



Poland Report

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Sustainable Governance
Indicators 2019

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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 parties previously in government, the centrist Civic Platform (PO) and its junior coalition partner, the agrarian People's Party (PSL), to the now ruling populist-nationalist Law and Justice party (PiS). Thanks to the high percentage of wasted votes, 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. Capitalizing on its clear parliamentary majority and strong internal party discipline, the government has initiated an ongoing process of radical institutional and policy change. Dubbed "the good change" by PiS, it has prompted considerable domestic and international critique.

The PiS government was initially led by Prime Minister Beata Szydło. In December 2017, Szydło was replaced by Minister of Finance Mateusz Morawiecki, a former banker. A major cabinet reshuffle in January 2018 led to the replacement of a number of controversial ministers, including Defense Minister Antoni Macierewicz, Foreign Minister Witold Waszczykowski, Health Minister Konstanty Radziwiłł and Environment Minister Jan Szyszko. However, the changes did little to alter the course of the government, and left the informal control over the government by Jarosław Kaczyński, the long-standing PiS party leader, untouched.

The quality of democracy has suffered greatly from the changes initiated by the PiS government. Following the Hungarian example, the first activities of the new government targeted the Constitutional Tribunal, the public media and the civil service. The government then sought to reduce the political independence of the Supreme Court, the National Council of the Judiciary, and the ordinary courts. Political liberties have been undermined by new restrictions on assembly rights, with harassment by the police increasing and government control of NGO funding expanding. At the end of 2017, the PiS government began a process of amending the electoral law. While the planned overhaul of electoral districts for the 2019 European Parliament elections was eventually vetoed by President Duda, citizens living abroad were stripped of their right to vote by mail. Moreover, the government increased its control over the National Election Commission (Państwowa Komisja Wyborcza, PKW) and its executive body, the National Election Office (Krajowe Biuro

Wyborcze, KBW). The quality of democracy has also been affected by the government's strong rhetoric against Muslims, migrants, the LGBT community and so-called gender ideology, as well as by rising levels of political polarization and corruption and cronyism within state-owned enterprises. Obsessed with enforcing a reinterpretation of Polish history, the PiS government has also sought to impose its national-traditionalist and Catholic values on public institutions and society.

Benefiting from an absolute majority in parliament, strong internal discipline within the PiS and the uncontested 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 and shorten the period of obligatory education by one year). In the period under review, the government adopted a plan for substantially, if gradually, increasing public health care spending, and another for a new occupational pension savings scheme. The PiS government has bypassed legal requirements for regulatory impact assessments and public consultation by strongly relying on legislative initiatives proposed by individual members of parliament rather than by the government or its parliamentary caucus. 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.

With regard to economic development, the PiS government's assaults on democracy and the rule of law, and the resulting political polarization, have still had little visible effect. In 2018, the Polish economy continued to grow, the unemployment rate fell to a historic low 5.2% in the first quarter of 2018, and the general government fiscal deficit further decreased despite the increase in spending. Along with the government's popular social measures, the strong showing of the Polish economy has kept the government's popularity level high.

By contrast, the PiS government's political course has done considerable damage to Poland's international reputation. When the government refused to amend its controversial legislation on the judicial system, which resulted in excessive political control and prompted massive protests both domestically and internationally, the European Union started a rule-of-law procedure against Poland. Since the talks and letters that constitute this procedure did not lead to any change in behavior, the Commission, backed by the European Parliament, opened an Article 7 procedure – which identifies a persistent

breach of the EU's founding values by a member state and can lead to the suspension of certain membership rights – in December 2017. The European Council has debated the issue, but as of the time of writing had not yet taken a clear stance on the issue, as the governments of several member states, especially Hungary, have declared they would not support a vote against Poland. While progress with the Article 7 procedure thus looks unlikely, other forms of external pressure have shown some impact. Decisions by the European Court of Justice led the Polish government to stop the logging in the Białowieża old-growth forest, and to withdraw its proposed new retirement rules for justices. Following pressure from the United States, the government also dropped its original plans to “re-polonize” the media by limiting foreign ownership stakes in Polish media companies to 15%-20%.

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.

Markowski, R. (2019): Creating Authoritarian Clientelism: Poland After 2015, in: *Hague Journal on the Rule of Law* 11(1): 111-132.

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

Parliamentary elections in Poland will be held in autumn 2019. As the results of the local and regional elections in October 2018 and the elections to the European Parliament in May 2019 indicated, the outcome of these elections remains open. In the local and regional elections, PiS increased its vote share, but clearly remained behind expectations. In the elections to the European Parliament, by contrast, the PiS emerged as the clear winner, getting a record-high 45.4% of all votes compared to 38.5% for the “European Alliance,” a coalition of various opposition parties centered around the Civic Platform (PO). PiS will surely benefit from the good economic results, as well as the popularity of its social-policy activities.

With the elections approaching, there will be a strong temptation for the PiS government to boost its popularity further by reducing taxes, increasing spending or adopting other popular measures. This would cause medium-term problems by worsening the country's fiscal position. The latter currently looks better than it really is, as the decline in the headline deficit has been primarily

caused by the Polish economy's recent strength, and the structural, cyclically adjusted fiscal balance has not met the government's own medium-term target. In the run-up to the elections, the government is also likely to neglect the complex and politically divisive structural issues that are still on the agenda in fields such as health care, education and the energy sector.

