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Poland

Country Reports on Human Rights Practices - [2005](#)

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Poland, with a population of 39 million, is a multiparty democracy with a bicameral parliament. Executive power is shared by the prime minister, the council of ministers, and, to a lesser extent, the president. On September 25, free and fair parliamentary elections were held. Lech Kaczynski was elected president in a free and fair election on October 23. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- poor prison conditions
- occasional lengthy pretrial detention
- a poorly functioning judicial system
- restrictions on freedom of speech and of the press
- discrimination against women in the labor market
- the sexual exploitations of children
- trafficking in women and children
- societal discrimination and violence against ethnic minorities
- violations of workers' rights and antiunion discrimination

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

In May 2004 police officers in Lodz accidentally used live ammunition rather than gum bullets to pacify crowds at a student festival, and two people were killed. As a result of this incident and the ensuing investigation, 12 police officers faced disciplinary action, including the Lodz regional police commander, city commander, and deputy city commander, who lost their jobs. The investigation by local prosecutors of two police officers believed to have knowingly distributed the live ammunition was ongoing at year's end. In September 2004 police paid the family of 1 victim approximately \$80 thousand (240 thousand PLN), while negotiations with the second victim's family were continuing at year's end.

In February the appeals court in Warsaw overturned the two-year suspended sentence handed down by the district court in May 2004 to former interior minister Czeslaw Kiszczak for his role in the 1981 killings at the Wujek mine. In August the district court determined that the case was a "Communist-era crime" that should either be heard by the institute for national remembrance (IPN) or be dismissed on the basis of an expired statute of limitations. The prosecutor appealed that decision, and the appeal court ruled in September that the district court must hear the case. In October the Katowice district court again began hearing testimony, including that of General Wojciech Jaruzelski, who testified that Kiszczak had not authorized the use of firearms at the Wujek mine. The trial had not concluded at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and there were no reports that government officials employed them.

Observers accused police of using excessive force against a June 26 gathering of approximately eight thousand miners who were peacefully

protesting proposed changes in the retirement law being considered by the parliament. Observers reported that police used tear gas, batons, and water cannons against the protesters. Seven police officers and approximately 40 miners were injured in the confrontation.

Prison and Detention Center Conditions

Prison conditions remained generally poor. Overcrowding and insufficiency of medical treatment were the chief problems.

Overcrowding persisted in both prisons and detention centers. The Helsinki Foundation reported that approximately 83 thousand persons were held in prisons, despite an estimated capacity of 50 thousand. Overcrowding and other issues led to several riots in 2004. In May 2004 prison inmates in Wroclaw and Poznan staged a three-day hunger strike to protest crowded cells and demand better food and medical care. The protest ended peacefully, but with no resolution of the grievances.

In December the ombudsman sent a motion to the constitutional tribunal to review the regulation of the ministry of justice which allows for overcrowding in prisons and detention facilities. No ruling had been issued at year's end.

During the year prisoners submitted 15,065 complaints about the living conditions in penitentiary institutions. During the year there were 125 complaints of beatings or improper use of force by prison officials. Authorities took disciplinary action against 186 prison guards and supervisors when complaints were found to be justified.

Women, who constituted 2 percent of the prison population, were held in 28 detention facilities, 8 of which were only for women. In the remaining 20 facilities, inmates were segregated by gender.

Juveniles were generally separated from adults; however, in accordance with the law, at times juveniles and adults were housed together. Convicted minors (defined as 15- to 17-year-olds) were segregated from the adult prison population. Juveniles (17- to 21-year-olds) accused of serious crimes were usually sent to pretrial detention. According to the prison service central administration, there were no reported cases of an adult abusing a juvenile in mixed adult-juvenile detention.

Facilities that housed convicted prisoners often held pretrial detainees in separate areas. Conditions for pretrial detainees were occasionally worse than those for convicted prisoners.

The government permitted prison visits by independent human rights organizations, and there were visits by the UNHCR and the Helsinki Foundation during the year.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The police force is a national law enforcement body with regional and municipal units overseen by the minister of interior and administration. Low-level corruption within the police force was considered widespread, and there was also a public perception that police were unduly influenced by political pressures. Instances of corruption and serious criminal misconduct were investigated by the national police's office of internal affairs. The personnel division handled minor disciplinary offenses.

In January the former deputy minister of internal affairs and two parliamentary officials were sentenced to prison following their December 2004 convictions for obstruction of justice. Zbigniew Sobotka, the former deputy minister, was sentenced to 3.5 years in jail; Henryk Dlugosz and Andrzej Jagiello, both former parliamentary officials for the Democratic Left Alliance (SLD), were sentenced to 1.5- and 2-year terms, respectively. In his last days in office, the president reduced Sobotka's sentence to one year. Dlugosz and Jagiello's appeals were heard before an appeals court in Krakow in November, but a verdict was not issued by year's end.

