



# Poland Report

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Sustainable Governance  
Indicators 2018

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## Executive Summary

The national parliamentary election held in Poland in October 2015 altered the country's political landscape and marked a shift in power away from the party previously in government, the centrist Civic Platform (PO), to the now ruling populist-nationalist Law and Justice party (PiS). The PiS won a majority of seats in the Sejm and was able to form the first one-party government in Poland's post-socialist history. The PiS government was initially led by Prime Minister Beata Szydło (PiS) and, behind the scenes, by long-standing PiS party leader Jarosław Kaczyński. Capitalizing on its clear parliamentary majority and strong internal party discipline, the government initiated an ongoing process of radical institutional and policy change. Dubbed "the good change" by PiS, it has prompted a lot of domestic and international critique.

The quality of democracy has greatly suffered from the changes initiated by the PiS government. Following the Hungarian example, the first activities of the new government targeted the Constitutional Tribunal, public media and civil service. During its second year in office, the government turned to reducing the political independence of the Supreme Court, the National Council of the Judiciary and ordinary courts. Political liberties have suffered from new restrictions on assembly rights, increasing harassment by the police and growing government control of NGO funding. At the end of 2017, the PiS government started to amend electoral law. The quality of democracy has also been affected by the government's strong discourse against Muslims, the LGBT community and "gender-ideology," as well as increasing corruption and cronyism in state-owned enterprises, and political polarization. The PiS government's obsession with retelling Polish history, and desire to impose its national-conservative values on society have impacted public discourses and laws regarding the arts, culture, history textbooks and museums, such as the Museum of the Second World War.

Favored by its absolute majority in parliament, the internal discipline of PiS and the contested authority of PiS leader Jarosław Kaczyński, the PiS government has been quite effective in implementing its policy objectives. It has succeeded in quickly realizing its major campaign pledges, such as increasing the minimum wage and the family allowance, providing tax relief for small businesses, lowering the retirement age, and reversing recent reforms to the education system (which will increase the age at which children start

school). The PiS government has bypassed the legal requirements for regulatory impact assessments and public consultation by strongly relying on legislative initiatives proposed by individual members of parliament rather than the government. Precisely because so many bills have sailed so quickly through parliament, the quality of legislation has often proven to be very poor, often requiring immediate amendments. As in the PiS government's first year in office, massive street protests led the government to make some concessions, for example, to the petrol tax, the redrawing of regional districts and the renewed attempt to tighten abortion law. In winter 2016 – 2017, the Sejm crisis and the occupation of its building by opposition members of parliament delayed the passing of the budget. In July 2017, President Duda's unexpected veto of two of the three laws on the reform of the judiciary revealed rifts within the PiS and limits to the government's power.

The PiS government's assault on democracy and the rule of law and the resulting political polarization have had little visible effect on the economy. In 2017, the Polish economy continued to grow, the unemployment rate fell to a historic low, and the fiscal and public deficits decreased. Along with the government's popular social measures, the strong showing of the Polish economy has kept the government's popularity high. In October 2017, Prime Minister Beata Szydło was supported by 48% of Poles, while 38% were unhappy with Szydło's administration, while support for the two opposition parties in parliament, PO and Nowoczesna, fell to 16% and 6% respectively.

The PiS government's political course has done more damage to Poland's international reputation. The government's attempts to control the judiciary prompted massive protests internationally. In the European Union, there have been calls to launch a formal proceeding against Poland for breaching European common values and rule of law, and to cut transfers to Poland and restrict Poland's voting rights in the European Council. In November 2017, the European Parliament eventually called on the European Commission to trigger an Article 7 procedure against Poland for violating the common values of the EU. The conflict between Poland, and EU institutions and most EU member states became also visible in March 2017 when Poland, as the only member state, refused to re-elect Donald Tusk, a former Polish prime minister, as president of the European Council. In response to Poland's growing isolation in the European Union, Poland has turned to the Visegrad countries, and now aims to realize its interests through closer collaboration with Hungary, Slovakia and the Czech Republic.

Citation:

Markowski, R. (2016): The Polish Parliamentary Election of 2015: A Free and Fair Election That Results in Unfair Consequences, in: *West European Politics* 39(6), 1311-1322.

Matthes, C.-Y. (2016): The state of democracy in Poland after 2007: Analyzing the linkage between economic development and political participation, in: *Problems of Post-Communism* 63(5-6): 288-299.

## Key Challenges

In the second half of 2017, debates and rumors about a government reshuffle grew. Ultimately, the changes turned out to be more sweeping than expected. The replacement of Beata Szydło as prime minister by Minister of Finance Mateusz Morawiecki in December 2017 was followed by the replacement of a number of controversial ministers in January 2018, including Defense Minister Antoni Macierewicz, Foreign Minister Witold Waszczykowski, Health Minister Konstanty Radziwiłł and Environment Minister Jan Szyszko.

These changes were widely interpreted as an attempt to placate the public and the European Union. A major figure of the PiS's radical right, Macierewicz was well-known for his conspiracy theories about the Smolensk plane crash and the general betrayal of Poland by the center-left. Meanwhile, Waszczykowski had irritated his EU colleagues with his slur against cyclists and vegetarians; Radziwiłł had alienated doctors and medical staff, and had failed to deal with the massive unrest and strikes in the health sector in 2017; Szyszko had attracted widespread criticism over his moves to allow logging in the Białowieża primeval forest. It remains to be seen though whether or not these changes in personnel will be followed by changes in "substance," not only "style." In the case of judicial reform, arguably the most controversial field, the PiS governments have so far refrained from making any substantial concessions, and the fact that Minister of Justice Zbigniew Ziobro kept his office does not point to any changes here.

The government reshuffle can also be seen as a further strengthening of President Duda, who clashed several times with Macierewicz, for example, over the appointment of generals, and has started to build a reputation as a moderating force. Originally perceived as a mere puppet of Kaczyński, Duda surprised many observers by vetoing key elements of the government's reform of the judiciary. While his own proposals included only cosmetic changes and were not in line with the constitution, the vetoes helped him become perceived as an actor in his own right and a man of the center. This raises the question of how far Duda's emancipation will go and to what extent he might succeed in reducing the political polarization in Poland.

Furthermore, the government reshuffle has made the cabinet less ideological and more technocratic. This might help the government to address the policy challenges ahead. The structural reforms on the agenda, such as the reform of the health system and the energy sector, are complicated issues and the economic and fiscal costs of the government's generous social measures will be gradually felt. From the point of view of the PiS, however, the more technocratic orientation of the new cabinet also creates the risk that its hardcore members might no longer feel represented by the government.

# Policy Performance

## I. Economic Policies

### Economy

Economic Policy  
Score: 7

The Polish economy is still on a strong footing. With real GDP up by about 4.6% in 2017, it has continued to grow well above the EU average. Boosted by a strong increase in social transfers, improving labor market conditions, low lending rates and low inflation, it is still largely driven by the growth of personal consumption. By contrast, uncertainty over the PiS government's economic policy and the general development of the country has led to a decline in private investment, denounced by PiS chairman Jarosław Kaczyński as a deliberate attempt to weaken the PiS government by the part of the business community allegedly connected to the former government. At the same time, the government has interpreted the strong increase in outward investment of Polish firms as a sign that the Polish economy is maturing. In order to compensate for the decline in private investment, the government, within the framework of its Strategy for Responsible Development, has expanded its own investment programs and increased the utilization of EU funds.

Citation:

European Commission (2018): Country Report Poland 2018. SWD (2018) 219 final. Brussels ([https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-poland-en\\_1.pdf](https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-poland-en_1.pdf)).

### Labor Markets

Labor Market  
Policy  
Score: 6

Poland's favorable overall economic record has been associated with a marked decline in unemployment. The unemployment rate has fallen further and reached 6.8% in September 2017, a historic low since 2008. The employment rate has slowly but constantly increased during the last years, but is still below the EU-28 average of 70.1%. Regional variations in (un-)employment, both between and within regions (voivodships), have been strong and persistent.

Temporary employment contracts represent another problem, as Poland has the highest rate in the European Union. The PiS government has done little to foster the integration of youth, less-skilled workers and women in the labor market, who still earn 17% less than men, and to increase the share of regular employment contracts. Its main reform project in the field of labor market policy has been the increase of the minimum wage. Following a strong rise in 2016, the latter was further increased from PLN 13 to PLN 13.50 per hour and PLN 2,000 to PLN 2,080 per month in June 2017. While these politically popular moves have improved the financial situation of low-wage earners, they have raised concerns about negative employment effects and a rise in the shadow economy. In some parts of the country and for some professions, labor shortage has become an increasingly pressing issue.

