U.S. DEPARTMENT of STATE

Poland

Country Reports on Human Rights Practices - 2007
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The Republic of Poland is a multiparty democracy with a population of 38.5 million and a bicameral National Assembly consisting of an upper house, the Senate (Senat), and a lower house (Sejm). Executive power is shared among the prime minister, the Council of Ministers, the president, and the Sejm. In 2005 Lech Kaczynski was elected president in a free and fair election. Parliamentary elections held on October 21 were also free and fair. Civilian authorities generally maintained control of the security forces.

The government generally respected the human rights of its citizens; however, prison conditions remained poor with serious overcrowding; lengthy pretrial detention, police misconduct and excessive use of force by law enforcement officials remained problems. The judicial system was inefficient and continued to function poorly. Communist-era laws and regulations that remained in effect restricted freedom of speech and the press. Occasional anti-Semitic violence and harassment also were problems. There was discrimination against women in the labor market, sexual exploitation of children, trafficking in women and children, and societal discrimination and violence against ethnic minorities and homosexuals. Violations of workers' rights and antiunion discrimination also were problems.

RESPECT FOR HUMAN RIGHTS

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.

On May 31, a district court in Katowice found 15 Communist-era police officers guilty of firing on striking coal miners in 1981. Nine persons were killed and 25 others wounded in the incident at the Wujek coal mine in the southwestern part of the county. Commander Romuald Cieslak was sentenced to 11 years in prison; 14 officers under his command received sentences from two and one-half to three years.

There were no major developments during the year in a separate but related case against Communist-era general Czeslaw Kiszczak, who was accused of ordering militia to open fire on striking Wujek miners. Kiszczak pleaded not guilty to the charge. On January 10, former general Wojciech Jaruzelski testified in Kiszczak's favor, stating that he categorically prohibited the use of weapons to break up the strike. In February the court suspended proceedings due to Kiszczak's poor health.

There were no developments in the 2004 case in which police in Lodz mistakenly used live ammunition instead of rubber bullets to quell a riot that followed a soccer game. One person was killed and a second injured. Families of the two shooting victims have received an undisclosed amount of compensation. There also was no development in a related case of the two police officers who allegedly distributed the live ammunition.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and the government generally respected these provisions in practice.

According to the criminal code, torture and cruel or degrading treatment are not reported as crimes. During the year the Helsinki Foundation for Human Rights (HFHR) in the country received 27 complaints regarding short-term detention and mistreatment by police officers. In addition, the HFHR stated that, during the first three months of the year, it received 219 complaints from prisoners and 255 complaints from persons in temporary detention, mostly about poor prison conditions, including inadequate medical treatment.

On April 12, the European Court of Human Rights (ECHR) awarded $14,600 (10,000 euros) in damages to Dariusz Dzwonkowski for police misconduct. The case stems from charges Dzwonkowski filed 10 years earlier with the Wolmin Prosecutor's Office claiming he was detained and battered by police. The prosecutor had dismissed the complaint and charged Dzwonkowski with assaulting two police officers.

On May 18, the UN Committee Against Torture (CAT) criticized police for using excessive force on detainees. In particular, the CAT expressed concern about reports of excessive force by police during the 2004 riot in Lódz and the accidental use of "penetrating ammunition." The committee stated it also was concerned that the investigation into the shootings was still ongoing, and that information on disciplinary measures imposed on the responsible police officers was still lacking.

On June 20, the commissioner for human rights of the Council of Europe (COE) recommended in a report to the government that it establish an independent committee to investigate numerous complaints of police misconduct. Not all complaints are investigated, and most internal police investigations of misconduct end without criminal charges.

For example, according to the COE report, 3,646 complaints of police misconduct were filed with prosecutors between January 2003 and September 2006. Of that number, 3,008 complaints were dismissed. During that same period the COE report noted that there were no convictions of police officers for misconduct.

The law on police misconduct outlines disciplinary actions, which include reprimands, demotion in rank, and expulsion. In 2006, the last year for which statistics were available, 4,856 cases of police misconduct were processed by the National Police's Internal Affairs Office. Of that number, 913 police officers were disciplined, including 81 who were expelled from the police force.

Prison and Detention Center Conditions

Conditions in prisons and detention centers remained generally poor. Overcrowding and inadequate medical treatment were among the main problems.

As of November 30, 89,484 persons were held in prisons and detention facilities, according to government statistics. Total capacity was estimated at 76,007 persons and overcrowding at 117 percent.

European Union (EU) standards set minimum cell size at 64 square feet (six square meters). Under the country's criminal code, minimum cell size is set at 32.28 square feet (three square meters); however, in practice this standard is often not met. The minimum cell size is approximately 16.5 square feet (1.5 square meters).

On February 28, the Supreme Court ruled in favor a prisoner's complaint for government compensation for being held in a severely overcrowded detention cell and subjected to demeaning conditions. The ruling overturned a lower court decision, which asserted that "cell discomfort is an integral part of punishment." The lower court was ordered to rehear the case as a violation of personal rights and human dignity.

There were no developments in the December 2006 Constitutional Tribunal case filed by prisoner against a justice ministry decree that permits overcrowding in prisons and detention centers. In April 2006 Human Rights Ombudsman Janusz Kochanowski withdrew a motion filed with the tribunal by his predecessor that challenged the ministry's decree. Kochanowski argued that the Ministry of Justice had adequately addressed concerns about the decree.

During the year the ombudsman received approximately 4,000 complaints regarding poor prison conditions, such as poor medical care, abuse by prison authorities, overcrowding, and violations of mail and visiting rights.

Juveniles were generally separated from adults; however, under the law juveniles and adults could be housed together in some cases. Convicted minors (15- to 17-year-olds) were segregated from adult prisoners. Juveniles (17- to 21-year-olds) accused of serious crimes were usually sent to pretrial detention.

Pretrial detainees were often held in prisons, but in separate areas. Conditions for pretrial detainees were generally similar to those for prisoners, but on occasion were notably worse due to greater overcrowding and poorer facilities.

During the year the government permitted independent monitoring of prison conditions by local and international human rights observers, and prison officials generally allowed observers to talk in private with inmates. However, according to the Polish Red Cross, there were no regular visits with prisoners by the International Committee of the Red Cross.

d. Arbitrary Arrest or Detention

The law prohibits 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 interior. Corruption within the police force was widespread, and there was a public perception that police were unduly influenced by political pressures. Instances of corruption and serious criminal misconduct were investigated by the National Police's Internal Affairs Office.

