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2010 Human Rights Report: Poland

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

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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). The president, the prime minister, the Council of Ministers, and the Sejm share executive power. The July special presidential election and the 2007 preterm National Assembly elections were considered free and fair. Both President Bronislaw Komorowski and Prime Minister Donald Tusk were members of the ruling Civic Platform party. The prime minister governed in a coalition with a smaller political party. Security forces reported to civilian authorities.

Among the country's principal human rights problems were police misconduct; lengthy pretrial detention resulting from an inefficient judicial system; laws that restricted free speech, although rarely enforced; and corruption in the government and society. Other problems were discrimination against women in the labor market; sexual exploitation of children; occasional nonviolent incidents of anti-Semitism; trafficking in persons; and societal discrimination and violence against ethnic minorities, gays, and lesbians. Violations of workers' rights and antiunion discrimination also occurred.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, police shot and killed two persons during the year.

On May 23, police shot and killed a Nigerian market vendor during a routine document check. The vendor reportedly fled when police approached, causing them to pursue. After the police caught the man, bystanders formed a mob and attacked the police, at which time police fired a shot. According to police, they were unable to administer first aid to the victim because the mob was still attacking them. Prosecutors charged 26 persons with assaulting a police officer and resisting

arrest. At year's end, the investigation into whether the police used excessive force or caused wrongful death was ongoing.

On December 3, an off-duty police officer in Lodz shot a man, who died of his wounds two days later. According to press accounts, the officer and a colleague were returning home when two men with a dog attacked them. Press reports indicated that the police officer drew his gun to protect himself from the dog, which was attacking him with the owner's encouragement. During the struggle with the dog's owner, who tried to grab the weapon, the police officer fired the gun, wounding the man in the abdomen. Reports indicated that both the off-duty officers and their attackers may have been inebriated. Both prosecutors and the internal affairs authorities in the police force initiated investigations, which were ongoing at year's end.

On February 5, the Warsaw District Court began a new trial 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.

A trial begun in 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 face up to 10 years in prison.

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. The criminal code lacks a clear, legal definition of torture, which is not reported as a separate crime.

On November 12, an individual filed a complaint with the Warsaw prosecutor's office claiming police beat him during November 11 Independence Day demonstrations and counterdemonstrations. A second person, who participated in counterdemonstrations, submitted a complaint alleging police brutality. Both individuals were among 33 persons arrested by police during the demonstrations. Authorities filed charges against nine of the 33, including the two individuals who filed complaints alleging police brutality. Eight were charged with violating the physical inviolability of police officers and one with using violence or the threat of violence to prevent a police officer from performing his/her duties.

On November 5, after a two-year investigation conducted by Gdansk district prosecutors, the regional court in Kwidzyn began a trial against six police officers and one civilian employee of the police station in Prabuty for using excessive force and failure to fulfill their duties by not reporting the actions of their colleagues. In November 2009 prosecutors filed charges for offenses that took place in 2008, including beating and subsequently abandoning intoxicated persons in a forest, as well as beating two teenagers at a police station. If convicted, the officers could face three to five years' imprisonment. An internal investigation led to the dismissal of the regional police commander and deputy commander. The six officers were suspended from their official duties with half pay.

In 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, as of year's end, police had not responded.

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

On June 8, a revision of the criminal code took effect that allows forced chemical castration of convicted pedophiles. Under the law, courts are to decide whether the offender should undergo such treatment six months before their expected parole. In the case of the rape of a person less than 15 years of age or incest, chemical castration would be obligatory. There were no reports that judges administered this punishment during the year.

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Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards; however, prison medical staff vacancies and access to specialized treatment continued to be a problem. The government permitted monitoring visits by independent human rights observers.

At year's end there were 80,734 persons in prisons and detention facilities, according to government statistics. The capacity of these facilities declined by approximately 2,900 during the year. Occupancy was approximately 95 percent of capacity.

As of October 31, approximately 2,656 prisoners (3 percent of the prison population) were women. Women prisoners were held either in dedicated detention facilities or in separate parts of joint facilities. While authorities generally separated juveniles from adults, in exceptional cases the law allows them to share housing in prisons and detention centers. Authorities usually sent juveniles (17- to 21-year-olds) accused of serious crimes to pretrial detention.

Pretrial detainees were often held in prisons pending trial but in separate areas from convicts. Conditions for pretrial detainees were generally similar to those for prisoners but, on occasion, were worse due to overcrowding and poorer facilities resulting from court-mandated restrictions on where a prisoner should be located while awaiting trial.