### Taxes

Tax Policy  
Score: 6

Poland's tax system is characterized by a personal-income tax with two rates: 18% up to an income of PLN 85,528 and 32% for those who are above this level. Moreover, the system features a standard corporate-income tax of 19%, a relatively high standard VAT rate (23%) and high social-insurance contributions. Compared to other East-Central European countries, the corporate tax burden and the extent of red tape as well as frequent temporal changes associated with the taxation of enterprises have been relatively high. In its first year in government, the PiS government reduced the corporate-income tax rate from 19% to 15% for small taxpayers and taxpayers in their first year of existence and increased the tax-free allowance for personal income tax, a measure that went into effect at the beginning of 2017. In its second year in office, the PiS government largely focused on fighting tax evasion and tax fraud, which have been comparatively high. In March 2017, the government created the National Revenue Administration by merging tax administration, fiscal control and customs service. Moreover, tax auditors were given more authority to prevent and fight fraud through electronic controls, and harsher penalties were introduced. These changes contributed to stronger revenues in 2017. The government's plan to raise the petrol taxes by about 6% was controversial. Justified as a means to mobilize resources for renovating local roads, this plan was widely perceived as breaking an election promise and was abandoned by the government because of mass protests.

#### Citation:

European Commission (2018): Country Report Poland 2018. SWD (2018) 219 final. Brussels ([https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-poland-en\\_1.pdf](https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-poland-en_1.pdf)).

Darasz, J. (2017): Fighting VAT fraud brings a substantial increase in Poland's budget revenues, in: Central European Financial Observer, September 18, 2017 (<https://financialobserver.eu/poland/fighting-vat-fraud-brings-a-substantial-increase-in-polands-budget-revenues/>).

Topińska, I. (2017): Revision of personal income tax in Poland: increase in the tax-free allowance for the lowest earners. European Social Policy Network, Flash Report 2017/13, Brussels.

## Budgets

Budgetary Policy  
Score: 6

Poland was able to exit the European Union's excessive deficit procedure one year ahead of schedule in 2015 and to cancel its €8.24 billion two-year precautionary Flexible Credit Line (FCL) with the International Monetary Fund in 2016. In winter 2016 – 2017, the Sejm crisis and the occupation of its building by opposition members of parliament delayed the passing of the 2017 budget. Benefiting from the strong economic growth and higher than expected revenues, however, Minister of Finance Mateusz Morawiecki succeeded in bringing the general government fiscal deficit down from 2.7% in 2016 to about 1.5% in 2017, much stronger than originally expected. Though there are still strong concerns about the medium-term development of the budget. One reason for concern is the strong increase in social spending under the PiS government. A second risk is related to EU transfers under the Common Agricultural Policy, and from the structural and cohesion funds. These transfers will shrink due to improved regional development and might decrease further if cuts in transfers are embraced as a means to sanction the violation of EU law. Finally, Poland's fiscal framework is weak. Its credibility has suffered from the modification of the official expenditure rule in December 2015 and the fact that the country, contrary to almost all other EU countries, still does not have an independent fiscal council.

Citation:

European Commission (2018): Country Report Poland 2018. SWD (2018) 219 final. Brussels ([https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-poland-en\\_1.pdf](https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-poland-en_1.pdf)).

Maurice, E. (2017): Poland ready to be EU budget net contributor, in: EU Observer, October 12, 2017 (<https://euobserver.com/economic/139415>).

## Research and Innovation

R&I Policy  
Score: 6

The Polish system for research and development (R&D) has been significantly restructured since 2010. Science and higher-education reforms in 2010 and 2011 spurred significant changes, including a move toward more competitive funding, the creation of two R&D agencies respectively for applied and basic research, and efforts to tackle fragmentation by focusing funding on the best-performing institutions. In July 2012, the first six national leading scientific centers (KNOW) were selected. In its first year in office, the PiS government initiated further measures to foster research at Polish universities and stimulate cooperation between universities and business. In its second year, the government's focus rested on expanding tax incentives for R&D and startups, and on simplifying patent procedures. The amount of tax-deductible R&D



spending has increased to 30-50% depending on the size of the company. In addition, the period in which companies may deduct these costs has been expanded from three to six years. In May 2017, Minister of Science and Higher Education J. Gowin announced the creation of a National Institute of Technology (NIT), which will bundle the work of 35 existing research institutes. Despite these changes, R&D spending in Poland, both public and private, is still relatively low. Partnerships between universities and business have grown, but are still highly dependent on EU funds and personal connections.

### Global Financial System

Stabilizing  
Global Financial  
Markets  
Score: 6

Poland has not been an agenda-setter with regard to the regulation of international financial markets and this has not changed with the current government. Poland's previous PO-PSL government supported the idea of a financial-transaction tax, but opposed that of an EU banking union, PiS has a similar or even more nationally oriented stance in this respect. Poland's financial sector has remained stable despite rapid expansion, as various stress tests have demonstrated. A new act on macro-prudential supervision over the financial system went into effect in November 2015 that widens the mandate of the Financial Stability Committee.

## II. Social Policies

### Education

Education Policy  
Score: 5

As one of its first measures, PiS had reversed the controversial obligatory lowering of the school age and made it possible for parents to send their children to school at the age of seven, as was the case until 2014. On 4 September 2017, with the start of the new school year, another new law on education entered into force, despite massive protests against it by the teachers' union ZNP (Związek Nauczycielstwa Polskiego), which collected more than 900,000 signatures for a referendum against the reform. The new law closed the lower secondary or middle schools introduced in 1999, and marked a return to the previous two-tier school system (eight-year primary school followed by upper secondary school for another four years or vocational education). The reform has been badly prepared, and the costs of this lack of preparation will be borne by local administrations at the lowest (gmina) level, and teachers, parents and students. Most experts fear that the reduction in the duration of universal general education will increase

inequality in educational outcomes. Criticism has also been leveled against government attempts to change the curricula with a view to rewriting Polish history, removing many liberal and cosmopolitan texts and values from the core of teaching programs. As for higher education, Minister of Science and Higher Education Gowin presented a first major reform bill in September 2017. Two of its central aims, the reduction of the number of university students and the promotion of the so-called STEM disciplines (science, technology, engineering and mathematics), have been controversial.

Citation:

Chłoń-Domińczak, A. (2017): Changes in the education system in Poland. European Social Policy Network, Flash Report 2017/38, Brussels.

### Social Inclusion

Social Inclusion  
Policy  
Score: 7

Social inequalities have visibly declined since the early 2000s. This has partly been due to Poland's strong economic performance and the EU structural funds which were predominantly aimed at helping less-developed regions and relatively poor households. In addition, previous governments have been successful in mitigating regional disparities through regional-development policies. Moreover, government policies have helped improve families' financial conditions, especially those suffering from poverty, and have increased average educational attainments. The most dramatic pockets of poverty have shrunk, and income inequality has fallen substantially since the early 2000s. In-depth sociological studies have shown that poverty in Poland is not inherited across generations. Still, the PiS was able to capitalize on looming popular dissatisfaction with social inclusion in the country. By raising family allowances and increasing the minimum wage, the PiS government has contributed to a further decline in social inequality. The next step that the government wants to take is a social housing program, "mieszkanie+." The postal service and railways will provide space and buildings that can be transformed to low-rent apartments.

Citation:

Matthes, C.-Y. (2016): The state of democracy in Poland after 2007: Analyzing the linkage between economic development and political participation, in: *Problems of Post-Communism* 63(5-6): 288-299, 290-292.

### Health

Health Policy  
Score: 5

Public health insurance covers some 98% of Poland's citizens and legal residents and is financed through social-insurance contributions. However, access to health care is highly uneven, as public health insurance covers only a

limited range of services, and out-of-pocket payments feature prominently in the system. Moreover, the poor quality of some services falls far under citizens' expectations, and for some services, patients must wait for an unreasonable duration. Aggravated by the migration of many doctors to other EU countries, Poland has a low doctor-patient ratio, with only 2.3 doctors per 1,000 inhabitants. The PiS government has called for a comprehensive health care reform and for expanding health care spending. In 2017, it has proceeded with its plans to abolish the National Health Insurance Fund, NFZ, and return to the tax financed system that existed before 1999. However, health policy in the period under review has been dominated by strong conflicts between the medical staff and Minister of Health Konstantyn Radziwiłł over salaries and working conditions, which manifested in frequent strikes and demonstrations, including a hunger strike of several doctors from summer to October 2017. The creation of a new hospital network aimed at improving services for patients through better coordination of services, easier access to specialists and reduced waiting times for medical treatment has included the big public hospitals but has left other hospitals out.