During the year there were several high-profile scandals involving the security apparatus. National and foreign media, and prominent intellectuals questioned the legality of some investigation methods used by police, the Prosecutor's Office, the Central Bureau of Investigation, and the Central Anticorruption Bureau. For example, in August former interior minister Janusz Kaczmarek, after being charged with leaking information about an ongoing undercover operation into corruption, alleged that the special services engaged in numerous irregularities and dubious practices on behalf of the government. He claimed that he, several political opposition members, and journalists, were placed under surveillance and investigated by special services for political reasons.

In June the National Police informed the nongovernmental organization (NGO) Open Republic of Poland, which combats anti-Semitism and xenophobia, that it had disciplined a police officer for not taking appropriate action during a nationalist demonstration on March 21 in Wroclaw that used explicitly racist slogans. The response was in reply to a complaint from Open Republic about laxity by police in preventing societal abuse and discrimination. In November 2006 Open Republic appealed to the Ministry of Interior to provide clearer guidelines to police on how to respond to public demonstrations of anti-Semitism and homophobia. To date the NGO has not yet received a reply from the ministry. However, the NGO received replies from the Wroclaw and National Police that police had taken all necessary measures during the March 21 demonstration in Wroclaw.

At year's end charges were brought against 17 persons, including five senior employees at National Police Headquarters, in connection with a major corruption investigation. The case stems from media reports in August 2006 that accused senior officials of malfeasance in public tenders, including procurement of Romanian-made vehicles. The charges included abuse of power, failure to fulfill duties, and perjury. At the motion of the prosecution, the court issued warrants for the temporary arrest of seven officers and two civilians.

Arrest and Detention

By law authorities must obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law in practice. However, pretrial detention was a serious problem that contributed to overcrowding and deterioration of detention facilities.

The law allows a 48-hour detention period before authorities must file charges, and an additional 24 hours for the court to decide whether to order pretrial detention. Detainees must be informed of the charges promptly and have the right to counsel; the government provides free counsel to the indigent. Defendants and detainees have the right to consult an attorney at any time. There was a functioning bail system, and most detainees were released on bail.

Detainees may be held in pretrial detention for up to three months and may appeal the legality of their arrest. A court may extend pretrial detention every six to 12 months, but the total time in detention may not exceed two years. However, in practice detention frequently extended beyond the two years allowed by the law. In certain complex cases, the court may petition the Supreme Court for an extension beyond two years. Court inefficiency occasionally delayed pretrial detention hearings.

In May the CAT expressed concern about the length of pretrial detention, which could last up to two years, and that the country's law does not provide for a time limit for pretrial detention at the start of court proceedings.

On May 18, in remarks to the press, the country's human rights ombudsman estimated that there were approximately 15,000 pretrial detainees. He also stated that during the first six months of the year his office received nearly 700 complaints from detainees. According to the ombudsman, the overuse of detention by courts contributed to overcrowding and general deterioration of conditions in prisons and detention centers.

Since 2000 the European Court of Human Rights (ECHR) has heard 90 cases against the country. In 80 percent of these, the court determined that authorities violated the human rights and fundamental freedom of detained persons by lengthy pretrial detention and by delaying trial proceedings.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary remained inefficient and lacked resources and public confidence.

There is a four-tiered court structure composed of regional, provincial, appellate divisions, and a Supreme Court. These tiers are subdivided into five domains of jurisdiction: military, civil, criminal, labor, and family. Regional courts try original cases. Provincial courts have a dual responsibility, handling appeals from regional courts and acting as the court of original jurisdiction for the most serious offenses. Appellate courts only hear appeals tried at the provincial level. The Supreme Court handles appeals of lower court decisions and ensures that the law is applied consistently throughout the country. The Constitutional Tribunal handles constitutional matters.

Military courts, which are supervised by the minister of justice and the prosecutor general, have jurisdiction over crimes committed by members of the military while on duty. Defendants enjoy the same rights as civilians.

Supreme Court judges are nominated by the National Judicial Council and appointed for life terms by the president. They have immunity from prosecution but are subject to dismissal by a court decision. There are 90 Supreme Court judges in four chambers: civil, criminal, military, and labor-social security-public affairs. The first president of the Supreme Court is appointed by the president for a six-year term from among candidates proposed by the General Assembly of the Judges of the Supreme Court.

The Constitutional Tribunal reviews the constitutionality of new laws, adjudicates disputes between government entities, and monitors the constitutionality of actions by political parties. There are 15 judges on the Constitutional Tribunal, nominated and approved by the Sejm.

The court system remained cumbersome, poorly administered, inadequately staffed, and under funded. The courts had numerous inefficiencies. Most notably there were more criminal judges than prosecutors in many districts. Court decisions frequently were not implemented. A continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

During the year the government established a system of "24-hour courts," which expedited trials for minor offenders, such as football hooligans, petty thieves, and drunken drivers. Under the new system, the accused must be tried within 72 hours of arrest. Police and prosecutors have 48 hours to collect evidence and file a case; courts must issue a decision within 24 hours.

Trial Procedures

Cases are tried in regional and provincial courts by a panel composed of a judge and two lay assessors. Defendants enjoy a presumption of innocence, are allowed to consult an attorney, must be present during trial, may confront and question witnesses, have access to government-held evidence, and may present evidence and witnesses. Prosecutors can grant witnesses anonymity if they express fear of retribution from defendants. Trials are usually public; however, the courts reserve the right to close a trial in some circumstances, including divorce proceedings, cases involving state secrets, or cases with content that may offend public morality.

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.

The law provides for juries, usually composed of two or three individuals appointed by local officials.

Individuals continued to lodge complaints against the government with the ECHR regarding trial delays, the right to a fair trial, and the lack of due process. For example, in 2005 the ECHR received 400 complaints of trial delays and 140 complaints concerning failure to provide due process.

On May 12, the Constitutional Tribunal declared many provisions of the country's "lustration" law unconstitutional. Passed in 1997 and amended in July 2006, the law was designed to expose officials who collaborated with the Communist-era secret police. The 2006 provisions required all politicians, civil servants, and others in positions of public trust, including school principals and journalists, to obtain a clearance from the Institute of Public Remembrance. Under the law the institute was mandated to investigate and make public Communist crimes committed in the country and to make the results public.

