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## 2009 Human Rights Report: Poland

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

Poland is a republic with a multiparty democracy and a population of approximately 38.5 million. The bicameral National Assembly consists of an upper house, the Senate (Senat), and a lower house (Sejm). Executive power is shared among the prime minister, the Council of Ministers, the president, and the Sejm. The 2007 preterm National Assembly elections and the 2005 presidential election were both considered free and fair. The prime minister governs in a coalition with a smaller political party. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. Prison conditions, however, remained poor and overcrowded; the judicial system was inefficient and resulted in lengthy pretrial detentions. There were occasional nonviolent incidents of anti-Semitism, police misconduct, and corruption in the government and society. There was discrimination against women in the labor market, sexual exploitation of children, trafficking in women and children, and societal discrimination and violence against ethnic minorities and gays and lesbians. Violations of workers' rights and antiunion discrimination were also problems.

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

On April 22, the Supreme Court rejected the final appeal of 12 Communist-era police officers found guilty in 2007 of firing on striking coal miners in 1981. Nine persons were killed and 25 others wounded in the incident at the Wujek coal mine. Commander Romuald Cieslak was sentenced to 11 years in prison; 14 officers under his command received sentences of from two and one-half to three years.

On October 29, the Warsaw Appeals Court overturned a July 2008 district court decision to dismiss the case against Communist-era general Czeslaw Kiszczak, who was accused of ordering militia to fire on striking Wujek miners in 1986.

On December 22, the Lodz District Court found three police officers guilty for failure to fulfill their duties and creating unintentional danger in mistakenly using live ammunition instead of rubber bullets to quell a riot after a 2004 soccer game.

Two persons were killed and 70 were injured. The convicted officers included a highway police officer who was on duty the night of the incident, his assistant who issued live ammunition, and a Lodz city police officer who coordinated the operation. The officers received suspended prison sentences ranging from 12 to 20 months.

A trial begun in September 2008 continued against eight Communist-era officials who imposed martial law in 1981, including generals Wojciech Jaruzelski and Czeslaw Kiszczak. If convicted on charges of violating the constitution, abuse of power, and leading an organized criminal group, the defendants could be sentenced to up to 10 years in jail.

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In December 2008, the European Court of Human Rights (ECHR) issued a judgment that found the country in violation of Article 2 (right to life and deprivation of life) of the European Convention on Human Rights. The ruling came in response to a suit filed on behalf of Zbigniew Dzieciak, who spent four years in pretrial detention from 1997-2001. Dzieciak suffered from a serious illness, which led to his death in 2001. The court concluded that the low quality of the medical care provided during his detention and delays in treatment had endangered his life. The court ordered the government to pay 20,000 euro (\$28,800) in compensation to Dzieciak's widow.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law prohibit such practices, and the government generally respected these provisions. There were problems, however, with police misconduct and abuse of prisoners. While the criminal code prohibits torture and cruel or degrading treatment, it lacks a clear, legal definition of torture, which is not reported as a separate crime.

On January 15, the ECHR ruled in favor of the parents of Pawel Lewandowski, who accused police of using excessive force against their son. In 2000 Pawel Lewandowski filed a legal complaint with local prosecutors that police had beaten him, but the case was dismissed because of insufficient evidence. Lewandowski lost on appeal and committed suicide three days after the court's decision. The ECHR awarded Lewandowski's parents 10,000 euro (\$14,400).

On October 30, two police officers in Prabuty were suspended on charges of taking intoxicated persons to a forest between August 2007 and September 2008 where they were beaten and abandoned. One of the police officers was also charged with beating two teenagers at a police station. Following an internal investigation, the regional police commander and deputy commander were dismissed.

In November 2008 the country's human rights ombudsman issued a formal statement of concern to the chief of the National Police about the excessive use of force by police, such as beatings that resulted in injuries, and unauthorized arrest in some cases. The ombudsman requested information on a plan to address the problem; however, at year's end police had not responded.

The law on police misconduct outlines disciplinary actions, which include reprimands, demotion in rank, and dismissal.

Although the number of officers disciplined by internal police proceedings has decreased in recent years, the number of misconduct investigations has increased due to procedures that require all misconduct complaints be reviewed by the police internal affairs office. For example, according to the most recent statistics available, in 2008, 6,361 cases of police misconduct were reviewed. Of that number, 620 officers were disciplined, including 27 who were dismissed. In 2007 authorities investigated 6,184 cases of misconduct; 761 officers were disciplined, including 77 who were dismissed.

On November 27, the president signed into law a revision to the criminal code allowing for forced chemical castration of convicted pedophiles. Under the law, which will take effect June 2010, courts will decide whether the offender should undergo such treatment six months before an expected parole. In the case of the rape of a person under 15 years of age, chemical castration will be obligatory.

#### Prison and Detention Center Conditions

Prison and detention center conditions remained poor and did not meet international standards. Overcrowding eased somewhat during the year, but inadequate medical treatment continued to be a problem. The government permitted monitoring visits by independent human rights observers.

During the year the Central Prison Authority reported 40 suicides committed in prison as compared with 39 prison suicides in 2008.

At year's end, 83,625 persons were held in prisons and detention facilities, according to government statistics. Total capacity compared to the previous year increased by approximately 4,602 and was estimated at 87,714 persons, leaving prison populations at 95 percent of capacity.

As of November 2,729 inmates were women, constituting approximately 3 percent of the prison population. Women prisoners were either held in dedicated detention facilities or in joint facilities where they were separated by gender. While juveniles were generally separated from adults, in exceptional cases the law allows juveniles and adults to be housed together in prisons and detention centers. Juveniles (17- to 21-year-olds) accused of serious crimes were usually sent to pretrial detention.

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

Under the country's criminal code, the minimum cell size is three square meters (32 square feet); however, in practice this standard was often not met. According to the criminal code, prison directors may place prisoners for a limited time in cells smaller than 32 square feet per person. In practice, however, prisoners generally remained in small cells for the duration of their sentence. At year's end 2,185 detainees were in cells smaller than the legally mandated minimum, according to government statistics.

In May 2008 the Constitutional Court ruled that a provision in the criminal code, which allows the Justice Ministry (MOJ) to keep prisoners in overcrowded cells for unlimited periods of time, is unconstitutional and amounts to cruel and degrading treatment. On December 6, a new provision took effect that provides mechanisms to prevent prison overcrowding, including deferring sentences if the total number of prisoners would exceed prison capacity. In an effort to meet this requirement, prison officials converted many common areas, such as activity rooms and libraries, into cells.

During the year the human rights ombudsman received 7,158 complaints, compared with 5,718 in 2008, mainly regarding poor prison conditions, such as inadequate medical care, abuse by prison authorities, inadequate living conditions, and violations of mail and visiting rights. The ombudsman partly attributed the increase in cases to a greater awareness among prisoners of the option to file a complaint and obtain a nonbinding opinion.

The government allowed independent monitoring of prison conditions and detention centers on a regular basis by the human rights ombudsman. During the year the ombudsman visited 106 prison and detention facilities. Between November 26 and December 8, a delegation from the Council of Europe's Committee for the Prevention of Torture (CPT) conducted

its fourth periodic visit to the country. The CPT visited prison facilities, border guard detention centers, and police departments. The findings were not available at year's end.