### Families

Family Policy  
Score: 5

Poland's employment rate among women falls below the OECD and EU averages, and its childcare infrastructure is weak. While the PO-PSL government put an emphasis on improving women's labor market integration and on fostering a more balanced division of labor among the sexes, the PiS government has followed a more traditional approach. The cornerstone of its family policy, which featured prominently in the 2015 election campaign and has been highly popular, has been the 'Family 500' program, in effect since 1 April 2016. It increased family allowance for parents with two or more children to PLN 500 (€16) for each child irrespective of the parents' income. Departing from the original campaign pledges, only poor families are eligible to the PLN 500 already for the first child. The estimated costs amount to PLN 22.9 billion (about €5.3 billion) or 1.3% of Poland's GDP. Critics fear that the Family 500 program will reduce female labor market participation without having positive effects on the birth rate. In its second year in office, the PiS government adopted a new program, "for life plus," which includes support for families in difficult situations and with disabled children, and is expected to cost another PLN 3.7 billion. It has also promised to engage in providing more childcare facilities. As a result of all these measures, Poland has caught up with France, Hungary and Austria, and is one of the most "family-oriented" countries in the European Union, as measured by mean support for "children and families" relative to income.

## Citation:

Druciarek, M. (2016): Die Familienpolitik der Regierung und ihre möglichen Folgen aus der Perspektive der Geschlechtergleichheit. Polen-Analysen Nr. 186, Bremen (<http://www.laenderanalysen.de/polen/pdf/PolenAnalysen186.pdf>).

CBOS (2017): Opinions about the “Family 500+” programme one year after introduction. Warsaw ([http://www.cbos.pl/EN/publications/reports/2017/036\\_17.pdf](http://www.cbos.pl/EN/publications/reports/2017/036_17.pdf)).

## Pensions

Pension Policy  
Score: 5

Poland introduced a three-pillar pension system following World Bank recommendations in 1999. Starting in 2011, pension contributions were partially redirected from the second – obligatory, but private and funded – to newly created subaccounts in the first, public pillar. In addition, the sustainability of the first pillar was improved in 2011 by the adoption of an increase in statutory retirement ages, which would have been phased in between 2013 and 2020 (for men) or 2040 (for women), until everyone retires at the age of 67 for both sexes. As pension age was a hot topic in the 2015 election campaign the government immediately used its parliamentary majority to suggest a decrease of the pension age again, an initiative the party had already tried to bring to parliament through a referendum before the elections. A bill allowing women to retire at the age of 60 and men at the age of 65 was eventually passed in parliament on 16 November 2016 and became effective in November 2017. It will cost PLN 15 billion annually. The lowering of the retirement age has reduced the sustainability of the Polish pension system and is likely to increase poverty among women. The announced reform of the second pension pillar was delayed following disputes between Minister of Finance Morawiecki and Minister of Labor Rafalski. According to the eventual compromise, the second pillar will be abolished, with 75% of the assets to be transferred to fully private pension schemes (in the so-called third pillar) and 25% going to the state’s Demographic Reserve Fund. At the end of the year, two other bills were under discussion, one introducing a 500+ scheme for pensioners that could provide people in need with an extra payment on an annual basis and another one abolishing the maximum contribution to ZUS, the public pension pillar, for people who earn above a certain threshold. This may bring more money into the pension fund in the short term but will demand additional future spending. About 350,000 Poles would be affected by these changes. PiS, as with previous governments, has ignored repeated EU recommendations to reform the costly pension systems for miners and farmers.

## Integration

Integration Policy  
Score: 3

Until 2015, issues related to Poland as a sending country featured far more prominently on the political agenda than issues related to Poland as a receiving country of migrants. About 2.5 million Poles live abroad, 4.7% more than in 2015. Migration to Poland has been relatively low, Ukrainians and Vietnamese make up the largest group of migrants to the country, with the number of Ukrainians working in Poland estimated at one million. But when Europe faced a larger influx of migrants than usual in the summer of 2015, Poland was one of the countries that objected to the integration of refugees and other migrants, especially from countries with a predominantly Muslim population. In many public speeches and on other occasions, PiS representatives denounced Muslim immigrants as potential terrorists, health risks and a threat to Polish culture and society. In 2017, the parliament amended the Act on Foreigners with a view to making the domestic institutional framework for dealing with immigrants harsher again. Asylum-seekers – 95% of whom come from Russia, Belarus and Ukraine – are held in guarded shelters until a decision on their applications is taken. The Catholic Church, which initially had not been very supportive to refugees, seems to have changed its position. On several occasions, priests have publicly asked for more solidarity with refugees.

## Safe Living

Safe Living  
Conditions  
Score: 7

Crime figures in Poland have fallen and have been relatively low for some time. Trust in the police has suffered from the resignation of the head of police, Zbigniew Maj, who faced a corruption investigation in April 2016. The PiS government, most notably Minister of Defense Antoni Macierewicz has been criticized for undermining the public's feeling of security by exaggerating the risk of terrorist attacks. The effectiveness of the new Anti-Terror Law, introduced in June 2016, has been contested. The Constitutional Court and the Venice Commission of the Council of Europe have criticized the extended options for telephone and internet surveillance without a court order. Another critique is the weak oversight of secret services. The parliamentary committee for control was reduced from nine to seven members and the chair does not alternate any longer between government and opposition.

## Global Inequalities

Global Social  
Policy  
Score: 5

Development cooperation has become a more relevant issue in Poland since EU accession, even though it is still not a priority of the Polish government. While Poland became the 28th member of the OECD Development Assistance

Committee (DAC) in October 2013, it remains one of its smallest donors. In October 2015, the Kopacz government had agreed to implement its new development program for 2016-2020 which aimed primarily to support projects with NGOs in Ukraine, Belarus, Georgia and Moldova, as well as projects in East Africa and South America for a total of PLN 1.5 billion annually. The new PiS government has paid less attention to development cooperation than its predecessor. At the EU-Africa summit that took place in Valetta, Malta on 12 November 2015, however, it promised to contribute €1 million to address reasons for migration from Africa.

Citation:

OECD (2017): Development Cooperation Peer Review Poland 2017. Paris.

### III. Environmental Policies

#### Environment

Environmental  
Policy  
Score: 4

Poland has enshrined the principle of sustainable development in Article 5 of its constitution, and has broadly adopted EU environmental standards. However, there is a broad political consensus in the country that economic growth should be given priority over protection of the environment. All governments have been especially keen on protecting the domestic coal industry, which is a large employer and reduces the country's dependence on Russian energy, an issue that has taken on even greater prominence since the Ukrainian crisis, and have resisted attempts by the European Union to tighten targets for the reduction of carbon emission. For the PiS government, coal, gas and nuclear energy have been the prime energy sources, whereas renewables account for a meager 1%. Three new coal power stations are being built in Opole, Jaworzno and Kozienice, and the government has announced plans to erect a new nuclear-power station by 2029. It is also very eager to explore and produce shale gas. Since the drilling began without an impact assessment, the European Commission took Poland to the European Court of Justice in Luxembourg for breaking EU environment law in May 2017. The heavy reliance on coal has strong negative effects. According to the World Health Organization, 33 of the 50 most-polluted towns in Europe in 2016 are in Poland. On 17 January 2017, all schools in Poland were closed due to high levels of smog.

The government's disregard for environmental issues is reflected in another ongoing conflict on the Białowieża primeval forest. This is a protected Natura

2000 site, but the government started to cut down a considerable number of trees, arguing that this was necessary because the bark beetle would otherwise destroy the whole forest. This provoked protests by environmentalists, who claimed the logging was not needed to fight the beetle but was only done for economic interests, and then mobilized the European Commission. Since the logging did not stop, the European Commission launched an infringement procedure against Poland in April 2016 and finally the issue went up to the European Court of Justice who also asked the Polish government to stop the cuts. In November 2016, the court said the ban on logging should be upheld until its final decision in early 2018, if it continues a fine of €100,000 per day will be demanded.

Citation:

N.N. (2018): Patriotic smog, in: Economist, January 20, 2018.