Under the lustration law, an estimated 700,000 persons could come under scrutiny of the Institute of Public Remembrance. Many lustration hearings were closed to the public because they involved classified documents. Critics continued to voice concern that procedures for vetting persons for government positions under the law were unfair because secret police records were subject to loss or tampering. In addition government officials and human rights NGOs were concerned that the law could be misused for political reasons. The revised version of lustration law under the tribunal's ruling while limited in scope still allows researchers and journalists to access the institute's files.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The judiciary system is generally independent and impartial in civil cases, and there is access to courts to bring lawsuits seeking damages for or cessation of human rights violations. The constitution and law provide for the sovereignty of and public access to the judiciary. However, implementation of court orders, particularly payment of damages, is slow, cumbersome, and ineffective. Court decisions are poorly enforced; recent changes to civil procedure place speed and efficiency ahead of individual rights, and the right to legal counsel in practice is limited.

Property Restitution

The law provides for restitution of communal property seized during the Communist and Nazi eras. However, there is no general or comprehensive law on returning or compensating for privately-held real property confiscated during the same eras. The Sejm did not complete work on proposed legislation before parliamentary elections in October. However, despite the absence of a comprehensive law on private property claims, some illegally nationalized private property was restored. Between 2001 and August the total amount of compensation for illegally nationalized private property was approximately $125 million (313 million zloty). Compensation from the State Treasury Reprivatization Fund was distributed to about 1,700 individuals and 40 businesses. Compensation payments were also made to persons who lost private property as a result of persecution by the state.

Pursuant to a 2005 law concerning properties lost because of border changes after World War II, the government paid compensation on 20 percent of the value. By the end of November the state treasury paid compensation in 2,266 cases of approximately $31 million (78 million zloty). According to the government, the 2005 law could affect approximately 80,000 claimants for property now located in Lithuania, Belarus, and Ukraine. The law also requires the treasury to create registers of all claimants who have the right to compensation. The deadline for submitting applications for claims is December 31, 2008.

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

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

The law allows electronic surveillance for crime prevention and investigations. However, there was no independent judicial review of surveillance activities, nor was there any control over the use of information obtained by monitoring private communications. A number of government agencies had access to wiretap information.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, in practice holdover Communist-era laws and regulations restricted these freedoms. For example, libel and some forms of defamation are criminal offenses; a person who insults or humiliates a constitutional institution is subject to a fine or imprisonment of up to two years; insulting a public official is subject to a fine or imprisonment of up to one year; and offending the object or spirit of a place of worship in public is punishable by a fine or a two-year prison term. Libel suits against journalists are common, but those found guilty are usually only fined.

The law also prohibits hate speech, including dissemination of anti-Semitic literature. On May 18, David Irving, a British historian and outspoken Holocaust denier, was ejected from the Warsaw International Book Fair for bringing books that advanced anti-Semitic views.

Independent media were active and expressed a wide variety of views without restriction. Private television, satellite, and cable subscription services were available across most of the country. Private television broadcasters operated on frequencies selected by the Ministry of Communications and auctioned by KRRiTV, the National Radio and Television Broadcasting Council.

The five-member KRRiTV, which is responsible for protecting freedom of speech, has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, and apportion subscription revenues to public media. While council members are required to suspend their membership in political parties or public associations, critics asserted that the council continued to be politicized.

The Catholic nationalist radio station Radio Maryja is designated a "public broadcaster" and exempted from paying regular licensing fees of up to $548,000 (1.4 million zloty). The station, which features conservative Catholic call-in shows, has historically included some anti-Semitic statements. Radio Maryja is privately owned by the Polish province of the Congregation of the Most Holy Redeemer of the Catholic Church, which has provinces throughout the world.

The law prohibits the media from promoting activities that are illegal or 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." The government enforced this provision in practice, levying fines during the year on programs deemed offensive.

The July 2006 case filed by journalist Jerzy Urban with the ECHR remained pending at year's end. Urban argued that an $8,000 (20,000 zloty) fine levied by a Warsaw appeals court for alleged slander was a violation of his right to free speech. The case stemmed from an article Urban published in 2002 in the news weekly *Nie* that criticized the pope.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

According to media reports, 51 percent of households in the country owned a personal computer and 37 percent had access to the Internet.

Academic Freedom and Cultural Events

There were few government restrictions on academic freedom or cultural events.

At year's end a court rehearing the 2004 case of an artist convicted of offending religious beliefs remained pending. Dorota Nieznalska was sentenced to six months of "restricted freedom" and unpaid community service for placing a photograph of male genitals on a Christian cross. In 2004 the district court in Gdansk revoked the judgment of a lower court and instructed it to rehear the case. The court met during the year but has not yet reached a decision.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. Permits were required for public demonstrations and authorities generally issued them.

Freedom of Association

The law provides for freedom of association; however, there were restrictions on this right in practice. Private associations must register with the local district court to obtain government approval to organize, and organizations must sign a declaration that they will abide by the law. In practice the procedure was complicated and subject to the arbitrary discretion of a judge. However, there were no reports that private associations were routinely denied registration, or that any registration was denied for political reasons.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

Under the criminal code, offending religious sentiment through public speech is punishable by a fine or a prison term of up to three years. Approximately 96 percent of the population was Roman Catholic.

There are 15 religious groups whose relationship with the state is governed by laws that outline the internal structure of the groups, their activities, and procedures for property restitution. There are 148 other registered religious groups that do not have a statutorily defined relationship with the state. All registered religious groups, including the original 15, enjoy equal protection under the law.

Religious education classes were taught in public schools. Parents could request instruction in any registered religion, including Protestantism, Orthodox Christianity, Judaism, and Islam. Children may choose between instruction in religion and ethics and may be exempted from religious instruction. Catholic church representatives were included on a commission that determined whether books were acceptable for school use.

At year's end a challenge by an opposition political party of the constitutionality of a controversial regulation on religious education remained pending before the Constitutional Tribunal. In June the minister of education and the Polish Episcopate Conference agreed that religious education should be graded and included in students' grade point averages. On July 13, the ministry signed a revised regulation to that effect. In September the Democratic Left Alliance challenged the regulation on grounds that it would discriminate against nonreligious students.