Under the country's criminal code, the minimum cell size is three square meters (32 square feet) per person, but prisoners may occupy smaller cells for a limited time. At year's end, 49 detainees were in cells smaller than the legally mandated minimum, according to government statistics.

In December 2009 a new criminal code provision took effect that provides mechanisms designed to prevent prison overcrowding, including deferring sentences if the total number of prisoners would exceed prison capacity. In an effort to meet occupancy requirements, prison officials converted many common areas, such as activity rooms and libraries, into cells.

Prisoners and detainees had reasonable access to visitors and could participate in religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Prisoners exercised this right either directly with prison officials and the Justice Ministry or indirectly through local nongovernmental organizations or the human rights ombudsman.

During the year the human rights ombudsman received 7,233 complaints, compared with 7,158 in 2009, mainly regarding abuse by prison authorities, inadequate living conditions, inadequate medical care, and violations of mail and visiting rights.

Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. At the request of the Justice Ministry, the human rights ombudsman administers the National Preventive Mechanism to investigate and monitor prison and detention center conditions. The office of the ombudsman publishes its findings and a summary of the recommendations it made to relevant authorities in an annual report.

The government allowed independent monitoring of prison conditions and detention centers on a regular basis by the human rights ombudsman. The ombudsman can join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when they have filed a complaint or when information otherwise leads to an allegation of inhumane conditions. During the year the ombudsman visited 80 prison and detention facilities, including pretrial and juvenile detention centers, as well as guarded centers for refugees. As of year's end, the Council of Europe's Committee for the Prevention of Torture had not released the findings from its fourth periodic visit to the country in December 2009.

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 Internal Security Agency (Agencja Bezpieczeństwa Wewnętrznego, ABW) has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau (Centralne Biuro Antykorupcyjne, CBA) is responsible for combating governmental, business, and financial corruption. Both agencies report directly to the prime minister.

Civilian authorities maintained effective control over the security forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

In most cases the law requires authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law in practice.

Lengthy pretrial detention remained a problem that contributed to overcrowding and deterioration of detention facilities; however, according to media reports, the number of prosecution motions for pretrial detention declined during the year. The law allows 48-hour detention before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. Authorities must promptly inform detainees of the charges against them. There was a functioning bail system, and most detainees were released on bail. Detainees have the right to counsel; the government provided free counsel to the indigent. Defendants and detainees have the right to consult an attorney at any time.

The law permits authorities to detain persons charged with a crime for up to three months. Detained persons may appeal the legality of their arrest. A court may extend pretrial detention every six to 12 months, but the law specifies that the total time in detention may not exceed two years (in certain complex cases, the court may petition the Supreme Court for an extension beyond two years); however, in practice detention frequently extended beyond two years.

As of November 30, according to the Central Prison Authority, there were 8,945 pretrial detainees, a decrease of 900 in comparison to November 2009.

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 did not enjoy public confidence.

Military courts, supervised by the minister of justice and the prosecutor general, have jurisdiction over crimes committed by military personnel while on duty. Military defendants enjoy the same rights as civilians.

The court system remained cumbersome, poorly administered, and inadequately staffed. Although according to the General Prosecutor's Office, the overall number of prosecutors was large (5,668), but the number of prosecutors dealing with criminal offenses was inadequate. Some progress was reported in the computerization of the court system, but a continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

On January 4, the Justice Ministry established the country's first "e-court," designed to adjudicate approximately 600,000 routine civil cases per year.

In 2007 the country implemented a system of "24-hour courts" to expedite trials for minor offenses and petty crimes. Under this system, the accused must be tried and a decision reached 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. On June 8, in response to criticism of the cost and questions about the effectiveness of this system, a law took effect that gives accused persons the option of voluntarily accepting prescribed penalties while the case is under investigation and allows the state to release accused offenders on their own recognizance if they agreed to appear in court. The new law also eliminated the state's obligation to provide a defense attorney and provides that 24-hour courts may try individuals in absentia. According to media reports, the 24-hour court procedure was rarely used.

Trial Procedures

Defendants must be present during trial; they 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, and cases whose content may offend public morality. The law provides for juries, usually composed of two or three individuals appointed by local officials. In regional and provincial courts, a panel of one judge and two lay assessors try cases. Defendants may consult an attorney, confront and question witnesses, have access to government-held evidence, and 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 European Court of Human Rights (ECHR) regarding trial delays, the right to a fair trial, and the lack of due process.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

In 2009, the most recent year for which data was available, the ECHR issued 123 judgments that found at least one violation of the European Convention on Human Rights. Of that total, 71 judgments found the country violated the convention's provisions for a fair and expeditious trial. Of these decisions, 35 involved violations of the right to liberty and security, including lengthy pretrial detention, 14 related to inhuman or degrading treatment and ineffective investigations, and 12 involved respect for private and family life. At the end of 2009, 4,750 cases involving the country were pending before the court.