### Global Environmental Protection

Global  
Environmental  
Policy  
Score: 4

Poland has largely implemented EU environmental standards. However, it has been one of the primary internal critics of the European Union's climate policy and emissions-trading system. Across the political spectrum, large parts of the Polish political elite have feared that ambitious international or European climate-protection regimes will reduce Poland's energy independence and place too heavy a burden on the Polish economy. In line with this approach, it was also Prime Minister Szydło's goal at the World Climate Council in Paris, held in late November 2015, to get special conditions acknowledged because of the country's energy and economic dependence on its coal industry. This did not materialize and at the follow-up conference in Bonn in 2017 pressure to phase out coal further increased. Poland agreed in Bonn to host the World Climate Council 2018 (COP 24) in Katowice and to chair the so-called Talanoa-dialog forum, together with Fiji, that aims to find compromises to help countries fulfill their climate-protection goals. Some experts see it as a move by Poland to get more acceptance for its coal-friendly energy policy, coal accounts for 84% of the country's energy supply. In contrast, others see a change in Poland emerging following increased pressure from NGOs, think tanks and the renewable energy sector.

Citation:

Appunn, K. (2017): Poland's Katowice COP: Next coal country hosting UN climate talks. Clean Energy Wire, November 17, 2017 (<https://www.cleanenergywire.org/news/polands-katowice-cop-next-coal-country-hosting-un-climate-talks>).

# Quality of Democracy

## Electoral Processes

Candidacy  
Procedures  
Score: 10

Regulations governing the electoral process were consolidated within the election code in January 2011. Provisions regarding the registration of parties and candidates are liberal and ensure a fair registration procedure. Every Polish citizen has the right to stand for election. Senators need to be at least 30 years old, while presidential candidates must be at least 35. Candidates for the Sejm (the lower house of the Polish parliament) can be proposed by organizations such as parties or by voters themselves. A group of 1,000 individual citizens or more can form a so-called electoral committee by signing the proper documentation and submitting it to the National Electoral Commission. Parties representing ethnic minorities receive favorable treatment, as they are allowed to collect fewer signatures than required of “normal” parties in order to take part in elections. The election code also introduced a gender quota, mandating that men and women each must account for at least 35% of Sejm candidate lists. There were no signs of discrimination against specific candidates and parties in any of the last elections held – the presidential elections in May 2015 and the parliamentary elections in October 2015. Under the PiS government, electoral law was not an issue until the end of 2018 when the PiS pushed for changes in the rules for the local elections, and for the selection of the National Election Commission (Państwowa Komisja Wyborcza, PKW) and its executive body, the National Election Office (Krajowe Biuro Wyborcze, KBW).

### Citation:

Markowski, R. (2016): The Polish Parliamentary Election of 2015: A Free and Fair Election That Results in Unfair Consequences, in: *West European Politics* 39(6), 1311-1322.

OSCE/ODIHR (2016): Election Assessment Mission Final Report Poland: Parliamentary Elections 25 October 2015, Warsaw, 8-9 (<http://www.osce.org/odihr/elections/poland/217961?download=true>).

Marcinkiewicz, K., M. Stegmaier (2018): Democratic Elections in Poland Face a New Threat, in: *Washington Post*, January 11, 2017 ([https://www.washingtonpost.com/news/monkey-cage/wp/2018/01/11/free-elections-in-poland-face-new-threats-from-a-new-electoral-reform-bill/?utm\\_term=.6589640ce394](https://www.washingtonpost.com/news/monkey-cage/wp/2018/01/11/free-elections-in-poland-face-new-threats-from-a-new-electoral-reform-bill/?utm_term=.6589640ce394)).

N.N. (2018): Poland’s Ruling Plans Legal Changes Ahead of 2018 Local Elections, in: *Reuters*, November 10 (<https://www.reuters.com/article/us-poland-politics-election/polands-ruling-party-plans-legal-changes-ahead-of-2018-local-elections-idUSKBN1DA2EX?il=0>).



Media Access  
Score: 4

Legally, parties and candidates have equal access to public and private media. At least for nationwide candidate lists, the election code requires public TV and radio stations to reserve time for the free broadcasting of campaign materials and for televised candidate debates. In the 2015 presidential and parliamentary elections, the pluralistic nature and quality of the private media in Poland had allowed all parties and candidates the opportunity to reach the public with their messages, although public broadcasters were hesitant to give equal broadcast time to “second-order” candidates in the campaign for the first round of the 2015 presidential elections. The PiS government’s attempts to control the public and private media have increased the partisan bias in media reporting and have made media access for different parties uneven.

Voting and  
Registrations  
Rights  
Score: 10

The 2011 election code made voting rights more transparent by consolidating provisions for different election levels into a single law. Almost all adult citizens in Poland have the right to vote. While there is no blanket disenfranchisement of convicts or individuals who have been declared incapacitated, existing provisions are not fully in line with the rulings of the European Court of Human Rights. As Polish citizens are automatically registered to vote, there is no need for prior registration before elections. Since August 2014, all citizens, not only the disabled and those living abroad, have been able to vote by mail. In the November 2014 local elections, an information-technology failure led to delays in the reporting of the election results. While an expert commission did not find any evidence of voting-fraud, a series of technical problems might have contributed to moderate bias in the electoral outcome. The 2015 presidential and parliamentary elections went more smoothly.

Citation:

OSCE/ODIHR (2016): Election Assessment Mission Final Report Poland: Parliamentary Elections 25 October 2015, Warsaw, 6-8 (<http://www.osce.org/odihr/elections/poland/217961?download=true>).

Party Financing  
Score: 7

Party and campaign financing regulation is clear and effective. While party financing is regulated by the 2001 Political Parties Act, the rules governing campaign financing are part of the 2011 election code. Parties depend heavily on public funding, which is provided only to parties that win at least 3% of the vote. Party spending is monitored by the National Election Office (KBW), the executive body of the National Election Commission (PKW). Monitoring is strict, but focuses exclusively on spending financed by public funds. According to the election code, only registered electoral committees can finance campaigns, and there is a maximum spending limit for campaign purposes of approximately €7 million. In practice, separating party and campaign financing has sometimes turned out to be challenging. Other problems include the insufficient coverage of pre-campaign spending, the

short window of time in which objections can be raised by the National Election Commission, and the lack of detail transparency in commission reports of electoral committee revenues and finances. A 2014 amendment to the Political Parties Act limited parties' risk of losing money as a result of minor accounting mistakes. However, the fact that an election committee's financial and criminal liability rests with its financial officer makes it difficult to find individuals willing to be nominated to the position. A referendum in September 2015 put the reform of party financing on the public agenda. While the referendum ultimately failed because of a low participation rate of 7.8%, more than 80% of those participating voted to abolish the existing system. Debates about party and campaign financing rules have also been prompted by decisions of the National Election Commission to sanction two opposition parties for procedural errors and inaccurate bookkeeping. In the period under review, however, the rules for the financing of parties and campaigns were left unchanged.

Citation:

Markowski, R., M. Kotnarowski, M. Wenzel, M. Żerkowska-Balas (2015): *Democratic Audit of Poland 2014*. Frankfurt/M.: Peter Lang, 144-148.

OSCE/ODIHR (2016): *Election Assessment Mission Final Report Poland: Parliamentary Elections 25 October 2015*, Warsaw, 10-12 (<http://www.osce.org/odihr/elections/poland/217961?download=true>).

Sawicki, A. (2015). *Finansowanie partii politycznych i kampanii wyborczych w Polsce*. Warszawa: Instytut Spraw Publicznych.

Wittman, F., T. Zapart (2015): *Ein gescheitertes Referendum ohne Gewinner? Wahlrecht und Parteienfinanzierung im polnischen Parteiensystem auf dem direktdemokratischen Prüfstand*. *Polen-Analysen Nr. 168*, Bremen (<http://www.laender-analysen.de/polen/pdf/PolenAnalysen168.pdf>).

Popular Decision-  
Making  
Score: 6

Polish law provides for various forms of direct democracy. On the local and regional level, a referendum is called when it is supported by 10% of the electorate. On the national level, referendums can be called only by the lower house of parliament (the Sejm), or the president. The Sejm must decide on whether to call a referendum when a referendum petition is backed by 500,000 voters. Moreover, a total of 100,000 voters can collectively submit a draft bill ("popular initiative"), which the Sejm then has to pass or reject. Under the PiS government, various groups have used popular initiatives to submit draft bills to the Sejm. Since the 2015 elections, however, no national referendums have been held. Citing formal reasons, the PiS majority in the Sejm rejected a referendum on the government's controversial education reform for which the teachers' union had collected more than 900,000 signatures. The PiS thus demonstrated that it is not interested in what citizens want. At the same time, President Duda proposed a referendum on the constitution in 2018. Since he has not specified the questions to be asked and since this referendum would only be consultative, Duda's proposal has been widely seen as a populist attempt to strengthen his position.

