

## Poland

**Country:**

[Poland](#)

**Year:**

2016

**Freedom Status:**

Free

**Political Rights:**

1

**Civil Liberties:**

1

**Aggregate Score:**

93

**Freedom Rating:**

1.0

**Overview:**

Andrzej Duda of the opposition Law and Justice (PiS) party won the second round of Poland's May 2015 presidential election with 52 percent of the vote, beating out popular incumbent Bronisław Komorowski, whose defeat had not been anticipated. Duda's victory was interpreted by many as a protest vote against the ruling Civil Platform (PO), which had led Poland's government since 2007. Komorowski himself left PO upon taking office in 2010, but remains associated with the party.

Under PO leadership, Poland maintained relatively consistent economic growth, even at the peak of the European economic crisis. However, corruption accusations, an embarrassing wiretapping scandal, and a number of unpopular austerity-oriented reforms dented the party's popularity. PiS swept parliamentary elections held in October 2015, winning enough seats to rule alone.

The socially conservative PiS had campaigned on a Euroskeptic platform that embraced economic interventionism. Within two months of taking office, the new parliament had set in motion major reforms aimed at tightening the ruling party's grip over the Constitutional Court (TK) and public media.

During and after the elections, PiS capitalized on public hostility to Middle Eastern, North African, and other migrants by vocally denouncing European Union (EU) schemes for refugee resettlement across member states. Before the elections, the PO government had reluctantly agreed to accept several thousand migrants under one such scheme. While in opposition, PiS leaders made questionable claims that Poland was already too swamped with asylum applicants from Ukraine to consider additional cases. After the November terrorist attacks in Paris, the PiS government used the threat of terrorism to justify renegeing on the previous administration's commitments to accept refugees.

## Political Rights and Civil Liberties:

### Political Rights: 38 / 40 [Key]

#### A. Electoral Process: 12 / 12

The president of Poland is directly elected for up to two five-year terms, and members of the bicameral National Assembly are elected for four-year terms. The president's appointment of a prime minister must be confirmed by the 460-seat Sejm, the National Assembly's lower house, which is elected by proportional representation. The 100 members of the Senate (upper house) can delay and amend legislation, but have few other powers. While the prime minister is responsible for most government policy, the president also has influence, particularly over defense and foreign policy matters. Komorowski of PO was elected president in 2010. He ran for reelection in May 2015 but lost in the second round to Duda. Second runner-up in the first round of the election was independent candidate Paweł Kukiz, a former rock musician, whose right-wing, antiestablishment campaign resonated with many voters, especially younger people who feel that their economic opportunities are being stifled by entrenched networks of vested interests.

Votes in the May 2015 presidential election were counted by hand and calculator, as the electronic tabulation system was not yet considered reliable. An information technology system failure significantly delayed publishing of the results of the last local elections in 2014.

Favored to win, Komorowski ran a lackluster campaign, promoting himself as "a safe pair of hands." By contrast, Duda's populist campaign challenged the status quo with a number of controversial promises, including new taxes on foreign-owned banks and supermarkets, and a strong reassertion of Polish national interests within the EU.

Following Komorowski's surprise defeat in the presidential race, PO sprang into action with a referendum apparently intended to win over Kukiz supporters ahead of the October parliamentary elections. The referendum, held in early September, polled voters on several electoral reform questions emphasized during Kukiz's presidential campaign, including party-funding rules and the introduction of single-member electoral constituencies to the Sejm. The referendum saw voter turnout hit a record low of 7.8 percent. In order for a poll to be legally binding, turnout must be greater than 50 percent.

From the beginning, PiS had insisted that the referendum should be expanded to include issues of importance to "ordinary Poles," such as the reversal of the retirement-age increase passed in 2012 under Prime Minister Donald Tusk of PO. When these questions were not included, the opposition pressed for another referendum, to be held simultaneously with the general elections. The Senate voted against pairing the two votes, but in late September President Duda signed a bill to restore the pre-2013 retirement ages; the bill was still under consideration by the parliament at year's end.

PiS won a landslide victory of 37.5 percent in the October parliamentary elections, increasing its representation in the Sejm to a total of 235. The former opposition party is the first in post-Communist Poland's history to win an absolute parliamentary majority, allowing it to rule without coalition partners. Beata Szydło was elected prime minister, though her role was soon eclipsed by that of PiS's combative chairman, onetime prime minister Jarosław Kaczyński. PO came in second in the election with slightly more than 24 percent of the vote and 138 seats. Third and fourth place wins both went to new parties: Paweł Kukiz's party, Kukiz'15, which took 42 seats; and the pro-business party Modern (N) led by economist Ryszard Petru, which won 28. The agrarian Polish People's Party (PSL) won 5.13 percent of the vote and 16 mandates. A representative of the ethnic German minority received the remaining seat. In the Senate, PiS took 61 seats, PO 34, and PSL 1.

Several changes introduced to electoral legislation in 2014 came into effect in 2015. The right to cast ballots by mail in parliamentary and presidential elections, previously limited to citizens living abroad and the disabled, was extended to all registered voters. Another amendment softened the rules for reporting financial statements to the national electoral commission, lessening the impact of minor accounting mistakes.