#### 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. The government continued to take steps to address corruption within the 100,000-member police force by instituting harsher penalties and eliminating collection of cash penalties by police officers. Instead, penalties are now paid at post offices or via electronic funds transfers. The National Police's Internal Affairs Office investigated instances of corruption and serious criminal misconduct.

There were no reports of arrests, trials, or other developments in connection with a major corruption investigation of senior officials for malfeasance in public tenders. In 2007 a total of 17 persons, including five senior employees at National Police headquarters, were charged in the case with abuse of power, failure to fulfill duties, and perjury.

#### Arrest Procedures and Treatment While in Detention

By law authorities must obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law in practice.

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

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

As of November 30, according to the Central Prison Authority, there were 9,874 pretrial detainees, approximately the same number as in November 2008.

In 2008 the ECHR issued judgments that found 47 violations by the country of Article 5 of the European Convention on Human Rights (the right to liberty and security). The ECHR included violations involving lengthy pretrial detentions in this category.

On February 20, the Katowice appeals court ordered Marek Dochnal's release after almost four years in pretrial detention. The court required Dochnal to pay three million zloty (\$1.1 million) in bail to secure his release. Dochnal was first arrested in 2004 on charges of bribing public officials; he remained in pretrial detention for more than three years during the investigation. In January 2008 a Warsaw court independently released Dochnal following notification by the ECHR that it had accepted Dochnal's case. His trial began in July 2008; however, Dochnal was rearrested a month later by the Internal Security Agency because authorities suspected he was a flight risk.

In a 2007 report, the UN Committee against Torture expressed concern about the length of pretrial detention. It noted that the country's law does not provide a time limit for pretrial detention at the start of court proceedings.

#### e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice; however, the judiciary remained inefficient and lacked public confidence.

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.

The Supreme Court handles appeals of lower court decisions and ensures that laws are applied uniformly. The 15-member Constitutional Court is nominated and approved by the lower house of parliament. It reviews the constitutionality of laws, adjudicates disputes between government entities, and monitors the constitutionality of actions by political parties.

The court system remained cumbersome, poorly administered, and inadequately staffed. Most notably there were more criminal judges than prosecutors in many districts. Court decisions frequently were not implemented. Although there was some progress reported on the computerization of the court system, a continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

In 2007 a system of "24-hour courts" was implemented to expedite trials for minor offenses and petty crimes. Under the system the accused must be tried within 72 hours of arrest. Police and prosecutors have 48 hours to collect evidence and file a case; courts must issue a decision within 24 hours. However, the system was considered costly and ineffective.

#### Trial Procedures

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

After a court issues a verdict, a defendant has seven days to request a written statement of the judgment; courts must respond within seven days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters.

Individuals continued to file complaints against the government with the ECHR regarding trial delays, the right to a fair trial, and the lack of due process.

In 2008 the ECHR issued judgments that found 72 violations by the country of Article 6 of the European Convention on Human Rights; nine involving the right to a fair trial and 63 involving length of proceedings. In one of the decisions, the ECHR awarded 7,000 euro (\$10,080) in compensation for a divorce case that local courts took 19 years to resolve.

In 2007 the Constitutional Court declared many provisions of the 1997 "lustration" (vetting) law unconstitutional, which limited its scope but still allowed researchers and journalists to review results of past vetting and investigations. The law is intended to expose officials and individuals now serving in positions of public trust who may have collaborated with Communist-era secret police. Under the law the National Institute of Public Remembrance could vet an estimated 700,000 persons.

### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

### Civil Judicial Procedures and Remedies

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

On November 30, the justice ministry created a Human Rights Department with the primary objective of creating an effective and comprehensive system to assist crime victims. The department will also respond to identified cases of human rights violations, including lengthy trials, excessive use of pretrial detention, and prison overcrowding.

### Property Restitution

The law provides for restitution of communal property seized during the Communist and Nazi eras. However, there is no comprehensive law on returning or compensating for privately held real property confiscated during these periods.

Despite the lack of specific legislation, some illegally nationalized private property has been restored. Between 2001 and the first eight months of the year, approximately 471 million zloty (\$165 million) was paid in compensation for illegally nationalized private property. Compensation from the State Treasury Reprivatization Fund was distributed to 2,068 individuals and 43 businesses. Compensation payments were also made to persons who lost private property as a result of state persecution.

Pursuant to a 2005 law concerning properties lost because of border changes after World War II, the government continued to pay compensation on 20 percent of the value of such property. As of November the state treasury paid cumulative compensation in 23,266 cases of approximately 1 billion zloty (\$351 million). According to the government, the 2005 law could affect approximately 80,000 claimants for property that is now located in Lithuania, Belarus, and Ukraine. The law also requires the state treasury to create registers of all claimants who have the right to compensation. The deadline for submitting applications for claims was December 2008.

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

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

Controversy continued over the Internal Security Agency's installation of scanning and handwriting analysis equipment at mail-sorting facilities. The equipment, which was installed in Poznan, screens all incoming and outgoing mail and reports results to the security agency.

On May 5, the General Inspector for the Protection of Personal Data released the results of an inquiry into the controversy, concluding that the Polish Postal Service's actions did not contravene its responsibility to safeguard personal information. In December 2008 the head of Internal Security Agency defended the program, stating it obtained information legally and only from selected persons of interest.

The law allows electronic surveillance for crime prevention and investigations. However, there was neither independent

judicial review of surveillance activities nor any control over the use of information obtained by monitoring private communications. A number of government agencies had access to wiretap information.

In 2008 the ECHR issued judgments that found 17 violations by the country of the right to respect private and family life under Article 8 of the European Convention on Human Rights. In one case the ECHR awarded 6,000 euro (\$8,640) in compensation to a person who was placed under parole for almost 12 years, to include appearing at a police station once a week. The court ruled that the police supervision infringed on the individual's private and family life.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press; however, in practice there were laws that restricted these freedoms. Since the collapse of the Communist government in 1989, the government and courts have either upheld or instituted laws that criminalize defamation by individuals and the media, and limit editorial independence.

Individuals could not publicly criticize government officials without risk of reprisal; public criticism of government policies and private criticism of the government was not restricted.

Defamation is a criminal offense punishable by up to two years' imprisonment and includes publicly insulting, defaming, or libeling members of parliament, government ministers, and other public officials. For publicly insulting the president, the maximum sentence is three years' imprisonment. Maximum penalties were rarely applied; persons found guilty of defamation were generally only fined. The law also prohibits hate speech, including dissemination of anti-Semitic literature.

On November 27, the president signed a revision to the criminal code lowering the penalties for defamation. Under the revised law, which will take effect in June 2010, defamation will carry a maximum penalty of one-year imprisonment.

On August 6, the Warsaw District Court ordered an investigation regarding whether the deputy speaker of the Sejm, Stefan Niesiolowski, should be charged for publicly insulting the president. In March Niesiolowski allegedly called the president a "small man with a complex."

