



Poland Report

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Sustainable Governance
Indicators 2020

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Executive Summary

In 2019, two national elections were held in Poland: the European Parliament elections in May 2019, and elections to the two chambers of the Polish parliament, the Sejm and the Senate, in October 2019. Like the local elections in October 2018, these elections were set as a choice between two extremes. The opposition argued people should opt for a pro-European, progressive perspective that respects the rule of law, whereas the government presented itself as the political choice for traditional national and family values, and social protection. In the elections to the European Parliament, the democratic opposition even formed a single bloc, the European Coalition. Both elections were won by the governing PiS, which won 45.3% of the votes for the European Parliament and 43.59% of the votes for the Sejm. In the Sejm, the PiS now faces four opposition alliances, the Civic Coalition led by the Civic Platform (PO), the Polish Coalition around the Polish People's Party (PSL), the Left led by the Social Democrats (SLD) and the nationalist Konfederacja. The election results show the usual north-west versus south-east and urban versus rural cleavages. In the elections to the European Parliament and the Polish parliament alike turnout increased – from 23.83% in 2014 to 45.68% in the 2019 European Parliament elections, and from 50.92% to 61.74% for the national elections. This can be considered a positive development regarding political participation.

While PiS was able to increase its vote share for the Sejm from 37.6% in 2015 to almost 45% in 2019, PiS leader Jarosław Kaczyński was not satisfied with the election results. To start with, the increase in the vote share has not translated into a higher share of parliamentary seats. As more parties and coalitions secured the necessary threshold to enter parliament, PiS won the same 235 out of 460 seats it had won in 2015. Secondly, the opposition succeeded in receiving a small majority of seats (51 out of 100) in the Senate, the second chamber of the Polish parliament. Here, favored by the first-past-the-post system, cooperation between the parties of the democratic opposition worked and they did not compete against each other in the election. Finally, Solidarna Polska/Razem and Proszumienie, the two PiS partners, also increased their share inside the PiS fraction in parliament (winning 18 seats each).

The strong showing of PiS has stemmed primarily from the favorable economic situation and popularity of particular policies rather than from the

popularity of specific politicians or overall support for PiS. In addition to its strong control over the media, the government's main tool for winning over voters was its expansion of social benefits. The government *inter alia* increased the minimum wage and the family allowance, cut taxes, and announced a 13th pension payment. In adopting these and other reforms, the PiS government continued to bypass 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. The government also benefited from its absolute majority, PiS's strong party discipline and Prime Minister Mateusz Morawiecki's close collaboration with long-term party leader Jarosław Kaczyński who continues to exert substantial informal influence. Precisely because so many bills have sailed so quickly through parliament, the quality of legislation has proven to be very poor, often requiring immediate amendments.

The electoral victory of PiS cannot be understood without taking the role of the Catholic Church into account, not as a religious institution, but as a direct political actor. The Catholic Church in Poland has openly instructed believers who they should vote for, while also threatening local and national politicians with excommunication if they support bills that are contradictory to the Catholic Church's religious values and "social teaching," and to specific economic interests. During its government term, PiS supported legislative proposals and draft bills almost identical with the interests of the Catholic Church and the clergy. On many occasions, Kaczyński has unequivocally supported this institution, equating Polishness with Catholicism and labeling Poles unattached to the Catholic Church as alien to the nation. Moreover, liberal elites have been identified as to be the main enemy, and their replacement with a new patriotic elite, capable of "defending the Polish family" and creating a Polish version of a welfare state, was promised if PiS was successful at the polls. PiS has successfully avoided having its policy visions labeled as "socialist," offering instead an association with the notion of "solidarity" which still resonates positively in Poland.

In the period under review, the quality of democracy in Poland has deteriorated further. The Constitutional Tribunal, the public media and the civil service have been turned into partisan bodies. Meanwhile, attempts to undermine the political independence of the Supreme Court, the National Council of the Judiciary and ordinary courts have continued, although these attempts have resulted in the European Commission initiating three infringement procedures. Two of these procedures have already led to European Court of Justice decisions against the Polish government. Political liberties are undermined by restrictions of assembly rights, with harassment by the police increasing and government control of NGO funding expanding. In

late 2018, the PiS government passed an amendment of the electoral law. Citizens living abroad were stripped of their right to vote by post. 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 changes will become effective after 2019. 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, corruption and cronyism within state-owned enterprises – issues that became especially visible during campaigning for the recent national elections. 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.

Hence, the PiS government's international reputation has not improved. The European Commission, backed by the European Parliament, has stuck to the Article 7 procedure launched in December 2017 – which states that a persistent breach of the European Union's founding values by a member state can lead to the suspension of certain membership rights. The European Council has not yet taken a decision since several EU member states, particularly Hungary, have declared that they would not support a vote against Poland. Other forms of external pressure, especially infringement procedures at the European Court of Justice, have had a greater impact.

Citation:

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

Markowski, R. (2020): Plurality support for democratic decay: the Polish parliamentary election of 2019, in: *West European Politics*, forthcoming.

Matthes, C.-Y. (2020): Polen: Erosion von Pluralismus und Rechtsstaatlichkeit – Ausbau des Sozialstaats. Das konservativ-nationale Programm der PiS-Regierung, in: G. Verheugen, K. Vodička, M. Brusis (eds): *Demokratie im postkommunistischen EU-Raum. Erfolge, Defizite, Risiken*, forthcoming.

Key Challenges

While the 2019 parliamentary elections have reaffirmed the ruling PiS party's majority, the political and economic constellation has changed. The PiS government is now confronted with a more diverse opposition and will have to find compromises with the Senate. Furthermore, it will have to ensure that the rivalry between Zbigniew Ziobro and Mateusz Morawiecki, the main contenders for succeeding PiS leader Jarosław Kaczyński, does not become

too pronounced. As economic growth has started to slow, the new government will command a smaller government budget. The controversies over the financing of the government's costly election promises have already begun. The opposition faces significant challenges, too. It has to find the right balance between unity and diversity. It has to hold its slight majority in the Senate together, but must also make sure that the specific profiles of the different opposition parties are not lost to the voters, and that voters can see what the parties stand for and not only what they are against. Moreover, it needs to develop policy proposals that take the social concerns of a large proportion of the population into account, while minimizing the negative economic and fiscal side effects. For the opposition to be effective, they will have to do more than simply criticize the authoritarian clientelism of the PiS government.