The opposition parties also face a number of challenges. One issue is how to deal with the fragmentation within the various opposition camps. Forging an alliance, as practiced by most of the center-left parties in the elections to the European Parliament, might help to overcome electoral thresholds and improve chances in the election to the Senate, the second chamber of parliament that is elected using a first-past-the-post voting system. On the other hand, such a strategy might make it more difficult to attract voters who are critical of the PO, the main government party from 2007 to 2015, and who are fed up with the polarization in Polish politics. A second challenge will be to develop a policy platform that takes the social concerns of broad parts of the population into account, but comes with fewer negative economic and fiscal side effects. For the opposition parties to win the elections, they will have to do more than simply criticize the authoritarian clientelism of the PiS government.

Party Polarization

The Polish party system is dominated by two parties that are both rooted in the Solidarność movement – the centrist Civic Platform (PO) and the populist-nationalist Law and Justice party (PiS). The two parties take different approaches toward socioeconomic policies: PO believes in the market as a regulator, and sees the provision of equal opportunities for people as a primary goal, while the PiS has a more leftist profile, pursuing a path of greater state interference and broader social welfare. More important than these policy differences, however, are the two parties' different views of Poland's post-communist history and differing conceptions of democracy. Whereas PO sees Poland's economic and political development since 1989 as being a successful transition to a market economy and a liberal democracy, the PiS argues that the break with the communist past has been incomplete, and that the common people have been betrayed by the liberal elites; consequently, it calls for further efforts to rid the country and all state institutions of anything that has any tinge of communism. Whereas PO subscribes to compromise and pluralism, PiS has sought to eliminate checks and balances. The political polarization between these two camps has been exacerbated by the fact that the

PiS government has ruthlessly used its parliamentary majority to expand its power and implement its own projects. Given the government's clear parliamentary majority and the weakening of other checks and balances, the polarization has not led to gridlock. However, the government's strategy of passing bills very quickly, without much consultation and without searching for consensus has massively undermined the quality of laws. (Score: 4)

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 5% in 2018, 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 moderate 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. Economic growth rates are likely to suffer somewhat as a result of the upcoming Brexit. Accounting for 6.4% of all exports, the United Kingdom is Poland's second-largest export market, and a large portion of the remittances from Poles working abroad comes from the United Kingdom.

Citation:

European Commission (2019): Country Report Poland 2019. SWD (2019) 1020 final. Brussels (https://ec.europa.eu/info/sites/info/files/file_import/2019-european-semester-country-report-poland_en.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 3.9% in 2018, a historic low since 2008 and one of the lowest such rates in the EU. The employment rate has slowly but constantly increased during the last years and has now nearly reached the EU-28 average. Regional variations in (un-)employment, both between and within regions (voivodships), have been strong and persistent. Temporary employment contracts represent another problem, as Poland still has the highest rate of such agreements 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. Since the PiS government's introduction of the generous "500+" child allowance policy, it is estimated that over 100,000 women have withdrawn from the labor market. The government's main reform project in the field of labor-market policy has been the increase of the minimum wage. Following strong rises in the past, the latter was further increased from PLN 13.70 per hour and PLN 2,100 per month in 2018 to PLN 14.70 and PLN 2,250 in 2019, a rise of more than 7%. 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 shortages have become an increasingly pressing issue, and the decrease in the pension age will contribute to an even lower labor-force participation rate, especially among women. The new EU workers' directive, which stipulates that posted workers be paid the wages of the sending country after 12 months, has been opposed by the Polish government without success. A total of 22% of all posted workers across Europe come from Poland.

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, the extent of red tape and the instability of tax provisions 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 2018, the government adopted a number of diverse tax changes that will take effect in 2019. To start with, it introduced three new taxes: a "solidarity tax" for high-income earners, an "exit tax" on companies and

wealthy individuals, and a new fuel tax called an “emission fee.” The revenues from the “solidarity tax” are earmarked for financing the Solidarity Fund for Support of Disabled Persons, which was created after protests by disabled people in May 2018 that drew considerable public attention. The revenues from the new fuel tax are targeted as well, and will be used for combating smog. At the same time, the government adopted some changes related to the withholding tax system and the taxation of profits derived from cryptocurrencies. It additionally lowered the corporate-income tax rate for small companies from 15% to 9%, simplified transfer pricing rules and created new tax incentives.

Citation:

European Commission (2019): Country Report Poland 2019. SWD (2019) 1020 final. Brussels, 20-22 (https://ec.europa.eu/info/sites/info/files/file_import/2019-european-semester-country-report-poland_en.pdf).

Budgets

Budgetary Policy
Score: 6

Benefiting from the strong economic growth and higher than expected revenues, former Minister of Finance Mateusz Morawiecki, the current prime minister, succeeded in bringing the general government fiscal deficit down from 2.7% in 2016 to about 1.5% in 2017, a much stronger showing than originally expected. In 2018, the general government fiscal deficit declined further. However, the structural – that is, cyclically adjusted – fiscal balance has remained broadly stable since 2016, and does not meet the medium-term objective of -1% of GDP. There are also concerns about the medium-term budget developments. One reason for this is the strong increase in social spending and the lowering of the retirement age 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.

Research, Innovation and Infrastructure

R&I Policy
Score: 6

The Polish system for research and development (R&D) has already been significantly restructured since 2010 and has included a move toward more competitive funding. Two R&D agencies respectively for applied and basic research have been created, and efforts have been made 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. The strong reliance on tax relief has been criticized for a lack of efficiency. According to recent empirical research, such a policy might have a greater impact on the economy, but is 2.5 times more costly than additional government spending on R&D,

In May 2017, Minister of Science and Higher Education Jarosław 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 levels in Poland, in both the public and private spheres, remain far below the EU's Europe 2020 target, the innovation capacity of the economy is low and the gender bias in the science sector is high. Partnerships between universities and business have grown, but are still highly dependent on EU funds and personal connections. The introduction of the Lukasiewicz Research Network, which began operating on 1 April 2018, and which connects research institutions and aims at commercializing research funding, represents one attempt to improve this situation.

