

FREEDOM OF THE PRESS

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Poland

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Although the constitution protects freedom of speech and of the press, libel and some forms of insult—including defamation of public officials or the state, and statements that offend religious beliefs—are criminal offenses punishable by fines and prison sentences. In July 2011, an appeals court ruled in favor of Adam Michnik, editor of the best-selling daily newspaper *Gazeta Wyborcza*, who in 2007 had sued conservative Law and Justice (PiS) party leader Jarosław Kaczyński for likening *Wyborcza* to a communist-era newspaper and accusing its parent company of supporting “former communist oligarchs.” The court ruled that Kaczyński must publish an apology, but he has refused and indicated that he would appeal the case to the Supreme Court or the European Court of Human Rights. Michnik, an outspoken critic of censorship under communism, has initiated a significant number of defamation proceedings in the last decade, as have Kaczyński and several members of PiS. There were no new cases brought in connection with Poland’s controversial “blasphemy law” in 2011, though a case against pop star Dorota “Doda” Rabczewska—accused of offending religious sensibilities in a 2009 interview—was still pending at year’s end.

In May, officers of the Agency of Internal Security (ABW) searched the residence and confiscated the laptop of Robert Frycz, editor of a website dedicated to criticizing President Bronisław Komorowski. ABW obtained its search warrant under Article 125.2 of the penal code, which criminalizes defamation of the president. In addition to parody and criticism, the site features a game in which players can shoot the president. Public outrage over the ABW raid prompted renewed calls for the abolition of Article 135.2. The investigation of Frycz had not been completed at year’s end.

The National Broadcasting Council (KRRiTV), whose members are selected by the president, the Sejm (lower house of parliament), and the Senate, has the power to regulate programming, allocate subscription revenues to public media, distribute broadcasting frequencies and licenses, and impose financial penalties on broadcasters. Although KRRiTV members are required to suspend their membership in political parties, the council has always been a highly politicized body. In June 2010, then president-elect Komorowski, the Sejm, and the Senate all rejected KRRiTV’s annual report, effectively ending the tenure of the existing council, which favored the opposition PiS. The new council, inaugurated that August, consisted of five members, all of whom were selected by the ruling center-right Civic Platform (PO) party or Poland’s strongest left-wing party, the Democratic Left Alliance (SLD). Disputes between PO and SLD council members over the appointment of public media board members became so severe that KRRiTV was nearly dissolved again in 2011.

In April, Komorowski signed a legal amendment designed to make Polish media law compatible with European Union (EU) broadcasting regulations. The original draft included an ambiguously worded stipulation that broadcasters of video-on-demand (VOD) services should register with the KRRiTV. In response to widespread criticism from broadcasters and the general public, all mention of VOD was later removed. In September, in another attempt to harmonize

2012 SCORES

PRESS STATUS

Free

PRESS FREEDOM SCORE

25

LEGAL ENVIRONMENT

8

POLITICAL ENVIRONMENT

10

ECONOMIC ENVIRONMENT

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Polish legislation with EU rules, the parliament revised the law regulating public access to information. A bill drafted by the Sejm was passed to the Senate, which amended it to give state bodies the right to limit or deny information requests that would harm "important state interests." The Sejm accepted the Senate's changes, and Komorowski signed the bill into law despite civil society groups' calls for him to veto it or refer it to the Constitutional Tribunal for review.

At present, standards accepted by professional associations emphasize objectivity in reporting, but the culture of journalism in Poland remains highly partisan. Public media coverage preceding October 2011 parliamentary elections was reasonably balanced, especially when compared with the 2010 presidential election period. In February, the government had amended its freshly adopted electoral code to level the playing field for all candidates by banning paid campaign advertisements on radio and television, as well as posters or billboards exceeding two square meters in size. After the amendment was contested by deputies from PiS, the Constitutional Tribunal agreed that the ban would violate principles of free speech, and it was withdrawn.

Polish print media and radio outlets are predominantly private and highly diversified, and a number of national dailies have been launched in recent years. According to the European Journalism Centre, German and other foreign owners control approximately 80 percent of the Polish media market. The only major domestic competitor is Agora SA, with an 18.3 percent share. The public television broadcaster TVP and its four channels remain a major source of information for most citizens. It has been reported that only one in three households actually pays the mandatory subscription fee collected from radio and television owners to support public broadcasting. Draft changes to the fee system under consideration at the end of 2011 would assume that any household with electricity has a television, radio, or computer and must pay the subscription fee. Since 2009, many media companies have been forced to cut spending and lay off employees due to financial constraints. Poland's television advertising market remained weak in 2011, but digital advertising continued to grow and bring income to media companies.

Roughly 65 percent of the population had regular internet access in 2011, and the medium is not restricted by the government. However, a 2011 case against blogger-journalist Łukasz Kasprowicz raised new questions about freedom of expression in the Polish blogosphere. In January, a court found Kasprowicz guilty of defaming the mayor of Mosina, a town near Poznań in western Poland. He was ordered to perform 300 hours of community service, apologize to the mayor in writing, and pay a fine of 500 zloty (\$170) to the Polish Red Cross. The court also banned Kasprowicz from working as a journalist for one year. In June, a higher court reversed the January decision and acquitted Kasprowicz. The judge in that ruling noted that public figures must tolerate even harsh criticism from citizen journalists, provided the opinions involve the public activities of a public official and are expressed to serve a public interest.

In July 2011 Foreign Minister Radosław Sikorski initiated a defamation case against the online versions of the tabloid *Fakt* and the business daily *Puls Biznesu*. Articles about Sikorski in December 2010 had elicited offensive and anti-Semitic remarks from some readers, which remained visible in the comments sections of both sites for several months. In May, the publications apologized to Sikorski and removed the comments that directly pertained to him and his wife, but Sikorski continued to press his case for 20,000 zloty (\$6,750), arguing that editors should have removed the comments much earlier. Sikorski also wanted such websites to require users to provide identifying information to administrators before commenting.

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