

# Poland 2017



**Total: 70.32**

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## Political Freedom

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### **Free and Fair Elections : 10**

Political parties in Poland are able to compete in a free electoral process and citizens have opportunity to choose a government based on universal suffrage. There is no threshold for minorities to enter the parliament, while coalitions need to gain at least 8% of support in the elections. Poland has a bicameral parliament, consisting of the lower house – Sejm, and the upper house – Senat. There were no elections during the period under review, however this country had very turbulent political period. Since Law and Justice Party – PiS won the absolute majority of seats in the Sejm, they had no obstacles in governing. Thus, this power, used through narrative and legislative activities by PiS, led to high division of society along political lines and several protests in the country. Some ideas on changing the Polish electoral system had been brought, which opposition criticized on the ground of gerrymandering in favor of the ruling party and damaging the position of the opposition at the forthcoming elections. Opposition party Nowoczesna faced serious financial challenges after being charged with very high penalties for committing procedural errors in campaign financing.

### **Absence of Unconstitutional Veto Players : 7.5**

Poland doesn't have unconstitutional veto players who could influence decision-making process by the politicians. However, the biggest threat to democracy and rule of law in the country is coming from politicians themselves. Abuse of power and weakening of system of checks and balances became practice in Poland. Leading political figure Jarosław Kaczyński – the chairman of the PiS party, who influenced the work of the legislative and of the executive branch of power throughout the last 12 months - sought to put judiciary under control as well. Legislative amendments targeting the work of the Constitutional Tribunal were adopted in the parliament, only to be later declared as unconstitutional by the same court. At the end of his term, president of Constitutional Tribunal was replaced by the judge with close ties to PiS. Another actor who has certain influence on political and social life in Poland is the Roman Catholic Church.

### **Freedom of Press : 6.6**

Press freedom deteriorated further in Poland, which is thereby no longer considered as free, but rather a partly free country. Weak democracy and inefficient system of checks and balances are not able to guarantee freedom and independence of journalists. Dominant PiS party used its power and influenced media environment in the country to a large degree. In order to switch

control over public broadcasting, government created a National Media Council in charge of appointments to positions in public media outlets. Broadcasters controlled by the state are showing bias reporting in favor of the ruling party. Private media which follow the same path are benefiting economically from it. By the end of 2016, the government had tried to limit access of journalists to the parliament, causing outrage and protests by media representatives, citizens and the opposition, which ultimately led to dropping of the idea. Following a letter in which CEO of Ringier Axel Springer had praised reelection of Donald Tusk as the head of European Council, which had leaked to public, the government announced their intention to have limited the ownership of international companies in Polish media at around 20% of shares.

## Rule of Law

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### **Independence of the Judiciary : 5**

In its Nations in Transit 2017 report, Freedom House noted worsening of the overall democracy score in Poland, mainly due to worse national governance and decrease of judicial independence. Since coming to power in 2015, the PiS party has demonstrated authoritarian tendencies, including in the fields of media freedom, certain human rights and liberties and the role of judiciary as the third pillar of the (divided) power. In a series of acts that the Constitutional Court ruled as unconstitutional, Parliament tried to redraw the composition of the very CC, so as to provide for a majority of PiS loyalists. That caused a prolonged blockade of the CC's work, until PiS has taken a majority in the body. Then, between May and August 2017, Parliament adopted laws that extended political control over National Judicial Council, the CC, or other courts, by the Parliament and/or by the Ministry of Justice. President of Poland vetoed some of them, where after the controversy is still on. EU has repeatedly warned Poland on her distraction from the European values, principles and good practices regarding rule of law and is set to take action against her should the trend is not reversed.

### **Corruption : 6.2**

There has been no improvement lately. In the Transparency International's Corruption Perceptions Index 2016, the score was even worse than in 2015. With Portugal, Poland was placed 29 (of 176). In another corruption monitoring index, made by Freedom House, stagnation has been indicated ever since 2014. The score in 2017 is considerably worse than in 2009. State-owned enterprises are in the focus of most corruption scandals, investigations or accusations. The PiS government published an extensive report on the corruption by their predecessors in May 2016, but too little was subsequently done on prosecution. A PiS government minister was later ousted over what the public perceived as nepotism and corruption scandal, yet the government saw him off honorably. Opposition is accusing PiS - which came to power in 2015 owing to anti-graft rhetoric - of actually worsening the practice of cronyism, nepotism and corruption in the management of SOEs. Yet another corruption monitoring portal, GAN, noted (in December 2015) that public services and public procurement in Poland were "sectors most prone to corruption".

### **Protection of Human Rights : 7.9**

Civil society in Poland is vibrant, reflecting traditions of the freedom fights of the 1970s and 1980s, and being a guardian of post-1989 democracy. That is additionally facilitated by NGO-friendly regulation which encourages private funding, not least foreign but since 2014 also domestic. Thus, attempts by autocrats in the PiS-led government to jeopardize human rights usually face prompt and massive opposition. However, together with Hungary's, Poland's government is currently among the EU's "black sheep" regarding adherence to EU values. Poland refused its EU-assigned quota for accepting refugees from MENA countries (albeit accepting ones from Ukraine). Pressure on independent-minded media and journalists is on the rise. Far right ideologies and movements are on the rise, both regarding numbers and presence in public. Very conservative policies are pursued in family legislation and regarding sexual minorities. Regarding the latter, in the entire EU only Cyprus is worse. Government nearly managed to pass a reform forbidding abortion under any circumstances. In contrast to the assaults on reproductive rights, a lot is done to advance the position of working women. A survey by The Economist as of 8 March 2017 showed that Poland was the sixth-best country within OECD for working women, especially because of 40% of women at managerial positions, low gender wage gap and generous maternity leave.