The government continued to work with local and international religious groups to address property claims and other sensitive issues stemming from Nazi- and Communist–era confiscations and persecutions. There are five different commissions supervised by the interior minister that oversee religious property claims; one each for the Catholic Church, Jewish community, Lutheran Church, Orthodox Church, and for other denominations. Of approximately 10,000 communal property claims filed for restitution of religious property, more than 5,100 had been resolved and more than 1,200 properties had been returned by year's end.

As of September 30, 2,768 of the 3,063 claims filed by the Catholic Church had been concluded, with 1,463 claims settled between the church and the party in possession of the property, which usually is the national or local government.

There were 5,544 outstanding property claims submitted by the Jewish community. As of September 30, the commission either partially or entirely concluded 1,280 cases. Of that number 343 were settled amicably; 225 claims were either partially or entirely accepted; 417 ended in a decision to discontinue proceedings; 186 claims were rejected; and 352 properties were restored. The time period for filing claims under a 1997 law ended in 2002.

The Lutheran Church filed claims for 1,200 properties. As of September 30, 868 cases were concluded, of which 230 were resolved by a settlement between the parties; 153 ended in judgments; 485 claims ended in the decision to discontinue or to reject the application. The deadline for filing claims was 1996.

The Orthodox Church filed 486 claims with its commission, of which 215 were closed in full or in part.

The fifth property commission for all other denominations received 46 claims from the Protestant-Methodist Church and the Protestant-Lutheran Church. The commission concluded 24 cases, which included 12 decisions to discontinue, and two decisions to return the property. No agreement was reached in 10 cases.

Societal Abuses and Discrimination

During the year there were reports of anti-Semitic incidents, including occasional desecration of Jewish cemeteries. The Jewish community was estimated at 20,000 to 30,000, including 2,500 registered members listed in the country's statistical yearbook. The government publicly criticized anti-Semitic acts.

The country has made considerable progress in relations with its Jewish communities; however, its politics remained vulnerable to charges of extremism, intolerance, and anti-Semitism. During the year some Jewish leaders expressed concern over a reduction in government funding for Holocaust education and the inclusion in the governing coalition of two small political parties, some of whose members made anti-Semitic statements. However, following the October 21 parliamentary election, the two parties were no longer in the government or represented in the Sejm.

On February 1, the Anti-Defamation League condemned then deputy prime minister Andrzej Lepper for accepting an honorary professorship from a private Ukrainian educational institution, the Interregional Academy of the Personnel Management. Better known by its Ukrainian acronym, MAUP, the institution accounts for nearly 90 percent of all anti-Semitic material published in Ukraine.

Also in February Maciej Giertych, a member of the European Parliament and former head of the League of Polish Families, published a booklet with anti-Semitic theories and proclamations. The booklet, *Civilization at War in Europe*, asserts that Christianity should be the sole determinant of European culture, education, and morality, and attacks Jews for impeding this goal. Giertych distributed an English language version of the booklet to all 785 members of the European Parliament. On March 2, he posted the contents in Polish on his personal Web site.

At year's end a number of criminal and civil cases remained pending against Leszek Bubel, a self-proclaimed anti-Semite and leader of the Polish National Party. The cases stemmed from actions to incite hatred towards other nationalities, and to disseminate anti-Semitic literature. For example, on March 1, the district attorney of the Wrzesnia region, which is east of Poznan, charged Buble with violating hate speech laws. On October 26, a court in Bialystok began hearing a case against Bubel on charges of promoting anti-Semitic slogans and inciting hatred. Authorities in Lublin also brought similar charges against Bubel in October.

On November 27, Bubel pleaded not guilty before a Warsaw court on charges of inciting anti-Semitism in 2004 television ads prior to the country's accession to the EU. Bubel, who previously served six months in jail for inciting hostility and slandering Jews, could be sentenced up to two years in prison on similar charges stemming from the 2004 advertisements. In November 2006 the NGOOpenRepublic filed a civil suit against Bubel, claiming that his anti-Semitic comments and publications offended their dignity both as Poles and as human beings.

On May 18, prosecutors filed charges with a Wroclaw court against Polish administrators of Red Watch, a Web site maintained by the anti-Semitic and homophobic Polish Blood and Honor group. The charges, which are punishable by up to five years imprisonment, included promoting a totalitarian state and inciting racial and national hatred. In 2006 police arrested the administrators of Red Watch, who allegedly posted information about a journalist described as "an enemy of white people;" the journalist was later stabbed in Warsaw by skinheads.

In July the weekly news magazine *Wprost* released an audiotape of a prominent Polish priest, Tadeusz Rydzyk, making anti-Semitic comments and claiming that President Lech Kaczynski "is in the pockets of the Jewish lobby." Rydzyk, a member of the Congregation of the Most Holy Redeemer who controlled a conservative Catholic media conglomerate that includes the influential Radio Maryja, suggested that Jews are greedy and that President Kaczynski is beholden to Jewish groups. Rydzyk suggested that the tape had been tampered with. President Kaczynski denounced the remarks.

On August 22, the district prosecutor in Torun decided against initiating an investigation of the Rydzyk tapes, arguing that Rydzyk did not commit a criminal offence of insulting a public official or Jews. However, two complaints were filed against the prosecutor's decision. One, filed by a private person was dismissed. The second, filed by the Union of Jewish Communities had not been reviewed by year's end.

On June 26, a groundbreaking ceremony took place in Warsaw to begin construction of a Museum of the History of Polish Jews. The ceremony marked the culmination of lengthy negotiations between the Ministry of Culture, Warsaw city officials, and the Jewish Historical Institute to build the museum. The groundbreaking was preceded by an opening in September 2006 of a temporary installation about the museum.

For a more detailed discussion, see the *2007 International Religious Freedom Report.*

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

The law provides 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 refugees, returning refugees, asylum seekers, and other persons of concern."

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against "refoulement," the return of persons to a country where there is reason to believe they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to 1,785 persons during the first half of the year. The government granted refugee status to 108 persons during the first half of the year.

The majority of refugees and asylum seekers arrived from Russia's Chechnya region; other asylum seekers were from Belarus, Pakistan, Ukraine, Georgia, and India.

