced consistently and that the small fines imposed as punishment were ineffective deterrents to employers. In 2010 the State Labor Inspection Office registered 342 disputes, compared with 433 disputes in 2009.

While many workers exercised the right to organize and join unions, in practice many small- and medium-sized firms discriminated against those who attempted to organize. The government sometimes failed to protect the right to union activity without interference at small- and medium-sized companies. Newly established small- and medium-sized firms were generally nonunion, while privatized, formerly state-owned enterprises frequently continued union activity. Self-

employed workers cannot form a union, and some categories of government workers are limited to a single union or from holding office.

Labor leaders reported that employers frequently discriminated against workers who attempted to organize or join unions, particularly in the private sector. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to organize unions. Managers also asked workers in the presence of a notary public to declare whether they were union members.

In July the Solidarity Trade Union filed a new complaint against the government with the International Labor Organization (ILO), alleging infringement of workers' freedom of association. Solidarity asserted that the 1991 law on trade unions does not comply with ILO Convention No. 87, as it limits the rights of self-employed persons, telecommuters, and others to establish and join trade unions.

b. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that that men and boys were increasingly subjected to forced labor in the agricultural, manufacturing, and food processing sectors. Also, see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The constitution and law prohibit the employment of children under the age of 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. Persons between the ages of 16 and 18 may work only if they have completed middle school, the proposed employment constitutes vocational training, and the work is not harmful to their health.

The State Labor Inspectorate reported that increasing numbers of minors worked, and many employers underpaid them or paid them late. During the first half of the year, the inspectorate conducted 538 inspections involving 2,502 underage employees (16 to 18 years of age), compared with 325 inspections involving 2,222

underage employees during the same period in 2010. Fines totaling 123,000 zloty (\$38,438) were levied in 108 cases.

The majority of the 2,502 employees found to be underage worked in commercial enterprises, repair shops, processing industries, restaurants, and construction.

d. Acceptable Conditions of Work

The national monthly minimum wage, which took effect in January, was 1,386 zloty (approximately \$433). According to the Institute of Labor and Social Studies, the social minimum income level for one person was 926 zloty (\$289) and 3,016 zloty (\$943) for a family of four in 2010. The subsistence level was 472 zloty (\$148) for one person and 1,607 zloty (\$502) for a family of four. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum wage difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage.

The constitution provides for every employee to have the right to statutorily specified days free from work, as well as annual paid holidays. The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours including overtime. The law requires premium pay for overtime hours, but there were reports that this requirement was often ignored. The law provided for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week. The law also provides for 20 days of paid annual holidays for employees with less than 10 years of work experience and 26 days for those who have been employed for at least 10 years.

The law defines strict and extensive minimum conditions to protect worker health and safety. It empowers the State Labor Inspectorate to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. In 2010, the last year for which data were available, there were approximately 1,700 labor inspectors. However, the inspectorate was unable to monitor workplace safety adequately. In the first half of the year, the Government Statistics Office reported 44,161 victims of workplace accidents, an increase of more than 3,000 from the same period of time in 2010. In 2010 the inspectorate investigated 2,251 accidents, in which there were 2,768 injuries, including 538 workers killed and 898 persons seriously injured.

Employers routinely exceeded standards for exposure to chemicals, dust, and noise. According to the inspectorate, the lack of professional experience, necessary safety precautions, and organization were the leading causes of workplace accidents. The majority of accidents occurred in mining, trade, and services.