In 2003 national police commander Antoni Kowalczyk resigned after it was revealed that he had changed his testimony during the investigation into the "Starachowice affair," a corruption scandal in which senior officials alerted suspects to an impending raid by the national police's central bureau of investigation. In October 2004 the prosecutor's office in Kielce charged Kowalczyk with perjury and failing to report the improper release of classified information. Kowalczyk's trial concluded in mid-December, and no verdict had been issued by year's end.

The government continued to implement programs to combat corruption in the police force. Workshops and seminars provided anticorruption training to employees and officers. In November the new commander for national police, Marek Bienkowski, announced a new anticorruption program that included higher salaries, better recruitment techniques, disclosure of individual financial holdings, and more severe penalties for offenses. At year's end the plan was being considered by the council of ministers.

Arrest and Detention

The law provides for suspects to be apprehended openly with warrants based on sufficient evidence and issued by the courts. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pretrial detention order. Detainees must be promptly informed of the charges against them, and the government

provides free counsel to the indigent. Defendants and detainees may consult with attorneys during their detention and before and during court proceedings. There was a functioning bail system, and most detainees were released on bail pending trial. Detainees have the right to prompt access to a lawyer, but family members must apply for permission to visit from the prosecutor.

Detainees may be held in pretrial detention for up to three months and may challenge the legality of an arrest by appeal to the district court. The court may extend the pretrial detention period every 6 to 12 months, but total detention time before the court issues a first sentence may not exceed 2 years. However, in certain circumstances, such as very complex cases, the court may petition the Supreme Court for an extension past the two-year limit. Trials were occasionally delayed by inefficiency.

e. Denial of Fair Public Trial

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

There is a four-tiered court structure. The courts consist of regional, provincial, and appellate divisions, as well as a supreme court. These tiers are subdivided further into five domains of jurisdiction: military, civil, criminal, labor, and family. Regional courts try original cases, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while having original jurisdiction for the most serious offenses. Appellate courts handle appeals tried at the provincial level; the Supreme Court handles appeals of lower court decisions and ensures that the law is applied consistently throughout the country.

The court system remained cumbersome, poorly administered, inadequately staffed, and underfunded. The courts had numerous inefficiencies--most notably, more criminal judges than prosecutors in many districts--that contributed to a lack of public confidence. Court decisions frequently were not implemented. A continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

Trial Procedures

Cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. Defendants are allowed to consult an attorney, who is provided at public expense if necessary. Defendants must be present during trial, may confront and question witnesses in their defense, and may access government-held evidence relevant to their case. Defendants may present evidence and witnesses on their own behalf. Prosecutors can grant witnesses anonymity if they express fear of retribution from the defendant. This provision, designed to help combat organized crime, impaired defendants' right to confront their accusers. Trials are usually public; however, the courts reserve the right to close a trial to the public in some circumstances, including divorce cases, cases in which state secrets may be disclosed, or cases whose content might offend public morality (see section 1.f.). The courts rarely invoked this right.

Once a verdict is rendered, the defendant has seven days to request a written statement of the basis for the judgment. The court then has seven days to produce a written decision. A defendant has the right to appeal within 14 days of the written decision on the basis of new evidence or procedural irregularities. A two-level appeal process is available in most civil and criminal matters.

The law provides for juries, usually composed of two or three individuals appointed by local officials, who assist judges in making decisions.

Several individuals lodged complaints or filed cases against the government in the European Court of Human Rights (ECHR) because of trial delays and a perceived lack of due process.

Military courts, which are supervised by the minister of justice and the prosecutor general, have jurisdiction over crimes committed by members of the military while on duty. Defendants enjoy the same rights as civilians. Civilian employees of the ministry of defense are not tried by the military courts.

Political Prisoners

There were no reports of political prisoners.

Property Restitution

While there is a law permitting restitution for communal property seized during the Communist and Nazi eras (see section 2.c.), the government failed to vote on a restitution bill for private claims that was introduced into parliament in July. The treasury estimated that there were 56 thousand claims outstanding for property valued at approximately \$16.7 billion (50 billion PLN). Despite the lack of a national law, some property nationalized illegally has been restored and compensation provided, amounting to approximately \$183 million (550 million PLN) for 500 property claims over the past 10 years.

In July the parliament passed a law concerning properties lost as a result of border changes after World War II. The legislation refers to formerly Polish land east of the Bug River that now falls inside the borders of Lithuania, Belarus, and Ukraine. The government estimated that the law could affect approximately 80 thousand claimants. However, no compensations were made during the year.

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

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

There was no independent judicial review of surveillance activities, nor was there any control over the use of the information thus derived. A number of agencies had access to wiretap information, and the law allows electronic surveillance for crime prevention and investigations.

Under the "lustration" law, designed to expose officials who collaborated with the Communist-era secret police, persons caught lying about their past may be prohibited from holding public office for 10 years.

In December 2004 former parliament speaker Josef Oleksy announced his decision to resign after a Warsaw court found him guilty of failing to reveal the extent of his communist-era activities. In October the court banned Oleksy from holding public office for 10 years as punishment for his concealment of secret collaboration with the wartime military intelligence services.