The country generally complied with ECHR judgments. In May 2007 the government adopted a special action plan to improve the effectiveness of the implementation of the ECHR judgments. Included in the action plan were

recommendations for changes in legislation (only partially enacted by year's end), improvement of legal practices, human rights training, and distribution of information about ECHR judgments to courts and the National School for Prosecutors and Judges. An interagency team at the Justice Ministry's Human Rights Department monitors the implementation of ECHR judgments.

According to the Helsinki Human Rights Foundation, the government was most successful in complying with ECHR judgments in cases that affected a large number of persons and cases of particular legal importance, specifically cases where systematic or legislative changes were required. The foundation claimed the government was less successful in complying with less prominent, individual cases that attracted less media attention.

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 courts. However, implementation of court orders, particularly for payment of damages, remained slow, cumbersome, and ineffective. Changes to civil procedures placed speed and efficiency ahead of individual rights, and the limited number of attorneys made it expensive to exercise the right to legal counsel.

In November 2009 the Justice Ministry created a Human Rights Department with the primary objective of promoting the human rights standards throughout the justice system. The department also responds to identified cases of human rights violations, including overlong trials, excessive use of pretrial detention, and prison overcrowding. According to Warsaw-based Helsinki Human Rights Foundation, the department was particularly successful in promoting knowledge about ECHR verdicts by translating them into Polish, posting them on the ministry's Web site, and distributing them to domestic courts.

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

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

The law allows electronic surveillance for crime prevention and investigation. 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.

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.

Defamation includes publicly insulting, defaming, or libeling members of parliament, government ministers, or other public officials, as well as private entities and persons. Defamation, carried out through the mass media, is punishable by imprisonment of up to one year. Defamation outside the media is punishable by a fine and community service. For publicly insulting the president, the maximum sentence is three years' imprisonment. Maximum penalties are rarely applied; persons found guilty of defamation generally only faced fines.

On January 5, the Lublin prosecutor's office again discontinued the case against Sejm deputy Janusz Palikot, who in his Internet blog referred to the president as a "runt." In September 2009 the Lublin Regional Court overturned the

prosecutor's earlier decision not to pursue charges against Palikot in response to the president's call for the charges to be pursued.

The law prohibits hate speech, including dissemination of anti-Semitic literature and the public promotion of fascist or other totalitarian systems. On June 8, a revision to the criminal code took effect, adding public promotion of communist systems to the prohibited list. On December 14, the Wroclaw District Court gave prison sentences of from 13 to 18 months to three persons for promoting neofascist ideas and inciting hatred on the basis of national, ethnic, racial, and religious differences on their Web sites, RedWatch.info, and BHPoland.org. The Web sites 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.

The independent media were active and expressed a wide variety of views.

The National Radio and Television Broadcasting Council, a five-member body appointed by the National Assembly and the president, is responsible for protecting freedom of speech and 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 were required to suspend their membership in political parties and public associations, critics asserted that the council remained politicized. The president and the Sejm each select two members, and the Senate selects one member.

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." In practice the government rarely enforced this provision, which allows for 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.

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, approximately 58 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 freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

For a description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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 law provides 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; however, the law also includes provisions to consider the protection needs of individuals with exceptional cases.

In practice the government provided protection against the 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 to 84 persons compared with 133 persons in 2009. The government denied refugee status in 3,967 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 received monetary assistance for living expenses and language training and were registered in the national health-care system.

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 also provided temporary protection to individuals who may not qualify as refugees and provided it to 439 persons during the year, compared with 2,458 persons in 2009.

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

The June 20 (first round) and July 4 (second round run-off) special presidential election and the 2007 preterm parliamentary elections 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.

There were 91 women in the 460-seat Sejm and seven in the 100-seat Senat. There were five women in the 20-member Council of Ministers. An additional 24 women held ministerial-level positions. Eleven of the country's 50 members of the European Parliament were women. In local government elections held on November 21, women won 24 percent of the seats in local councils, a 4 percent increase over the previous election.

On October 27, the UN Human Rights Council published its concluding observations following its review of the country's sixth periodic report, in which it noted that the government should intensify efforts to achieve equitable representation of women in parliament and at the highest levels of the government, judiciary, civil service, police force, and prison service. The council called on the government to ensure that women receive equal pay for work of equal value and reinstitute the Office of the Government Plenipotentiary for Equality of Men and Women as an independent body.