## **B. Political Pluralism and Participation: 16 / 16**

Poland's political parties organize and operate freely. PO and PiS have dominated the political scene since 2005, with relations between the two main parties becoming increasingly polarized.

PiS won a narrow parliamentary majority in 2015, so there is some speculation that the party will ally with some of the most socially conservative parties in parliament in order to push through constitutional changes requiring the approval of a two-thirds majority. Following the United Left (ZL) alliance's failure to cross the electoral threshold in October, there are now no left-leaning parties represented in the parliament.

Ethnic, religious, and other minority groups enjoy full political rights and electoral opportunities. Their political parties are not subject to the minimum vote threshold of 5 percent to achieve parliamentary representation.

## **C. Functioning of Government: 10 / 12**

Anticorruption laws are not always effectively implemented, and corruption within the government remains a problem, particularly in public procurement.

In 2014, the weekly magazine *Wprost* published a series of secretly recorded conversations between high-level politicians that journalist Piotr Nisztor claimed to have received in anonymous emails. The recordings embarrassed a number of high-level PO officials and appointees, including then-foreign minister Radosław Sikorski, who later resigned from his post. In mid-2015, the scandal reemerged when someone at the state prosecutor's office leaked confidential documents from the ensuing investigation. This time, Sikorski resigned as Sejm speaker; three government ministers whose reputations had been similarly tarnished by the leaked material also left office. In July 2015, an amendment to the penal code came into effect that prohibits the use of illegally obtained evidence—including wiretaps—in a court of law.

In March 2015, a Warsaw district court found former Central Anti-Corruption Bureau (CBA) head Mariusz Kamiński guilty of abusing his powers during a major CBA sting in 2007. Kamiński, now the deputy chairman of PiS, was given a three-year prison sentence and a 10-year ban on holding public office. However, in mid-November, Duda sparked controversy by granting Kamiński a full pardon.

In mid-October, CBA agents searched the premises of the Warsaw Stock Exchange and of the Treasury Ministry in connection with alleged irregularities in the 2014 sale of a major state-run chemical company to businessman Jan Kulczyk, the richest man in Poland. Kulczyk died of complications from a routine heart surgery at the end of July.

## **Civil Liberties: 55 / 60**

## **D. Freedom of Expression and Belief: 16 / 16**

The constitution guarantees freedom of expression and forbids censorship. Libel remains a criminal offense, though a 2009 amendment to the criminal code eased penalties. Poland's print media are diverse and mostly privately owned. The government does not restrict internet access.

In mid-November 2015, newly appointed minister of culture Piotr Gliński instructed the governor of the Lower Silesia region to shut down a theater production containing a simulated sex scene, on the grounds that a publicly funded theater should not host what the government considered to be pornography. His directive, interpreted by many as a move toward censorship, was ignored. On the play's opening night, theatergoers clashed with skinheads from the National Resurrection of Poland movement, resulting in a dozen arrests. In an interview the next day with Karolina Lewicka, a talk-show host and reporter with the public broadcaster TVP, Gliński refused to answer questions about his attempt to stop the theater production, calling the television program "propaganda" typical of what TVP had been producing in recent years. "But this will stop," the minister warned. Soon after the interview, Lewicka was suspended by the president of TVP, who found that both parties had acted unprofessionally. Lewicka appealed her punishment before TVP's ethics committee, which ruled that she had not violated company codes, and she was reinstated.

Ignoring a letter of concern from the EU, PiS parliamentary deputies in the Sejm voted on the final day of 2015 to pass an amendment to Poland's media law that would give the government the authority to hire and fire managers at state-owned media. The ruling party defended the move as an attempt to depoliticize the airwaves. The new legislation will severely curtail the powers of the National Broadcasting Council (KRRiT), which is still dominated by the PO and has faced regular accusations of bias in its dealings with ultraconservative media connected to PiS. PiS has blamed bias in Polish media on the dominance of German-owned outlets across Europe. In July 2015, KRRiT initiated a procedure to suspend the broadcasting license of the Warsaw-based station Radio Hobby, which rebroadcasts Polish-language programming produced by the Russian government-funded Radio Sputnik. Previously, KRRiT had resisted calls from politicians to crack down on Radio Sputnik broadcasts of what was characterized as Russian propaganda, citing the principle of free speech.

Separately, the businessman-blogger who obtained and released sealed materials that sparked the 2014 scandal involving recordings of top government officials was arrested in June 2015 on charges of illegal publishing classified documents.

The state respects freedom of religion. Religious groups are not required to register with the authorities but receive tax benefits if they do. A person may be found guilty of blasphemy, punishable by a fine of 5,000 złoty (\$1,660) or up to two years in prison, even if it was unintentional. In 2002, Poland's new defense minister, Antoni Macierewicz, remarked that he had read the Protocols of the Elders of Zion, a fabricated, anti-Semitic text first published in 1903 that purports to describe a Jewish plan for global domination, and claimed that some of its text was accurate.