The future development of democracy in Poland very much depends on the outcomes of the 2020 presidential elections. The latter are crucial because the Polish president has veto powers, which can effectively block legislation adopted by the Sejm, as the post-2019 PiS majority falls short of the numbers needed to overcome them. If President Duda wins the elections, the PiS's second term in power will very likely contribute to the further decay of democracy in Poland. Political clientelism is likely to expand, the dismantling of the separation of powers will continue and civil society will be marginalized. State hegemony is expected to dominate in all domains of life, following the Fidesz model in Hungary.

There is however an alternative development path that would be more conducive to the return of the rule of law and liberal democratic norms, which hinges on two categorically different sets of factors. The first derives from the external context, particularly the EU institutions and more broadly the European infrastructure, including the European Council and the Venice Commission. The big question here is whether the European Union as a political community is serious about its constitutional foundations and ready to defend its core values, procedural principles of democracy, and the rule of law in EU member states. Poles are the most europhile citizens in the European Union, between 80% and 90% of the public supports Poland's membership in the European Union. This certainly is an asset that ought to be utilized. The second factor is the relationship between the central government of PiS, and major metropolitan centers and dozens of medium-size cities, which are run by opposition parties or non-PiS political alliances. This will be of crucial importance for the future of Polish politics and democracy. The ability of local politicians and alliances to organize citizens in defense of policies neglected by the PiS government and utilize their assets to mobilize liberal-democratic voters is crucial for the outcome of the 2020 presidential elections and the future of Polish democracy.

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 issues. PO believes in the market as a regulator and sees the provision of equal opportunities for people as a primary goal, while the PiS advocates for 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, 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, PiS 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. Exploiting people's fears and portraying liberals as a threat to Polish society has been central to the PiS's electoral strategy. Given the government's clear parliamentary majority, and the weakening of other checks and balances, 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 substantially undermined the quality of legislation.

The growing party polarization is illustrated by the fact that policy differences between PiS and PO voters in the 2019 parliamentary elections were much greater than in 2015 or, even more so, in 2011. At the same time, both political camps have experienced some shifts. PiS is now challenged by a more right-wing and euroskeptic but economically liberal party, the Freedom and Independence Confederation (KON), while the pro-European camp sees a strengthened Democratic Left Alliance (SLD), the emergence of a new party (Spring) and, to a certain extent, a resurgent Polish People's Party (PSL). (Score: 4)

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Markowski, R. (2020): Plurality support for democratic decay: the Polish parliamentary election of 2019, in: West European Politics, forthcoming.

Policy Performance

I. Economic Policies

Economy

Economic Policy
Score: 7

The Polish economy is still on a strong footing. Though real GDP growth declined slightly to 4.6% in 2019 from 5.1% in 2018, the economy has continued to grow well above the EU average. Boosted by a strong increase in social transfers, good labor market conditions, low lending rates and moderate inflation (2.3%), it is still largely driven by growth in personal consumption. Private investment growth strengthened in 2019, after several years of weak growth. Public investment has continued to grow, although at a slower pace. In August 2019, the government announced a new infrastructure program, which is supposed to modernize and expand the network of streets and highways, worth PLN 800 million. Whereas domestic investment has risen, net FDI relative to GDP dropped by 2.2 percentage points, reflecting the uncertainty over the PiS government's economic policy and violations of the rule of law. In most rankings of international competitiveness, Poland has lost ground. The strong growth in social spending has raised concerns about Poland's medium- and long-term fiscal stance, and ability to react to a possible economic downturn. As discussions about linking access to EU funds to rule of law indicators will continue, the government may have to adjust its economic policy, which relies heavily on the inflow of EU funds. Economic growth rates are also likely to suffer somewhat as a result of Brexit. Accounting for 6.4% of all exports, the United Kingdom is Poland's second-largest export market, while the second-largest portion of the remittances from Poles working abroad comes from the United Kingdom.

Citation:

Balcerowicz, L., A. Łaszek (2019): Poland's economic miracle won't last, in: Politico, October 10 (<https://www.politico.eu/article/polands-economic-miracle-wont-last/>).

European Commission (2020): Country Report Poland 2020. SWD (2020) 520 final. Brussels (https://ec.europa.eu/info/sites/info/files/file_import/2020-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 5.1% in September 2019, a historic low and one of the lowest such rates in the European Union. 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 labor market integration of young people (unemployment disproportionately affects 15 – 24 year olds), lower-skilled workers and women. 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 per hour and PLN 2,250 per month in 2019 (i.e., a rise of more than 7%), with the government promising further increases in its 2019 election campaigns. 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. Hence, there has been a huge influx of people from Ukraine (2 million over the last four years), who have received work visas in order to fill low-skilled job vacancies in sectors where there is a shortage of domestic workers.

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. 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. In 2018, three new taxes were introduced: 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. Following the 2019 elections, the PiS government has realized some of its campaign promises. The corporate income tax rate for small businesses and businesses in their first year of existence is to be reduced from 15% to 9%, and the personal income tax is to be scrapped for all Poles under the age of 26 who earn less than PLZ 85,528.

Under the PiS government, the tax-to-GDP ratio has risen. At about 35%, it is below the EU average. Despite the rise in the tax-to-GDP ratio, there is a fiscal deficit.

With just two income tax rates and a relatively high VAT rate, vertical equity is limited. This is partly compensated for by the new solidarity and exit taxes. The abolishment of income tax for young people clearly violates horizontal equality.

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. For small domestic enterprises, this is partly balanced by the lower corporate-income tax rate.

Poland collects relatively high environmental taxes, as compared to other EU member states. However, only a small proportion of revenue from environmental taxes is used to promote environmentally friendly behavior. Most environmental taxes are energy-related, but there are exemptions, for instance, for energy-intensive industries. In addition, in 2019, the excise duties on energy were lowered and energy prices administratively controlled, with the state compensating energy producers for potential losses.