Many lustration cases were closed to the public because they involved classified documents (see section 1.e.). Critics continued to voice concern that the vetting procedure was unfair because secret police records were subject to loss or tampering.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, there were a few restrictions in law and practice. The law states that an individual who "publicly insults or humiliates a constitutional institution" of the country is subject to a fine or imprisonment of up to two years, and an individual who insults a public functionary is subject to a fine or imprisonment of up to one year. Offending the object or spirit of a place of worship through public speech is punishable by a fine or a two-year prison term.

During the year artist Dorota Nieznska appealed her conviction for offending religious beliefs by placing a photograph of female genitals on a Christian cross. She was sentenced by the Gdansk regional court in July 2003 to six months of public service. The appellate court's decision was pending at year's end.

The independent media were active and expressed a wide variety of views without restriction. The national radio and television broadcasting council (KRRiTV) has broad power to monitor and regulate programming on radio and television, allocate broadcasting frequencies and licenses, and apportion subscription revenues to public media. Council members are legally required to suspend their membership in political parties or public associations.

Private television, including satellite and cable services, was available across most of the country. Private television broadcasters operated on frequencies selected by the ministry of communications and auctioned by the KRRiTV. The four channels of the public Polish Television (TVP) were the most widely viewed, with a combined 40.5 percent market share, but TVP had strong competition from the private TVN and Polsat networks. Cable television and various satellite services carried the main national channels, as well as local, regional, and foreign channels.

The law prohibits the media from promoting activities that are illegal or against government policy, morality, or the common good and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." The government enforced this provision in practice, levying many fines during the year to programs deemed offensive. There was significant political debate about how to interpret and apply this law.

In 2003 the Supreme Court ruled in favor of the *Zycie* newspaper's appeal of a Warsaw district court judgment ordering it to apologize to then president Kwasniewski for publishing untrue information. The paper had accused the then president of meeting with a Russian spy at a sea resort. Kwasniewski denied such a meeting and said that he was abroad on the day he was reportedly to meet with the Russian agent and filed a suit. The case was returned for further review to the lower court, which in September 2004 again ordered *Zycie* to apologize. The newspaper initiated a new appeal, which was still pending at year's end.

In January a Warsaw regional court found journalist Jerzy Urban guilty of insult for his 2002 publication in news weekly *Nie* of an article that criticized the pope for senility and made other derogatory remarks. The court fined Urban approximately \$6,250 (20,000 PLN). In response to this and other cases of alleged slander, the representative on freedom of the media of the Organization for Security and Cooperation in Europe (OSCE) expressed his concern that freedom of speech was not sufficiently protected under the country's law. Urban's appeal of the ruling was pending at year's end.

On January 10, the Bielsko-Biala district court fined a journalist for the biweekly newspaper *Nad Skawa* \$650 (2,000 PLN) for publicly insulting religious belief and publicly libeling the object of religious worship in 1998. The journalist had called the pope's visit to Skawa an "artistic event" and described Jesus Christ in graphically explicit terms.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly; however, the government did not always respect this right in practice. Permits were not necessary for public meetings but were required for public demonstrations. Authorities routinely issued permits for public gatherings; however, the mayor of Warsaw refused to issue a permit for a gay rights parade in June, and the mayor of Poznan denied a permit for a separate gay rights parade in November (see section 5).

Freedom of Association

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

c. Freedom of Religion

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

There are 15 religious groups that were officially recognized by the government before World War II, and whose relationships with the government are guided by specific legislation outlining their internal structure, activities, and procedures for property restitution. There were 150 other registered religious communities. Approximately 96 percent of the population was Roman Catholic. Although the constitution provides for the separation of church and state, crucifixes hang in both the upper and lower houses of parliament, as well as in many government offices. State-run radio broadcasts Catholic mass on Sundays, and the Catholic Church was authorized to relicense radio and television stations to operate on frequencies assigned to the church--the only body outside the National Radio and Television Council allowed to do so.

Religious education classes continued to be taught in public schools. The government employed Catholic Church representatives to teach religious classes in schools. However, parents could request religious classes in any registered religion, including Protestant, Orthodox, Jewish, and Muslim religions. Children may choose between religious instruction and ethics, and may request exemption from any religious instruction. Non-Catholic religious instruction existed but was uncommon. In addition Catholic Church representatives sat on a commission that determined which books qualified for school use.

The government continued to work with both local and international religious groups to address property claims and other sensitive issues stemming from Nazi- and Communist-era confiscations and persecutions. Of approximately 10,000 communal property claims filed for restitution of religious property, more than 4,100 have been resolved and more than 1,200 properties had been returned by the end of the year.

At the end of the year, approximately 2,959 of the 3,063 claims filed by the Catholic Church had been concluded, with 1,420 claims settled by agreement between the church and the party in possession of the property (usually the national or a local government); 922 properties returned through decision of the commission on property restitution, which rules on disputed claims; and 617 claims rejected by the commission.

Claims by the local Jewish community, whose deadline for filing claims under the 1997 law expired in 2002, totaled 5,544. The commission considered 857 cases, of which 277 were settled amicably and 317 properties were restored.