On August 26, Krakow police detained a man for insulting the president by singing an offensive song in public. Although charges were not filed, police placed the man in "dozor policyjny," a type of pretrial parole in which persons are required to report regularly to local police, provide notification of any address changes, and not travel outside of a certain area. Dozor policyjny is sometimes used instead of pretrial detention when a criminal investigation is ongoing.

On September 15, the Lublin Regional Court overturned the prosecutor's decision not to pursue charges against Sejm deputy Janusz Palikot, who in his Internet blog referred to the president as a "dwarf." The court ruling was in response to the president's July 16 appeal of the prosecutor's decision.

The law also prohibits hate speech, including dissemination of anti-Semitic literature and the public promotion of fascist or other totalitarian systems. On November 27, the president signed into law a revision to the criminal code adding communist systems to the prohibited list.

Independent media were active and expressed a wide variety of views. Private television, satellite, and cable subscription services were available across most of the country. Electronic media operated on frequencies selected by the Ministry of Communications and auctioned by KRRiTV, the National Radio and Television Broadcasting Council, a five-member body appointed by the National Assembly and the president.

The KRRiTV, which is responsible for protecting freedom of speech, has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, apportion subscription revenues to public media, and impose financial penalties on broadcasters. While council members are required to suspend their membership in political parties or public associations, critics asserted that the council continued to be politicized. The president selects two members, the Sejm two members, and the Senate selects one member.

The Catholic nationalist radio station Radio Maryja was designated a "public broadcaster" and is exempt from paying licensing fees of up to 1.4 million zloty (\$491,000). The station, founded in 1991, featured conservative Catholic call-in shows that occasionally have included anti-Semitic and racist statements. Radio Maryja was operated by a prominent priest, Father Tadeusz Rydzyk, on behalf of the Polish province of the Congregation of the Most Holy Redeemer. Rydzyk also operated a television channel and a cell phone network, among other foundations and projects on behalf of the Redemptorists.

Content restrictions on the media include a law that prohibits the promotion of activities that are against government policy, morality, or the common good and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." The government enforced this provision in practice, levying fines on programs deemed offensive. The press code also places some limits on editorial independence, for example, by specifying that journalists must verify quotes and statements with the person who made them before publication.

On August 26, the Warsaw Economic Court overturned KRRiTV's April 2008 decision to fine private television station TVN 471,000 zloty (\$165,000) for broadcasting a talk show during which participants stuck a national flag into dog excrement. The court ruled that the talk show did not intend to promote the desecration of the national flag, but rather to speak out against public littering.

On June 18, the Bielsko Biala District Court ordered Krzysztof Oremus, former editor in chief of local newspaper *Super-Nowa*, to apologize to Mayor Jacek Krywult for publishing his photo alongside a photo of the president of Belarus, thus suggesting a similarity in Krywult's manner of governing. The court also ordered Oremus to pay a 5,000 zloty (\$1,750) fine to the Polish Red Cross.

On June 30, the Zielona Gora district court upheld a lower court decision to fine former *Gazeta Wyborcza* journalist, Robert Rewinski, for his 2004 article accusing a local businessman of collusion with the state-owned Environment Protection Fund. The court ordered Rewinski to pay a 3,000 zloty (\$1,050) fine and a donation of 1,000 zloty (\$350) to the Polish Red Cross.

On July 16, the ECHR ruled the country violated the right to freedom of expression (Article 10) of a former reporter at public television station TVP. In 1999 Helena Wojtas-Kaletka received an official reprimand for publicly criticizing TVP's decision to eliminate certain cultural programs from its broadcasting.

#### Internet Freedom

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

According to International Telecommunication Union statistics for 2008, approximately 49 percent of the country's inhabitants used the Internet.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

#### b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

#### c. Freedom of Religion

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

Under the criminal code, offending religious sentiment through public speech is punishable by a fine or a prison term of up to three years. More than 94 percent of the population was Roman Catholic. Citizens have the right to sue the government for constitutional violations of religious freedom and legal protections cover discrimination or persecution of religious freedom.

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

On December 2, the Constitutional Court ruled that an education ministry directive, which stated that grades for religious education should be included in students' overall grade point averages, did not violate the constitution. The directive was challenged in 2007 as unconstitutional and discriminatory against students who do not take religious instruction.

The government continued to work with local and international religious groups to address property claims and other sensitive issues stemming from persecution and confiscation during World War II and the Communist era. There are five commissions, one each for the Catholic Church, Jewish community, Lutheran Church, and Orthodox Church--plus one for all other denominations. They are supervised by the interior minister and oversee religious property claims. Of the approximately 10,000 claims filed for restitution of communal religious property, more than 5,200 had been resolved and more than 1,200 properties had been returned by year's end. However, concerns remained with the slow pace of Jewish communal property restitution.

As of August 31, a total of 1,483 of the 3,063 claims filed by the Catholic Church were settled between the church and the party in possession of the property, which was primarily the national or local government. The deadline for filing claims ended in 1992.

There were 5,504 property claims submitted by the Jewish community. As of August 31, the commission either partially or entirely concluded 1,722 cases. The deadline for filing claims under a 1997 law ended in 2002.

The Lutheran Church filed claims for 1,200 properties. As of September 18, 905 cases were closed. The deadline for filing claims ended in 1996.

As of August 31, the Orthodox Church filed 472 claims with its commission. Of these cases 354 were closed. The deadline for filing claims ended in 2006.

The fifth property commission, for claims by all other denominations, received 168 claims. As of August 31, a total of 68 cases had been closed. The deadline for filing a claim ended in 2006.

#### Societal Abuses and Discrimination

There were reports of occasional, nonviolent anti-Semitic incidents and occasional desecrations of Jewish and Roman Catholic cemeteries. According to the Union of Jewish Communities, the Jewish community was estimated at 20,000 persons, including 4,000 registered members. The government publicly criticized anti-Semitic acts, prosecuted offenders, and supported tolerance education.

The country has made considerable progress in relations with its Jewish communities. The government consistently supported efforts to promote interfaith dialogue and tolerance, as well as initiatives to combat anti-Semitism. Members of marginal populist and nationalist parties and organizations, however, continued to make some extremist, intolerant, and anti-Semitic statements.

On February 27, the Media Ethics Council urged Radio Maryja to take all necessary steps to prevent the broadcast of anti-Semitic comments. On January 31, former Warsaw University professor Bogulsaw Wolniewicz said on air that he can no longer "tolerate the brazen promotion of Jewish perspectives and culture in Poland." The council stated that using the right to freedom of speech to permit anti-Semitic comments, without any disclaimer by Radio Maryja, violated the law and basic ethical norms.

**On December 15, the Warsaw prosecutor's office indicted three Polish administrators of Red Watch for promoting a totalitarian regime, and inciting hatred and violence. The charges stem from a Web site maintained by the anti-Semitic and homophobic Blood and Honor group. The Web site published names and personal information of persons from minority groups, human rights NGOs, and local media, resulting in threats and harassment to at least 385 persons.**

In February 2008, Leszek Bubel, a self-proclaimed anti-Semite and leader of a far-right political party, posted a video on a popular Internet site in which he boasted about his anti-Semitism and urged Jews to leave the country. Several criminal and civil cases against Bubel for inciting hatred and disseminating anti-Semitic literature have been resolved in courts in Lublin, Wrzenia, and Warsaw. Another case begun in May 2008 in Bialystok was ongoing. **Bubel has previously served six months in jail** for inciting racial hostility and defaming Jews.