Citation:

Brandt, N. (2018): Strengthening innovation in Poland, OECD Economics Department, Working Paper No. 1479, Paris.

Zawalińska, K., N. Tran, A. Płoszajc (2018): R&D in a post centrally-planned economy: The macroeconomic effects in Poland, in: *Journal of Policy Modeling* 40(1): 37-59.

Global Financial System

Stabilizing
Global Financial
System
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 broadened the mandate of the Financial Stability Committee.

II. Social Policies

Education

Education Policy
Score: 4

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. Under the terms of the new law, the lower secondary or middle schools (gimnazjum) introduced in 1999 will be closed by 2019, and the previous two-tier school system (eight-year primary school followed by upper secondary school for another four years or vocational education) will be reinstated. 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, and returning to old-fashioned teaching methods. Supervisory school authorities have been staffed with people close to the governing PiS party.

As for higher education, Minister of Science and Higher Education Jarosław Gowin presented a first major reform bill in September 2017. Two of its central aims, the reduction in the overall number of university students and the promotion of the so-called STEM disciplines (science, technology, engineering and mathematics), have been controversial. In June 2018, the Sejm passed a second, rather comprehensive bill on higher education that covers issues as diverse as the financing of universities and student loans. It aims to diversify the missions of vocational and academic higher-education institutions, in part through the creation of different subsidy-distribution systems. Teachers and university personnel have protested, considering it to be an ill-conceived, poorly prepared and expensive education reform.

Citation:

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

Kaluza, A. (2018): Die Reform des Schulsystems in Polen. Polen-Analysen Nr. 224, Darmstadt/ Bremen

(<http://www.laender-analysen.de/polen/pdf/PolenAnalysen224.pdf>).

Wojniak, J., M. Majorek (2018): Polish education system under 2017 reform:

Assumptions, aims and controversies. SHS Web of Conferences 48, 010432

(<https://doi.org/10.1051/shsconf/20184801043>)

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 government's next step, the "Mieszkanie+" social housing program, is well behind schedule, however, as only 2,800 apartments had been built by the end of the review period. The postal service and railways are supposed to provide space and buildings that can be transformed into low-rent apartments.

Citation:

Krukowska, M. (2018): Inequality and the perception of wealth in Poland, in: Central European Financial Observer, July 23 (<https://financialobserver.eu/poland/inequality-and-the-perception-of-wealth-in-poland/>).

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. Mortality indicators show a visible increase in the number of deaths in 2017 and 2018 that is clearly related to the declining availability and quality of health care services, particularly in the countryside.

Upon coming to office, the PiS government called for a comprehensive health care reform that included far-reaching changes such as the abolition of the National Health Insurance Fund (NFZ) and a move to tax-financed health care. While many of these radical structural changes were quickly abandoned, the government adopted a number of measures such as the creation of a new hospital network and pilot projects to test ways of improving the coordination of primary care. However, health policy has been dominated by strong conflicts between medical staff and the government over salaries and working conditions, which manifested in frequent strikes and demonstrations in the second half of 2017. The government responded by promising salary increases for physicians and an increase in public health care spending from about 4.7% to 6% of GDP by 2025. Following the cabinet reshuffle in January 2018, which led to the replacement of Minister of Health Konstantyn Radziwiłł with Łukasz Szumowski, the deadline for reaching the 6% goal has been brought forward to 2024.

Citation:

Sowada, C., A. Sagan, I. Kowalska-Bobko (2019): Poland: Health System Review 2019. Brussels: European Observatory on Health Systems and Policies/WHO (<https://apps.who.int/iris/bitstream/handle/10665/325143/18176127-eng.pdf?sequence=7>).

Families

Family Policy
Score: 5

Poland's employment rate among women falls below the OECD and EU averages, and its childcare infrastructure is weak. The PiS government has followed a more traditional approach, with the cornerstone of its family policy, which featured prominently in the 2015 election campaign, being the "Family 500" program, which has been in effect since 1 April 2016. This increased family allowances 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 €3 billion) or 1.3% of Poland's GDP. While the measures have improved the financial situation of Polish families, critics fear that the Family 500 program will reduce labor-market participation rates among women 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 or with disabled children. This is expected to cost another PLN 3.7 billion. The government has also promised to provide

more childcare facilities. Currently, however, only 7.9% of children below the age of three have access to child care, the third-lowest such rate in the European Union, while 61% of Polish kids in the three-and-up cohort attend child care, the fourth-lowest such rate in the EU.

Citation:

Druciarek, M. (2016): Die Familienpolitik der Regierung und ihre möglichen Folgen aus der Perspektive der Geschlechtergleichheit. Polen-Analysen Nr. 186, Darmstadt/ 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).

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 first pillar was made more sustainable in 2011 through the adoption of a gradual increase in statutory retirement ages, rising until 2020 for men and until 2040 for women; ultimately the age of retirement for both sexes was to be 67. Pension-eligibility age was a hot topic in the 2015 election campaign and the government immediately used its parliamentary majority to propose 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 became effective in November 2017. It will cost PLN 15 billion or 0.5% of GDP annually. This decrease in the retirement age has reduced the sustainability of the Polish pension system, and is likely to increase poverty, especially among women, and to intensify the growing labor shortage.