Persons granted asylum or refugee status had the right to work, to receive social assistance and education, and to have access to a state integration program for 12 months. The program provides participants with contacts in the local community, assistance with accommodations, and help with job searches. Refugees receive monetary assistance for living expenses and language training and are registered in the national health care system. Despite this program many new immigrants had difficulty finding work commensurate with their skills due to the overall high rate of unemployment. Persons with temporary status also had the right to work and to receive social assistance but could not participate in the government's integration program.

The government allowed UNHCR and NGOs to monitor refugee detention centers.

There were few reports of problems in refugee detention centers. The government operated 19 refugee reception centers in the Warsaw, Bialystok, and Lublin areas with a capacity of 4,000. Previous reports indicated that the main difficulties in the centers included providing education for children, legal assistance, and medical treatment. In September the government's Office for Foreigners reported that 97 percent of all refugee children were enrolled in public schools. However, other remaining concerns include limited access to higher education, language and cultural barriers, and discrimination against refugee children by their peers.

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

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

Elections and Political Participation

The 2005 presidential and parliamentary elections in October were both considered to be free and fair. Multiple candidates from various political parties freely declared their candidacy to stand for election and had access to the media. However, one area of concern noted by Organization for Security and Cooperation in Europe (OSCE) election observers was a lack of independent oversight of public broadcast media, which demonstrated imbalance in coverage of candidates.

There were 94 women in the 460-seat Sejm and eight women in the 100-seat Senat. There were five women in the 20-member Council of Ministers.

There was one minority member in the Sejm (representing the German minority in Silesia) and no minorities in the upper house. There were no minorities in the cabinet. The law exempts ethnic minority parties from the requirement that they win 5 percent of the vote nationwide to qualify for seats in individual districts.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement these laws effectively, and corruption was believed to be pervasive throughout government and society.

The World Bank's Worldwide Governance Indicators reflected that corruption was a problem. There was a widespread public perception of corruption throughout the government. Citizens continued to believe that political parties and members of the legislative branch, the health care system, and the judiciary were the most corrupt.

The Central Anticorruption Bureau (CBA) has broad powers to audit the financial holdings of public officials and to fight corruption in public procurement. CBA head Mariusz Kaminski estimated the total value of corruption in the country at more than $7.2 billion (18 billion zloty) annually. The CBA is authorized to conduct searches and secret videotaping, wiretap telephone conversations, and make arrests.

During the year the CBA conducted numerous high-profile and controversial investigations. For example, on February 12, a notable heart surgeon was arrested for the alleged murder of a patient and mistreatment of a relative and charged with 45 counts of corruption. He was released from detention on bail in May following a five-month investigation that cast doubt on the murder charge.

On July 6, the CBA detained two persons who claimed to have connections in the Ministry of Agriculture that could obtain favorable land-use decisions from then minister of agriculture Andrzej Lepper in exchange for a bribe of $1.2 million (three million zloty). However, a CBA sting operation to catch agriculture officials failed due to an internal leak about the investigation. Lepper was dismissed as minister and his Samoobrona political party withdrew from the coalition government. An investigation into the source of the leak continues.

On October 1, the mayor of Hel and parliament member Beata Sawicka were detained in connection with a real estate corruption scandal in the run up to the October 21 parliamentary elections. The CBA accused Sawicka of corruption for accepting a bribe to influence a public tender in Hel. Sawicka was released because of her parliamentary immunity, but subsequently expelled from the then-opposition Civic Platform Party. She was rearrested on November 5, but a court ruled against detention. In a statement released to the press on October 17, Sawicka intimated that she was seduced and manipulated into accepting the bribe by a CBA officer. On December 3, the mayor of Hel was released on bail.

On November 12, Polish billionaire and businessman Henryk Stoklosa, who allegedly was involved in a major on-going Ministry of Finance corruption investigation, was arrested in Germany and extradited to Poland. Three senior ministry officials were arrested in May 2006 in connection with the case. The Warsaw district prosecutor filed 22 charges against Stoklosa. According to the prosecutor, the officials canceled fiscal liabilities and issued tax exemptions over a period of 10 years in exchange for bribes from organized criminals and businessmen.

There were no major developments in the case of four former deputy mayors of Krakow arrested in December 2006 for involvement in a questionable land deal in 1999. The four were released on bail after one day in detention and prohibited from leaving the country.

In July businessman Marek Dochnal, who has been in detention since 2004, filed a complaint with the ECHR. Dochnal was arrested for allegedly bribing public officials for information concerning the privatization of a state-owned steel mill and the sale of shares of the country's largest oil company. The investigation was ongoing and his detention was extended several times; however, he has not been formally indicted and no trial date has been set.

The law provides for public access to government information; in practice the government provided access to citizens and noncitizens, including foreign media. Government refusals of requests for information must be based on exceptions provided in the law related to government secrets, personal privacy restrictions, and propriety business data. Refusals may be appealed.

Section 4 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 often were cooperative and responsive to their views.

As provided for in the constitution, the country's human rights ombudsman presents an annual activity report to the Sejm on the state of human rights and civic freedom in the country. In July the ombudsman reported that in 2006, 49,387 cases were filed with the office, a decrease of 2,156 from 2005.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these provisions; however, violence and societal discrimination against women and ethnic minorities persisted.

Women

Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. During the year 1,827 cases of rape were reported to police. However, NGOs estimated that the actual number of rapes was 10 times higher because women often were unwilling to report rape due to social stigma. Of the 1,827 reported rape cases, police forwarded 1,383 to prosecutors, and 121 to family court (for underage offenders) for indictment.

Domestic violence against women continued to be a serious problem. The increase in reports during the past 10 years was attributed to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. Under the law, a person convicted of domestic violence may be sentenced to a maximum of five years in prison; however, most convictions resulted in suspended sentences. The law provides for restraining orders on spouses to protect women from abuse.

According to police statistics, during the first half of the year, police carried out 41,782 interventions related to domestic violence. At year's end an estimated 4,500 persons were incarcerated for crimes of domestic violence. In 2006 the authorities prosecuted 20,809 cases of domestic violence, resulting in 8,938 convictions, some of which were pending appeal.

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

NGOs operated centers assisting victims of domestic violence by providing preventive treatment, counseling to perpetrators, and by training personnel to work with victims. The government also provided victims and families with legal and psychological assistance, and operated 11 shelters for pregnant women and mothers with small children, as well as 184 crisis centers. However, neither the shelters nor the crisis centers were devoted exclusively to battered women and victims of domestic violence.