Academic freedom is respected. People are free to engage in private discussions without fear of harassment or detention by the authorities.

## **E. Associational and Organizational Rights: 12 / 12**

Freedom of association is generally respected in law and in practice. Residents of Poland hold public demonstrations with some regularity. Local authorities can limit demonstrations in their districts on grounds of maintaining public order. The November 2015 Independence Day marches once again drew nationalist demonstrations, though with less violence than in previous years. Some of the banners carried by extremists read "Poland for the Polish" and "Stop Islamization."

Nongovernmental organizations (NGOs) operate without government interference. Poland has a robust labor movement, though certain groups—including the self-employed, private contractors, and those in essential services—cannot join unions. Complicated legal procedures hinder workers' ability to strike.

## **F. Rule of Law: 13 / 16**

The judiciary is independent, but the courts are notorious for delays in adjudicating cases. Prosecutors' slow action on corruption investigations has prompted concerns that they are subject to political pressure. Pretrial detention periods can be lengthy, and prison conditions are poor by European standards.

A few weeks before the October 2015 parliamentary elections, the incumbent PO-led Sejm appointed five new judges to the 15-member TK. Duda refused to swear them in immediately, and the post-election Sejm controlled by PiS rejected the appointments on the grounds that PO had violated constitutional law by appointing five judges, instead of the usual three, including the replacement of two judges whose terms would not expire until December. Upon taking office in November, Sejm deputies from PiS and Kukiz amended the law on the TK to mandate the appointment of five new judges. Four replacement judges were sworn into office in a midnight ceremony on December 2, and the fifth was sworn in on December 9. On December 3, the original TK ruled that three of the five appointments made under PO in October had been valid, but President Duda refused to swear in any of the previous government's appointees to the court. Government leadership asserts that the TK ruling is invalid because it was made by fewer than the legally required number of TK judges. Throughout the controversy—which sparked weeks of marches by supporters of both sides—PiS politicians insisted that their goal was to introduce an “element of pluralism” into the PO-dominated TK. In late December, PiS's Sejm deputies voted through legislation requiring the TK to approve most verdicts by a two-thirds margin. Critics say the provision will cripple the court's ability to review legislation. The European Commission expressed reservations about the new legislation, which it indicated it would formally assess in 2016.

Ethnic minorities generally enjoy generous legal rights and protections. Some groups, particularly the Roma, experience employment and housing discrimination, racially motivated insults, and occasional physical attacks. Members of the LGBT (lesbian, gay, bisexual, transgender) community continue to face discrimination.

In October 2015, the TK ruled that Poland's current level of standardized tax deduction was unconstitutional, because it is not based on an indexation mechanism that would prevent low-income earners from being pushed below the poverty line by paying taxes. In November, President Duda submitted a bill that would more than double the amount of the deduction.

In February 2015, the European Court of Human Rights (ECHR) upheld an earlier ruling that had found the Polish state liable for the 2002–03 torture carried out by U.S. agents with the Central Intelligence Agency (CIA) against two detainees being held at a Polish base as part of a then-secret program between the U.S. and Poland.

## **G. Personal Autonomy and Individual Rights: 14 / 16**

Citizens enjoy freedom of travel and choice of residence, employment, and institution of higher education. Citizens have the right to own property and establish private businesses.

Women hold senior positions in government and the private sector, including about 27 percent of the seats in the Sejm. Both PO and PiS fielded female candidates for the position of prime minister in the 2015 elections.

Under Polish law, abortion is permissible only if a woman's life or health are jeopardized by the continuation of a pregnancy, if the pregnancy is a result of a criminal act such as rape, or if the fetus is seriously malformed. Women who undergo illegal abortions do not face criminal charges, but those who assist in the procedures, including medical staff, can face up to two years in prison. The so-called conscience clause in Poland's abortion legislation permits Catholic doctors to refuse an abortion to a qualifying patient provided they refer her to another clinic. In early October 2015, the TK ruled that doctors could not, in fact, be forced to refer patients to another clinic for pregnancy termination.

PiS has often promised to ban abortion altogether, but Prime Minister Szydło stated in late 2015 that this was not the moment to undertake reforms of an "ideological" nature. However, the government did announce plans to suspend state subsidies for in-vitro fertilization, a practice denounced by the Catholic Church.

In a 2015 survey conducted by the Polish Center for Public Opinion Research (CBOS), nearly 66 percent of respondents said they find it distasteful for same-sex couples to show affection in public, with even more than that saying they are opposed to same-sex marriage and about 90 percent indicating that they were against allowing same-sex couples to adopt children.

Domestic violence against women remains a serious concern, as does trafficking in women and girls for the purpose of prostitution. The U.S. State Department's 2015 *Trafficking in Persons Report* noted an uptick in labor trafficking throughout Poland, with Roma children in particular being subjected to forced begging.

### **Scoring Key: X / Y (Z)**

**X = Score Received**

**Y = Best Possible Score**

**Z = Change from Previous Year**

### **Full Methodology**

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