There were two minority members in the Sejm (one representing the German minority in Silesia) and no minorities in the upper house. On December 14, John Godson was sworn in as the first black member of parliament. There were no members of minorities in the cabinet. The law exempts ethnic minority parties from the requirement that they must receive 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 December 10, the District Prosecutor's Office in Swidnica initiated an investigation into "political" corruption in connection with the first and the second round of the local government elections in Walbrzych. The investigation was based on evidence gathered by the CBA, which indicated that some voters might have been given money to vote for particular candidates. On December 2, Senator Roman Ludwiczuk of the ruling Civic Platform (PO) party resigned his party membership after admitting to political corruption. On a tape recording released by the press, Ludwiczuk was heard offering a member of his opponent's campaign staff a high-ranking local government position in exchange for resigning his campaign position. On December 3 and 7, three candidates for mayor of Walbrzych filed a motion to the court to annul the election results on the grounds of possible corruption.

On September 21, Deputy Prime Minister and Economy Minister Waldemar Pawlak dismissed the presidents of two state-owned coal mining companies, Kompania Weglowa and Katowicki Holding Weglowy, after the Katowice Prosecutor's Office charged them on September 16 with accepting bribes ranging from 16,000 to 600,000 zloty (\$5,400 to \$203,000). As of year's end, the prosecutorial investigation was ongoing.

The investigation continued of Sylwester Rypinski, the president of the state-owned Social Insurance Agency and six other employees. They were arrested in September 2009 by ABW on corruption charges. If convicted, Rypinski would face up to 10 years' imprisonment.

On August 5, a parliamentary special investigative committee concluded that prominent representatives of the ruling Civic Platform party did not conspire with businessmen who were allegedly lobbying for a revision of a draft law on gambling. The government's chief anticorruption official published a separate report on July 29 that noted irregularities in the drafting of the new law and criticized the Ministries of Economy, Finance, and Sport for confusing the legislative process. In October 2009 the national daily *Rzeczpospolita* published transcripts that the CBA obtained through wiretaps of

conversations between leading politicians and gambling industry representatives. The so-called gamble-gate scandal led to a major government reorganization later that month, in which six ministerial-level officials, including Sports Minister Miroslaw Drzewiecki, resigned. The chairman of the ruling party's parliamentary caucus, Zbigniew Chlebowski, also resigned.

The CBA has broad powers to audit the financial holdings of public officials and to fight corruption in public procurement. It is also 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:

- The trial of billionaire Henryk Stoklosa continued in the Poznan District Court. Stoklosa was indicted in 2008 on 21 charges in connection with a major finance ministry corruption case. Three ministry officials were also arrested 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. If convicted, he could face up to 10 years' imprisonment.
- On October 5, the Warsaw District Court began the trial of Beata Sawicka, a former member of the parliament, and Miroslaw Wadolowski, 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 period preceding the 2007 parliamentary elections. In her defense Sawicka said that a CBA officer seduced and manipulated her into accepting the bribe. A few months earlier, on April 23, the Warsaw Prosecutor's Office discontinued its investigation into CBA's involvement in the case, deciding that the CBA officers had not acted illegally.
- On May 24, an appeals court overturned the August 2009 Warsaw Circuit Court conviction of two persons for attempting to bribe former agricultural minister and Deputy Prime Minister Andrzej Lepper. The CBA detained the two in 2007 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 million). Lepper was subsequently dismissed as minister. The appeals court ordered a new trial in the case.

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

On January 17, a special prosecutor's office in Bialystok concluded a major corruption investigation of senior officials for malfeasance in public tenders in 2004. As a result of the investigation, 23 persons, including several senior employees at national police headquarters, were indicted in a Warsaw court on charges of abuse of power, failure to fulfill duties, accepting bribes, and perjury.

The law provides for public access to government information and, in practice the government generally provided access to citizens and noncitizens, including foreign media. By law government refusal of information requests must be based on exceptional circumstances related to government secrets, personal privacy, 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.

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, enjoyed the government's cooperation, and was considered effective. In 2009 the human rights ombudsman reported that 65,208 cases were filed with the office, an increase of 3,686 from 2008.

The office of the ombudsman is independent; however, the ombudsman is selected by the parliament and, at times in the past, was criticized by the media for being influenced by party politics.