The Lutheran Church, for which the filing deadline was 1996, filed claims for 1,200 properties. Of these 834 cases were heard, 228 of which were resolved amicably and 136 properties were restored. A total of 313 claims were filed with the commission by the Orthodox Church, of which 137 were closed in full or in part.

Societal Abuses and Discrimination

Relations between various religious communities were generally amicable. There was a small Jewish population of approximately 20 thousand. There were reports of sporadic incidents of harassment and violence against Jews and occasional desecration of Jewish cemeteries, committed by skinheads and other marginal elements of society.

Occasional incidents of cemetery desecration were reported during the year.

The government provided grants to a number of organizations involved in antibias education, including the public-private Jewish Historical Institute (ZIH) in Warsaw. ZIH is the largest depository of Jewish-related archival documents, books, journals, and museum objects in the country. The government also provided grants to ZIH, which produces educational materials on Jewish culture, the Holocaust, and religious tolerance.

On May 5, the prime minister, the Israeli prime minister, and the Hungarian prime minister were featured speakers at the fourteenth March of the Living. An estimated 21 thousand participants walked from the former Auschwitz concentration camp to the former Birkenau death camp to honor victims of the Holocaust. Schoolchildren, Boy Scouts, the Polish-Israeli Friendship Society, Polish survivors of Auschwitz, and the Polish Union of Jewish Students participated in the march.

In 1998 the parliament created the commission for the prosecution of crimes against the Polish nation within the IPN. The IPN was responsible for commemorating Polish losses sustained in World War II and the postwar period, celebrating citizens' efforts to forge an

independent state, and pressing for government compensation of past human rights violations. In April the government-funded IPN confirmed that Konrad Hejmo, a Polish priest posted to the Vatican, collaborated with the secret police in the 1970s and 1980s to provide information on Pope John Paul II. Hejmo was recalled from his position in the Vatican.

The ministry of culture, the city of Warsaw, and ZIH completed years of negotiations on January 25 when they signed an agreement to build a museum of the history of Polish Jews. Following an international competition, the design for the museum was awarded to Finnish architects in the fall.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

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

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 1,856 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

During the year the Halina Niec Human Rights Association reported that a refugee detention center in Lesznowola had inadequate standards of hygiene at in some facilities, insufficient lighting and ventilation, as well as a lack of privacy. The government responded by beginning construction on four more modern centers for refugees. The considerable increase in space and upgrades in efficiency were expected to address some of the current challenges.

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

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

Elections and Political Participation

National parliamentary and presidential elections took place in September and October, respectively, and were regarded as free and fair. Multiple candidates from various political parties participated in the elections and had access to the media.

Following parliamentary elections on September 25, Kazimierz Marcinkiewicz became prime minister. Coalition talks with Civic Platform (PO) failed, and Law and Justice (PiS) formed a minority government, which received a vote of confidence from the parliament on November 10.

There were 94 women in the 460-seat lower house and 13 women in the 100-seat senate. There were 2 women in the 18-member cabinet.

There were two members of minorities in the lower house and no minorities in the senate. There were no minorities in the cabinet. The law exempts ethnic minority parties from the requirement that they win 5 percent of the vote nationwide in order to qualify for seats in individual districts.

Government Corruption and Transparency

There was a widespread public perception of corruption in government. Experts reported that citizens considered political parties, parliament, the health care system, and the judiciary to be the most corrupt public institutions. The nongovernmental organization (NGO) Transparency International reported an erosion in public confidence in the country's institutions. According to a poll conducted in August by the Center for Public Opinion research (TNS OBOP), 94 percent of citizens believe corruption occurs very often (67 percent) or often (27 percent).

On September 19, the parliamentary Orlen investigative committee approved a final report on the "Orlengate" scandal, which originally surfaced in October 2004 with reports that the country's richest businessman had met with a former Russian spy and suggested he had official approval to negotiate the sale of state-owned Rafineria Gdanska, the country's second-largest oil refinery. The alleged conversation would have been illegal, since the law bars any state officials, with the exception of treasury ministry officials, from negotiating business transactions, including asset sales, on the government's behalf. The committee's final report concluded that President Kwasniewski, former prime minister Leszek Miller, former minister of treasury Wieslaw Kaczmarek, former minister of justice Barbara Pivnik, Speaker of the Sejm

Włodzimierz Cimoszewicz, Minister of Justice Andrzej Kalwas, and former minister of treasury Emil Wasacz should all be impeached before the state tribunal for their involvement in the scandal. On September 26, the committee's report was sent to the speaker of the house, but the case remained pending at year's end since the report had not yet been reviewed by the parliament.

In a separate matter a former aide leaked allegations of tax fraud against SLD presidential candidate Włodzimierz Cimoszewicz to the press, leading him to withdraw from the presidential campaign on September 15.

In September 2004 businessman Marek Dochnal was arrested for allegedly bribing public officials for information about the privatization of a state-owned steel mill and the sale of shares of the country's largest oil company. His detention was extended several times and he was still in custody at year's end, although no official charges had been filed or trial date set.