### Access to Information

Media Freedom  
Score: 3

The Polish government no longer respects the independence of the media. The Council of National Media was established in June 2016, and appoints the management boards of public TV and radio, and the Polish Press Agency (PAP). The council is dominated by the PiS and takes instructions directly from Jarosław Kaczyński. The National Broadcasting Board (KRRiT), a constitutional body overseeing electronic media, has been staffed exclusively with PiS personnel. Cases of politically motivated appointments and dismissals at TVP, Poland's public TV broadcaster and the public Polskie Radio are numerous. According to estimates, at least 225 journalists either lost their jobs or stepped down from their positions for political reasons in 2016. In response to the takeover of the public media by the PiS government, up to a million previous viewers have declined to watch the main news program of TVP (now often dubbed TV-PiS). The other two major TV channels, TVN and POLSAT, as well as part of the print media, have sought to counter the biased message of the (once) public TV. This may become more difficult in the future as the government plans to reduce the share of foreign companies or institutions to 15-20%, a regulation that would especially affect TVN. In fall 2017, the National Broadcasting Board imposed a fine on TVN because of allegedly unfair and partisan coverage of the protest that took place in the Polish parliament in December 2016. The fine amounted to PLN 1.5 million, but was ultimately dropped when the U.S. government protested strongly. In December 2016, the governing PiS party attempted to limit reporters' access to lawmakers inside the parliament, but ultimately gave up the idea due to resistance from the opposition and public.

Citation:

Chapman, A. (2017): *Pluralism Under Attack: The Assault on Press Freedom in Poland*. Washington, D.C.: Freedom House ([https://freedomhouse.org/sites/default/files/FH\\_Poland\\_Report\\_Final\\_2017.pdf](https://freedomhouse.org/sites/default/files/FH_Poland_Report_Final_2017.pdf))

Media Pluralism  
Score: 5

Poland's media market is one of the largest in Europe, offering a diverse mix of public and private media organizations and reflecting a broad spectrum of political opinions. While the public TV station TVP and its four channels claim a large share of the market, and local authorities often publish newspapers and magazines, most Polish print media and radio in general are privately owned. Despite a tendency toward concentration, media ownership remains diversified. Foreign owners still control more than half of the Polish media market. Compared to other countries in East-Central Europe, Poland's media-ownership structures are relatively transparent, and there are no "media moguls" in the market who use their ownership positions to further a political agenda. Since the 2015 elections, however, media pluralism has substantially declined. For one thing, the public media have become highly partisan. For

another, the PiS government has sought to limit the market shares of independent media. It has forced state-owned enterprises to refrain from placing advertisements in newspapers considered leftist or liberal. *Gazeta Wyborcza*, the main daily, for instance reported a 21% loss in ad sales in 2016 due to this ban. Likewise, public gas stations and other enterprises have been urged not to sell particular newspapers. In addition, the new bill on measures to limit foreign media ownership will decrease media pluralism.

Access to  
Government  
Information  
Score: 6

Access to public information is guaranteed in Article 61.1 of the constitution of the Republic of Poland, and the Law on Access to Public Information provides for far-reaching access to official information. The law defines public information as information on public matters and covers trade unions and political parties as well as the government. In response to an EU directive, a September 2011 amendment facilitated the reuse of government information by citizens and called on public institutions to provide resources enabling citizens to access information. While the PiS government has left the legal framework more or less untouched, it has been more restrictive than its predecessor in granting public access to information and has sometimes openly misinformed the public.

### Civil Rights and Political Liberties

Civil Rights  
Score: 5

The PiS government's attempts to take control of the judiciary have raised some doubts about the government's respect for civil rights, as has the anti-terrorism legislation introduced after the terrorist attacks in Brussels in March 2016. It has extended options for telephone and internet surveillance without a court's order, has increased the period that suspects can be held without charges and has widened the Internal Security Agency's (ABW) access to data.

Citation:

Human Rights Watch (2017): *Eroding Checks and Balances: Rule of Law and Human Rights Under Attack in Poland*. New York ([https://www.hrw.org/sites/default/files/report\\_pdf/poland1017\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/poland1017_web.pdf)).

Political Liberties  
Score: 6

Under the PiS government, violations of political liberties have increased. First, the Law on Public Assembly has been made more restrictive by privileging state-organized and regular public events over one-off demonstrations organized by social actors. According to the new rules passed by the Sejm in December 2016, assemblies of citizens cannot be held at the same time and place as gatherings organized by the public authorities or churches. This means that counter-demonstrations to periodic assemblies, typically devoted to patriotic, religious and historic events, are forbidden, which prioritizes governmental or government-supported assemblies. A second reason for concern is that the treatment of demonstrators by the police has worsened, as evidenced by an increasing number of interrogations and

arrests, and growing police violence. Finally, political liberties are likely to suffer from changes in the financing of NGOs, signed by President Duda in October 2017. These changes will make access to public funding more difficult for independent NGOs.

Citation:

Amnesty International (2017): Poland: On the Streets to defend Human Rights. Harassment, Surveillance and Prosecution of Protesters. London (<https://www.amnesty.ie/wp-content/uploads/2017/10/Final-prosecution-of-protesters-10.10-1.pdf>).

Sadurski, W. (2018): How Democracy Dies (in Poland): A Case Study of Anti-Constitutional Populist Backsliding. Sydney Law School, Legal Studies Research Paper No. 18/01, Sydney ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3103491.##](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3103491.##)).

Non-discrimination  
Score: 5

A comprehensive Anti-Discrimination Act in line with EU directives has been in effect only since the beginning of 2011. The implementation of the Act on Equal Treatment largely rests with the Commissioner for Citizens' Rights (Rzecznik Praw Obywatelskich), which was originally established in 1987. This body's effectiveness has suffered as it has assumed more responsibilities, as the expansion has not included a corresponding increase in resources. Anti-discrimination policy has not featured prominently on the agenda of the PiS government. Quite to the contrary, the PiS government has launched a strong discourse against Muslims and has spoken out against the LGBT community and "gender-ideology." The new legislation on the financing of NGOs will make it more difficult for NGOs that campaign against discrimination to access public money. In a number of cases, NGOs that focus on women's rights, domestic violence or asylum-seeker and refugee issues have already been denied funds.

### Rule of Law

Legal Certainty  
Score: 4

Under the PiS government, legal certainty has strongly declined. Some of the government's many legal initiatives have been so half-baked that they had to be amended or suspended. On several occasions, high-ranking PiS politicians have shown their disrespect for the law. The protracted conflicts between the government and important parts of the judiciary have meant that justices and citizens have had to deal with opposing interpretations of the legal status quo.

Citation:

Szuleka, M., M. Wolny, M. Szwed (2016): The Constitutional Crisis in Poland 2015-2016. Warsaw: Helsinki Foundation for Human Rights.

Judicial Review  
Score: 4

Polish courts are relatively well-financed and adequately staffed, but have increasingly come under government influence. In 2017, the takeover of the Constitutional Tribunal in the PiS government's first year in office was followed by a series of reforms that aimed at limiting the independence of the

courts. These reforms sparked massive international protests and were only slightly watered down after President Duda vetoed two out of four laws. The laws have given the minister of justice far-reaching powers to appoint and dismiss court presidents and justices, and have given the Sejm the right to select the 15 members of the National Council of the Judiciary by a simple majority. In addition, the composition of both the National Council of the Judiciary and the Supreme Court will soon change. Incumbent members of the National Council will lose their positions in March 2018, while the terms of the Supreme Court justices have been reduced indirectly by lowering the retirement age from 70 to 65 years. These legal changes, some of which are clearly unconstitutional, were accompanied by the dismissal of dozens of justices and a media campaign against the judiciary financed by public companies.