On March 5, the Education Ministry in cooperation with the Organization for Security and Cooperation in Europe (OSCE) introduced a curriculum for middle school students aimed at combating anti-Semitism. In particular the materials promoted tolerance by addressing problems of stereotypes and prejudice.

On June 30, construction began in Warsaw of the Museum of the History of Polish Jews; the joint public-private initiative is scheduled to be completed in 2012.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

The law on protecting aliens permits denial of refugee status based on safe country of origin or safe country of transit, providing the applicant is a citizen or a permanent resident of that country; however, the law includes provisions to consider the protection needs of individuals with exceptional cases.

In practice the government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year the government granted refugee status or asylum to 133 persons. The government denied refugee status in 4,056 cases.

Persons granted asylum or refugee status had the right to work, to receive social assistance and education, and to have access to a state integration program for 12 months. The program provides participants with contacts in the local community, assistance with accommodations, and help with job searches. Refugees receive monetary assistance for living expenses and language training and are registered in the national health-care system.

However, according to Amnesty International, asylum seekers and recognized refugees continued to face difficulties finding jobs and obtaining health care due in part to poor integration program conditions. Persons with temporary status also had the right to work, received social assistance, and participated in the government's integration programs.

There were occasional reports of problems in the country's 19 refugee detention centers, which were located in the Warsaw, Bialystok, and Lublin areas and had a capacity of 4,000 persons. Refugees experienced language and cultural barriers; they had limited access to higher education. There was discrimination against refugee children by their peers.

The government provided temporary protection to individuals who may not qualify as refugees, and it provided temporary protection to 2,458 persons during the year, compared with 1,507 persons in 2008.

### 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 based on universal suffrage.

#### Elections and Political Participation

Both the October 2007 preterm parliamentary elections and the 2005 presidential election were considered free and fair.

Multiple candidates from various political parties freely declared their candidacy to stand for election and had access to the media. OSCE election observers noted a lack of independent oversight of public broadcast media, which allowed for an imbalance in coverage of candidates.

On June 7, the country held elections to the European Parliament that observers considered to be free and fair. Eleven of the 50 national members elected were women.

There were 94 women in the 460-seat Sejm and eight women in the 100-seat Senat. There were five women in the 20-member Council of Ministers. An additional 24 women held ministerial-level positions.

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

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not always implement these laws effectively, and officials sometimes engaged in corrupt practices.

According to World Bank governance indicators for 2008, corruption was a problem in the country. There was a widespread public perception of corruption throughout the government. Citizens continued to believe that political parties and members of the legislative branch, the health care system, and the judiciary were the most corrupt.

On March 11, the *Dziennik* newspaper alleged that Deputy Prime Minister and Economy Minister Waldemar Pawlak had engaged in a conflict of interest for failing to resign as head of the Volunteer Fire Brigade and for steering contracts to friends and family without a competitive bid process. Pawlak denied any wrongdoing; he noted the independent Supreme Chamber of Audits cleared the contracts in question during an audit.

On March 17, Prime Minister Tusk expelled Senator Tomasz Misiak from the Civic Platform party in response to allegations that Misiak's private company profited from the passage of a new law dealing with the country's shipyards. Misiak chaired the committee that passed the legislation. After the legislation entered into force, Misiak's company won a 48 million zloty (\$17 million) contract, without a tender, to provide job retraining for recently fired shipyard workers.

On September 8, the Internal Security Agency arrested Sylwester Rypinski, the president of the state-owned Social Insurance Agency, and three other employees on corruption charges. If convicted Rypinski would face up to 10 years' imprisonment.

On October 1, the national daily *Rzeczpospolita* published phone transcripts of conversations between high-level politicians and businessmen who were allegedly lobbying for a revision of a draft law on gambling. The publication led to a major government reshuffling in which six minister-level officials resigned, including sports minister, Miroslaw Drzewiecki. The chairman of the ruling party's parliamentary caucus, Zbigniew Chlebowski, also resigned. The Central Anticorruption Bureau (CBA) obtained the transcripts through wiretaps. On November 5, the Sejm established a special committee to investigate alleged corruption in connection with the so-called "gamble-gate" scandal.

The CBA has broad powers to audit the financial holdings of public officials and to fight corruption in public procurement. It also is authorized to conduct searches and secret videotaping, wiretap telephone conversations, and make arrests.

During the year the CBA continued to examine numerous high-profile and controversial investigations begun earlier.

For example, on April 1, the Poznan District Court began the trial of billionaire Henryk Stoklosa on 21 charges in connection with a major finance ministry corruption case. Three ministry officials were arrested in 2006 as part of the CBA investigation. According to the prosecutor, the officials canceled fiscal liabilities and issued tax exemptions over a 10-year period in exchange for bribes from organized criminals and businessmen. Stoklosa was also charged with bribing a Poznan judge. He has been held in pretrial detention since 2007 and could face up to 10 years' imprisonment.

On October 5, the Warsaw District Court began the trial of Beata Sawicka, a former member of parliament and the mayor of Hel, on corruption charges related to a real estate scandal. The CBA accused Sawicka of corruption for accepting a bribe to influence a public tender in Hel in the run up to the 2007 parliamentary elections. In her defense Sawicka said she

was seduced and manipulated into accepting the bribe by a CBA officer. In a related development, in October 2008 a Warsaw court ordered the prosecution to investigate the CBA's involvement in the case.

On August 18, the Warsaw Circuit Court sentenced one person to 30 months' imprisonment for attempting to bribe former agricultural minister and deputy prime minister Andrzej Lepper. A second person in the case was fined. The two were detained in 2007 by the CBA based on reports that they had connections with persons in the agriculture ministry who could issue favorable land-use decisions in exchange for a bribe of three million zloty (\$1.1 million). Lepper was subsequently dismissed as minister.

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

#### Section 5 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 were cooperative and responsive to their views.

During the year, UN Special Rapporteurs on Health Issues and Trafficking in Persons visited the country and reported their initial findings (see section 6).

The country's human rights ombudsman presents an annual report to the Sejm on the state of human rights and civic freedom in the country. The ombudsman generally had adequate resources, although in 2008 the office requested more funding to deal with increased responsibilities. The ombudsman enjoyed the government's cooperation and was considered effective. During the first nine months of the year, the human rights ombudsman reported that 49,979 cases were filed with the office, an increase of 2,829 from the same period in 2008.

The office of the ombudsman is independent; however, the ombudsman is selected by the parliament and, at times, was criticized by the media for being influenced by party politics. Women and minority groups criticized the incumbent for making controversial statements about feminists.

Both chambers of parliament have committees on human rights and the rule of law. The committees serve a primarily legislative function and comprise representatives from multiple political parties.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions.