In April a government inspection of the central bureau of investigation (CBS) offices in Lodz revealed that over 265 pounds (120 kilograms) of narcotics had disappeared from CBS custody over the past few years. A similar inspection in May of the CBS offices in Poznan found that CBS officers were trading top-secret operational information. Both offices were closed, and the director of CBS, Janusz Golebiewski, resigned. Interior Minister Ryszard Kalisz offered his resignation to Prime Minister Marek Belka in response to these scandals. Belka did not accept Kalisz's resignation, but instead relieved Kalisz's deputy, Andrzej Brachmanski, of his position.

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

On November 25, the defense minister announced that the "Warsaw Pact files," which contain information about the 1968 Soviet invasion of Czechoslovakia and the 1981 imposition of martial law in the country, would be declassified and made available to historians at the IPN. Government-appointed teams began to evaluate which documents were appropriate for declassification.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

Domestic violence against women continued to be a serious problem. Police statistics indicated that approximately 88,388 women were victims of domestic violence during 2004, with 17,158 convictions resulting from prosecution. During the year police reported 22,652 investigations, with 21,843 indictment requests forwarded to prosecutors. Women's organizations asserted that the number of women suffering from domestic abuse was probably much higher than reported. Violence against women remained hidden, particularly in small towns and villages.

The NGO Women's Rights Center reported that police were occasionally reluctant to intervene in cases of domestic violence, particularly when the perpetrator was a member of the police force and when victims were unwilling to cooperate. The police, in cooperation with the state agency for solving alcoholic problems, used the "blue card," a record-keeping system designed to document incidents of spousal abuse. However, the program had limited effect due to inadequate funding. There were 150,266 cases of family abuse reported in 2004, compared with 137,299 in 2003. The increase in reported cases was attributed to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. According to NGOs, courts often treated domestic violence as a minor crime, pronounced lenient verdicts, or dismissed cases. Most convictions for domestic abuse resulted in suspended sentences, although the law provides for up to five years in prison. The law does not provide for restraining orders to protect abused women from further abuse.

NGOs operated a number of centers to assist victims, provide preventive treatment and counseling to perpetrators, and train personnel working with domestic violence victims. Victims and their families received legal assistance from the ministry of internal affairs and psychological assistance from the ministry of labor and social policy, which also operated 9 shelters for pregnant women and mothers with small children and 158 crisis centers. Approximately 341 persons used the shelters during the year, and 31,943 persons used the crisis centers during the first 6 months of the year. However, neither the shelters nor the crisis centers were devoted exclusively to battered women. Women's advocacy groups complained there were too few state-supported shelters for battered women.

In July parliament passed a domestic violence law that provides for the creation of a national program on counteracting domestic violence, as well as provisions to support victims of domestic violence legally, psychologically, and physically.

Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. During the year 1,987 cases of rape were reported, a slight decrease from the 2,176 reported in 2004. However, women often were unwilling to report the crime because of the associated social stigma, and NGOs estimated that the actual number of rapes was 10 times higher than reported. Of the 1,773 preparatory proceedings that police undertook for rape allegations, 1,360 were forwarded to prosecutors for indictment.

In divorce cases, courts frequently granted a divorce without providing for a property settlement, forcing women to return to abusive husbands. This problem was exacerbated by a lack of alternative housing.

Prostitution is legal, but pimping is illegal. Experts estimate that 30 thousand to 35 thousand women worked as prostitutes, many of them employed by the country's 1 thousand "escort services." Trafficking in women for the purposes of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and regards it as "discrimination because of gender." The NGO Center for Women's Rights believed that sexual harassment was a serious and underreported problem. Many victims either did not report the crime (out of shame or fear of losing their job) or, according to police authorities, withdrew their claims as police investigations progressed. Social awareness of the problem continued to increase, however, as more reports of sexual harassment cases appeared in the media. Cases were typically prosecuted under a law stating that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to three years in prison. During the year police reported 54 investigations into sexual harassment cases under this law; in 2004 there were 225 such investigations, 13 of which resulted in convictions. Police attributed the difference in results to the incarceration of repeated violators.

The constitution provides for equal rights regardless of gender in family law, property law, and in the judicial system; however, apart from the constitution and the labor code, there were no laws to implement this provision. Women mainly held lower-level positions and frequently were paid less for equivalent work, were fired more readily, and were less likely to be promoted than men.

Women are prohibited from working underground (that is, in mining) or in jobs that require lifting of weights above a specified maximum. The prohibitions are binding on employers and do not permit exceptions even if requested by a female employee or with her consent. Additional restrictions apply to pregnant women.

The ombudsman for human rights monitored women's rights within the wider context of human rights; however, the broad scope of the office's mandate diluted its ability to function as an effective advocate of women's issues.

In November the government abolished the office of the government plenipotentiary for equal status for women and men, which had been charged with incorporating the principle of gender equality into governmental policy, including monitoring implementation of government programs aimed at achieving equal status. Those responsibilities were given to the department for women, family, and counteracting discrimination, which was established at the ministry of labor and social policy in December.