Citation:

Koncewicz, T. T. (2017): Farewell to the Separation of Powers – On the Judicial Purge and the Capture in the Heart of Europe, *Verfassungsblog*, July 19, 2017 (<http://verfassungsblog.de/farewell-to-the-separation-of-powers-on-the-judicial-purge-and-the-capture-in-the-heart-of-europe>):

Machińska, H., R. Vetter (2017): Die PiS und der demokratische Rechtsstaat. *Polen-Analysen* Nr. 204, Bremen (<http://www.laender-analysen.de/polen/pdf/PolenAnalysen204.pdf>).

Appointment of  
Justices  
Score: 2

The 15 justices of the Constitutional Tribunal are elected individually by the Sejm for terms of nine years, on the basis of an absolute majority of votes with at least one-half of all members present. The president of the republic selects the president and the vice-president of the Constitutional Tribunal from among the 15 justices, on the basis of proposals made by the justices themselves. A law in June 2015 tightened the deadline for proposing candidates to replace the Constitutional Tribunal judges whose terms were to expire later in the year. This allowed the PO-PSL majority to replace five justices in the final session of the Sejm in advance of the parliamentary elections. Whereas the PO and PSL argued that because the new Sejm would not convene until 12 November 2015, the vote was necessary to preserve the Constitutional Tribunal's continuity, the PiS saw it as a politically motivated attempt to prevent the new majority from electing the judges since only three of five judges' terms of office had ended before the parliamentary elections. President Duda refused to swear in the judges, and one of the first decisions of the new parliament was to provide for the re-election of all five new judges, including the three whose term had expired before the elections. This decision led to a protracted conflict between the government and the Constitutional Tribunal. Until the end of the presidency of Andrzej Rzepliński in December 2016, the Constitutional Tribunal did not accept three of the five new judges, whereas the government failed to accept the Constitutional Tribunal's decision. When Rzepliński's term expired, the government by legally dubious means succeeded in installing Julia Przyłębska as his successor and in getting the court in line. Przyłębska's

appointment and the composition of the Constitutional Tribunal remain highly controversial.

Citation:

Sadurski, W. (2018): How Democracy Dies (in Poland): A Case Study of Anti-Constitutional Populist Backsliding. Sydney Law School, Legal Studies Research Paper No. 18/01, Sydney ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3103491](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3103491)).

Corruption  
Prevention  
Score: 5

Corruption has been a major political issue in the period under review. On the one hand, the PiS government has accused the previous government of corruption. However, the evidence for this claim provided in the government's May 2016 report on the wrongdoings of the PO-PSL governments has been meager. The report has not yet led to many investigations and arrests. On the other hand, the PiS government has itself been under fire for corruption and cronyism in state-owned enterprises. Thousands of PiS apparatchiks and followers have been placed in management positions, so that a widespread clientelistic network has emerged.

# Governance

## I. Executive Capacity

### Strategic Capacity

Strategic  
Planning  
Score: 5

Motivated by EU demands and partly by the objective of improving its absorption and use of EU funds, the Tusk government expanded the planning capacities of the Chancellery of the Prime Minister (Kancelaria Prezesa Rady Ministrów, KPRM) and replaced the previously uncoordinated assortment of sectoral plans with a more systematic approach in which a long-term strategy developed by the Chancellery (Poland 2030: The Third Wave of Modernity) established a framework for a limited number of medium-term strategies. The PiS government has relied on this framework and has developed its own long-term strategy. The new Strategy for Responsible Development was presented by Minister of Development Mateusz Morawiecki in February 2016 and has since been refined. Ultimately, however, policymaking under the PiS government has been guided by the grand visions and inspirations of PiS party leader Jarosław Kaczyński.

Citation:

OECD (2013): Public Governance Review Poland: Implementing Strategic-State Capacity. Paris, Chap. 2.

Scholarly Advice  
Score: 4

While the PiS government consults with experts, policymaking has become ideologically driven rather than evidence-based. In the case of education reform, for example, expert assessments were almost completely disregarded. The government's ideological approach has led many experts who once showed some sympathy for PiS to break with the party.

### Interministerial Coordination

GO Expertise  
Score: 6

The policy expertise of the Chancellery of the Prime Minister was strengthened under the Tusk government. Under the PiS government, the



quality of the staff has declined as the main principle is political obedience, not expertise or professionalism.

GO Gatekeeping  
Score: 6

All draft bills are reviewed by the Chancellery's Council of Ministers Committee Department before their presentation in the Council of Ministers, and the prime minister is formally allowed to return items on policy grounds. However, a number of factors have limited the actual gatekeeping role of Prime Minister Szydło. First, the number of ministries has increased from 17 to 21 under the PiS government. Second, there is a core group of ministers who enjoy a special standing in the government, including Defense Minister Macierewicz, Minister of Justice Ziobro, Minister of Science and Higher Education Gowin and Minister of Development Morawiecki. Finally, PiS party chairman Jarosław Kaczyński serves as the ultimate gatekeeper in the PiS government.

Line Ministries  
Score: 6

Under the PiS government, the Chancellery has kept its enhanced formal involvement in the preparation of policy proposals by the line ministries. As its gatekeeping role has declined, however, so has its actual influence on the development of policy proposals.

Cabinet  
Committees  
Score: 4

The number and role of cabinet committees under the PiS government have been limited. However, it set up an Innovativeness Council, consisting of five ministers, in February 2016 and an Economic Committee at the end of September 2016. The latter is in charge of coordinating the finalization and implementation of the Strategy of Responsible Development.

Ministerial  
Bureaucracy  
Score: 5

Senior ministry officials play a substantial role in interministerial coordination. All meetings of the Council of Ministers, the Polish cabinet, are prepared by the Council of Ministers' Permanent Committee, which is made up of deputy ministers from the ministries. The Committee for European Affairs, which is in charge of EU coordination, also relies strongly on coordination by top civil servants. In contrast, bureaucratic coordination at lower levels of the hierarchy is still relatively limited, even though the joint administration of EU funds has helped to intensify interministerial exchange. Changes in personnel, especially in the security agencies, have secured the dominance of the government over administration.

Informal  
Coordination  
Score: 8

Informal mechanisms of coordination have played an important role under the PiS government. PiS chairman Jarosław Kaczyński has served as the gray eminence behind the scene. He has taken many important decisions himself, and the standing of government ministers has been strongly dependent upon their relationship with him.

### Evidence-based Instruments

RIA Application  
Score: 3

From 2001 to 2015, Poland established a relatively comprehensive system of regulatory impact assessment (RIA). The PiS government has left this system

largely unchanged in formal terms but has not taken RIA seriously. It has bypassed RIA by strongly relying on “fast-track” legislation or on legislative initiatives by members of parliament, and the quality of RIA has been low.

Citation:

OECD (2013): Public Governance Report Poland: Implementing Strategic-State Capacity. Paris, Chap. 3.

Quality of RIA  
Process  
Score: 2

The quality of the RIA process has strongly declined under the PiS government. The involvement of stakeholders and the publication and communication of results have become rather selective, and there has been no independent body in charge of checking the quality of individual RIAs.

Sustainability  
Check  
Score: 2

Article 5 of Poland’s constitution enshrines the principle of sustainable development, according to which the state ensures the protection of the environment, guided by the principle of sustainable development. Sustainability checks are not an integral part of regulatory impact assessments, and the PiS government has been less concerned with issues of sustainability than its predecessors. Rather, the PiS government entered into several quarrels with the European Commission and the European Court of Justice due to infringement procedures because the government did not practice RIA in the case of natural gas drilling or ignored sustainability and environmental protection principles in the case of logging in the Białowieża primeval forest.

### Societal Consultation

Negotiating  
Public Support  
Score: 4

The Polish government is obliged by law to consult all parties affected by proposed legislation. In addition, there is a Council of Social Dialog whose members are appointed by the president. In October 2015, this council replaced the traditional Tripartite Commission which had ceased operations in June 2013 because of conflicts between trade unions and the government. Consultations both inside and outside the Council have been largely formal. Generally speaking, the government’s clear majority in parliament has reduced the need for winning over social actors, and the government perceives many of them as enemies. Public consultation has been bypassed by introducing legislative initiatives through parliamentarians, since such initiatives do not require the regular consultation mechanisms, and therefore exclude experts and public. Moreover, the quick passage of major laws has reduced the time available for meaningful consultation. However, unlike the employers’ associations and other trade unions, the trade union NSZZ Solidarność enjoys a special relationship with the government. Several of its representatives were given positions in the Ministry of Family, Labor and Social Affairs, and it has supported reforms such as pension reform.