These changes have been followed by further reform initiatives. A bill to introduce a “500+” scheme for pensioners that could provide people in need with an extra payment on an annual basis had not been adopted as of the time of writing. The adopted abolition of the maximum contribution to ZUS, the public pension pillar, for people who earn above a certain threshold was sent to the Constitutional Tribunal by President Duda, and was declared unconstitutional by the Tribunal in November 2018. With about 350,000 Poles affected, it would have brought more money into the pension fund in the short term, but would have generated additional future spending.

In 2018, the foundations for a new occupational pension savings scheme were laid. This program will be introduced gradually beginning in July 2019, and

aims to bring up to 75% of the country's employed population into occupational pension schemes through automatic enrollment. At the same time, however, the announced reform of the remaining second pillar was further postponed.

Citation:

Chłoń-Domińczak, A. (2019): New Occupational Pension Savings Scheme in Poland. European Social Policy Network, Flash Report 2019/01, Brussels.

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. In 2018, about 2.5 million Poles were living 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 relocation and 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. However, surveys show that the population is quite hesitant to accept incoming refugees, although Ukrainians and Russians are comparatively welcome as migrants. After the decision of the European Court of Justice in September 2017 that confirmed the legality of the Council of the European Union's decision to relocate refugees within Europe, Poland and the other Visegrád countries contested the decision, and continued to refuse to accept refugees. The Polish government also opposed the UN Global Compact For Safe, Orderly and Regular Migration, which was signed in Marrakesh in December 2018.

Safe Living

Internal Security
Policy
Score: 7

Crime figures in Poland have fallen and have been relatively low for some time. However, trust in the police and the secret services has suffered under the PiS government. The effectiveness of the new Anti-Terror Law, introduced in June 2016, has been a subject of debate. 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. Joachim Brudziński, a close ally of party leader Kaczyński and a longtime, high-ranking PiS member who has served as minister of the interior since January 2018, now has the task of reorganizing the police services.

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 the group's least-active donors. However, its contribution has increased over the years, and has now reached 0.13% of GDP. In October 2015, the Kopacz government agreed to implement its new development program for 2016 – 2020, which aimed primarily to support NGO projects 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. This was updated in September 2018 to include Lebanon and Uganda as countries with a high priority. In public debates about migration and its causes, the PiS government frequently argues that it prefers to provide help in the regions where refugees or migrants come from. At the EU-Africa summit that took place in Valetta, Malta on 12 November 2015, Poland promised to contribute €1 million to address root causes of migration from Africa. Current Prime Minister Morawiecki has proposed a new Marshall-Plan-like effort for Africa. In 2017, the country spent €80 million on humanitarian aid.

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. Currently, the government plans to reduce the share of coal in energy production to 50% by 2030, and to produce 8,000 megawatts of electricity from offshore wind-energy plants. However, work on a new energy strategy is still under progress.

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. The issue went to the European Court of Justice, which initially asked the Polish government to stop the cuts, and ultimately ruled in April 2018 that the logging should be stopped. Polish Minister for the Environment Henryk Kowalczyk said Poland would accept the judgment, and the country therefore does not have to pay additional fines.

Citation:

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

Court of Justice of the European Union (2018): Judgment in Case C-441/17, Commission v Poland (Białowieża Forest). Press Release No. 48/18, Luxemburg (<https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-04/cp180048en.pdf>).

Meier, F. (2018): Polen will ein bisschen weg von der Kohle, in: Klimareporter, November 8 (<https://www.klimareporter.de/klimakonferenzen/polen-will-ein-bisschen-weg-von-der-kohle>).

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 Dialogue forum (jointly with Fiji), which aims to find compromises to help countries fulfill their climate-protection goals. Some experts see it as a move by Poland to win more acceptance for its coal-friendly energy policy. In contrast, others see a shift in Polish policy following increased pressure from NGOs, think tanks and the renewable energy sector. In Katowice, Polish representatives presented an initiative called "Forest Coal Farms," which was focused on reforestation efforts as a means of combating climate change.

Citation:

Meier, F. (2018): Polen will ein bisschen weg von der Kohle, in: Klimareporter, November 8 (<https://www.klimareporter.de/klimakonferenzen/polen-will-ein-bisschen-weg-von-der-kohle>)

Riedel, R. (2019): Die polnische Klima- und Energiepolitik. Polen-Analysen Nr. 230, Darmstadt/ Bremen (<http://www.laender-analysen.de/polen/pdf/PolenAnalysen230.pdf>).

Quality of Democracy

Electoral Processes

Candidacy
Procedures
Score: 8

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 the presidential and parliamentary elections held in 2015.

Under the PiS government, electoral law was not an issue until the end of 2017, when the PiS pushed for changes in the rules for local elections and elections to the European Parliament, as well as for the selection of the National Election Commission (Państwowa Komisja Wyborcza, PKW) and its executive body, the National Election Office (Krajowe Biuro Wyborcze, KBW). With regard to the European Parliament elections, the government sought to favor large parties by conducting an overhaul of electoral districts. While this amendment to the law was approved by the Senate in July 2018, it was eventually vetoed by President Duda. The new rules for the selection of PKW and KBW members have increased the government’s influence on these two bodies and might make the process of registering parties and candidates less fair. From 2019 onwards, the members of the PKW will no longer be

judges. Instead, seven out of nine members will be members of parliament. The head of the KBW will be selected by the PKW from a list of three candidates nominated by the minister of the interior. This minister will also be responsible for nominating the 100 commissioners who conduct the management of elections on the ground.

Citation:

Bodalska, B. (2018): Polish EP electoral code change potential flashpoint between Brussels and Warsaw, in: euractiv, July 31 (<https://www.euractiv.com/section/future-eu/news/polish-ep-electoral-code-change-potential-flashpoint-between-brussels-and-warsaw/>).

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>).