Until the abolition of her office, the plenipotentiary continued to implement her duties. The plenipotentiary protested discrimination of women a number of times during the year. She issued a statement severely criticizing parliament's rejection of a bill addressing discrimination against women. In May she sent a protest to the mayor of Krakow over discrimination against women in the Cracovia Marathon, which presented female victors with a financial reward half as large as that of the men. The office of the plenipotentiary also provided financial grants to NGOs working to combat violence against women and to promote women in the labor market.

Children

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

During the year the ombudsman for children's rights submitted more than 30 statements to various ministries and other public institutions regarding the rights and welfare of children, including appeals to undertake comprehensive measures to stop domestic violence against children, to enhance children's safety, and to improve their access to preschool education.

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

The government sponsored some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools; however, budget shortfalls prevented complete implementation of these programs.

Child abuse was rare. The law prohibits violence against children, and anyone who physically or psychologically abuses a juvenile may receive a prison sentence of three months to five years. However, abuse was rarely reported, and convictions also were rare. Police reported 1,697 cases of the sexual exploitation of children, 158 cases of child pornography, and 70 cases of child abandonment. Schools did not have procedures to protect children from physical or psychological abuse by teachers, and the teachers' work code provides legal immunity from prosecution for corporal punishment in the classroom.

Trafficking in children, primarily for the purpose of sexual exploitation, was a problem (see section 5, Trafficking).

Trafficking in Persons

The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons, primarily women and girls but also, to a lesser extent, boys. Internal trafficking for the purpose of sexual exploitation also occurred.

Several legal provisions specifically address trafficking; however, many convictions resulted in suspended prison sentences. The law

prohibits trafficking in persons for the purposes of both sexual and nonsexual exploitation and imposes sentences of 3 to 15 years in prison. Pimping, recruiting, or luring persons into prostitution are also prohibited, with penalties up to 10 years in prison. Individuals convicted of trafficking in children and luring women into prostitution abroad receive the most severe sentences. Traffickers could also be prosecuted under laws criminalizing statutory rape, forced prostitution, and other acts.

Eleven agencies were involved in antitrafficking efforts. The ministry of interior and ministry of justice have primary responsibility for antitrafficking efforts, with the ministry of foreign affairs engaged on bilateral and multilateral levels. The government dissolved the plenipotentiary for equal rights for men and women, which had also been involved in antitrafficking programs.

The national police participated in several bilateral task forces that shared information, tracked the movement of traffickers and victims across borders, and coordinated repatriations and casework. In 6 of the 16 provinces, there were individuals or special teams at the county level monitoring trafficking. The national police coordinated these efforts. There was close cooperation with Ukraine and Belarus.

Individuals were trafficked to and through the country, primarily from Ukraine, Bulgaria, Romania, Belarus, and Moldova. A growing number were members of the Turkish minority in southern Bulgaria and from the Romani population in Romania. There was a decrease in victims trafficked from Russia. Individuals, including citizens, were trafficked to Western Europe, including Germany, Italy, Belgium, France, and the Netherlands, as well as to Japan and Israel. Some internal trafficking occurred. The extent of the problem was unclear because statistics on prostitution did not distinguish trafficking victims from those willfully engaged in prostitution and other aspects of the sex trade. Of the estimated 7 thousand prostitutes in the country, approximately 30 percent were estimated to be of foreign origin. The international NGO La Strada previously estimated that 75 percent of the foreign women working as prostitutes in the country were trafficking victims. In addition La Strada reported that as many as 10 thousand Polish women were trafficked out of the country annually. NGOs have noted a recent trend toward a higher percentage of victims being trafficked for labor in agriculture and other economic sectors.

Traffickers targeted young, unemployed, and poorly paid women, particularly those with weak family ties and support networks. Traffickers attracted victims through methods including fake employment offers, arranged marriages, fraud, and coercion. Some victims believed that they were accepting employment abroad as waitresses, maids, or nannies. While traveling to their purported destinations, traffickers confiscated their passports and identity papers and exerted control over them through fear and intimidation. Traffickers threatened victims with violence, and those who resisted or tried to flee were raped, beaten, or intentionally injured.

As many as 90 percent of those trafficked in the country had false travel documents, and the trafficking operation usually involved a network of criminals. One criminal would recruit the victim; a second would provide false travel documents and traffic her across the border; and a third would supervise her work with clients, functioning as a pimp. Arrest statistics indicated that approximately 25 percent of traffickers were noncitizens. Unlike in previous years, there were no reports of large-scale auctions of women in Warsaw and other cities. Prices for trafficked women and girls reportedly started at approximately \$2 thousand (6 thousand PLN).

There were unconfirmed reports of local police taking bribes to ignore trafficking activity.

Trafficking victims often were afraid to turn to officials for help because border guards and police could potentially deport victims, if they were not identified as such, on immigration law violations. In many cases unidentified victims were deported as soon as possible, preventing the government from providing assistance, despite legal provisions allowing foreign victims with illegal status to remain in the country during the investigation and trial of their traffickers. NGOs attributed the high number of these deportations to the absence of national guidelines for police officers and border guards on how to approach and identify suspected victims. Victims were often prosecuted for carrying false travel documents, working illegally, and violating the terms of their visas.