##### Women

Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. According to National Police statistics, during the first six months of the year, there were 754 reported cases of rape, compared with 764 during the same period in 2008. However, NGOs estimated that the actual number of rapes was much higher because women often were unwilling to report rape due to social stigma. During the same period, police forwarded 568 rape cases to prosecutors and 67 to family court (for underage offenders) for indictment.

Domestic violence against women continued to be a serious problem. The number of reported cases was attributed to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. Under the law a person convicted of domestic violence may be sentenced to a maximum of five years in prison; however, most convictions resulted in suspended sentences. The law provides for restraining orders on spouses to protect against abuse, but police do not have the authority to issue immediate restraining orders at the scene.

During the first six months of the year, police identified 10,302 domestic violence offenses compared with 10,506 during the same period in 2008. Of the cases identified thus far, 9,427 were forwarded for prosecution. In 2008 police reported that officers conducted 86,455 interventions related to domestic violence. According to the justice ministry, in 2008 there were 15,127 domestic violence convictions. At year's end according to prison authorities, 4,383 individuals were serving prison sentences for domestic violence crimes.

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

NGO-operated centers for domestic violence victims provided counseling for offenders and training for personnel who worked with victims. The government also provided victims and families with legal and psychological assistance and operated 184 crisis centers and 16 shelters for pregnant women and mothers with small children. In addition, local governments operated 36 specialized centers funded by the central government for victims of domestic violence. The centers provided social, medical, psychological, and legal assistance to victims and "corrective educational" programs for abusers. In 2008, the last year for which statistics were available, the government allocated approximately 12.7 million zloty (\$4.5 million) for the centers' operating costs. The government also spent 3.2 million zloty (\$1.1 million) during the year on public awareness programs to counteract domestic violence, which were implemented by local NGOs and governments.

In 2008 the total amount allocated to implement the National Program for Combating Domestic Violence was 20.5 million zloty (\$7.2 million), which included funding for specialized centers; education and correction programs for offenders; and training for social workers, police officers, and specialists who are the first contact for victims of domestic violence.

On April 16, the newly formed Council for Victims of Crime held its first meeting. The council was established as an advisory body on proposed policy changes and legislative initiatives to support victims.

Prostitution is legal, but pimping, forced prostitution, and prostitution of minors are prohibited. According to police there were an estimated 3,300 prostitutes in the country; however, NGOs estimated that there were 18,000 to 20,000 women involved in all aspects of the sex industry. Women were trafficked for commercial sexual exploitation.

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

The NGO Center for Women's Rights stated that sexual harassment was a serious and underreported problem. Many victims do not report abuse or withdraw harassment claims in the course of police investigations out of shame or fear of losing their job. However, social awareness of the problem continued to increase due in part to reporting by the media. During the first six months of the year, police reported 58 cases of sexual harassment, compared with 143 cases during 2008.

During the year legal proceedings continued against two former members of parliament charged with extorting sex from female employees. On December 31, the Lodz Appeals Court extended until March 31, 2010, the pretrial detention of

former Samoobrona party member Stanislaw Lyzwinski. He has been in detention since 2007. Lyzwinski was also charged with rape, repeatedly forcing four women to have sex, abetting a kidnapping, and extortion. If convicted of all charges, he could be sentenced to up to 18 years in prison. Andrzej Lepper, another Samoobrona member and former deputy prime minister and agricultural minister, was also charged with extorting sex from a female party worker and with forcing another woman to have sex. Lepper was free on bail. On January 13, an appeals court upheld the 28-month jail sentence for Jacek Popecki for inducing an employee to have an abortion. Popecki was a former assistant to Lyzwinski and Lepper.

On December 28, the Olsztyn Prosecutor's Office suspended its investigation of former mayor Czeslaw Malkowski pending a psychological analysis. In March 2008 Malkowski was charged with sexual harassment of two female employees and the rape of a third pregnant employee. He was released from pretrial detention in September 2008.

The government generally recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. However, some restrictions exist. For example, while there were no restrictions on the right to obtain contraceptives, social and economic factors limited their use, according to a local NGO, the Federation for Women and Family Planning. Prescription contraceptives are not included on the government list of subsidized medicines, which makes the cost prohibitive relative to average household income. The law does not permit voluntary sterilization. Health clinics and local health NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health, although counseling on the use of contraceptives is not integrated in the primary healthcare system.

The government provided free childbirth services, and there were sufficient doctors available to provide this service. Women also used nurses and midwives for prenatal and postnatal care unless the mother or child suffered more serious health complications. According to statistics compiled by the World Health Organization in 2005, there were approximately eight maternal deaths per 100,000 live births in the country. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

On May 11, Anand Grover, the UN special rapporteur on health issues, presented preliminary findings following a six-day visit to the country to assess sexual and reproductive health rights. Among his findings he cited a serious impediment to women's access to certain reproductive health services, such as contraception and prenatal testing. Grover also called for providing unbiased sexual education and better funding for contraceptives.

The constitution provides for equal rights for men and women in family law, property law, and in the judicial system; however, in practice there were few laws to implement this provision. Women held lower-level positions and frequently were paid less than men for equivalent work, were fired more readily, and were less likely to be promoted.

On February 9, 32 NGOs in the country that promote women's rights sent a complaint to the European Commission noting a lack of government action to combat discrimination against women. On May 14, the European Commission referred the country to the EU Court of Justice for not codifying European Community rules prohibiting gender discrimination in access to and supply of goods and services.

In April the independent research company *wynagrodzenia.pl* published a survey reporting a large discrepancy in the average starting salaries of men and women university graduates. Women's starting salaries were on average approximately 30 percent lower than men's salaries in technology and economic professions and up to 60 percent lower in artistic professions.

On August 13, the private Center for Economic Information reported that the number of women working in senior positions in small to medium-sized businesses had doubled over the preceding three years. Women were on the boards of approximately 70,000 companies, representing 30 percent of all companies in the country.

The Ministry of Labor and Social Policy is responsible for combating gender discrimination, incorporating gender equality into governmental policy, and monitoring implementation of government programs to promote gender equality. The ministry continued to implement projects to combat gender discrimination in the workplace, including an EU program that involved local NGOs to fight discrimination based on gender, race, religion, disability, age, or sexual orientation.

In March 2008 the prime minister appointed a senior government official for gender equality with the rank of minister. However, some women's rights groups complained that the position was neither sufficiently resourced nor sufficiently independent from government influence to fulfill its mandate.

In its November 20 report, the UN Committee on Economic, Social and Cultural Rights expressed concern that despite the existence of a minister-level position for equal treatment, discrimination continued against women and minorities, including ethnic minorities, persons with disabilities, and lesbian, gay, bisexual, and transgender (LGBT) persons. The report criticized a draft bill to implement certain EU directives in the area of equal treatment as not protecting against all forms of discrimination.

### Children

Citizenship is acquired by birth when at least one parent is a citizen, regardless of where the birth took place (*ius sanguinis*). Citizenship is also granted to children born, or found, on the territory of the country from parents of unknown origin. The government has in place a system of universal birth registration, implemented immediately after birth.

Incidents of child abuse were reported; however, convictions for abuse were rare. The law prohibits violence against children and provides for prison sentences ranging from three months to five years.