In 2005 local governments established 33 centers for victims of domestic violence. The centers, which are funded by the central government, provide social, medical, psychological, and legal assistance to victims and "corrective-educational" programs for abusers. During the year the government allocated approximately $3.8 million (9.6 million zloty) for the centers' operating costs. In addition, the government spent $181,000 (452,800 zloty) during the year on public awareness programs to counteract domestic violence. The awareness programs were implemented by local NGOs and governments.

Prostitution is legal, but pimping is prohibited. Experts estimated that 18,000 to 20,000 women worked as prostitutes, many of them employed in massage parlors and escort services that functioned as brothels.

The law prohibits sexual harassment. Under the criminal code, persons convicted of sexual harassment may be sentenced to up to three years in prison. The labor code defines sexual harassment as discriminatory behavior in the workplace that violates an employee's dignity, including physical, verbal, and nonverbal acts.

The NGO Center for Women's Rights stated that sexual harassment was a serious and underreported problem. Many victims do not report abuse out of shame or fear of losing their job or withdraw harassment claims in the course of police investigations. However, social awareness of the problem continued to increase as more cases of sexual harassment were reported by the media. During the year police reported 82 cases of sexual harassment, as compared with 54 cases in 2006.

On August 26, Stanislaw Lyzwinski, a former Sejm member, was arrested after parliament waived his immunity from prosecution for providing jobs to women in exchange for sexual favors. He was charged with raping an employee, repeatedly forcing four women to have sex with him and other men in exchange for jobs, abetting the kidnapping of a businessman, and extortion. Lyzwinski was awaiting trial; if convicted, he could be sentenced to up to 10 years in prison.

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 implementing this provision. Women mainly held lower-level positions and frequently were paid less then men for equivalent work, were fired more readily, and were less likely to be promoted.

The Ministry of Labor and Social Policy is responsible for combating gender discrimination, incorporating gender equality into governmental policy, and monitoring implementation of government programs to promote gender equality. During the year the ministry continued to implement a number of projects to combat gender discrimination in the workplace, including an EU project that involved local NGOs to combat discrimination on the grounds of sex, race, religion, disability, age, and sexual orientation. During the year the ministry also took part in a Council of Europe campaign to implement a program to counter domestic violence. The eight-year program, "Safer Together," includes educating victims about legal procedures, tightening cooperation between organizations to assist victims, and developing a consistent system of procedures to exchange information among all entities involved in counteracting domestic violence.

Children

The government was committed to children's rights and welfare.

Education is universal and mandatory until age 18, and public schools are free. According to the UN Children's Fund, 98 percent of school-age children attended school. Most students continued their studies to the postsecondary level.

Incidents of child abuse were reported; however, convictions for abuse were rare. The law prohibits violence against children and provides for prison sentences ranging from three months to five years. During the year police reported 1,992 cases of sexually exploited children (pedophilia), 242 cases of presenting pornographic materials to minors, 44 cases of pimping with the involvement of minors, 73 cases of child abandonment, and one death caused by abandonment.

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 disabled children, and better medical care for children with chronic diseases. The ombudsman office also operated a 24-hour hot line for abused children. In 2006, the last year for which statistics were available, the ombudsman received almost 8,000 complaints. Of that number, 44 percent referred to contacts between parents and children, and 18 percent to protection against abuse and exploitation. Overall there was an increase of cases related to physical, sexual, and mental violence against children.

On March 26, police carried out a nationwide operation against distributors of child pornography. Charges were brought against 31 persons, 14 or whom were detained. Approximately 3,500 compact disks and 27 computers, which were used to sell and distribute child pornography via the Internet, were confiscated.

On August 21, police organized a nationwide operation against pedophiles that resulted in the arrest and detention of 48 persons. The operation was carried out in cooperation with the Interpol office in Germany.

Trafficking in Persons

The law prohibits trafficking in persons; however, there were numerous reports that persons were trafficked to, from, and within the country.

Poland remained a source, transit point, and destination for trafficked persons, primarily women and girls, but to a lesser extent, boys and men for forced labor. Internal trafficking for the purpose of sexual exploitation also occurred.

Persons were trafficked to and through the country, primarily from Ukraine, Bulgaria, Romania, Belarus, and Moldova. A relatively high number were Roma from Romania. There are were reports of small numbers of Turkish, Vietnamese, Cameroonians, Somalis, and Ugandans being trafficked into, within, and through Poland. Ukraine continued to serve as the largest source of persons trafficked through Poland, with Moldova also serving as a substantial source. Poles and foreigners were trafficked to Western Europe, in particular to Austria, Belgium, Denmark, Germany, Greece, Italy, the Netherlands, Spain, and Sweden, as well as to Japan and Israel. Some internal trafficking occurred; however, the extent of the problem was unclear because some victims may have chosen to engage in prostitution or other aspects of the sex trade. NGOs have noted a recent trend toward a higher percentage of victims being trafficked for labor in agriculture and other economic sectors.

Traffickers targeted young, unemployed, and poorly paid women, particularly those with weak family ties and support networks. Traffickers attracted victims with false promises of lucrative jobs, arranged marriages, fraud, and coercion. Some victims believed that they were accepting employment abroad as waitresses, maids, or nannies. Traffickers threatened victims with violence, and those who resisted or tried to flee were raped, beaten, or injured.

Authorities believed that large organized crime groups and individuals controlled the trafficking business and that victims were frequently trafficked by nationals of their own country, who collected a fee to allow passage into or through the country. According to arrest statistics, approximately 25 percent of traffickers were noncitizens. Authorities also believed that employment and talent agencies were sometimes used as fronts for trafficking operations.

Penalties for trafficking in persons range from three to 15 years' imprisonment. Pimping, recruiting, or luring persons into prostitution are also prohibited, with penalties of up to 10 years in prison. Individuals convicted of trafficking in children and luring women into prostitution abroad received the most severe sentences. Traffickers could also be prosecuted under laws criminalizing statutory rape and forced prostitution.

However, while the country's criminal code outlaws trafficking, it does not specifically define it. According to NGOs and some law enforcement officials the lack of a definition in the law had a negative impact on the prosecution of traffickers. In May the Human Rights Ombudsman called on the justice minister to incorporate a definition of human trafficking into the criminal code.