Deported victims were sometimes met at the border by their traffickers, who provided them with new travel documents and returned them to the country. For example, in 2004 police detained a Bulgarian woman on several occasions, each time with a new identity and passport.

The revised immigration law, which came into force in October, introduces a "reflection period" of up to two months, during which a foreign trafficking victim may remain in the country legally while deciding between cooperating with law enforcement agencies and being deported. If a victim decides to remain and testify against the alleged trafficker, he or she receives a temporary residence permit.

While the government generally lacked resources to support victims financially, it cooperated extensively with NGOs, which provided a wide range of support services. The government leased an apartment to La Strada to use as a shelter for trafficking victims and gave another organization a grant to build a similar shelter. In January 2004 La Strada opened a 12-bed shelter with funding from foreign governments to provide victims with medical, psychological, and legal assistance. This shelter was at full capacity throughout the year. The number of shelters remained inadequate, and NGOs frequently resorted to temporary arrangements to shelter victims.

In April the council of ministers approved the national antitrafficking plan, which received approximately \$82 thousand (250 thousand PLN) for victim protection. As part of the plan, a series of trainings for police, border guards, prosecutors, judges, and social workers were held in 10 of the 16 provinces.

All incoming police officers reportedly received antitrafficking training. In September police began implementing the new antitrafficking training program in all police schools, offering general training to all incoming police officers.

La Strada received approximately \$33,000 (99,842 PLN) from the government to support its antitrafficking programs. The NGO conducted training courses at six police academies and border guard academies during the year. The courses were designed to improve knowledge of the issue of trafficking in persons among students of both academies. La Strada also offered counseling for victims and their families; developed training and prevention materials; and conducted awareness campaigns on the dangers of trafficking.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, or in the provision of other state services, including health care. The government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities. There were approximately 5.5 million persons with disabilities in the country at year's end.

The law states that buildings should be accessible for persons with disabilities; however, public buildings and transportation generally were not accessible to these persons. There is no legal obligation to adapt existing facilities to the needs of persons with disabilities and efforts to make improvements in this area have been hampered by lack of funding.

The first deputy minister in the ministry of social policy is responsible for disability-related issues. He supervises the state fund for rehabilitation of the disabled, and is advised by the national consultation council for the disabled. In July the fund approved three new programs to improve the access of persons with disabilities to education and public facilities, and to provide them with information centers. In September the fund approved the Partner 2006 program to support NGOs that implement projects for persons with disabilities.

During the year the government made only nominal gestures of support for strengthening the rights of persons with disabilities. On January 21, the lower house passed an amendment that more clearly defines the role of government financing in vocational and social rehabilitation. An additional bill reforming support and vocational rehabilitation of persons with disabilities was rejected during the first meeting of the lower house committee on May 4.

National/Racial/Ethnic Minorities

There were occasional incidents of racially motivated violence directed at Roma, typically by skinheads. Individuals of African, Asian, or Arab descent also reported isolated incidents of verbal, physical, and other types of abuse. The small Ukrainian and Belarusian minorities occasionally experienced petty harassment and discrimination.

Societal discrimination against Roma was common, and some local officials discriminated against Roma in the provision of social services. According to its leaders, Roma faced disproportionately high unemployment and were hit harder by economic changes and restructuring than were ethnic citizens. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education.

In 2004 the government began implementing a "Program for the Roma Community in Poland" to improve Romani living and social conditions, access to health care, and employment opportunities. Coordinated by the ministries of interior and administration, the program was designed to combat ethnically related crime and protect and maintain the Romani culture and identity. The program included hiring Romani teaching assistants, providing vocational training to Roma, and training police on racially motivated crime.

In February 2004 the ECHR upheld the government's 2001 rejection of the application for official minority status by the 170-thousand-member Silesian-speaking community. During the year the Silesian community appealed the government's decision and was awaiting the decision of the court of first instance at year's end.

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. The German minority in Opole province made up one-third of the area's one million inhabitants, and some community members continued to complain of inadequate use of German in the province's schools.

On January 6, parliament passed a law establishing a joint committee to advise the prime minister on issues related to minorities, including minority rights, relevant legislative initiatives, and budget resource allocation. The new law also imposes an obligation on public authorities to allocate funds for the protection, preservation, and development of the cultural identity of minorities.

Other Societal Abuses and Discrimination

Right-wing groups attempted on several occasions to disrupt gay pride marches. In May the mayor of Warsaw, Lech Kaczynski, denied approval of a gay rights parade organized by the Equality Foundation, a consortium of gay-rights groups, stating that he would not allow the promotion of gay culture. Despite the denial, on June 11, gay rights activists held a peaceful equality parade during which they complained about the discrimination they experienced in their everyday lives. Marchers were assaulted with objects such as rocks thrown by antigay demonstrators led by the ultraconservative All Poland's Youth League. In September a Warsaw court ruled that the mayor's refusal to issue a permit for the equality parade was illegal. In December the organizers of the parade filed a claim with the ECHR arguing that the country had violated three articles of the European Convention on Human Rights. The case was pending at year's end.