Sadurski, W. (2018): Who will Count the Votes in Poland? in: Verfassungsblog, February 26 (<https://verfassungsblog.de/who-will-count-the-votes-in-poland/>).

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 measures aimed at controlling the public and private media have significantly increased the partisan bias in media reporting, and have led to uneven media access for the various parties.

Voting and
Registration
Rights
Score: 8

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. However, a controversial January 2018 law amended the provisions on postal voting that were adopted in 2014. Thus, since the local elections in 2018, voting by mail has been possible only for disabled persons, and not for citizens living abroad. Since the latter tend to be critical of the PiS government, the amendment is regarded as being strongly biased in favor of the PiS.

Party Financing
Score: 7

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 and campaign financing regulation as such 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, but the measure failed due to low voter turnout. Debates about party and campaign financing rules have also been prompted by decisions of the National Election Commission (PKW) to sanction two opposition parties for procedural errors and inaccurate bookkeeping. While the rules for financing parties and campaigns have been left unchanged, the new method for appointing members to the PKW and the National Election Office (KBW) will increase political control of these two bodies, and might ultimately make the control of party and campaign financing more selective.

Citation:

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>).

Sadurski, W. (2018): Who will Count the Votes in Poland? in: Verfassungsblog, February 26 (<https://verfassungsblog.de/who-will-count-the-votes-in-poland/>).

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

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. So far, however, out of the many referendums organized in Poland, only the one addressing Poland’s entry into the European Union in 2003 has recorded voter turnout sufficiently high to make the results binding. 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. In 2017, 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. In July 2018, the Senate vetoed President Duda’s initiative to hold a referendum on the constitution, which had passed the Sejm, out of fear that voter turnout rates would be low, and with additional concerns over ambiguous provisions.

Citation:

Winczorek, P. (2014): Kilka uwag o polskich referendach, in: *Ruch Prawniczy, Ekonomiczny i Socjologiczny* 76(2) (<https://doi.org/10.14746/rpeis.2014.76.2.11>).

Access to Information

Media Freedom
Score: 3

The PiS government does not respect 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. Following pressure from abroad, most notably from the United States, the PiS government dropped its original plans to “re-polonize” the media by limiting the maximum foreign ownership stake allowed in Polish media companies to 15% – 20%.

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)

Wielinski, B. (2018): Polish government continues efforts to stifle free media, in: Euractiv, May 11 (<https://www.euractiv.com/section/freedom-of-thought/news/polish-government-continues-efforts-to-stifle-free-media/>).

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. Likewise, public gas stations and other enterprises have been urged not to sell particular newspapers.

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 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. In August 2018, the case of Lyudmyla Kozlovska, a Ukrainian national and the president

of the Open Dialogue Foundation (ODF) in Poland, attracted attention. Kozłowska was denied entrance to Belgium after a visit to Ukraine on the basis of a Polish entry ban reported through the Schengen Information System.

The new legislation on NGO financing will make it more difficult for NGOs campaigning 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.

Citation:

Brouwer, E. (2018): Schengen Entry Bans for Political Reasons? The Case of Lyudmyla Kozłowska, in: Verfassungsblog, August 30 (<https://verfassungsblog.de/schengen-entry-bans-for-political-reasons-the-case-of-lyudmyla-kozlovska/>)

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).

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, as funding decisions will be made by the newly created National Institute of Freedom, which is controlled by the PiS.

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.##).

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 engaged in strong anti-Muslim and anti-migrant rhetoric, 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. Frequent conflicts between the judges' association and the new partisan Constitutional Tribunal have created a situation in which many citizens are simply bewildered in trying to assess which legal institutions are legitimate and which are not.

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 were changed. Incumbent members of the National Council lost their positions in March 2018, while the terms of the Supreme Court justices were reduced indirectly by lowering the retirement age from 70 to 65 years in April 2018. These legal changes, some of which were clearly unconstitutional, were accompanied by the dismissal of dozens of justices and a media campaign against the judiciary financed by public companies.

In response to the PiS government's reform of the judiciary, the European Commission triggered an Article 7 procedure against Poland in December

2017. In October 2018, the European Court of Justice declared the retirement regulations for the Supreme Court to be invalid. While the Polish government initially stated that it would appeal the judgment, it eventually gave in and restored the old retirement rules in late November 2018. For the time being, at least, the Supreme Court has thus maintained its independence.

Concerns over judicial review trends in Poland also led the Irish High Court to stop the extradition of a Polish citizen to Poland, a decision that the European Court of Justice (ECJ) did not officially approve, but also did not reject. The ECJ issued a list of checks that the Irish court should make in assessing whether there were really systemic failures in the Polish judicial system. Eventually, the Irish court decided in November 2018 to surrender the suspect to Poland, as it did not have enough evidence that the accused would not be given a fair trial, and because there is still the option of appealing to the European Court of Human Rights if the suspect's rights were seen as not being properly protected during the trial.

Citation:

Bachmann, K. (2019): Die Justizreform in Polen und die Bedeutung des Politischen im Justizwesen. *Polen-Analysen* Nr. 232, Darmstadt/ Bremen (<http://www.laender-analysen.de/polen/pdf/PolenAnalysen232.pdf>).

de La Baume, M., M. Duncan (2018): EU court damns Polish legal system, in: *Politico*, July 25 (<https://www.politico.eu/article/ecj-damns-poland-legal-system-drug-dealer-fair-trial-artur-celmer/>)

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 (<http://verfassungsblog.de/farewell-to-the-separation-of-powers-on-the-judicial-purge-and-the-capture-in-the-heart-of-europe>).