Citation:

European Commission (2020): Country Report Poland 2020. SWD (2020) 520 final. Brussels, 18-20 (https://ec.europa.eu/info/sites/info/files/file_import/2020-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 0.2% in 2018. Despite strong revenues, the fiscal stance slightly deteriorated in 2019 with the deficit climbing to about 1.0% as a result of spending increases in the run-up to the 2019 parliamentary elections. For 2020, the government has announced a balanced budget, but this goal looks difficult to achieve without creative accounting. The medium- and long-term outlook is clouded by 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 form of penalization for violations of EU law. 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 member states, still does not have an independent fiscal council.

Research, Innovation and Infrastructure

R&I Policy
Score: 6

While the Polish R&I system has been significantly restructured since 2010, its performance has remained relatively weak. Polish universities have ranked low in international comparisons, while cooperation between universities and business has been limited, and is highly dependent on EU funds and personal connections, and the innovation capacity of the economy has been weak. The PiS government has sought to stimulate cooperation between universities and business by expanding tax incentives for R&D and startups, and 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. Within the framework of his “constitution for science,” Minister of Science and Higher Education Jarosław Gowin has sought to strengthen university-led research. In April 2019, he announced a new initiative to promote research-oriented universities. As it stands, however, R&I spending in Poland, in both the public and the private spheres, however, has remained far below the European Union's 2020 targets. The National

Institute of Technology (NIT), which was intended to start work as a bundle of 35 existing research institutes in January 2018, still does not exist.

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 PiS government. The idea of a EU banking union is opposed by PiS due to its nationally oriented stance in this respect. However, Poland's financial sector has remained stable despite rapid expansion, as various stress tests have demonstrated. The Financial Stability Committee is in charge of macroprudential supervision since 2015.

Citation:

IMF (2019): Republic of Poland: Financial System Stability Assessment, Country Report 19/39, Washington, D.C. (<https://www.imf.org/en/Publications/CR/Issues/2019/02/05/Republic-of-Poland-Financial-System-Stability-Assessment-46578>).

II. Social Policies

Education

Education Policy
Score: 4

In the period under review, conflicts over education policy continued. In 2019, the abolition of the lower-secondary (i.e., middle) schools, which were introduced in 1999, and the return to the traditional two-tier school system (i.e., eight years of primary school followed by upper-secondary school for four years or vocational education) was eventually implemented. The change was badly prepared, the costs of which became visible to local administrations at the lowest (gmina) level – as well as teachers, parents and students – when the number of school children taking exams doubled. In spring 2019, the majority of teachers went on strike. Minister for Education Anna Zalewska was criticized for her poor handling of the teachers' protests, even by members of her party. Eventually the strikes faded out and Zalewska's successor, Dariusz Piatkowski, reached an agreement to raise salaries for teachers in August 2019. However, teachers have remained dissatisfied.

The content of school education has also been criticized. First, due to the government's attempts to change the curricula with a view to rewriting Polish history, removing many liberal and cosmopolitan texts and values from core teaching programs, and returning to old-fashioned teaching methods. In autumn 2019, the Sejm discussed a controversial draft law aimed at abolishing sex education in schools and threatening teachers with prison sentences. In October 2019, the European Parliament took up the issue and passed a resolution asking the Polish government to reconsider the bill.

As for higher education, Minister of Science and Higher Education Jarosław Gowin is eager to further improve the system of higher education in Poland. The laws he made in 2017 and 2018 are supposed to reduce the overall number of university students, to promote the so-called STEM disciplines (science, technology, engineering and mathematics), and reorganize the system of funding universities and students (through loans). These changes have been accompanied by protests from teachers and university personnel, who consider the reform to be ill-conceived, poorly prepared and expensive.

Citation:

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 inequality and exclusion have visibly declined since the early 2000s. This has partly been due to Poland's strong economic performance. In addition, regional disparities have been mitigated through regional-development policies financed by EU structural funds. By raising family allowances and increasing the minimum wage, the PiS government has improved social inclusion. Moreover, it has been successful in reducing the high share of temporary employment contracts. In the service sector, the payment of social-insurance contributions has become obligatory. However, experts have argued that the government's various social welfare and family allowance instruments do not interact well with one another, while the slight increase in the inflation rate has also negatively impacted on the financial situation of this group. In addition, the government's social housing program, the "Mieszkanie+," is well behind schedule. The postal service and railways are supposed to provide space and buildings that can be transformed into low-rent apartments. However, this has not yet worked out. A new program, which began operating in January 2019, provides free access to hospitals, education and other state institutions for people with special needs.

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/>).

Owczarek, D. (2019): Soziale Probleme lösen oder Wähler gewinnen? Die Sozialpolitik der PiS seit 2015, Polen Analysen Nr. 246, Darmstadt/ Bremen (<https://www.laender-analysen.de/polen-analysen/246/soziale-probleme-loesen-oder-waehler-gewinnen-die-sozialpolitik-der-pis-seit-2015/>).

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 healthcare 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 member states, Poland has a low doctor-patient ratio, with only 2.3 doctors per 1,000 inhabitants. Mortality indicators showed a visible increase in the number of deaths in 2017 and 2018, which was clearly related to the declining availability and quality of healthcare services, particularly in rural areas. The PiS government has not yet launched the comprehensive healthcare reform that it has promised several times. However, it has adopted a number of minor measures such as the creation of a new hospital network and pilot projects to test ways of improving the coordination of primary care. Health policy has been dominated by conflicts between medical staff and the government over salaries and working conditions, which resulted in frequent strikes and demonstrations. The government responded by promising salary increases for physicians and an increase in public healthcare spending from about 4.7% to 6% of GDP by 2024. This topic featured prominently in the 2019 election campaigns.

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 toward family policy. The cornerstone of the latter, which featured prominently in the 2015 election campaign, has been

the “Family 500” program, in effect since 1 April 2016. The family allowances for parents with two or more children to PLN 500 (€16) for each child is paid irrespective of the parents’ income. Since May 2019, all families (not only poor families) have been eligible to receive a grant of PLN 500 for their first child. The expansion of benefits has increased the estimated costs of the “Family 500” program from 1.3% to 1.7% of Poland’s GDP. Similar payments also exist in other EU member states, but in the Polish case the sum is high compared to the income of people. While the measures have improved the financial situation of Polish families, concerns that the Family 500 program would reduce labor market participation rates among women without having positive effects on the birth rate have been confirmed. The female employment rate has decreased by 2 – 3 percentage points since 2016.