A government ombudsman for children's rights issued periodic reports on problems affecting children, such as pedophilia on the Internet, improving access to public schools for children with disabilities, and providing better medical care for children with chronic diseases. The ombudsman's office also operated a 24-hour hotline for abused children. In 2008, the last year for which statistics were available, the ombudsman received 10,578 complaints, an increase of 2,597 in comparison with 2007. Of that number 26 percent referred to the right to be brought up in a family, 15 percent to protection against abuse and exploitation, 12.5 percent to the right to education, and 7 percent to the right to adequate social conditions.

In February the Warsaw-based Helsinki Human Rights Foundation published a report which asserted that child prostitution was a problem although its extent was difficult to measure due to a lack of data.

According to the government and the Nobody's Children Foundation, a leading NGO dealing with trafficking in children, child sex tourism was not significant in the country, although trafficking in children for sexual exploitation remained a problem.

The law prohibits sexual intercourse with minors less than 15 years of age. The penalty for a conviction of statutory rape ranges from two to 12 years imprisonment. Child pornography is also prohibited by law. The production, possession, storage, or importation of child pornography results in a sentence of three months to 10 years imprisonment.

In 2008, according to the Ministry of Justice (MOJ), 742 persons were convicted of sexual intercourse with persons under 15 years of age and 26 persons were convicted of with the involvement of a minor.

During the year police conducted seven large, nationwide operations against child pornography and pedophiles, which led to the arrest of 379 persons and confiscation of computers and pornographic materials. In 2008 police conducted similar operations that led to the arrest of 330 persons. Charges were filed against 84 persons. However, no reports were available on the outcome of the charges filed.

## Trafficking in Persons

The law prohibits trafficking in persons for all purposes; however, there were numerous reports that persons were trafficked to, from, through, or within the country.

The country was a source, transit, and destination country for victims of trafficking in persons, primarily women and girls for sexual exploitation. There were reports that the country was increasingly becoming a destination country for forced labor. Internal trafficking for sexual exploitation also occurred.

Persons were trafficked to and through the country, primarily from Ukraine, Belarus, Romania, Bulgaria, and Moldova. Ukraine continued to be the largest source of persons trafficked through the country, with Belarus also serving as a substantial source. There were reports of small numbers of Filipinos, Bangladeshis, Djiboutians, Ugandans, Chinese, and Mongolians being trafficked to, within, and through the country. Citizens and foreigners were trafficked to other EU countries, particularly to Belgium, Germany, Italy, the Netherlands, Spain, and Sweden. NGOs noted a trend towards a higher percentage of victims being trafficked for labor in agriculture and other economic sectors.

On May 29, following a five-day visit to the country, Joy Ezeilo, the UN special rapporteur on trafficking in persons stated that human trafficking had increased in the country since it joined the EU's Schengen zone in 2007. The special rapporteur noted that the government had made progress to combat human trafficking. However, she also said that the lack of a clear legal definition of trafficking and judicial inefficiencies continued to hamper the government's efforts. The special rapporteur criticized the fact that courts do not award trafficking victims compensation for the loss of earnings and personal suffering.

Traffickers continued to target young, unemployed, and poorly paid women and men, particularly those with weak family ties and support networks. Traffickers attracted victims with false promises of lucrative jobs, arranged marriages, fraud, and coercion. In some cases traffickers threatened victims with violence or legal prosecution, counting on the victims' ignorance of their rights.

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

Penalties for trafficking in persons range from three to 15 years' imprisonment. While prostitution is not criminalized, pimping, recruiting, or luring persons into prostitution carry penalties of up to 10 years in prison. Individuals convicted of trafficking in children and luring women into prostitution abroad received the most severe sentences. Traffickers could also be prosecuted under laws criminalizing statutory rape and forced prostitution.

While the criminal code prohibits trafficking, it lacks a clear legal definition of trafficking, which limits effective prosecutions.

During the first six months of the year, police identified 32 cases of human trafficking and forwarded 31 cases to prosecutors for indictment. In 2008 according to final MOJ statistics, 53 traffickers were convicted for forced prostitution and trafficking, compared with 42 convictions in 2007.

In January the Lublin prosecutor's office suspended the investigation into the 2007 case of a female trafficking victim, who was nearly deported despite her critical medical condition. The case became public following media reports that border guards had detained a Nigerian woman who was a suspected trafficking victim. Authorities subsequently granted the woman status as a trafficking victim and accepted her into the Interior Ministry's (MOI) witness protection program.

In February 2008 an Italian court sentenced 16 Poles to serve sentences of from four to 10 years in prison for recruiting more than 300 Poles to work in agricultural camps in southern Italy under forced labor conditions. In a parallel case, a court in Krakow continued a trial begun in 2007 of 23 persons who were allegedly involved in trafficking persons to labor camps in Italy. The workers were forced to work up to 15 hours a day for one euro (\$1.44) per hour, slept on the ground, and were watched by armed guards.

The Ministries of Interior and Justice have primary responsibility for antitrafficking efforts; the Ministry of Foreign Affairs coordinated trafficking programs with foreign governments and international organizations. The National Police have 17 regional teams to combat trafficking in persons and child pornography.

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

Trafficking victims often did not ask officials for help from fear that border guards and police would deport them. There were concerns that border guards unwittingly deported some unidentified trafficking victims. This action prevented the government from providing them with assistance or benefiting from their cooperation as potential witnesses. NGOs attributed this to a lack of knowledge and failure of police and border guards to adhere to national guidelines on how to identify and approach suspected trafficking victims. Victims were often prosecuted for carrying false travel documents, working illegally, and violating the terms of their visas. In some cases deported victims were met at the border or elsewhere in their country of origin by their traffickers, who provided them with new travel documents and returned them to the country.

The MOI funded NGOs to conduct regional training on identification of trafficking victims and victim assistance in all provinces; several hundred law enforcement officials were trained in trafficking issues by the NGOs La Strada and the Nobody's Children Foundation and also by the ministry.

During the year the government allocated approximately 150,000 zloty (\$52,630) for victim assistance and 100,000 zloty (\$35,090) to implement the National Antitrafficking Action Plan. The government also allocated an additional 700,000 zloty (\$245,600) to establish and operate the National Intervention and Consultation Center for Victims of Trafficking. The center, which began operation in April, included a shelter, a 24-hour hotline, and crisis intervention programs. The center also advised government authorities working with trafficking victims, and conducted preventive activities.

The government worked extensively with antitrafficking NGOs, such as La Strada. While the government provided space and funds for NGOs to operate shelters for trafficking victims, the number of shelters remained inadequate, and NGOs frequently resorted to temporary arrangements to provide medical, psychological, and legal assistance to victims. NGOs conducted trafficking training courses at police and border guard academies; provided counseling for victims and their families; developed training and prevention materials; and conducted public awareness campaigns on trafficking dangers.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/q/tip](http://www.state.gov/q/tip).

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care or the provision of other state services. The government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities.