Machińska, H. (2018): Die Justizreform in Polen, in: *Polen-Analysen* Nr. 223, Darmstadt/ Bremen (<http://www.laender-analysen.de/polen/pdf/PolenAnalysen223.pdf>).

Appointment of
Justices
Score: 2

The Constitutional Tribunal still has 15 judges, but the way they are now appointed has become a major political issue both within in Poland and externally. Indeed, this was one of the reasons that the European Commission triggered Article 7 of the Treaty on European Union, at that time an unprecedented procedure. The judges used to be 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 then selected 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 introduced by the previous PO-PSL government in June 2015 had tightened the deadline for proposing candidates to replace the Constitutional Tribunal judges whose terms were to expire later in the year, allowing the then-governing coalition to replace five justices in the final session of the Sejm before the parliamentary elections. This was used by the incoming PiS government to question the legitimacy of these newly appointed judges, and to start its assault on the judicial system as such. Whereas the PO and PSL

argued that because the new Sejm would not have convened until 12 November 2015, and the vote had been necessary to preserve the Constitutional Tribunal's continuity, PiS saw it as a politically motivated action, and hence President Duda refused to swear in these judges. Until the end of the Constitutional Tribunal President Andrzej Rzepliński's term in December 2016, the body refused to accept three of the five new judges, while the government in turn refused to accept the Constitutional Tribunal's decision. When Rzepliński's term expired, the government succeeded in installing Julia Przyłębska as his successor by legally dubious means, thus bringing the court under control. Przyłębska's appointment and the composition of the Constitutional Tribunal have remained highly controversial, and have undermined the legitimacy of the court.

Citation:

Garlecki, L. (2019): Constitutional Court and Politics: The Polish Crisis, in: C. Landfried (ed.), *Judicial Power: How Constitutional Courts Affect Political Transformation*. Cambridge: Cambridge University Press, 141-162.

Sadurski, W. (2019): Polish Constitutional Tribunal Under PiS: From an Activist Court, to a Paralyzed Tribunal, to a Governmental Enabler, in: *Hague Journal on the Rule of Law* 11(1): 63-84.

Corruption
Prevention
Score: 5

Corruption remained a major political issue in the period under review. On the one hand, the PiS government has continued to accuse the previous government of corruption, and has emphasized its own commitment to the fight against corruption. 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.

A new law on transparency in public life entered into force in March 2018. This ostensibly was passed to address and reduce corruption, but has itself been widely criticized. It requires employers to establish internal corruption-prevention mechanisms that critics say have been badly prepared, are too ambitious in their terminology and would create unnecessary burdens. It introduces the category of whistleblower into the law, and aims to protect such activity, while also tightening regulations governing public-sector employees' subsequent work in the private sector. However, it also allows enforcement agencies to collect citizens' personal data, enabling substantial violations of privacy.

Citation:

Citizens Network Watchdog Poland et al. (2018): Major Challenges Regarding the Draft Law on 'Transparency' in Public Life. Warsaw (<http://citizensobservatory.pl/ustawa/major-challenges-regarding-the-draft-law-on-transparency-in-public-life-communique-of-the-5-ngos/>).

Governance

I. Executive Capacity

Strategic Capacity

Strategic
Planning
Score: 5

Motivated by EU demands, as well as by the objective of improving the country's absorption and use of EU funds, the planning capacities of the Chancellery of the Prime Minister (Kancelaria Prezesa Rady Ministrów, KPRM) were expanded following EU accession. The PiS government has relied on this framework, and has developed its own long-term Strategy for Responsible Development. This program was presented by the then-serving 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 visions and inspirations of PiS party leader Jarosław Kaczyński.

Expert Advice
Score: 4

Under the PiS government, policymaking has become ideologically driven rather than evidence-based. While the government does consult with experts, these consultations are not very transparent. 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 has declined under the PiS government, as the main criterion for staff employment is political obedience, not expertise or professionalism.

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. However, its actual gatekeeping role has declined. Most bills are submitted by individual members of parliament rather than by ministries, as this enables a swifter legislative process with fewer consultation requirements, which in turn can be more effectively controlled by PiS leaders.

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 implementation of the Strategy of Responsible Development. There is also a cabinet-level Committee for Social Affairs headed by former Prime Minister Beata Szydło. However, conflicts among ministries are ultimately resolved not by cabinet committees, but by PiS leader Kaczyński and his immediate circle.

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 makes many important decisions himself, and government ministers' standing strongly depends upon their relationship with him.

Digitalization for
Interministerial
Coordination
Score: 6

The PiS government has been eager to increase the level of digitalization in the country. Upon coming to office, it established a separate Ministry of Digital Affairs and a Committee of the Council of Ministers for Digitalization. However, digitalization has been complicated by changes in leadership. Anna Streżyńska, the first minister of digital affairs, who was broadly regarded as very competent but was not a party member, was recalled on 9 January 2018. After some haggling, the previous secretary of state in that ministry, Marek Zagórski, became her successor in April 2018. Zagórski is the deputy chairman of Deputy Prime Minister Jarosław Gowin's Agreement party, which accounted for the hesitation in nominating him. Digital technologies have been used to improve interministerial coordination.

Citation:

Plucinska, J. (2017): In the line of fire: Poland's digital ambitions, in: Politico, November 22 (<https://www.politico.eu/article/anna-strezynska-in-the-line-of-fire-polands-digital-ambitions/>).

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 relying strongly on fast-track legislation and legislative initiatives initiated by individual members of the Sejm, rather than by ministries or the government. In such cases, no RIA is legally necessary.

Citation:

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

OECD (2018): OECD Regulatory Policy Outlook 2018. Paris, 222-223 (<https://www.oecd.org/gov/regulatory-policy/poland-country-note-regulatory-policy-2018.pdf>).