In its second year in office, the PiS government adopted a second 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 childcare, the third-lowest such rate in the European Union, while 61% of Polish kids in the three-and-up cohort attend childcare, the fourth-lowest such rate in the European Union. Only one year of preschool (prior to entering the first grade in primary school) has become compulsory.

Citation:

Owczarek, D. (2019): Soziale Probleme lösen oder Wähler gewinnen? Die Sozialpolitik der PiS seit 2015, Polen Analysen Nr. 246, Darmstadt/ Bremen (<https://www.laender-analysen.de/polen-analysen/246/soziale-probleme-loesen-oder-waehler-gewinnen-die-sozialpolitik-der-pis-seit-2015/>).

Pensions

Pension Policy
Score: 5

The three-pillar pension system, which Poland introduced in 1999 following World Bank recommendations, has since been radically transformed. 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 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.

The pension-eligibility age was a hot topic in the 2015 election campaign. The first PiS government scrapped the envisaged increase in the retirement age, and even lowered the retirement ages for men to 65 and for women to 60 in November 2017. This decrease in the retirement age, which has been

estimated to cost 0.5% of GDP annually, 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. In order to finance part of the costs for the second pillar, the government tried to abolish the maximum contribution to ZUS, the public pension pillar. However, this move was declared unconstitutional by the Constitutional Tribunal in November 2018.

In 2018, the government also laid the foundations for a new occupational pension savings scheme, which is supposed to replace the existing second pillar. The new scheme was introduced for employees of companies with more than 250 staff in July 2019. The scheme will be extended to cover employees of smaller firms in the second half of 2020. While employees have the right to withdraw from the scheme, the government hopes to integrate up to 75% of the country's employed population through the scheme's automatic enrollment. Experts are divided. Some experts argue that it is a good idea to force Poles to save money and that the government should create incentives to do so, while others argue that these programs are inefficient.

In the period under review, the PiS government has largely focused on addressing the growing level of poverty among pensioners. It eventually adopted the "500+" scheme, which provides an extra annual payment to poor pensioners. Moreover, shortly before the 2019 European Parliament elections, all pensioners were paid a 13th pension. In the campaign to the parliamentary elections in October 2019, the government promised to pay a 13th and even a 14th pension on a regular basis. However, the financing of these costly promises is unclear. Some PiS members of parliament have suggested that the government could utilize the Solidarity Fund, which was meant to finance improvements for people with special needs.

Citation:

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

Owczarek, D. (2019): Soziale Probleme lösen oder Wähler gewinnen? Die Sozialpolitik der PiS seit 2015, Polen Analysen Nr. 246, Darmstadt/ Bremen (<https://www.laender-analysen.de/polen-analysen/246/soziale-probleme-loesen-oder-waehler-gewinnen-die-sozialpolitik-der-pis-seit-2015/>).

Integration

Integration Policy
Score: 3

Until 2015, issues related to emigration from Poland featured far more prominently on the political agenda than issues related to immigration to Poland. While Poland had developed an integration concept following EU pressure in 2012, the number of Ukrainian and Vietnamese workers in Poland was low. Since PiS has returned to power, the government's discourse has

been very much against immigration, especially regarding Muslim people and people coming from countries outside Europe. In 2017, the parliament amended the Act on Foreigners with a view to tightening the domestic institutional framework for dealing with immigration. In the 2019 election campaigns, PiS representatives have continued to denounce Muslim immigrants as potential terrorists, a risk to public health, and a threat to Polish culture and society.

Meanwhile, however, the number of migrants has substantially increased. In 2018 and 2019, Poland took more workers from outside the European Union than any other EU member state. Since 2014, about two million Ukrainians have arrived, pushed by the poor economic situation and the war in Ukraine, and pulled by labor shortages and higher wages in Poland. While smaller in scale, immigration from countries such as Nepal, India and Bangladesh has also increased. Policies for integrating migrants are weak. The assumption, which might turn out to be wrong, is that most migrants will only stay temporarily or are so close in cultural terms that integration is no real problem.

Citation:

Babakova, O. (2018): Socio-economic aspects of migrations in Poland (1989 – 2018), in: J. Kucharczyk, G. Mesežnikov (eds), *Phantom Menace. The Politics and Policies of Migration in Central Europe*. Prague: Institute for Public Affairs/ Heinrich-Böll-Stiftung, 148-168.

Economist (2020): How to mess up migration: Poland is repeating the mistakes of other European countries, February 22.

Koss-Goryszewska, M., M. Pawlak (2018): Integration of migrants in Poland: Contradictions and imaginations, in: J. Kucharczyk, G. Mesežnikov (eds), *Phantom Menace. The Politics and Policies of Migration in Central Europe*. Prague: Institute for Public Affairs/ Heinrich-Böll-Stiftung, 169-184.

Wolffhardt, A., C. Conte, T. Huddleston (2019): *The European Benchmark for refugee integration: A Comparative Analysis of the National Integration Mechanism in 14 EU Countries*. Warsaw: Institute of Public Affairs.

Safe Living

Internal Security
Policy
Score: 7

Crime and homicide rates 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 no longer alternates between the government and opposition. Since 2015, Poland's secret services have been coordinated by Mariusz Kamiński, a controversial figure. Kamiński was found guilty by a court in 2015 of producing false evidence against a political opponent in his previous position as head of the anti-corruption office (CBA). However, Kamiński was later

pardoned by President Duda. In August 2019, Kamiński also became Minister of the Interior and Administration.

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. Poland became the 28th member of the OECD Development Assistance Committee (DAC) in October 2013 and 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. The Multiannual Development Program 2016 – 2020 adopted in October 2015 by the Kopacz government, was updated in September 2018 to include Lebanon and Uganda. The majority of financial contributions has gone to Ukraine, Belarus and Turkey (in order to host Syrian refugees). 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 in Malta in November 2015, Poland promised to contribute €1 million to address root causes of migration from Africa. Prime Minister Morawiecki later proposed a new Marshall-Plan-like effort for Africa.

Citation:
OECD (2019): Poland. Development Cooperation Profiles.
http://www.polskapomoc.gov.pl/gallery/2019/Development_Co-operation_Profile_2019_-_Poland.pdf

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 political consensus in the country that economic growth should be given priority over protection of the environment, which has translated into a lack of ambition and the weak implementation of environmental policy. Moreover, all governments have been 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.