On November 15, the mayor of Poznan, Ryszard Grobelny, refused to issue a permit for an equality march in that city. The mayor cited security concerns, but the NGO attributed the refusal to social intolerance of the local lesbian, gay, bisexual, and transgender (LGBT) community. On November 20, despite the denial of the permit, several hundred people demonstrated in support of gay rights. The activists were harassed, reportedly by members of the All Poland's Youth League, who threw eggs and rocks and made verbal threats that were both homophobic and anti-Semitic in nature. Sixty-eight of the gay rights activists were arrested by police and interrogated about their participation before being released. Approximately one hundred of the violent counterdemonstrators were asked by police for identification in case police decided to investigate further.

On November 25, AI issued a public statement expressing concern over the local "climate of intolerance" against the LGBT community. The

statement also criticized the abolition of the office of the plenipotentiary for equal rights for men and women.

There was discrimination against HIV-positive persons. The national AIDS center reported several minor cases of discrimination against HIV-positive persons in the units supervised and funded by the center. The center intervened when complaints were found to be justified.

Section 6 Worker Rights

a. The Right of Association

The law provides that all workers, including civilian employees of the armed forces, police, and frontier guard, have the right to establish and join trade unions of their choosing, and workers exercised this right in practice. According to press reports, 17 percent of the workforce was unionized. As a rule newly established small and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises.

The law sets minimum membership requirements for establishing a trade union: 10 persons are required to form a local union and 30 for a national union. Unions, including interbranch unions for workers in the same profession and interbranch federations of unions within a sector, must be registered with the courts. A court decision refusing registration may be taken to an appeals court. The law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union.

The law prohibits antiunion discrimination; however, labor leaders reported that employers discriminated against workers who attempted to organize or join unions, particularly in the growing private sector. In state-owned enterprises, such as the health, water, and forestry sectors, there were cases in which workers had their normal employment contracts terminated and replaced by individual contracts that eliminated rights to join unions. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law also did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions. In December Frito Lay fired the chairman of the Solidarity Trade Union for allegedly allowing an increase in the number of union members. Managers also asked workers in the presence of a notary public to declare whether they were union members.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for and protects enterprise-level collective bargaining over wages and working conditions. As of June there were 165 collective bargaining agreements between employers and trade unions. The tripartite commission (unions, employers, and the government) was the main forum that determined national wage and benefit increases in sensitive areas, such as the social services sector.

Key public sector employers (largely in heavy industry and the social services sector) remained unable to negotiate with labor without the extensive involvement of the ministries to which they are subordinate, thereby complicating and politicizing the government's labor relations. The law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, as a last resort, to the Supreme Court. During the year, 916 such disputes reached the Supreme Court.

All workers have the right to strike except for those in "essential services"--security forces, employees of the supreme chamber of audit, and uniformed services (such as the police, border guards, and fire brigades)--who only have the right to protest. These workers could also seek resolution of their grievances through mediation and the court system. A majority of strikes were technically illegal because one or both sides did not follow each step exactly. Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them, were minimal. Unions alleged that laws prohibiting retribution against strikers were not enforced consistently and that the small fines imposed as punishment were ineffective deterrents. Organizers are liable for damages and may face civil charges and fines.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

There were laws and policies to protect children from exploitation in the workplace, including a prohibition of forced or compulsory labor and policies regarding acceptable working conditions, and the government effectively enforced these provisions in practice. The law prohibits the employment of persons under the age of 15. Persons between the ages of 15 and 18 may be employed only if they have completed primary school and the proposed employment constitutes vocational training and is not harmful to their health.

The state labor inspectorate (PIP) reported that increasing numbers of minors worked and that many employers violated labor rules by underpaying them or paying them late. During the year PIP conducted 732 investigations involving almost 3,930 possible underage employees. Fines were levied in 428 cases, amounting to approximately \$32,000 (99,300 PLN). Inspectors found violations in restaurants, stud farms, and, in some instances, small private businesses and factories.

e. Acceptable Conditions of Work

The ministry of labor, the unions, and employers' organizations negotiate a revised national minimum wage every three months. At year's end the national minimum monthly wage of approximately \$252 (849 PLN) did not provide a decent standard of living for a worker and family. During the year parliament passed legislation raising the minimum wage to approximately \$300 (899 PLN) on January 1, 2006. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum wage very difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage.

The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours per week, including overtime. The law requires premium pay for overtime hours, but there were reports that this regulation was often ignored. The law provided for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week.

The law defines strict and extensive minimum conditions for the protection of workers' health and safety; however, enforcement was a major problem because it was unclear which government body had responsibility for enforcing the law. The PIP was unable to monitor workplaces sufficiently. During the first 9 months of the year, 54,531 workers were injured in workplace accidents, 654 were seriously injured, and 326 were killed. Employers routinely exceeded standards for exposure to chemicals, dust, and noise. The PIP may shut down workplaces where it finds unsafe conditions.

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

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