Quality of RIA
Process
Score: 2

The quality of the RIA process has strongly declined under the PiS government. Legally, stakeholders are required to be involved, and results must be publicized and communicated; however, such efforts have become rather selective. No independent body reviews 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 were its predecessors. Indeed, the PiS government has been involved in several infringement-procedure disputes with the European Commission and the European Court of Justice related to its failure to carry out environmental impact assessments for natural-gas drilling projects, and its disregard for sustainability and environmental-protection principles when approving logging activities in the Białowieża old-growth forest.

Quality of Ex
Post Evaluation
Score: 3

According to the RIA rules, ex post evaluations can be requested by the Council of Ministers. In practice, however, primary laws and subordinate regulations are only rarely evaluated. Even when such procedures are carried out, the outcome of the review is not used to improve the quality of laws.

Societal Consultation

Public
Consultation
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 controversial reforms such as pension reform. In stark contrast to trends at the national level, many municipalities have expanded public consultation, for example by introducing participatory-budgeting processes.

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. Information provided by ministries has tended to be selective and highly propagandistic. The new government Center for Strategic Analysis is supposed to overcome this problem.

Implementation

Government
Effectiveness
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. As in the previous year, there were a number of cases in 2018 in which President Duda vetoed government legislation, the most prominent such issue being the new electoral law for European Parliament elections. In response to pressure from abroad, the PiS government backed away from its original plans to cap foreign media-ownership stakes and change retirement rules for Supreme Court justices.

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. This situation has not changed since the government reshuffle in January 2018, as some of the new ministers have been even more loyal to Kaczyński than their predecessors.

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 PiS leader Jarosław Kaczyński, can intervene. The new Center for Strategic Analysis is supposed to help Prime Minister Morawiecki and Kaczyński monitor line ministries' implementation activities.

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, with many of these positions being filled by party representatives or allies. 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: 4

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 of the politicians running the 50 biggest Polish cities has led to selective support for other localities, thus sending a strong clientelistic signal to local authorities that funding and support will be distributed not on merit, but on political grounds.

Subnational governments' fiscal problems have been exacerbated by a decrease in the availability of EU funds at the local level. In the October 2018 local elections, the PiS failed to increase its vote shares in the larger cities; thus, tensions between the central government and local governments are likely to remain strong.

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 (voivode) who is responsible for ensuring that national policies are implemented, and that state institutions operating in the region perform their functions properly. The politicization of the civil service under the PiS government has put the success of these standards at risk by reducing professionalism within the regional administrations.

Effective
Regulatory
Enforcement
Score: 5

Decision-making and the enforcement of decisions generally follow lines of political affiliation within the current Polish government. As government agencies do not act independently, but rather follow line with the responsible ministry and the party line, it is difficult for outside interests opposing the government to win a hearing. Thus, their attempts to influence government agencies are rarely fruitful, while economic interest groups that are close to the government have more success. For this reason, while government agencies do not act in a strictly unbiased manner, they can be effective in implementing the decisions the government wants enforced.

Adaptability

Domestic
Adaptability
Score: 5

In the past, government structures in Poland were gradually adapted to international and supranational developments, most notably NATO and EU membership. Before the PiS government came to power, Poland enjoyed a good reputation within the European Union, and its growing influence showed that adaptation had been successful. The PiS government has been more inward-looking, and has been much more reluctant to adapt domestic government structures to international and EU requirements in particular.

International
Coordination
Score: 5

With the PiS government, Poland's international orientation has changed. The PiS government has openly resisted steps leading toward deeper integration, and has been more critical than its predecessors of Germany's role in the European Union. Because of the PiS government's intransigence, Poland's reputation and standing within the European Union have suffered. While Prime Minister Morawiecki and Foreign Minister Waszczykowski have been more urbane than their predecessors, the government's basic approach toward the EU did not change following the 2017/18 changes in the cabinet. Poland wants to play an active role within NATO, and has tried to establish a closer relationship with the United States and within the Visegrád group (Hungary, Czech Republic, Slovakia). While the four Visegrád countries largely agree on the refugee issue and climate policy, they hold different attitudes toward Russia. Unlike the other Visegrád countries, Poland has strongly supported the sanctions imposed on Russia by the European Union.

Citation:

Łada, A. (2018): Squaring the circle? EU budget negotiations after Brexit – considering CEE perspective, Instytut Spraw Publicznych, Policy Brief 1, Warsaw (<https://www.isp.org.pl/en/publications/squaring-the-circle-eu-budget-negotiations-after-brexit-considering-cee-perspective>).

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

Buras, Piotr (2017): Europe and its Discontents: Poland's Collision Course with the European Union, European Council on Foreign Relations Policy Briefs, London.

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

Political
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. Many citizens have little knowledge regarding major political and public institutions, and are unfamiliar with basic political facts. Reasons for this low level of policy knowledge 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 do not work to improve their members' policy knowledge. However, a segment of society has become more interested in politics due to strong dissatisfaction with the PiS government's policies.

Citation:

Czeńnik, M., A. Kwiatkowska, R. Markowski (2016): Co Polacy wiedzą o polityce? Niewiele, in: *Polityka*, April 26.

Gyárfásova, O., C. Molnár, P. Krekó, F. Pazderski, V. Wessenauer (2018): *Youth, Politics, Democracy: Public Opinion Research in Hungary, Poland and Slovakia*. Warsaw: Instytut Spraw Publicznych.

Tworzecki, H., R. Markowski (2014): Knowledge and Partisan Bias: An Uneasy Relationship, in: *East European Politics and Societies and Cultures* 28(4): 836-862.