The resource productivity of the Polish economy has been low. While the updated National Waste Management Program prioritizes separate collection

and recycling, landfill has remained the dominant form of waste treatment. Municipalities often lack power or incentives to enforce waste legislation.

The strong reliance on fossil energy has kept environmental pollution high. In September 2019, ClientEarth, an international NGO that seeks to protect the environment through legal action, took a subsidiary of the state-owned Polska Grupa Energetyczna to court over emissions at the Bełchatów plant due to its enormous burning of brown coal. Attempts to end the combustion of low-quality coal in substandard domestic boilers remain half-hearted. Despite substantial investment in building necessary infrastructure, including projects co-financed by the European Union, Poland missed the final deadline in 2015 for achieving compliance with the Urban Waste Water Treatment Directive. Over 1,000 agglomerations require an estimated €6.1 billion in additional investment in collecting networks and treatment plants.

As international climate debates and protests have reached Poland, the PiS government has reconsidered its stance on climate policy. Following the 2019 parliamentary elections, a separate climate ministry has been established, which is headed by Michał Kurtyka, the former COP24 president. While the details of the new strategy are not yet clear, the PiS government now plans to reduce the share of coal in energy production to 50% by 2030, and increase the share of renewables (currently a meager 1%), shale gas and nuclear energy.

While Poland has made some progress with drawing up plans for managing Natura 2000 sites, the protection of biodiversity has not featured very prominently on the government agenda. Biodiversity is threatened by the rapid development of infrastructure (e.g., roads), the regulation of rivers for navigation, flood defenses and intensive agriculture. The logging of the Białowieża primeval forest, a protected Natura 2000 site, only stopped following a European Court of Justice decision in April 2018.

Citation:

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>).

European Commission (2019): Environmental Implementation Review 2019. Country Report Poland. SWD(2019) 128 final, Brussels.

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 been active on the international scene. In 2018, it hosted the World Climate Council (COP 24) in Katowice and chaired the so-called Talanoa Dialogue forum (jointly with Fiji), which aims to find compromises to help

countries fulfill their climate-protection goals. In Katowice, Polish representatives presented an initiative called “Forest Coal Farms,” which focused on reforestation efforts as a means of combating climate change. Poland has become a party in the Global Pact for the Environment process, launched by the U.N. General Assembly in May 2018, and coordinated by the European Union for EU member states. Within the European Union, the primary focus of Poland’s environmental policies, Poland has taken a restrictive stance. At the European Council summit in summer 2019, Poland, along with Estonia, Hungary and the Czech Republic, blocked a declaration to achieve environmental neutrality by 2050. The Polish government is not enthusiastic about the European Commission’s commitment to developing a new green deal.

It has always insisted on an acknowledgment of its special situation arising from its energy and economic dependence on its coal industry.

Citation:

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

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.

In terms of registration, there were no signs of discrimination against specific candidates or parties in the local elections in 2018, and the European Parliament and parliamentary elections in 2019. However, the new rules on the mode of selection of the National Election Commission (Państwowa Komisja Wyborcza, PKW) and its executive body, the National Election Office (Krajowe Biuro Wyborcze, KBW), which came into effect after the 2019 parliamentary elections, have raised concerns about the government’s greater influence over these two bodies. First, the members of the PKW are no longer judges, instead, seven out of nine members are members of parliament. Second, the head of the KBW is selected by the PKW from a list of three candidates nominated by the minister of the interior. Third, the minister of the interior is responsible for nominating the 100 commissioners who manage 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/>).

OSCE/ODIHR (2020): Limited Election Assessment Mission Final Report: Republic of Poland, Parliamentary Elections 13 October 2019. Warsaw (<https://www.osce.org/odihr/elections/poland/446371>).

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. While political influence on the media has always been a problem, this has tremendously increased since the PiS came to power. Public media reporting now has a clear partisan bias and media access is more difficult for opposition parties. This was confirmed by a mission of the OSCE prior to the 2019 elections, which also observed that the government party in particular used a nationalist and homophobic rhetoric. It was also reported that high-ranking public officials, who were also candidates, occasionally made promises about public funds, and that neither they nor the media differentiated between state and party issues. Since there are private media who report more openly, other means of information exist.

Citation:

OSCE/ODIHR (2020): Limited Election Assessment Mission Final Report: Republic of Poland, Parliamentary Elections 13 October 2019. Warsaw (<https://www.osce.org/odihr/elections/poland/446371>).

Voting and
Registration
Rights
Score: 8

Almost all adult citizens above 18 years of age in Poland have the right to vote. There is no blanket disenfranchisement of convicts or individuals who have been declared incapacitated, although the Commissioner for Human Rights has argued that the restrictions for people with disabilities should be lifted. All Polish citizens are automatically registered to vote, so there is no need for registration before elections. These lists are generally considered to be coherent, complete and valid. Changes of the election code in 2018, which were criticized due to its quick decision-making and lack of public consultation, made some procedures for voting more difficult. Since the local elections in autumn 2018, postal voting is only open to disabled voters and no longer for citizens living abroad. Citizens who live abroad have to vote in specific ballot offices in their consulates or embassies. Since citizens living abroad have tended to be critical of the PiS in previous elections, the amendment is regarded as being strongly biased in favor of the PiS. Results for Poles voting abroad in the 2019 elections confirmed this pattern.

Complaints against election results have to be directed to the Supreme Court within seven days of the election result's announcement. Since the now more partisan National Election Council and the prosecutor general, who is also the minister of justice, are responsible for the validation of election results, doubts were raised, for example, by the OSCE conclusion that election-related disputes can be settled in an impartial and independent way.

:

OSCE/ODIHR (2020): Limited Election Assessment Mission Final Report: Republic of Poland, Parliamentary Elections 13 October 2019. Warsaw (<https://www.osce.org/odihr/elections/poland/446371>).