Both chambers of parliament have committees on human rights and the rule of law. The committees serve a primarily legislative function and are composed of 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 half of the year, there were 885 reported cases of rape. 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 464 possible rape cases to prosecutors and 278 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. While courts can sentence a person convicted of domestic violence to a maximum of five years in prison, most convictions resulted in suspended sentences. The law provides for restraining orders on spouses to protect against abuse. On August 1, a revised law on domestic violence took effect that gives prosecutors the authority to issue restraining orders without requiring a court's approval, but police did not have the authority to issue immediate restraining orders at the scene of an incident.

During the year police identified 18,659 domestic violence offenses compared with 20,505 in 2009. Of the cases identified during the year, 16,463 were forwarded for prosecution, in comparison to 17,999 in 2009. During the first six months of the year, police reported that officers conducted 40,497 interventions related to domestic violence. According to prison authorities, at the end of the third quarter of the year, 5,024 individuals were serving prison sentences for domestic violence crimes.

According to some women's organizations, the number of women affected by domestic abuse was underreported, particularly in small towns and villages. The 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 266 crisis centers and 12 shelters for pregnant women and mothers with small children. In addition 36 specialized centers were operated by local governments and funded by the government's National Program for Combating Domestic Violence. The centers provided social, medical, psychological, and legal assistance to victims and "corrective education" programs for abusers. In 2009, the last year for which statistics were available, the government allocated

approximately 12.1 million zloty (\$4 million) for the centers' operating costs. The government also spent 4.4 million zloty (\$1.5 million) during the year on programs to counteract domestic violence. They were primarily corrective-education programs for abusers and training for social workers, police officers, and specialists who are the first contact for victims of domestic violence.

The Council for Victims of Crime, established in 2009, met periodically during the year to review proposed policy changes and legislative initiatives to support victims. On January 14, the Justice Ministry launched a national public awareness campaign on crime victims' rights.

The law prohibits sexual harassment. 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, including physical, verbal, and nonverbal acts, violating an employee's dignity.

According to the Women's Rights Center, 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 52 cases of sexual harassment, compared with 58 cases during 2009.

On February 11, a court in Piotrkow Trybunalski convicted two former members of parliament of extorting sex from female employees. Former Samoobrona Party member Stanislaw Lyzwinski was sentenced to five years' imprisonment for rape, repeatedly forcing four women to have sex, abetting a kidnapping, and extortion. Andrzej Lepper, another Samoobrona member and former deputy prime minister and agricultural minister, was sentenced to two years and three months' imprisonment for extorting sex from a female party worker and using force to obtain sex from another. Both Lepper and Lyzwinski, who was released from pretrial detention after two and a half years, were free on bail pending resolution of their appeals.

On January 27, the Olsztyn court overturned the Olsztyn Prosecutor's Office December 2009 decision to suspend the investigation of former Olsztyn mayor Czeslaw Malkowski, who was charged in 2008 with the sexual harassment of two female employees and the rape of a third who was pregnant. At year's end, the investigation against Malkowski continued.

Although the government generally recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, some restrictions existed. 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 were not included on the government list of subsidized medicines, which made them cost-prohibitive relative to average household income. The law does not permit voluntary sterilization. Health clinics and local health NGOs were permitted to provide information on family planning, including information about contraception, under the guidance of the Ministry of Health.

On June 4, UN Special Rapporteur on Health Issues Anand Grover presented a report to the Human Rights Council summarizing his 2009 visit to the country to assess sexual and reproductive health rights. Among his findings, he cited serious impediments to women's access to certain reproductive health services, such as contraception and prenatal testing. Grover called for providing unbiased sexual education and better funding for contraceptives.

The government provided free childbirth services, and there were sufficient doctors. 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 international organizations, there were approximately six maternal deaths per 100,000 live births in the country in 2008. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

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 implementing this provision. Women held lower-level positions and frequently received lower pay than men for equivalent work, were fired more readily, and were less likely to be promoted.

On March 18, the European Commission sent a warning to the government after its failure to pass national legislation implementing EU directives against gender discrimination in the workplace. The warning is the final stage before the commission refers a case to the European Court of Justice. In a separate May 2009 action, the commission referred the country to the European Court of Justice for not codifying EU directives prohibiting gender discrimination in access to and supply of goods and services. In February 2009 32 NGOs that promote women's rights complained to the European Commission about a lack of government action to combat discrimination against women.

On March 5, the independent research company, Wynagrodzenia.pl, published a survey reporting a large discrepancy in the average salaries of men and women. The survey found that women's salaries were on average approximately 30 percent lower than men's salaries in the insurance, banking, and health professions.

In August 2009 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.