## Policy Communication

Coherent  
Communication  
Score: 5

Ministerial communication is coordinated by the Government Information Center, a department of the Chancellery of the Prime Minister. It regularly reports on government activities and connects to other ministries' press departments. However, the actual coordination of government communication has been low. Particularly, the Ministry of Economic Development and Ministry of Family, Labor and Social Affairs often put out contradictory statements. The information given by ministries has tended to be selective and highly propagandistic.

## Implementation

Government  
Efficiency  
Score: 7

Favored by its absolute majority in parliament and the internal discipline of PiS, the PiS government has been quite effective in implementing its policy objectives. It has succeeded in realizing its major campaign pledges, such as the increase in the minimum wage and the family allowance, tax relief for small businesses, the lowering of the retirement age or the reversion to a higher age for entering school, and it has realized them rather quickly. Precisely because so many bills have sailed so quickly through parliament, the quality of legislation has often proven to be very poor, requiring immediate amendments. Unlike in the PiS government's first year in office, street protests are no longer the only effective obstacle to implementing the government's policy objectives. In winter 2016 – 2017, the Sejm crisis and the occupation of the Sejm building by opposition members of parliament delayed the passing of the budget. In July 2017, President Duda's unexpected veto of two of the three laws on the reform of the judiciary revealed rifts within the PiS and limits to the government's power.

Ministerial  
Compliance  
Score: 8

Since the cabinet consists of a group of people who were more or less hand-picked by PiS party leader Jarosław Kaczyński, the need for using specific organizational devices for exerting pressure on ministers to stay in line with the government's program has been limited. Despite some internal debates and power struggles, ministers have largely been committed to implementing the government's program, one bullet point after another.

Monitoring  
Ministries  
Score: 8

Ministries are obliged to keep the Chancellery of the Prime Minister informed about legislative progress on a regular basis. If ministries seek to maintain their autonomy, the prime minister, through the Chancellery or Jarosław Kaczyński, as party leader, can intervene.

Monitoring  
Agencies,  
Bureaucracies  
Score: 8

There is a large number of executive agencies in Poland. Agencies report to ministries, and ministries have special units responsible for monitoring the activities of agencies and auditing their finances. Under the PiS government, the leadership of state agencies has become highly politicized. As a

consequence of the new civil service act that came into effect in January 2016, all employment contracts of previous directors turned invalid, and the positions were no longer filled by open competition, but by personal appointment. A previous provision was canceled requiring directors of state institutions to have not been members of a political party for five years before assuming a leading position in state administration. Thus, compliance between ministries and administration has become easier, but the administration has also become dependent on the political will of the majority. The increase in oversight has led to a decline in democratic checks and balances, professionalism (since there was a massive personnel exchange in the state bureaucracy), and non-politicized relations between ministries and agencies.

Task Funding  
Score: 5

Since 1999, Poland has supported three tiers of subnational governments: municipalities, districts and regions. Since the 2015 elections, the relationship between the central government and the majority of local governments still controlled by parties of the previous government has been strained. As heavily criticized by local offices, the reform of the school system has been associated with a strong shift of costs to the local level. PiS distrust in the politicians running the 50 biggest Polish cities has led to selective support for other localities, thus sending a strong clientelistic signal to the local authorities that funding and support will be distributed not on merit, but on political grounds. In 2017, subnational government fiscal problems increased due to a decrease in available EU funds at the local level.

Constitutional  
Discretion  
Score: 4

The process of government decentralization that started in 1998 has been broadly accepted. However, since the PiS government has perceived local governments as a bastion of the opposition, it has tried to restrict their role. Legislation passed in 2017 has reduced the role of subnational governments in the management of inland waterways and regional operational programs involving EU funds. In July 2017, President Duda vetoed an amendment to the auditing of subnational finances, which would have increased the national government's grip on decisions at the subnational level.

National  
Standards  
Score: 7

Previous governments have set national standards with the aim of guaranteeing a minimum quality of public services. Institutionally, the regions have a centrally appointed head of regional administration who is responsible for ensuring that national policies are implemented, and that state institutions operating in the region perform their functions properly. This has recently been contested and discussions increased over the competencies of the Voivode (PiS member) ruling the Masovian voivodship and the mayor of Warsaw as the largest city in this region, governed by PO. This debate about the competencies of the regions and larger cities in Poland is again an expression of a political power play. Generally, the PiS receives less votes in large cities than the PO. The politicization of the civil service under the PiS government has put the success of these standards at risk by reducing the professionalism of the administration. Moreover, because of the conflicts

between the government and the Constitutional Tribunal, the standards themselves are contested.

### Adaptability

Domestic  
Adaptability  
Score: 5

In the past, government structures in Poland have been gradually adapted to international and supranational developments, most notably NATO and EU membership. Poland's good reputation and its growing influence in the European Union showed that adaptation had been successful, as the relatively high and increasing rate of absorption of EU funds underlines. The PiS government has been more inward-looking and has paid much less attention to the compatibility of domestic government structures with international and EU requirements in particular. In 2017, Poland closed the Office of the Government Plenipotentiary for Introducing the Euro and the Office of Polish Integration with the Eurozone in the National Bank of Poland, even though Poland is formally required to introduce the euro once the convergence criteria are fulfilled.

International  
Coordination  
Score: 5

With the new government, Poland's international orientation has changed. Although Prime Minister Szydło and her cabinet members do not reject cooperation within the European Union per se, they detest all steps toward a deeper integration and are more critical of the German role in the European Union. In 2017, Poland not only closed the Office of the Government Plenipotentiary for Introducing the Euro and the Office of Polish Integration with the Eurozone in the National Bank of Poland. The government also wants to leave the Eurokorps, a common EU defense unit, since the government sees NATO as the main actor in the field of defense and contests European actions in this area. Because of the PiS government's intransigence, Poland's reputation and standing within the European Union have suffered. This became clearly visible when, in May 2017, Poland was the only country to vote against Donald Tusk's re-election as president of the European Council. At the same time, however, Poland wants to play an active role within NATO, and has tried to establish a closer relationship with the United States and within the Visegrad group (Hungary, Czech Republic, Slovakia). While the four Visegrad countries agree on the refugee issue and climate policy, and Poland and Hungary are the main opponents of Macron's recent initiative to amend the worker's directive, they hold different attitudes toward Russia. Unlike the other Visegrad countries, Poland has strongly supported the sanctions imposed on Russia by the European Union.

Citation:

Fuksiewicz, A., A. Łada (2017): When two Plus Two Doesn't Equal four. The Visegrad Group on the Future of Europe, Instytut Spraw Publicznych, Analyses & Opinions No. 23 /150, Warsaw (<http://www.isp.org.pl/uploads/analyses/1177980591.pdf>).

Łada, A. (2017): Poland in Europe – Regional Leader or outlier? Poland's European policy in view of the

changes on the continent. Warsaw: Instytut Spraw Publicznych (<http://www.isp.org.pl/uploads/pdf/712883116.pdf>).

### Organizational Reform

Self-monitoring  
Score: 4

The PiS government has adopted a number of institutional reforms, but has not monitored the institutional arrangements of government in a systematic and regular way. The goal is not to improve or professionalize institutions but to increase political power and employ personnel that follow the party line.

Institutional  
Reform  
Score: 4

Upon entering office, the PiS government has changed the institutional arrangements of governing. It has changed the portfolios of ministries several times, set up new cabinet committees, overhauled the Civil Service Act and strengthened the position of central government vis-à-vis subnational governments. However, the strategic capacity of the PiS government has primarily rested on its majority in parliament, the strong party discipline and the uncontested role of party leader Jarosław Kaczyński. No reforms were introduced to improve strategic capacity through an open involvement of, for example, scientific expertise. The main priority of the government is to follow its ideological positions and to secure executive power.

## II. Executive Accountability

### Citizens' Participatory Competence

Policy  
Knowledge  
Score: 5

Despite recent attempts to improve access to government information, the average level of knowledge regarding government policy within the Polish public remains limited. Reasons include a tendency toward infotainment in many media outlets, the populist propaganda produced by the government party, and a general detachment from politics among the citizenry. Moreover, political parties, trade unions and most other professional associations do not properly perform their socialization function, and fail to improve their members' policy knowledge. However, a segment of society has become more interested in politics by strong dissatisfaction with the PiS government's policies.

