

Poland 2018



Total: 67.38

Political Freedom

Free and Fair Elections : 10

Elections in Poland are regarded as free. Political landscape is pluralistic and competitive. Electoral legislation enables political parties to operate in an unrestricted environment however recent changes in electoral system and control over state media outlets have threatened to undermine fairness of the elections. Ruling Law and Justice party (PiS), although in majority control of the lower house of parliament – Sejm, and by all public opinion surveys performing much better than the fragmented opposition, still is highly under-represented at the regional or local level. Ahead of the 2018 local elections, with an intention to change this picture, government adopted legislative amendments which favored PiS position. Widely criticized was the amendment that enabled PiS control over the National Election Commission (NEC) and thus highly politicized this institution. Previously, nine members of NEC were appointed by the three judicial institutions, while these changes introduced power to the parliament to appoint seven out of nine members. Also, mid-2018 saw additional changes, with a video surveillance of the elections and limited mail voting. Former was later removed on technical and legal grounds. In December 2017, the Government was reshuffled, with widely popular Prime Minister Beata Szydlo being replaced by Mateusz Morawiecki and with a couple of changes on ministerial positions. In general, Poland's politics is widely criticized domestically, causing several street protests during the observed period, as well as internationally. It is causing deep societal division along political lines. The score in the Freedom Barometer is expected to decline in the upcoming period.

Absence of Unconstitutional Veto Players : 6.67

The score in regard to Absence of Unconstitutional Veto Players has deteriorated in the Freedom Barometer 2018 Index, due to the constant undermining of democratic procedures and rule of law. There are no outside actors who would be able to influence decision making, meaning that abuse of democracy and weakening of the system of check and balances are coming from politicians in Poland. Both executive and legislative branches have been dominated by the PiS party chairman and leading political figure Jaroslaw Kaczynski. All political moves, including the most recent government reshuffling, were apparently directed by him. But the move which led the EU to vote on triggering Article 7 against Poland were legislative changes adopted in January 2018, themselves eroding independence of judiciary and giving control to PiS over judicial branch of power (more on it in the Independence of Judiciary section). With this, separation of power in the country exists only on paper. President Andrzej Duda, supported by PiS, from time to time vetoes legislation, but that is rather considered as a game in which both himself and Kaczynski are

gaining personal political benefits, since his amendments have been rather cosmetic than profound. Roman Catholic Church imposes certain influence on the social and political life of Poland.

Freedom of Press : 6.6

Deterioration of freedom of the media in Poland goes in line with the government's intentions to undermine rule of law and pluralism in the country. Constitution provides for legislation that allows for freedom and independence of the media. However, with the domination of the executive over other two branches of power, mechanisms by which journalists and media could protect themselves from political influence have been weak. Media scene is pluralistic, yet divided on those supporting and the other ones opposing the government, with just first ones enjoying political and economic benefits from the state. Advertising, as an important element of economic sustainability of the press, is used to put informal pressure. Government controls state owned media and uses them as propaganda tool. National Media Council is a body created and controlled by the government. The Council is used to ensure control over public broadcasters. Journalists who fail to comply with government's stance are often fired from state or "friendly" private media outlets. Due to all these, both censorship and self-censorship are on stage in Poland. Intention to limit foreign ownership in domestic media is still present.

* Press freedom score will be updated after data from primary source have been published. For more information see Methodology section.

Rule of Law

Independence of the Judiciary : 3.42

Judiciary in Poland is now less independent than in any other time during the ongoing decade, contributing to the overall decline in the rule of law. In 2017, a set of laws strengthened the role of the executive (i.e. Ministry of Justice), or of the Parliament or President, to the detriment of judicial autonomy. In March 2018, the Parliament, and not any more mostly judges, nominated members of the new National Council of the Judiciary (which advises on selection of new judges). But, the takeover of the Supreme Court by the ruling political party PiS's loyalists was slowed down due to the resistance of existing judges as well as strong pressure by civil society (manifested through massive street rallies). Besides, EU has thereby, in 2017-2018, taken legal actions against Poland under Article 7 of the Treaty on the European Union in an attempt to get it back to the respect of EU values of rule of law. European Commission referred Poland to the European Court of Justice to protect the independence of the Supreme Court.

Corruption : 6

Stagnation in fighting corruption has been visible since 2013. During the last year, even a fall was noted, where after Poland in 2017, even though the best among "Visegrad" countries, fell from the place 29/176 to 36/180 in the Transparency International's CPI ranking. The Government put the

fight against tax fraud and evasion as priority and issued numerous by-laws to curb it, with initial success, such as a rise of VAT income. Injustices and alleged corruption are investigated regarding the post-1989 process of restitution of private property. Government critics claim that many activities are marred by a revanchism against the previous government, while current corruption or nepotism culprits are treated more mildly. Portal GAN, in its January 2018 report, warns at “political corruption”, nepotism and cronyism which use to challenge fair business practices, while the corruption risk is particularly high in public procurement, justice and land administration.