In 2008 the prime minister appointed a senior government official as "equality minister" with a mandate to promote equal treatment. However, some women's rights groups complained that the position was neither sufficiently resourced nor sufficiently independent from government influence to fulfill its mandate. Women and lesbian, gay, bisexual, and transgender (LGBT) groups criticized the incumbent for making controversial statements about these issues and for not doing enough to combat discrimination against women as well as LGBT persons.

On January 1, the Ministry of Labor and Social Policy dissolved its Department of Women, Family, and Antidiscrimination. The department was responsible for combating gender discrimination, incorporating gender equality into governmental policy, and monitoring implementation of government programs to promote gender equality. Many of these functions were reassigned to the government's equality minister. The Ministry of Labor and Social Policy continued to promote gender mainstreaming in the labor market, including providing support for the Polish Women's Congress and funding public awareness campaigns.

In its November 2009 report, the UN Committee on Economic, Social, and Cultural Rights expressed concern that, despite the existence of a ministerial-level position for equal treatment within the Prime Minister's Chancellery, discrimination continued against women and minorities, including ethnic minorities, persons with disabilities, and LGBT persons.

Children

Citizenship is acquired by birth if at least one parent is a citizen regardless of where the birth took place. Children born or found in the country with parents of unknown origin are also citizens. 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 2009, the last year for which statistics were available, the ombudsman received 14,460 complaints of infringements of children's

rights under the country's laws, an increase of 3,882 in comparison with 2008. Of that number, 40 percent related to the right to be brought up in a family, citing factors such as limitation of parental rights because of a divorce and the need for better support for foster families; 20 percent to the right to protection against abuse and exploitation; 11 percent to the right to education; and 7 percent to the right to adequate social conditions.

In February 2009 the Warsaw-based Helsinki Human Rights Foundation published a report that 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 younger than 15 years of age. The penalty for a conviction of statutory rape ranges from two to 12 years' imprisonment. Child pornography is also illegal. The production, possession, storage, or importation of child pornography is punishable by imprisonment for a period of three months to 10 years. According to the Ministry of Justice, 742 persons were convicted in 2008 of sexual intercourse with persons younger than 15 years old, and 26 persons were convicted of pimping with the involvement of a minor.

During the year police conducted operations against child pornography and pedophiles that led to the arrest of 473 persons. However, difficulty in meeting legal evidentiary standards led to few convictions in these cases.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

The Union of Jewish Communities estimated that the Jewish population numbered approximately 20,000. There were reports of occasional, nonviolent anti-Semitic incidents and occasional desecrations of Jewish cemeteries.

On March 13, vandals defaced the Holocaust memorial in Krakow on the eve of the commemoration of the 67th anniversary of the liquidation of the Krakow ghetto. The vandals spray-painted anti-Semitic slogans and Nazi symbols on the monument. Authorities removed the graffiti before the beginning of the commemoration ceremony, during which the archbishop of Krakow, Cardinal Stanislaw Dziwisz, apologized to Jews on behalf of all Christians for the incident. On August 19, the prosecution discontinued its investigation into the incident on the grounds that police had been unable to identify the perpetrators.

On March 18, a Krakow court sentenced three persons to two-and-a-half years' imprisonment for the December 2009 theft of the "Arbeit Macht Frei" sign that hung above the main entrance to the Nazi death camp at Auschwitz. The sign was found cut into three pieces and buried in the woods two days after the theft. Prosecutors charged a Swedish man, who had ties to a neo-Nazi organization, with orchestrating the theft. On December 30, the Krakow Court sentenced the man, who was extradited from Sweden, to two years and eight months imprisonment. The court sentenced two additional persons, who recruited the three thieves, to two years and six months, and two years and four months imprisonment.

On February 23, a Bialystok court convicted five persons of disseminating anti-Semitic literature and inciting hatred and gave each a suspended sentence. The case, which began in 2005, was connected to an ongoing case against Leszek Bubel, a self-proclaimed anti-Semite and leader of a far-right political party. There were no developments in the case against Bubel, who was charged in 2008 with posting a video on a popular Internet site in which he boasted about his anti-

Semitism and urged Jews to leave the country. Bubel has repeatedly claimed he is unable to stand trial because of failing health. **He previously served six months in jail** for inciting racial hostility and defaming Jews.

Unlike in earlier years, there were no reports during the year that the Catholic nationalist radio station, Radio Maryja, broadcast anti-Semitic or racist statements by its viewers during call-in shows.

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. However, members of marginal populist and nationalist parties and organizations continued to make some extremist, intolerant, and anti-Semitic statements.