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

The Ministry of Labor and Social Policy is responsible for disability-related matters. During the year the government plenipotentiary for persons with disabilities organized training sessions for central and local government officials to encourage them to hire persons with disabilities. The state fund for rehabilitation of persons with disabilities continued a nationwide campaign encouraging companies to employ persons with disabilities. The fund granted money to NGOs to organize media campaigns on the rights of persons with disabilities.

#### National/Racial/Ethnic Minorities

The constitution provides ethnic and national minorities the right to preserve their own language, customs, and culture. The law contains several provisions against hate crimes and incitement to violence based on ethnic origin; however, government enforcement efforts were sometimes ineffective.

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

On September 25, a man attacked two Chechen women in the town of Lomza. The man beat the women and sprayed them with a chemical while shouting racial epithets. Earlier, Lech Kolakowski, a member of parliament from the Law and Justice party, had called for a Lomza refugee center, which housed Chechen and other refugees, to be closed. At year's end police had made no arrests in the case.

On October 12, the Opole District Court banned the Brzeg branch of the National Radical Camp, a neo-Nazi organization, from operating determining that its ideology and behavior promoted racial hatred. This was the first neo-Nazi group banned in the country. The decision stemmed from the December 2008 suspended sentencing of three members of the National-Radical Camp for making Nazi gestures during the group's gatherings in 2006 and 2007. In May 2008 the National-Radical Camp and a neopagan organization, Zadruga, disturbed the celebration of the 87th anniversary of the Silesian uprising by making Nazi gestures, carrying flags with swastikas, and distributing anti-Semitic leaflets.

On October 20, the Bialystok Appeals Court suspended the sentences of three skinheads convicted of drawing swastikas and racist slogans on apartment buildings and a Jewish cemetery in Bialystok in 2007. On January 30, a Bialystok lower court had sentenced the three to 12 to 20 months imprisonment.

During the year there were periodic incidents of racist behavior.

For example, in April the radical group Socio-National Option distributed leaflets on Wroclaw public transportation system conveying racist slogans. Passengers intervened and the leaflets were removed.

On July 12, Father Tadeusz Rydzyk, who operates the Catholic nationalist radio station Radio Maryja, made a racial slur about an African missionary during a pilgrimage to Czestochowa. On August 20, following widespread criticism from government and Redemptorist officials, Rydzyk publicly apologized for the remark.

On October 15, a court in Bialystok started the trial against four persons charged with physically and verbally assaulting a dark-skinned French citizen on April 30. On October 23, a court in Bialystok started another trial against three persons charged with physically and verbally assaulting a dark-skinned female student of Cuban origin on March 10 in a shopping mall.

On November 11, several hundred members of the National-Radical Camp marched through Warsaw shouting neo-Nazi and anti-Semitic slogans, and using Nazi gestures. On November 16, police launched an investigation into the case.

On January 21, the Sejm ethics committee reprimanded Artur Gorski, a member of parliament from the Law and Justice Party, for making racist remarks during a parliamentary hearing in November 2008. Gorski's remarks were widely criticized by government officials, NGOs, and the media. In December 2008 the ethics committee ordered Gorski to issue an official, on-the-record apology. However, he refused, saying that he had already apologized in a letter to the speaker of the Sejm.

During the year there also were displays of racist behavior at sporting events. The Sports Ministry and the soccer union announced a number of projects underway to fight racism, including educational and awareness raising campaigns. In April 2008 the human rights ombudsman sent a letter to the president of the Polish Soccer Union expressing concern about racist and anti-Semitic incidents at soccer matches. He suggested assessing penalties and tolerance programs to educate soccer fans about cultural or racial differences.

On July 21, a Gdansk court sentenced a soccer fan to six months' imprisonment and a fine for throwing bananas and shouting racial epithets at African soccer players in 2006. The fan's soccer team was also fined.

On September 26, the Polish League of American Football suspended the Crew Wroclaw team president Marek Wyszowski until the end of 2010 for making racist remarks to two football players of African descent. The league also imposed a 1,000 zloty (\$350) fine and ordered Wyszowski to make a public apology.

On December 8, a Krakow court upheld a request by a deputy justice minister to the Krakow Prosecutor's Office to reopen the investigation into the case of racist and anti-Semitic fan behavior at a match in November 2008. During the match fans of the Cracovia team allegedly imitated monkey noises and shouted anti-Semitic slogans when African players came on the field. In June the prosecutor had suspended the investigation, deeming it a case of fan rivalry.

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

In its November 20 report, the UN Committee on Economic, Social, and Cultural Rights expressed concern about continued widespread discrimination against Roma in the country in areas such as employment, education, land tenure, access to welfare benefits, housing, and health care.

On September 9, an appeals court in Wroclaw upheld the conviction and sentencing of a streetcar driver for insulting and threatening a Romani man with violence on the Internet. The driver had used abusive language and said he would kill the man were he to visit Wroclaw.

The government allocated approximately 10 million zloty (\$3.5 million) annually to a special program for Roma that included educational and other projects to improve health and living conditions and reduce unemployment. The program also focused on civic education and provided grants for university and high school students.

According to the Roma Association, more than 50 percent of Romani children did not attend public school out of fear that teachers would encourage assimilation and uproot them from their traditions. In 2008 according to the MOI, there were approximately 3,100 Roma under the age of 18 years living in the country. Of that number 2,700 (87 percent) were enrolled during the 2007-08 school year.

The Roma Association stated that gaps in Romani children's education made it impossible for Roma to end their poverty. Approximately 90 percent of Roma were unemployed. A 2002 national census recorded approximately 12,700 Roma living in the country.

According to the Ministry of Education, the number of segregated classes for Romani children has been substantially reduced. In August 2008 the news daily *Dziennik* reported that in six cities with a large Roma population, Romani children

were taught in segregated classes, ostensibly because they did not speak fluent Polish. The education level in such classes was reportedly lower than in mainstream classes. Following the reports the education minister inspected all district offices with oversight of separate classes for Roma and ordered that Romani children be fully integrated with other children.

On October 1, a separate class for Romani children was started in a Poznan preschool. The idea originated with a local Roma foundation to improve education for Romani children and to ease their transition to public schools. Opponents of the project asserted that any type of segregation of Romani children would be detrimental; however, proponents claimed that many Romani children did not feel comfortable attending integrated schools.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution guarantees all persons the right to equal treatment and prohibits all forms of discrimination in the political, social, and economic spheres. There are no laws that criminalize sexual orientation or behavior.

However, organizations representing LGBT persons reported that discrimination is common in schools, the workplace, hospitals, and clinics. For example, LGBT persons are sometimes prevented from donating blood due to the perception that HIV/AIDS is prevalent in the LGBT community. During the year there were some reports of skinhead violence and societal discrimination against LGBT persons. There are several LGBT organizations operating in the country, with a focus on preventing discrimination of LGBT persons and promoting tolerance.

In May the NGO Campaign Against Homophobia reported that the level of hate speech against persons based on their sexual orientation was still high in the country. The NGO called for revisions to the antidiscrimination law to include sexual orientation among the categories of punishable offenses.