Party Financing
Score: 6

Party and campaign financing regulation as such is clear and regulated by the 2001 Political Parties Act and the 2011 election code. Parties depend heavily on public funding, which is provided only to parties that win at least 3% of the vote or at least one seat in parliament. 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 voters' electoral committees can be financed from private funds, parties have to rely on party budgets, private donations are limited and anonymous donations are forbidden. There is also 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 – there is only a post-election reporting requirement on campaign financing – the short window of time in which objections can be raised by the National Election Commission, and the lack of detailed transparency in commission reports of electoral committee revenues and finances. The changes to the PKW and its more partisan composition have raised doubts about its independence, and might make the control of party and campaign financing more selective. In addition, there is the broader problem of distinguishing between the money PiS has at its disposal in accordance with party finance rules and the semi-formal support that comes through various forms of financial assistance from state-owned enterprises controlled by PiS.

Citation:

OSCE/ODIHR (2020): Limited Election Assessment Mission Final Report: Republic of Poland, Parliamentary Elections 13 October 2019. Warsaw (<https://www.osce.org/odihr/elections/poland/446371>).

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 consultative referendum on the constitution. The initiative passed the Sejm, but was not fully backed by the PiS leadership out of fear that voter turnout rates would be low. The Senate has raised concerns over ambiguous provisions that could limit its own competencies compared to the ones of the president.

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 that oversees public 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 250 journalists either lost their jobs or stepped down from their positions for political reasons in 2016. TVPs selectivity in framing and priming has gone so far as to manipulate the news in social, cultural and artistic matters. Unbelievable as it may sound, the Polish public TV broadcaster decided not to broadcast the official speech given in Stockholm of the Nobel Prize winner in literature, Olga Tokarczuk, who has been critical of the current Polish government. 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 two major private 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 between 15% and 20%. However, it has continued its attempts to weaken independent media by limiting advertisements bought by public organizations in media perceived as hostile to the government, and by exercising pressure on critical media and journalists. A case in point is the scandal at the Polish Financial Supervision Authority (KNF) in November 2018, which ultimately forced its chairman, Marek Chrzanowski, to resign amid allegations of corruption. When the media discussed the role of Adam Glapiński, Chrzanowski's tutor and confidant, the president of the National Bank of Poland (NBP), the NBP tried to force *Gazeta Wyborcza* and *Newsweek Poland* to remove several articles.

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).

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. The main private TV channel TVN belongs to the U.S.-based Discovery Inc. 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 2015, 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. The government's attempts to restrict public access to information have been partly offset by the courts, which have typically ruled in favor of citizens or journalists.

Civil Rights and Political Liberties

Civil Rights
Score: 4

There is not much trust in the government's respect for civil rights due to its grip on the judiciary and frequent attacks on the Commissioner for Human Rights, and the xenophobic, discriminatory and offensive rhetoric used by prominent members of government against minorities, women activists and other people who do not fit into their worldview. In addition, the legislation on NGO financing enacted at the end of 2017 has made it more difficult for

NGOs to monitor respect for civil rights. Access to public money is controlled by a new institution, the National Freedom Institute – Center for the Development of Civil Society. In a number of cases, NGOs that focus on women’s rights, domestic violence, and asylum-seekers’ and refugees’ issues have been denied funds. NGOs who try to defend civil rights are also increasingly confronted with hate speech, criticism of their activities and lawsuits.

Citation:

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

Ciobanu, C., W. Kość (2017): *Warsaw grabs purse strings of Polish NGOs*, in: *Politico*, August 12 (<https://www.politico.eu/article/pis-polish-ngos-fear-the-governments-embrace/>).

Political Liberties
Score: 6

The constitution does protect political liberties and all options for citizens to express themselves freely in the public. However, under the PiS government, violations of these rights have increased and options to use them have been impeded. 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.

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 without a corresponding increase in resources, rather its budget has been cut by the government. This is mostly due to the PiS’s resentment of the office. Anti-discrimination policy has not featured prominently on the agenda of the

PiS government. Quite to the contrary, many public positions are not filled according to any anti-discrimination regulations, but according to political loyalty. In addition, 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 legislation on the financing of NGOs already disables those NGOs that campaign against discrimination to access public money, and the Polish Society of Antidiscrimination Law (PSAL) has reported plenty of cases of individual, group-based or institutional discrimination.

Citation:

Helsinki Foundation for Human Rights (2019): Submission to the 99th Session of the Committee on the Elimination of Racial Discrimination. Warsaw
 (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fPOL%2f35499&Lang=en)

Rule of Law

Legal Certainty
 Score: 3

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 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. Despite numerous complaints about and international criticism of this issue, nothing has changed. The controversial creation of a new disciplinary chamber in the Supreme Court, which has the power to initiate disciplinary investigations and sanctions against ordinary court judges on the basis of the content of their judicial decisions, has further increased legal uncertainty.

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 limited the independence of the Supreme Court and ordinary courts, and were pushed through despite massive domestic and international protests. 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 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. The struggle between the Polish government and the European Union over judicial reform has continued in the period under review. On the one hand, the government created a controversial disciplinary chamber for the Supreme Court, which has stubbornly resisted government control, and sought to limit the possibilities for escalating cases of Polish justice to the European Court of Justice (ECJ). On the other hand, the ECJ, in a decision in November 2019, questioned the independence of the disciplinary chamber and encouraged the Supreme Court to rule against it.

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>).

Court of Justice of the European Union (2019): Advocate General Tanchev: the newly created Disciplinary Chamber of the Polish Supreme Court does not satisfy the requirements of judicial independence established by EU law, Press Release No 83/19, June 27, Luxembourg.

Helsinki Foundation for Human Rights (2019): Disciplinary proceedings against judges and prosecutors. Warsaw (https://www.hfhr.pl/wp-content/uploads/2019/02/HFHR_Disciplinary-proceedings-against-judges-and-prosecutors.pdf).

Appointment of
Justices
Score: 2

Formally, the Constitutional Tribunal has 15 justices which are elected individually by the Sejm for terms of nine years, on the basis of an absolute majority of votes with at least one-half of all members present. The president of the republic then selects the president and the vice-president of the Constitutional Tribunal from among the 15 justices, on the basis of proposals made by the justices themselves.

The appointment of justices to the Constitutional Tribunal has been a major political issue since PiS came to power in 2015. The PiS government questioned the appointment of the five justices elected in the final session of the old parliament. Conversely, the sitting justices did not accept the justices appointed by the new parliament. The resulting stalemate took until December 2016 when the term of Constitutional Tribunal President Andrzej Rzepliński expired and the government succeeded in installing Julia Przyłębska as his successor by legally dubious means. In November 2019, the Sejm elected two highly controversial justices. Both of whom are former PiS members of parliament, were initially considered too old and have previously shown disrespect for civil rights.