On February 2, the UN Committee on the Elimination of Discrimination Against Women urged the government to include in its penal code a definition of trafficking, to strengthen data collection on trafficking, and to monitor systematically the impact of the implementation of its trafficking policies and programs.

During the year police identified 22 cases of human trafficking involving a total of 859 victims. Police forwarded 21 cases to prosecutors for indictment. According to the Ministry of Justice, during the first half of the year, two traffickers were convicted in courts of first instance; the sentences are subject to appeal.

On February 19, the private Polish television station POLSAT reported that a Vietnamese woman, who was recognized as a trafficking victim and covered by an Interior Ministry assistance program, was deported. On April 19, a ministry spokesman said the deportation was a mistake and that the ministry would revise procedures to ensure that such incidents would not occur again.

Also in February authorities worked with Italian officials to coordinate the prosecution of a trafficking ring that lured more than 300 Polish workers to Italy for agricultural work under conditions that amounted to forced labor. In July the Krakow Prosecutor's Office indicted 12 persons responsible for transporting Polish citizens to Italy. In Italy authorities indicted 19 Polish citizens for organizing force labor camps on Italian farms. More than 100 Poles were freed in July 2006 and more than 25 traffickers were arrested in a joint operation with Italian police. Workers were forced to work up to 15 hours a day for $1.46 (one euro) per hour, slept on the ground, and were watched over by armed guards.

On May 15, authorities prepared to deport a Nigerian woman in critical medical condition who was being held at a border guard facility. However, following media reports that the woman may have been a trafficking victim, authorities rescinded deportation and granted her status as trafficking victim. According to the reports, the woman came to the country to play handball at sports club but ended up working in sex clubs where she was abused. An investigation into the case continued at year's end.

There were no developments in the May 2006 undercover investigation with Austrian police that broke up a major trafficking ring in Wroclaw. Organized criminal groups had set up a scheme involving three police officers and other coconspirators that trafficked up to 350 women to Austria across the Czech border for prostitution. Seven persons in Wroclaw were arrested.

The investigation and prosecution of six persons arrested in October 2006 for trafficking laborers to work in orange groves in Spain continued at year's end. Approximately 30 Poles were forced to work for no pay, lived in barracks, and given little to eat. Polish police learned about the work camp after several workers managed to escape and send electronic text messages for help. The six persons arrested were extradited to Spain to stand trial.

The ministries of interior and justice have primary responsibility for antitrafficking efforts; the Ministry of Foreign Affairs coordinated trafficking programs with foreign governments and international organizations. Following the establishment of a five-person central antitrafficking unit in July 2006, the National Police created 17 regional teams to combat human trafficking and child pornography.

There continued to be unconfirmed reports that low-ranking local police took bribes to ignore trafficking activity.

Trafficking victims often did not turn to officials for help out of fear that border guards and police would deport them. In many cases unidentified trafficking victims were quickly deported by border guards, preventing the government from providing assistance. NGOs attributed the deportations to the absence of national guidelines for police and border guards on how to approach and identify suspected victims. Victims were often prosecuted for carrying false travel documents, working illegally, and violating the terms of their visas. In some cases deported victims were met at the border by their traffickers, who provided them with new travel documents and returned them to the country.

The Ministry of Interior funded NGOs to conduct regional training in all provinces; several hundred law enforcement officials were trained in trafficking issues by La

Strada, the Nobody's Children Foundation, and by the ministry itself.

During the year the government allocated $66,670 (200,000 zloty) for victim assistance and educational materials. The government also worked extensively with antitrafficking NGOs, such as La Strada. While the government provided space and funds to NGOs to operate shelters for trafficking victims, the number of shelters remained inadequate, and NGOs frequently resorted to temporary arrangements to provide medical, psychological, and legal assistance to victims.

NGOs also conducted trafficking training courses at police and border guard academies; provided counseling for victims and their families; developed training and prevention materials; and conducted public awareness campaigns on the dangers of trafficking.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, or the provision of other state services, including health care. The government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities. According to the Organization for Economic Cooperation and Development (OECD), less than one in five disabled persons were employed, and those who were employed tended to have part-time or temporary jobs. According to the latest available census figure, there are approximately 5.5 million persons with disabilities in the country.

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

The Ministry of Labor and Social Policy is responsible for disability-related matters. During the year the state fund for rehabilitation of persons with disabilities launched a nationwide campaign encouraging companies to employ persons with disabilities.

National/Racial/Ethnic Minorities

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

During the year there were several neo-fascist demonstrations organized in towns around the country. For example, in March a nationalist group, National Rebirth of Poland, and a neopagan organization, Zadruga, marched through central Wroclaw shouting racist slogans. Police brought charges against two organizers of the demonstration. On April 14, the National-Radical Camp organized a racist and anti-Semitic demonstration in Krakow. On June 16, neo-Nazis from several countries came to a village near Bialystok for a private concert of the fascist group No Remorse. In August the Bialystok prosecutor initiated an investigation into the gathering.

In contrast with 2006, there were no reports of neofascist, anti-Semitic, and xenophobic demonstrations at soccer matches by fans or groups such as Blood and Honor, the National Rebirth of Poland, and the All Poland Youth.

On April 6, a court in Olsztyn convicted two men for assaulting Abdel Mandili, a long-time resident from Morocco, with a dangerous weapon in 2006. One was sentenced to two and one-half years in prison; the second received an 18-month prison sentence and was ordered to pay $800 (2,000 zloty) in compensation to Mandili. The attackers beat Mandili unconscious at a theater festival in Olsztyn after his group performed a play about the difficulties of immigrants.

Societal discrimination against Roma continued. In some cases local officials discriminated against Roma by not providing adequate social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education.

During the year the International Organization for Migration (IOM) continued a project as part of an EU-wide undertaking to combat unemployment and to improve the situation of "disfavored" groups. Under the program, which was partly funded by the government, the IOM established Roma-run enterprises in four cities that have special legal status and tax privileges. They included firms offering catering and sewing services in Krakow and renovation and construction services in Szczecinek, a wood-processing enterprise in Slawno, and a music group and an enterprise engaged in construction work in Olsztyn.