Citation:

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### Legislative Actors' Resources

Parliamentary  
Resources  
Score: 7

The members of the Sejm, the Polish parliament, have permanent support staff and can draw on the Sejm's library and the expertise of the Sejm's Bureau of Research (BAS). In addition to researching legal issues, the BAS publishes a newsletter, discussion papers and a peer-reviewed quarterly Law Review (*Zeszyty Prawnicze BAS*). However, the quality of expertise provided by the BAS has declined since the parliamentary elections in 2015. Moreover, the PiS majority has made the monitoring of the government difficult by not publicizing its plans for new legislation, by circumventing the normal procedures by letting individual members of parliament submit draft laws and by passing legislation very quickly.

Obtaining  
Documents  
Score: 7

On paper, parliamentary committees have full access to government documents. Members of parliament may demand information from government officials, either in written or verbal form, at the sitting of the Sejm plenary or at a committee meeting. Since the parliamentary elections in 2015, however, it has become more difficult for opposition members of the Sejm to obtain government documents and to receive them in good time. In some cases, the government has also failed to deliver the correct documents.

Summoning  
Ministers  
Score: 8

Ministers and heads of the supreme organs of state administration (or their representatives) are obliged to take part in committee meetings whenever issues are discussed that fall within their domain. Groups comprising at least 15 members of parliament and parliamentary party groups have the right to ask for up-to-date information from members of the government. The Sejm then issues opinions, desiderata and suggestions on these reports. The comments are not legally binding, but in a worst case scenario may lead to a vote of no confidence against a minister, and even to his or her dismissal. In the period under review, the parliamentary opposition undertook three attempts to vote the prime minister or individual ministers out of office. All three attempts failed because of the government's absolute majority. The PiS government has taken the summoning of ministers less seriously than its predecessor.

Summoning  
Experts  
Score: 7

Parliamentary committees have the right to invite experts to give statements on hearings on particular issues or to take part in normal committee proceedings. However, if bills are introduced by individual members of parliament (as has often been the case under the PiS government), the summoning of experts must be supported by a majority of members of parliament. The PiS majority in the Sejm has used this procedural rule to limit the invitation of experts close to the parliamentary opposition. Given the maneuvering of the PiS in the Sejm, some experts have refrained from participating in what they consider political manipulation.

Task Area  
Congruence  
Score: 8

The number of Sejm committees exceeds the number of ministries. However, some committees, such as the Deputies' Ethics Committee, deal exclusively with internal parliamentary issues. Most ministries, including the more important ones, have only a single oversight committee, a so-called branch committee. The distribution of subject areas among committees does not infringe upon parliament's ability to monitor ministries.

Audit Office  
Score: 7

Poland's Supreme Audit Office (Naczelna Izba Kontroli, NIK) is an efficient and effective institution whose independence is respected. It is accountable exclusively to the Sejm. The NIK chairperson is elected by the Sejm for six years, ensuring that his or her term does not coincide with the term of the Sejm. The Senate has to approve the Sejm's decision. The Supreme Audit Office has wide-ranging competencies and is entitled to audit all state institutions, government bodies and local-government administrative units, as well as corporate bodies and non-governmental organizations that pursue public contracts or receive government grants or guarantees. The NIK can initiate monitoring proceedings itself or do so at the request of the Sejm, its bodies or its representatives (e.g., the speaker of the Sejm, the national president or the prime minister). The office is also responsible for auditing the state budget. For the first time ever, in September 2016, the Sejm did not approve the annual report of the Supreme Audit Office (NIK) – 226 members of parliament voted to reject the report, while 193 voted in favor of it and 10 abstained. This was a clear signal that the PiS government wants to get rid of NIK governor Krzysztof Kwiatkowski, who had been appointed under the previous government. Between November 2016 and April 2017, 13 members of the NIK council's terms in office expired. However, the Sejm speaker was very slow to appoint the suggested new members, which has hindered the NIK's ability to check the state budget and has been widely perceived as an attempt to obstruct the proper working of NIK.

Ombuds Office  
Score: 10

The Polish ombuds office, the Commissioner for Citizens' Rights, is an independent state organ and is accountable exclusively to the Sejm. It has substantial investigative powers, including the right to view relevant files or to contact the prosecutor general and to send every law to the Constitutional Court. Because of its strong engagement for citizens' rights ever since its creation in 1987, the ombuds office has traditionally been accorded a good reputation. However, the effectiveness of the ombuds office has suffered, as the institution has been assigned new tasks in the field of anti-discrimination policy, but lacks sufficient new funds to perform the tasks properly. The current Ombudsman Adam Bodnar, a lawyer appointed in September 2015, has become a very active defender of civil and political rights. He called the Constitutional Court on the Anti-Terror Law and on the new laws on high-ranking civil servants, the Constitutional Court and the media. He is also fighting for the rights of his own office, since the Sejm passed a law on 18 March 2016 that makes it easier to remove the person holding the office of the



commissioner. He is still in office, but has had a hard time. In 2017, Bodnar got into trouble with misleading statement in which he declared that Poles also contributed to the Holocaust. He subsequently revoked his statement. He intervened in the controversial in the ancient forest logging case, and protested in a court case against the environmental minister and against preventing NGOs challenging the environment minister's decision in court.

## Media

Media Reporting  
Score: 5

Government decisions are widely covered by the country's main TV and radio stations. Due to the media law, the public TVP is often dubbed TV-PiS. Jacek Kurski, party ideologist, was appointed as TV director and hired several party loyal journalists as anchors for the news shows and other relevant positions. In the private media, despite a tendency toward infotainment, the quality of reporting, especially of the two major TV companies, POLSAT and TVN, has increased. Rzeczpospolita, the second-largest daily paper in Poland, has benefited from a change in ownership and editorial staff, and has become less politically partisan. Still, there are few print outlets and TV and radio stations that resist political pressure, and the media is divided into pro or contra government. Public trust in the objectivity of the media was always been quite low, but now it is at a very low position. The main TV news show Wiadomosci in TVP has lost 17% of its viewers.

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## Parties and Interest Associations

Intra-party  
Democracy  
Score: 5

For the last decade, political parties have functioned under legislation that strictly defines the role of a political party and how parties are financed. Since most funding is public, the government mandates that parties themselves are governed by democratic principles. However, the reality is mixed, with some parties meeting democratic standards while others fall short. The conservative Law and Justice Party (PiS), led by Jarosław Kaczyński since 2003, and the Polish People's Party (PSL) have been characterized by a hierarchical mode of organization. By contrast, the Civic Platform (PO) has often experienced intra-party controversies. Since January 2016 and the party's reorganization following its defeat in the parliamentary elections of 2015, Grzegorz Schetyna, former foreign minister in the Kopacz government, has led the party. In order to stimulate internal discussions and to increase a network also outside party membership, PO launched so-called citizens' clubs that convene all over Poland. The other strong opposition party, Nowoczesna, does have democratic

Association  
Competence  
(Business)  
Score: 6

internal structures but is more fixed around its leader, Ryszard Petru.

Poland has a relatively developed universe of interest associations. Business associations and trade unions have become increasingly professional over time. The trade unions, especially NSZZ Solidarność, have quite friendly relations with the PiS government. For example, the trade unions supported the PiS government's pension reform, protesting against the European Union and its critique of the pension reform in Brussels. Though OPZZ opposed some legal initiatives of the government, most notably the education reform. Leading business associations such as the Konfederacja Lewiatan and the Business Center Club (BCC) have the expertise and resources to carry out research and formulate elaborate reform proposals. Konfederacja Lewiatan monitors many draft bills, and its spokespeople maintain a strong media presence. There are also a number of smaller associations that organize internationally known events such as the European Forum for New Ideas (EFNI), which annually invites leading public intellectuals, academics and politicians, both Polish and European, to the EFNI conference in Sopot.

Association  
Competence  
(Others)  
Score: 6

Poland has a large number of interest associations beyond business associations and trade unions. However, compared to other countries, there are comparatively few environmental groups. Most non-governmental organizations are relatively small, and there are only a few interest associations that focus on, and are capable of, developing full-blown policy proposals. The Catholic Church, still the most influential interest group in Poland, pursues relatively narrow interests and is largely preoccupied with stabilizing its influence within an increasingly secular society. It currently has good access to the new government, but also asked for more national solidarity, peaceful cooperation and a friendlier approach toward refugees. A new social movement that managed to unite many Poles opposed to government efforts to dismantle democracy and judicial independence is the Committee for the Defense of Democracy (Komitet Obrony Democracji, KOD) which has organized public protests and large demonstrations in several Polish cities since December 2015. New organizations have come into existence since 2016 and especially young people are increasingly attending demonstrations.

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