Corruption
Prevention
Score: 4

Citation:

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 has remained a major political issue in the period under review. On the one hand, the PiS government has continued to accuse the opposition, especially representatives of 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. As many PiS members and followers have been placed in management positions, a widespread clientelistic network has emerged, and some high-rank politicians (e.g., the new minister of the interior and the director of the State Audit Office) have been convicted of abuse of office or investigated for failing to declare income from dubious economic activities.

A law on transparency in public life, which was introduced in March 2018, was supposed to tackle corruption, but has been widely criticized. The law 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/>).

Council of Europe, Group of States against Corruption (GRECO) (2019): Evaluation Report Poland. GrecoEval5Rep(2018)1. Strasbourg (<https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168092005c>).

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. When Morawiecki became prime minister, a new Center for Strategic Analysis was created in the Chancellery. 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

While the Chancellery is well-staffed and evaluates most draft bills, its policy expertise 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, although the bills will have been prepared by the government in advance. This procedure allows for a swifter legislative process with fewer consultation requirements, so that law-making can more effectively be controlled by the PiS leadership.

Cabinet
Committees
Score: 4

The number and role of cabinet committees under the PiS government have been limited. After the 2015 elections, 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 was in charge of coordinating the implementation of the Strategy of Responsible Development. There was also a cabinet-level Committee for Social Affairs headed by former Prime Minister Beata Szydło. However, conflicts among ministries were ultimately resolved not by cabinet committees, but by PiS leader Kaczyński and his immediate circle, including Prime Minister Morawiecki. The cabinet was reorganized following the 2019 elections, but the new structures are hidden from public scrutiny.

Citation:

There is a new reconfiguration among ministers after the 2019 election. Generally however, there is very little reliable knowledge on how these committees de facto work. It is all hidden from public eyes and scrutiny.

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 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. Prime Minister Morawiecki's informal power has grown as both his public reputation and his personal relationship with Kaczyński have improved.

Digitalization for
Interministerial
Coordination
Score: 6

The PiS government has been eager to increase the level of digitalization in the country and to use digital technologies to support interministerial coordination. On entering office, the PiS government established a separate Ministry of Digital Affairs and a Committee of the Council of Ministers for

Digitalization. After some haggling, Marek Zagórski, who is also the deputy chairman of the Agreement party (i.e., the party of Deputy Prime Minister Jarosław Gowin), was appointed minister of digital affairs in April 2018. He kept this position following the 2019 elections. The Committee of the Council of Ministers for Digitalization has coordinated the government's use of digital technologies.

Citation:
European Commission (2019): Digital Government Factsheet 2019.
https://www.ospi.es/export/sites/ospi/documents/documentos/Administracion-Digital/Digital_Government_Factsheets_Poland_2019.pdf

Evidence-based Instruments

RIA Application
Score: 3

Poland had a relatively well-established system of regulatory impact assessment (RIA) when the PiS government came to power. 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 (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. The quality of individual RIAs is evaluated by the Chancellery of the Prime Minister, not by an independent body.

Sustainability
Check
Score: 2

Although Article 5 of Poland's constitution enshrines the principle of sustainable development and the state's responsibility to ensure the protection of the environment, sustainability checks are not an integral part of regulatory impact assessments. The PiS government has been less concerned with issues of sustainability than were its predecessors. Moreover, 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 in 2016 and 2017.

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.

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

Societal Consultation

Public
Consultation
Score: 3

The Polish government is obliged by law to consult all parties affected by proposed legislation. In addition, there is a Council of Social Dialogue, composed of trade unions and employers, whose members are appointed by the president. 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 members of parliament, 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. Unlike the employers' associations and other trade unions, the NSZZ Solidarność trade union has enjoyed 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 the case of the 2019 teacher strikes, however, even NSZZ Solidarność has complained about the government's lack of responsiveness. In stark contrast to the 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, information provided by ministries has tended to be selective and highly propagandistic. The government Center for Strategic Analysis, introduced in 2018, has helped to overcome this problem to a certain extent.

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 increases 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. In general, the government has only been successful when reforms meant more money for certain social groups. In contrast, more complex pieces of legislation, which have involved multiple political or other actors (e.g., school or housing reforms), have been difficult or poorly implemented.

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 (e.g., between Prime Minister Morawicki and Minister of Justice Zbigniew Ziobro), 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 helps Prime Minister Morawiecki and PiS party leader Kaczyński to 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. This became visible in May 2019 after changes were made to the tax system, such as abolishing income taxes for people under 26 years old. Local governments, which receive a proportion of tax revenues, have calculated that their losses could be PLN 6.6 billion. An additional burden for local governments is the increase in teachers' salaries, which is not sufficiently covered by the government education subsidy. There were discussions between 12 of Poland's larger cities about suing the government due to the government's failure to ensure adequate task funding.

Constitutional
Discretion
Score: 4

Despite the existing level of decentralization in Poland, the PiS government has perceived local governments as a bastion of the opposition. A view that was reinforced by the 2018 local election results. Thus, the PiS government has tried to restrict local government powers. Since judicial institutions – which could normally be called on in cases of conflict between national and local or regional levels of government – is politically loyal to the government, representatives of the municipalities are unlikely to win judicial support.

National
Standards
Score: 6

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 reduced the fulfillment of these standards by reducing professionalism within the regional administrations. Conflicts between the voivode and locally elected representatives, who often have other political priorities, have increased. Moreover, the financial problems of regional and local governments, which have resulted from tax reductions on the national level, make it more difficult to achieve high public service standards.

Effective
Regulatory
Enforcement
Score: 5

Additional investment in infrastructure might help to mediate these problems, but they are rather directed primarily toward the more undeveloped eastern parts of Poland, which are regions in which people tend to vote for PiS.

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

Government structures in Poland have been adapted to international and supranational developments, most notably because of 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 not only been much more reluctant to adapt domestic government structures to international requirements (and EU requirements in particular), but even argues that adaptation is unnecessary.