The Roma Association claimed that more than 50 percent of Romani children did not attend public school out of fear that teachers would encourage assimilation and uproot them from their Romani traditions. The association also noted that the gaps in education made it impossible for Roma to end their poverty; approximately 90 percent of Roma were unemployed.

Other Societal Abuses and Discrimination

During the year there were some reports of skinhead violence and societal discrimination against persons based on their sexual orientation.

On April 21, an estimated 2,000 persons took part in Krakow's annual gay March for Tolerance to call for an end to prejudice against homosexuals in the country. In contrast to previous years the event took place in the city center without incident and organizers said they were satisfied with police protection.

At the same time, a counter Tradition and Culture March organized by the nationalist All Poland Youth took place along a route outside of the city center. Authorities assigned 530 police officers to keep an estimated 300 counter-marchers on a separate route away from the March for Tolerance. Clashes between the All Poland Youth demonstrators and police erupted as some marchers threw eggs, stones and ran at police cordons. Police arrested some 13 protestors.

On May 16, in remarks to the press, then Minister of Education and Sejm member Roman Giertych stated that he planned to prohibit the spread of homosexuality in schools by proposing amendments to the law to prohibit activities that promoted "homosexuality, pornography, or other phenomena violating moral norms." Giertych's proposal was not implemented and his political party, the League of Polish Families, was no longer represented in parliament.

On May 18, the UN Committee Against Torture (CAT) raised concerns over violence and hatred against homosexuals in the country. In its concluding observations, the CAT recommended that the government incorporate an offence in the criminal code to punish hate crimes as acts of intolerance, inciting hatred and violence based on sexual orientation.

On May 19, for the second consecutive year, Warsaw authorities allowed the annual Equality Parade to take place in the city center. Approximately 4,000 local and international gay rights advocates participated in the march without serious incident. However, several prominent members of parliament publicly denounced the event. For example, Roman Giertych called the participants "foul pederasts." Another member of his party, Wojciech Wierzejski, labeled the group a "degenerate horde." The parade was banned in 2005 by Warsaw city officials, a decision that the ECHR stated was a violation of freedom of association and assembly.

There were reports of discrimination against persons with HIV/AIDS. On November 30, panelists at a Warsaw conference on HIV/AIDS in the country noted that discrimination, stigmatization, and ignorance remained major problems for persons with HIV. The conference, which featured medical, governmental, and humanitarian experts, noted that, over the previous ten years, the number of newly detected cases of HIV in the country has stabilized at 550-700 per year. Panelists noted incidents of discrimination against HIV positive persons, including several cases of doctors refusing to treat them. Panelists also remarked on weaknesses in educating school children about HIV/AIDS and called for better education to combat discrimination.

Section 6 Worker Rights

a. The Right of Association

The law provides that all workers, including civilian employees of the armed forces, police, and frontier guard, have the right to establish and join trade unions. While many workers exercised this right in practice, many small and medium-sized firms discriminated against those who attempted to organize labor. As a rule, newly established small and medium-sized firms were nonunion, while privatized formerly state-owned enterprises frequently continued union activity.

Under the law, 10 persons are required to form a local union and 30 persons for a national union. Unions must be registered with the courts. A court decision refusing registration may be appealed. The law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union.

The law prohibits antiunion discrimination; however, labor leaders reported that employers frequently discriminated against workers who attempted to organize or join unions, particularly in the private sector. In state-owned enterprises, such as the health, water, and forestry sectors, there were cases in which workers had their employment contracts terminated and replaced by individual contracts to prevent them from joining a union.

Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law also did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions. Managers also asked workers in the presence of a notary public to declare whether they were union members.

In February eight workers fired by the Selgros supermarket near Wroclaw for trying to form a union reached a settlement with the company. Six of the employees returned to work, and the other two received compensation. The workers, who were fired in December 2006, sued the company in the Labor Court.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference; however, in practice the government failed to protect this right at small and medium-sized companies. The law provides for and protects enterprise–level collective bargaining over wages and working conditions. As of January there were 166 collective bargaining agreements between employers and trade unions with 205 amendments addressing salary, work conditions, or the needs of individual companies. A tripartite commission composed of unions, employers, and government representatives was the main forum that determined national wage and benefit increases in areas such as the social services sector.

Key public sector employers (largely in heavy industry and the social services sector) could not negotiate with labor without the extensive involvement of the ministries to which they were subordinate. The law provides for parties to take group disputes to labor courts, then to the prosecutor general, and as a last resort, to the Administrative Court. During the first six months of the year, groups filed 2,539 to district inspection offices.

All workers have the right to strike except those in essential services, such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades. These workers had the right to protest and seek resolution of their grievances through mediation and the court system. A majority of strikes were technically illegal because one or both sides did not follow each step exactly. 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. Organizers are liable for damages and may face civil charges and fines.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that women and children were trafficked for commercial sexual exploitation and that men and boys were trafficked for labor in the agricultural sector.

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace, including forced or compulsory labor, and the government generally enforced the law in practice; however, there were reports that children were trafficked for commercial sexual exploitation and labor.

The law prohibits the employment of children under age 15. Persons between the ages of 15 and 18 may be employed only if they have completed primary school, the proposed employment constitutes vocational training, and the work is not harmful to their health.

The State Labor Inspectorate (PIP) reported that increasing numbers of minors worked, and that many employers underpaid them or paid them late. During the first six months of year, the inspectorate conducted 214 investigations involving 1,155 underage employees. Fines were levied in 82 cases, amounting to approximately $20,000 (54,900 zloty).

e. Acceptable Conditions of Work

The new national monthly minimum wage of $374 (936 zloty) that took effect in January did not provide a decent standard of living for a worker and family. 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 law provides for a standard work week of 40 hours, with an upper limit of 48 hours per week, including overtime. The law requires premium pay for overtime hours, but there were reports that this regulation 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 defines strict and extensive minimum conditions to protect worker health and safety. It empowers PIP to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. However, the PIP was unable to monitor workplace safety sufficiently. According to government statistics, 658 persons were injured, of whom 156 were killed and 319 seriously injured, during the first three months of the year. Employers routinely exceeded standards for exposure to chemicals, dust, and noise.

The law permits workers to remove themselves from dangerous working conditions without losing their jobs; however, they were unable to do so in practice without jeopardizing their employment.

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