In March 2009 the Education Ministry, in cooperation with the Organization for Security and Cooperation in Europe, 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 15, the European Commission against Racism and Intolerance (ECRI) criticized the country for making insufficient progress in fighting anti-Semitism, noting the lack of comprehensive antidiscrimination legislation.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

Article 32 of the constitution and the 1997 Charter of Persons with Disabilities prohibit discrimination against persons with physical, sensory, intellectual, and mental 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 government restricts the right of persons with certain mental disabilities to vote or participate in civic affairs.

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 them. The fund granted money to NGOs to organize media campaigns on the rights of disabled persons.

National/Racial/Ethnic Minorities

The constitution gives 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.

On June 15, ECRI noted the continuation of public racist discourse and the vulnerable situation of Roma as a continuing source of concern, along with anti-Semitism (see section 3).

During the year 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 23, the Wroclaw District Court sentenced a man to an 18-month suspended sentence (to include five years' probation), and a 1,000 zloty (\$338) fine for racially motivated violence. The man was convicted of physically and verbally assaulting a Ghanaian in Wroclaw on January 4.

During the year developments were reported in a number of court cases stemming from racially motivated assaults in previous years:

- On March 18, the Bialystok District Court upheld a lower court's conviction of two persons for physically and verbally assaulting a dark-skinned female student of Cuban origin in March 2009. The accused received six- and nine-months suspended sentences respectively (to include five years' probation).
- The trial continued in Bialystok of four persons charged with physically and verbally assaulting a dark-skinned French citizen in April 2009.
- On January 10, the Wroclaw Prosecutor's Office indicted two Wroclaw University students for a racially motivated physical assault on a Nigerian student in July 2009.
- On September 1, the Warsaw Prosecutor's Office discontinued its investigation into the National-Radical Camp's November 2009 march through Warsaw, during which demonstrators chanted neo-Nazi and anti-Semitic slogans and used Nazi gestures. The prosecutor cited an inability to identify those responsible as the reason for closing the case.
- On December 15, the Wroclaw Appeals Court found six members of the National Rebirth of Poland and the neopagan association Zadruga not guilty of promoting fascism and inciting to hatred on racial grounds. Four individuals had appealed the June 1 ruling of a Wroclaw court, which sentenced six members of the two organizations to five to seven months of community service and a 1,000 zloty (\$338) fine, to be paid to Helpful Hand, a local NGO that protects children and youth from psychological manipulation by cults and gangs. The charges stemmed from a 2007 demonstration in Wroclaw, during which the organizations' members shouted and carried banners with racist slogans.

In October 2009 the Opole District Court banned the Brzeg branch of the National Radical Camp, a neo-Nazi organization, from operating after determining that its ideology and behavior promoted racial hatred. This was the first prohibition of a neo-Nazi group. The decision stemmed from the 2008 conviction of three members of the National-Radical Camp for making Nazi gestures during the group's gatherings in 2006 and 2007.

During the year there 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 March the Never Again association--an NGO that combats racism and xenophobia--created a booklet in cooperation with the Union of European Football Associations and Soccer against Racism in Europe on combating racism in soccer clubs. In 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 initiating tolerance programs to educate soccer fans about cultural or racial differences.

On May 8, Rzeszow soccer fans held up a large banner with a Jewish caricature and anti-Semitic slogan during a match. The banner initially elicited no reaction from soccer officials or local authorities, but after intense media scrutiny, prosecutors opened an investigation. On May 13 and 14, police arrested the six soccer fans who held up the banner and charged them with the use of violence or threats against groups of persons based on their national, ethnic, racial, political,

or religious affiliation. In November prosecutors downgraded charges against two of the six perpetrators to publicly insulting a person based on their national, ethnic, racial, political, or religious affiliation. Charges against the other four persons were dropped. In December the prosecutor general asked the Rzeszow appeals prosecutor to review the decision to discontinue the investigation.

In August the Krakow Prosecutor's Office discontinued for a second time its investigation into racist and anti-Semitic incidents during a 2008 soccer match, on the grounds that the perpetrators could not be identified and the anti-Semitic content was a case of soccer fan rivalry. The prosecutor had closed his initial investigation for similar reasons in December 2009, but a Krakow court upheld a request by a deputy justice minister that it be reopened. During the match, fans of the Cracovia team allegedly imitated monkey noises and shouted anti-Semitic slogans when African players came on the field.

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 a November 2009 report, the UN Committee on Economic, Social, and Cultural Rights expressed concern about continued widespread discrimination against Roma in the country in such areas as employment, education, land tenure, access to welfare benefits, housing, and health care.