Żerkowska-Balas, M., M. Czeńnik, M. Zaremba (2017): Dynamika wiedzy politycznej Polaków, in: *Studia Socjologiczne*, 226: 7-31.

Szlendak, T. (2017): Die Jugend und die Politik, *Polen-Analysen* Nr. 205, Bremen (<http://www.laenderanalysen.de/polen/pdf/PolenAnalysen205.pdf>).

Open
Government
Score: 5

Poland is not a member of the Open Government Partnership. In 2017, a central Government Data Portal was established, run by the Ministry of Digital Affairs (<https://dane.gov.pl/>). From a comparative perspective, the number of available data sets is still relatively low, and the user-friendliness of data suffers from a tendency to publish data in an unsearchable form.

Citation:

Wieczorkowski, J., I. Pawełszek (2018): Open government data, the case of Polish public sector, in: *Online Journal of Applied Knowledge Management* 6(2): 54-71 (http://www.iiakm.org/ojakm/articles/2018/volume6_2/OJAKM_Volume6_2pp54-71.pdf).

Legislative Actors' Resources

Parliamentary
Resources
Score: 6

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*). Since the parliamentary elections in 2015, however, the BAS has been progressively streamlined so as to reflect the political will of the ruling party. As a result, the quality of its expertise has declined, and it no longer issues critical studies. More generally, the PiS majority has made it difficult to monitor the government by circumventing normal legislative procedures, allowing individual members of parliament to submit draft laws, and passing legislation very quickly.

Obtaining
Documents
Score: 6

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 increasingly 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 several attempts to vote the prime minister and individual ministers out of office. All of them 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, even though the cabinet is quite large. 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.

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 referred to as TV-PiS. Jacek Kurski, a PiS 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 have been able to resist political pressure, and the media is divided into pro- or anti-government camps. Public trust in the objectivity of the media has always been quite low, but has today reached a new, very low level. The leading TV news show – Wiadomosci, on TVP – has lost almost 20% of its viewers since 2015. Generally, survey respondents' party affiliations influence the level to which they trust public TV and radio organizations: for example, 87% of PiS supporters think the TVP public TV station is "good," while only 21% of PO supporters have the same opinion; by contrast, 92% of PO supporters trust TVN, compared to just 46% of PiS supporters.

Parties and Interest Associations

Intra-party
Decision-Making
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.

In the 2015 parliamentary elections, only two parties – the governing Law and Justice Party (PiS) and the Civic Platform (PO) – received more than 10% of the votes. They differ strongly from one another in their internal decision-making processes.

The Law and Justice Party (PiS), led by Jarosław Kaczyński since 2003, is characterized by a hierarchical model of organization. Formal statutes and bodies notwithstanding, all important decisions are ultimately made directly or indirectly by Jarosław Kaczyński.

By contrast, the Civic Platform (PO), the second-biggest party in parliament, has experienced frequent intra-party tensions. 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.

Association
Competence
(Employers &
Unions)
Score: 6

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. 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.

Citation:

Bender, B. (2017): Polnisches Puzzle. Organisation, Mitgliederentwicklung und politische Beteiligung von Gewerkschaften und Arbeitgeberverbänden aus vergleichender Perspektive. Polen-Analysen Nr. 208, Darmstadt/ Bremen (<http://www.laender-analysen.de/polen/pdf/PolenAnalysen208.pdf>).

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, the Committee for the Defense of Democracy (Komitet Obrony Democracji, KOD), has managed to unite many of the Poles who

oppose the PiS government's efforts to dismantle democracy and undermine judicial independence. It has organized public protests and large demonstrations in several Polish cities since December 2015, and in 2016 it received the European Citizens' Prize awarded by the European Parliament. Additional organizations have come into existence since 2016, and young people especially are attending demonstrations in greater numbers, joining older people who experienced the socialist times. In October 2017, the National Freedom Institute was established with the official goal of helping NGOs with capacity-building. However, given the PiS's strict control of the institute, its influence is in fact likely to weaken the capacity of independent interest associations.

Independent Supervisory Bodies

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, and whose term runs until August 2019. Between November 2016 and April 2017, 13 members of the NIK council saw their terms in office expire. However, the Sejm speaker was very slow to appoint the proposed new members, which has hindered the NIK's ability to review the state budget. This delay has been widely perceived as an attempt to obstruct the NIK's functioning. The fact that the NIK actually works professionally was shown by its top showing in a competition for the rights to supervise the OECD's financial management.

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 any 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 was responsible for appealing the Anti-Terror Law, as well as new laws on high-ranking civil servants, the Constitutional Court and the media to the Constitutional Court. He has also been fighting for the rights of his own office, since the Sejm passed a law in 2016 that makes it easier to remove the serving commissioner. In 2018, Bodnar fought with particular vigor against new anti-terror- and surveillance laws, and was later awarded the Rafto Prize for human rights work, awarded by the Norwegian Rafto Foundation.

Citation:

Grzelak, A. (2018): Choosing between two Evils: the Polish Ombudsman's Dilemma, in: Verfassungsblog, May 6 (<https://verfassungsblog.de/choosing-between-two-evils-the-polish-ombudsmans-dilemma/>).

Data Protection
Authority
Score: 8

In May 2018, a new act on data protection entered into force. This replaced the 1997-era law, and is supposed to help implement the EU General Data Protection Regulation. The law has also introduced a new supervisory authority in Poland, the Office of Personal Data Protection, which replaced the Inspector General for Personal Data Protection. The president of this office is appointed for a four year term by the Sejm, with consent of the second chamber, the Senate.

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