## Economic Freedom

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### **Security of Property Rights : 5.63**

Property rights in Poland are overall secure. Court impartiality and judicial independence from the influence of the executive branch are dubious. Long judicial procedures lead to the very long enforcement of contracts, a process which on average could take up to two years. Court automation and overall rules on time standards are loose, but also the high number of backlog cases is responsible for this situation. Resolving insolvency is better organized, providing high recovery rates, but also with long procedures taking up to three years. The bankruptcy regulation was further strengthened by introduction of new restructuring mechanisms, and establishment of the central register. Furthermore, there is a significant variation of court procedure length in different geographical areas of the country. Civil Procedures Code amendment provides arbitration-friendly standards, by introducing internationally recognized standards, since arbitration is becoming increasingly more popular as a mechanism for dispute settlement. Foreign ownership is limited in certain sectors, and just to a minority ownership: in air transport, radio and broadcasting, airports and seaport management. Current government has pursued a policy of "polonization" of some of those industries, with the aim of increasing shares held by Polish citizens in cases where foreign companies held the majority share. This was visible in the case of retail tax, which was envisaged to hit the big retailers. Nevertheless, it was repealed after the European Commission had ruled that it was against state-aid rules. Since May 2016, all restrictions on acquisition of agricultural land by the EU nationals were lifted, more than a decade after the EU accession. However, new land use legislation imposed new bans and restrictions on the acquisition of agricultural property by foreigners.

### **Size of Government: Expenditures, Taxes, and Enterprises : 6.15**

Size of government in Poland is not excessive, with total government spending reaching 42% of GDP in 2016, in line with most other post-transition economies. Growth rates are robust, reaching 3%. Unemployment rate is at its historical low - below 6%. However, the government is still recording significant deficits (2.5% of GDP in 2016, and even 2.9% in 2017, which is just a bit below the EU Excessive Deficit Procedure threshold). Public debt remains elevated at 54% of GDP, but it is stable for the time being. Further fiscal austerity is therefore necessary, not only to mitigate pro-cyclical fiscal policy, but also to create buffers from future increase in spending due to demographic changes. Although a thorough privatization process took place during the 1990s, the government still owns and operates numerous enterprises in various sectors of the economy. SOEs have a more pronounced role in the economy of Poland than in any other OECD country. Some of those companies do not operate efficiently, relying on direct funding from the state for their operation, via subsidies (most notably the mines). Recent changes, as of January 2017, in the legislation covering SOE management, could pave the way to their increased role in the economy. Income tax is progressive, with the lower rate at 18% and the higher at 32%, applied above a moderate threshold. Corporate rate is 19%, while VAT level is set at 23%, with privileged rates of 5% and 8% for some products. High social security contributions have led to a high share of non-fixed temporary working contracts ("junk contracts") among the working population, because of lower social contributions scheme applied to them. Labour tax wedge is considered as high, although it is actually below those of other European OECD countries.

## **Regulation of Credit, Labour, and Business : 6.64**

Business regulation in Poland is mostly business-friendly. Although starting a business does not require many procedures, it takes a substantial amount of time, due to slow National Court Register; the process is also costly due to high fees and high paid-in minimum capital. The process of obtaining a construction permit has recently been streamlined, while getting electricity was eased by eliminating the excavation permit. Licensing restrictions in professional services are present, lowering the competition by providing barriers to entry. Compliance with complicated tax procedures is burdensome, incurring administrative costs. Tax regulation's complexity and labour code rigidity are still considered as areas in which more improvements are necessary in order to provide for a better business environment in the country. Transfer pricing and corporate tax procedures have been significantly altered in 2016 in order to boost revenues, but without public consultation, thus increasing the impression of policy instability and lowering entrepreneurial predictability. Employees could be hired on short term contracts up to the period of 33 months, instead of indefinitely as previously. If the time is breached, workers are considered as employed indefinitely. Total number of workdays in a week is 5.5, since the workweek could be prolonged in case of an increased workload. There are high bonuses for overtime hours. Notice periods and severance pay increase with years in tenure, making seasoned workers more secure yet also harder to be re-employed once back on the labour market. Firing regulations, mostly in the area of redundancy process, and reassignment or retraining obligation and priority rules of employment make the process of firing complicated - another reason for a high number of people working on civil contracts instead on regular labour ones, since they can easily be dismissed within a fortnight notice period. The trade-union role is significant only in certain professions, mostly in SOEs, such as in mining and ship building.

## **Freedom to Trade Internationally : 8.7**

Freedom of trade is mostly respected. As an EU member since 2004, Poland applies its common trade policy with overall low tariffs, i.e. with simple average tariff of 5.3%. However, agricultural tariffs are higher than those for manufactured goods. Border compliance and documentation

procedure are efficient, with only 4 documents, both for exports and imports. However, standardization and certification procedures of goods imported from non-EU countries create effective non-tariff trade barriers, and are imposing costs. Good public transportation infrastructure, as well as its geographical location, foster international trade by decreasing freight costs, but the railroad quality is lower than the quality of roads and ports. Poland's most important trade partners are other EU countries, most notably Germany. The National Bank of Poland imposes a wide array of capital controls in order to manage the flow of short-term capital, in order to manage the exchange rate regime of the national currency Zloty (PLN), which is in floating regime.