International
Coordination
Score: 5

With the PiS government, Poland's international orientation has changed. Steps leading toward deeper integration have been contested and PiS has been more critical than its predecessors of Germany's role in the European Union. Because of this intransigence, Poland's reputation and standing within the European Union have suffered. While Prime Minister Morawiecki and Foreign Minister Czaputowicz have been more urbane than their predecessors, the government's basic approach toward the European Union has not changed much so far. Poland wants to play an active role within NATO and has tried to establish a closer bilateral relationship with the United States, which has also been perceived as a form of side-diplomacy outside the usual channels. Within the Visegrád group (Hungary, Czech Republic, Slovakia) collaboration is closer and more collective – a tendency that also stretches to other countries in the region – although differing attitudes toward Russia is a source of division between these countries. Unlike the other Visegrád countries, Poland has strongly supported the sanctions imposed on Russia by the European Union. Regarding climate change measures and energy policy, the government also stresses national interests, which follow the interests of the coal industry and not the interests of future generations, and is less eager to foster global public goods in Poland and abroad. In this respect, Poland was eager to block any progress at the European Council summit in June 2019. Together with

Hungary, Estonia and the Czech Republic, Poland blocked the EU decision on becoming CO2 neutral by 2050, which led to extensive public discussions, among others, with the French president, Emmanuel Macron.

Citation:

Buras, P. (2019): State of disunion: Europe, NATO, and disintegrating arms control.. London: European Council on Foreign Relations (https://www.ecfr.eu/article/commentary_state_of_disunion_europe_nato_and_disintegrating_arms_control)

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-brexite-considering-cee-perspective>).

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 have been introduced to improve strategic capacity through an open involvement of, for example, scientific expertise.

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 (which for the most part lack a broad membership

base), 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 and the polarization of society. This became visible, for example, in the increased turnout for the European and national elections.

Citation:

Pazderski, F. (2019): *In the Grip of Authoritarian Populism. Polish Attitudes to an Open Society*. Brussels: Open Society Foundation, European Policy Institute (<https://www.isp.org.pl/pl/publikacje/in-the-grip-of-authoritarian-populism-polish-attitudes-to-an-open-society>).

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.

Open
Government
Score: 5

Poland is not a member of the Open Government Partnership and the government is not much interested in fostering a social dialogue about its policy initiatives. Though the government does engage in digital access. In addition, the Ministry of Digital Affairs runs a government data portal and other mechanisms for public access, and is also engaged in opening access to administration via digital means. However, all these actions follow a technological perspective and are not necessarily driven by a motivation to truly enable citizens to participate in politics.

Citation:

Wieczorkowski, J., I. Paweloszek (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 PiS's victory in the 2015 parliamentary elections, 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 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 previous governments.

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 – Wiadomości, 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, 85% of PiS supporters think the TVP public TV station is “good,” while only 12% of PO supporters have the same opinion; by contrast, 84% of PO supporters trust TVN, compared to just 47% of PiS supporters.

Citation:

CBOS (2019): Oceny działalności instytucji publicznych i mediów, Komunikat z Badania, Nr 118, Warsaw.

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. While 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. In the parliamentary elections in October 2019, the Social Democratic Party (SLD) also managed to overcome this threshold. The three parties differ strongly from one another in their internal decision-making processes. 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, PO, the second largest party in parliament, and SLD have given members a greater say, which has allowed for more far-reaching internal debates.

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, but were more critical about the school reform and supported the teachers’ strikes in spring 2019. 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. All associations complain about not being involved in government policy discussions, despite the formal existence of the Council of Social Dialogue.

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. Though the groups that do exist have become more important in the current discourse on how to mediate the effects of climate change.

Most independent non-governmental organizations are relatively small and do not benefit from the funds distributed by the National Freedom Institute, the official organization in charge of helping NGOs with capacity-building. However, many NGOs have good international contacts, can rely on academic expertise and are thus 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 and has to deal with cases of sexual abuse. It currently has good access to the new government, but some of its priests also asked for more national solidarity, peaceful cooperation and a friendlier approach toward refugees.

Citation:

Pazderski, F. (2019): Indeks rozwoju i stabilności organizacji społeczeństwa obywatelskiego w Polsce. Warsaw: Instytut Spraw Publicznych (<https://www.isp.org.pl/pl/publikacje/indeks-rozwoju-i-stabilnosci-organizacji-spoleczenstwa-obywatelskiego-w-polsce>).

Independent Supervisory Bodies

Audit Office
Score: 7

Poland's Supreme Audit Office (Naczelna Izba Kontroli, NIK) 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). It is also responsible for auditing the state budget.

From 2013 to 2019, the NIK was led by Krzysztof Kwiatkowski, who had been appointed under the PO-PSL government. While the PiS government tried to obstruct the office's functioning, the NIK was able to continue its broad audit functions in an independent and effective manner. The fact that the NIK operates professionally was demonstrated by its top showing in the competition to supervise the OECD's financial management in 2018. When Kwiatkowski's term in office ended in August 2019, the government was quick to nominate Marian Banas, a former minister of finance. While Banas was found to have provided irregular information on his income and to have contact to criminal circles in Cracow, he stayed on, and under his leadership the NIK has continued to behave professionally and independently.

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. The commissioner is elected for five years and can be re-elected once. The office 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 insofar, as the institution has been assigned new tasks in the field of anti-discrimination policy, but did not achieve more 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 was awarded the Rafto Prize for human rights work awarded by the Norwegian Rafto Foundation and, in 2019, the rule of law prize awarded by the U.S.-based foundation World Justice Project. The changes in the judicial system clearly impede his work because he cannot be sure that the Constitutional Tribunal would present objective judgments. Hence, he has declared that he will withdraw several cases in the meantime.

Bodnar's term of office will end in September 2020. However, as a new commissioner can only be elected with the consent of the Senate and the

opposition holds a small majority in the Senate (51 seats), the PiS cannot install their own candidate through the Sejm only. If no new commissioner is found acceptable, Adam Bodnar will remain in office.

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: 7

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 renamed the 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. The new president, Jan Nowak, came into office in May 2019. Like his predecessor, Nowak has acted quite independently. In August 2019, the president initiated ex officio proceedings against the Ministry of Justice and the National Council of the Judiciary, following accusations that the bodies had collected and processed the personal data of judges and their families, and had shared the data with third parties. The effectiveness of the Office of Personal Data Projection has been limited by a lack of resources.

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