On July 15, the human rights ombudsman intervened in a legal dispute on behalf of a local branch of LAMBDA, an NGO that combats discrimination based on sexual orientation. In June a district court in Bydgoszcz and city authorities had blocked the group's registration. LAMBDA filed a formal complaint against the ruling. In a letter to the court, the ombudsman stated that it had violated rules on registering organizations, and all citizens are equally entitled to participate in public life and to express their views freely. In November the LAMBDA branch received its registration.

On August 4, in an unprecedented decision, the Szczecin District Court imposed a 15,000 zloty (\$5,260) fine on a woman who repeatedly harassed a neighbor over his sexual orientation. Her public comments prompted other neighbors to harass the plaintiff verbally and physically. The court also prohibited the woman from making further disparaging public comments about her neighbor's sexual orientation.

On May 16, an estimated 500 persons took part in Krakow's fifth annual gay March for Tolerance to call for an end to prejudice against homosexuals. The event took place without major incident, due in part to the presence of 450 police officers. A small counterdemonstration was organized by the All Youth and National Rebirth of Poland activists. Some counterdemonstrators threw eggs, tomatoes, and chairs at march participants and shouted antigay and anti-Europe slogans; 15 persons were detained by police. The Krakow Archdiocese issued a statement criticizing the march as immoral, but distanced itself from violence against homosexuals.

On June 13, Warsaw authorities allowed the annual Equality Parade to take place in the city center for a fourth consecutive year. Approximately 2,000 local and international gay rights advocates participated in the march without serious incident. Some 30 members of the All Poland's Youth and National Radical Camp staged a counterdemonstration, but there was no direct confrontation between the two groups due to police protection.

#### Other Societal Discrimination

There were few reports of discrimination against persons with HIV/AIDS. According to the government's AIDS Center, there was one incident of discrimination reported during the first six months of the year. The case involved discrimination by neighbors against a person with HIV/AIDS.

On November 23, the Constitutional Court ruled that a 1991 Interior Ministry regulation requiring immediate dismissal of an HIV positive police officer was unconstitutional. The court's ruling came in response to a March 2008 question submitted by an administrative court in Gdansk, which was reviewing a police officer's appeal against his dismissal in 2007 for being HIV positive.

## Section 7 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 independent trade unions without previous authorization or excessive requirements. Foreign and migrant workers also have the right to unionize.

While many workers exercised this right, in practice many small and medium-sized firms discriminated against those who attempted to organize labor. Newly established small and medium-sized firms were generally nonunion, while privatized, formerly state-owned enterprises frequently continued union activity.

Under the law, 10 persons are required to form a local union and 30 persons for a national union. Unions must be registered with the courts, and organizations are required to give employers quarterly updates on the total number of trade union members. A court decision refusing registration may be appealed. The law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union. According to a December 2008 survey, 16 percent of the workforce was unionized, primarily in the education, science, healthcare, transportation, communication, mining and other industrial sectors.

All workers have the right to strike except those in essential services, such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades. These workers had the right to protest and seek resolution of their grievances through mediation and the court system. Cumbersome procedures made it difficult to meet all of the legal technical requirements for strikes in many cases.

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 to employers.

### b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference; however, in practice the government failed to protect this right at small and medium-sized companies. The law provides for and protects enterprise-level collective bargaining over wages and working conditions. A tripartite commission composed of unions, employers, and government representatives was the main forum that determined minimum national wage and benefit increases in areas such as the social services sector.

Key public sector employers could not negotiate with labor without the extensive involvement of the ministries to which they were subordinate. The law provides for parties to take group disputes to formal mediation, then to the Board of Social Arbitration in either the district court or Supreme Court depending on the number of employers involved, and, as a last resort, to strike. By law employers are obligated to notify a district inspection office in the region about a group dispute in the workplace. During 2008 the State Inspection Office registered 5,433 disputes, compared with 2,869 disputes in 2007.

The law prohibits antiunion discrimination; however, labor leaders reported that employers frequently discriminated against workers who attempted to organize or join unions, particularly in the private sector.

On December 17, a labor court in Torun ruled in favor of Officina Labor in a wrongful termination dispute. A local trade union claimed that Officina Labor illegally fired representatives of the newly formed union's board. The company argued that they received notification of the union's formation after the firings had taken place. The court ruled that the company was not required to rehire the employees, but suggested the employees could claim compensation for discrimination. A related case addressing the termination of the trade union chairman was pending.

In April a newly formed local trade union accused the firm DAD Poland in Poznan of harassment and wrongful termination. A few days after employees joined the union, the company fired four members. Other unionists claimed that DAD Poland's director threatened members with dismissal.

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

There are no special laws or exemptions from regular labor laws in export processing zones.

On April 22, a labor court in Ciechanow issued its first ruling in the case of union employees that claimed they were harassed and wrongfully terminated from Dong Yang Electronics. The court ordered the company to rehire one employee and pay compensation for court costs and one month's salary. Workers claimed company officials intimidated them during a 2008 strike ballot and then refused to acknowledge the validity of a second, secret ballot, in which employees unanimously approved the strike. Dong Yang subsequently gave a raise to employees who did not strike and dismissed 200 other employees, including three unionists, replacing them with fixed-contract workers. There were an additional 180 cases pending before the court.

#### c. Prohibition of Forced or Compulsory Labor

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

#### d. Prohibition of Child Labor and Minimum Age for Employment

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

The law prohibits the employment of children under age 16, with the exception of cultural, artistic, sporting, and advertising fields, but only with permission of the parents or guardians and the local labor inspector. Persons between the ages of 16 and 18 may be employed only if they have completed middle school, the proposed employment constitutes vocational training, and the work is not harmful to their health.

The State Labor Inspectorate reported that increasing numbers of minors worked, and many employers underpaid them or paid them late. During the first six months of the year, the inspectorate conducted 514 investigations involving 2,581 underage employees (16 to 18 years of age), compared with 259 inspections involving 1,796 underage employees during the same period in 2008. Fines totaling 182,650 zloty (\$64,090) were levied in 159 cases.

Of the 2,581 underage employees, the majority worked in the processing industry, in commerce and repairs, and other service industries such as hotels, restaurants, construction, and transportation. According to a 2008 annual report by the labor inspectorate, the majority of underage employees worked during summer school holidays.

e. Acceptable Conditions of Work

The national monthly minimum wage of 1,276 zloty (approximately \$448) that took effect in January did not provide a decent standard of living for a worker and family. Wages are set by an annual tripartite process involving representatives from the government, employers, and employees. If the committee fails to agree on a figure by the September 15 deadline, the Council of Ministers sets the minimum wage. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum wage difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage.

The law provides for a standard 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 to protect worker health and safety. It empowers the State Labor Inspectorate to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. However, the inspectorate was unable to monitor workplace safety sufficiently. In 2008 the government reported more than 100,000 workplace accidents, an increase of 5,000 over 2007. The inspectorate investigated 2,703 accidents in which there were 3,298 casualties, including 615 workers killed and 1,131 persons seriously injured. Employers routinely exceeded standards for exposure to chemicals, dust, and noise. According to the inspectorate, lack of professional experience, necessary safety precautions, and organization were the leading causes of workplace accidents. The majority of accidents occur in mining, trade, and services.

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.