Protection of Human Rights : 7.81

Polish government continued to refuse to accept MENA refugees under the EU quota system, though it, between 2014 and early 2017, accepted some (ca. 200) refugees from Ukraine, while claiming that dozens of thousands of Ukrainian workers in Poland were refugees. Phobias against migrants from other continents or cultures are spread by highest officials. Within the country, pressure is rising against independent minded journalists or other non-conservative public figures. Very bad situation regarding protection of LGBTs (seen through lack of legalized unions, or proper anti-discrimination acts, or problems of transgender people) might start changing, with the EU rules of mandatory domestication of foreign marriages, pending national laws on same-sex unions and the election of the first openly gay City Mayor (in Slupsk). Thereby, homophobic (occasionally coalescing with white supremacy or other far right) groups continue to reject equality regardless of sexual orientation, as seen in their joint actions against gay pride parade in Czestochowa in mid-2018. Civil society, both in its human rights or other civic shapes and in its conservative-clericalist or far right modes, is very strong in Poland. Citizens are active and non-hesitantly express their views in public, including in street rallies. Due to favorable laws, NGOs enjoy both domestic and foreign financial support. Women are fairly equal at work (high number thereof in managerial positions, low gender wage gap, lavish maternity leave schemes), but their reproductive rights are constantly challenged by conservative groups` demands on the total ban on abortion, by reversals in sex education in schools, or by relatively poor access to contraception (whereby Poland is, according to the Europe Contraception Atlas, worse than any of its neighbors except Belarus).

Economic Freedom

Security of Property Rights : 5.3

Property rights in Poland are mostly secure. However, court impartiality and judicial independence score low in international or comparisons with other European countries, while recent judicial reforms are probably going to worsen the situation and make judiciary more dependent on politicians. Another problem are long judicial procedures which lead to very long enforcement of contracts, a process which on average could take up to two years. Usage of court automation processes is not widespread, and there is a significant backlog. Resolving insolvency is also lengthy, lasting up to three year on average, with modest recovery rates of just over 60% of the claim. There is a significant variation of court procedure length in different geographical areas of the country, due to different levels of efficiency and number of cases assigned. Amendments to the Civil Procedures Code introduced internationally recognized standards, since arbitration is

becoming increasingly more popular as a mechanism for dispute settlement. Although foreign companies usually are not denied market access officially, foreign ownership is limited in certain sectors to minority equity, such as in air transport, media, airports and seaport management. Although EU nationals can acquire agricultural land since 2016, the land use legislation significantly restricted this in practice. Furthermore, government has been pursuing the policy of “polonization” of some industries, considered as strategic, such as banking or retail trade, with the aim of increasing shares held by Polish citizens in cases where foreign companies hold significant market share. This policy is implemented through purchasing of private companies by state owned companies, tax treatment (special trade tax, which was later repealed after the European Commission ruling, or special tax on banks) and regulation (trade ban on Sundays has been introduced in March 2018). Recent controversial judicial reforms, such as the introduction of an extraordinary appeal mechanism in the newly established Supreme Court Law, could have impact on economic interests as well, because final judgments issued since 1997 could now be overturned, in whole or in part.

Size of Government: Expenditures, Taxes, and Enterprises :

6.19

Size of government in Poland is not excessive in comparison with more developed European countries, with total government spending reaching 42% of GDP in 2017. Growth has accelerated in 2017 from 2.9% to 4.6%, on the base of increased consumption and investments from EU funds, and unemployment rate fell below 5%. Although budget deficit just below 2% of GDP is still recorded, the gross public debt is on a slow downward spiral, reaching 51% of GDP in 2017. 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, especially in the banking sector, where the state controls two biggest banks and several smaller ones. Furthermore, state run Polish Development Fund was set up in early 2017 with the aim of supporting investments in the country. SOEs are also present in transport, chemical, mining and energy industries. Some of these companies do not operate efficiently, relying on direct funding from the state for their operation, via subsidies (most notably the mines), and there are currently no plans for broader privatization. Although SOEs are, legally, not favoured against private companies, there are strong indications of actual government favouring of state controlled companies in those sectors which are perceived as strategic and are providing them with pecuniary and political support. Income tax is progressive, with the lower rate at 18% and the higher one 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 and some excessive labour law regulation have led to a high share of non-fixed temporary working contracts among the working population, because of a lower social contributions scheme and less strict regulation applied to them. Total labour tax wedge is below those of other European OECD countries, standing at 35.6% on the average wage.

Regulation of Credit, Labour, and Business : 6.7

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Freedom to Trade Internationally : 8.69

Freedom of trade in Poland is mostly respected. As an EU member since 2004, Poland applies the Common European Trade policy with overall low tariffs, with the average Most Favourable Nation tariff rate of 5.3% for manufactured goods. However, agricultural tariffs are on average twice higher than these, especially for products such as dairy and sugar. Border compliance and documentation procedures are efficient, with only 4 documents, both for exports and imports, but standardization and certification procedures of goods imported from non-EU countries create effective non-tariff trade barriers. The customs and tax administration were joined together in 2017 to form the National Revenue Administration, in order to improve their effectiveness. Good public transportation infrastructure in Poland, as well as its geographic location, foster international trade by decreasing freight costs. But, the railroad quality is lower than the quality of roads and ports. The most important Poland's trade partner is Germany, followed by other EU countries, most notably the Czech Republic and the UK. Because of this, Brexit negotiations could have a strong impact on the Polish economy. 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 control the exchange rate of the national currency Zloty (PLN), which is in floating regime.