On July 30, a large group of persons converged on a housing complex in Limanowa where a Romani family lived. According to media reports, the incident was triggered when a dog owned by the family attacked a pregnant woman on the street nearby. Police turned the group back and made no arrests. Local government and Roma community representatives indicated that this particular family was associated with a history of altercations in the area.

The Roma Association reported that despite government assistance programs, many Romani children did not attend public school either because of financial constraints or due to fear that teachers would encourage assimilation and discourage traditional practices. However, according to the Ministry of the Interior and Administration, 2,762 of the 3,297 Romani children between the ages of six and 16 were enrolled in school in 2009.

The Roma Association stated that inadequacies in Romani children's education made it impossible for Roma to end their poverty. Approximately 80 percent of Roma were unemployed. A 2002 national census recorded approximately 12,700 Roma. According to the Ministry of Education, the number of segregated classes for Romani children has been substantially reduced. In 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.

The government allocated approximately 10 million zloty (\$3.4 million) annually to a special program for Roma. It 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.

In October 2009 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 provides 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.

Organizations representing LGBT persons reported that discrimination was common in schools, the workplace, hospitals, and clinics. For example, LGBT persons were 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 against LGBT persons and promoting tolerance.

The EU Fundamental Rights Agency's November report about the rights of LGBT persons in EU states recognized the country's progress in improving the situation of LGBT persons. The report also identified areas for further improvement, including the issuance of certificates that would allow LGBT persons to register their relationships in other EU member states and creation of an office to deal with issues regarding equal treatment on the basis of sexual orientation.

In May 2009 the NGO Campaign against Homophobia reported that the level of hate speech against persons based on their sexual orientation was still high.

On May 15, an estimated 500 persons took part in Krakow's sixth annual March for Tolerance to call for an end to prejudice against gays and lesbians. The event took place without major incident, due in part to the presence of more than 200 police officers and city guards. The All Poland Youth association organized a small counterdemonstration. Some counterdemonstrators threw eggs at police officers protecting the marchers.

On July 17, Warsaw hosted the EuroPride parade, an annual event drawing participants from around Europe to promote LGBT rights. Approximately 8,000 local and international activists participated in the parade without serious incident. A group of 300 counterdemonstrators from the National Radical Camp and All Poland Youth association attempted to interrupt the event by throwing eggs, bottles, and stones at the participants. Police stopped 236 persons and arrested nine.

Other Societal Violence or Discrimination

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

On March 10, an administrative court in Gdansk overturned a 2007 decision to dismiss a police officer for being HIV positive. The judgment followed a November 2009 Constitutional Court ruling that a 1991 Interior Ministry regulation requiring immediate dismissal of an HIV positive police officer was unconstitutional.

Section 7 Worker Rights

a. The Right of Association

The law provides that all workers, including civilian employees of the armed forces, police, and border 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. Newly established small- and medium-sized firms were generally nonunion, while privatized,

formerly state-owned enterprises frequently continued union activity. Approximately 15 percent of the workforce belonged to unions.

All workers have the right to strike except those deemed to be in essential services, such as security forces, the Supreme Chamber of Audit, police, border guard, 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. Approximately 14 percent of the workforce was covered by collective bargaining agreements.

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 2009 the State Inspection Office registered 433 disputes, compared with 5,433 disputes in 2008. Authorities attributed the sharp reduction to a drop off in the number of disputes involving teachers, as well as anxiety over job security during a time of economic instability.

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.

In December 2009 a labor court in Pabianice ruled in favor of the Officina Labor Company 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 chairperson was ongoing.

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.

In April 2009 a labor court in Ciechanow issued its first ruling in the case of union employees who 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. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

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. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

The law prohibits the employment of children under the age of 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. Persons between the ages of 16 and 18 may work 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 half of the year, the inspectorate conducted 325 investigations involving 2,222 underage employees (16 to 18 years of age), compared with 514 inspections involving 2,581 underage employees during the same period in 2009. Fines totaling 104,750 zloty (\$35,513) were levied in 91 cases.

The majority of the 2,222 employees found to be underage worked in commercial enterprises, restaurants, and the construction, repair, and processing industries.

e. Acceptable Conditions of Work

The national monthly minimum wage of 1,317 zloty (approximately \$444), which took effect in January did not provide a decent standard of living for a worker and family. 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 including overtime. The law requires premium pay for overtime hours, but there were reports that this requirement 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 adequately. In 2009 the Government Statistics Office reported less than 90,000 victims of workplace accidents, a decrease of 17,000 from 2008. The inspectorate investigated 2,354 accidents in which there were 2,951 injuries, including 505 workers killed and 969 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.

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