

Poland

by Andrzej Krajewski

Capital: Warsaw
Population: 38.3 million
GDP/capita: US\$13,996
Ethnic Groups: Polish (96.7%), German (0.4%),
Belarusian (0.1%), Ukrainian (0.1%),
other and unspecified (2.7%)

The economic and social data on this page were taken from the following sources:

GDP/capita, Population: *Transition Report 2006: Finance in Transition* (London, UK: European Bank for Reconstruction and Development, 2006).

Ethnic Groups: *CIA World Fact Book 2007* (Washington, D.C.: Central Intelligence Agency, 2007).

Nations in Transit Ratings and Averaged Scores

	1999	2001	2002	2003	2004	2005	2006	2007
Electoral Process	1.25	1.25	1.25	1.50	1.50	1.75	1.75	2.00
Civil Society	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.50
Independent Media	1.50	1.50	1.50	1.75	1.75	1.50	1.75	2.25
Governance*	1.75	1.75	2.00	2.00	2.00	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	2.50	2.75	3.25
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	2.00	2.00	2.25
Judicial Framework and Independence	1.50	1.50	1.50	1.50	1.50	2.00	2.25	2.25
Corruption	2.25	2.25	2.25	2.50	2.50	3.00	3.25	3.00
Democracy Score	1.58	1.58	1.63	1.75	1.75	2.00	2.14	2.36

* With the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

As promised by the winners of the 2005 elections, 2006 was a year of great political change in Poland. After breaking a preelection pledge to form a coalition with the Civic Platform (PO), the Law and Justice Party (PiS) began its rule alone, then formed a parliamentary coalition and coalition government with the populist Self-Defense League (Samoobrona) and the nationalist League of Polish Families (LPR), then changed the prime minister, broke up the coalition (throwing out Samoobrona), and formed it again—all in ten months' time.

The two leading figures in Polish politics in 2006 were twin brothers: President Lech Kaczyński and Prime Minister Jarosław Kaczyński. Under their leadership, the country started to look inward, taking revenge on the beneficiaries of Communism. Poland's current political system was born in 1989 with a peaceful, "Solidarity"-driven, negotiated break from Communism, but according to the PiS, all the ills of the last 16 years—weak governance, political patronage in the non-nationalized part of the economy, and widespread corruption in everyday life and at the highest levels of politics—are rooted in those origins.

The new government made a show of talking about a stronger state of solidarity, better care for the weak and unemployed, and more independence in foreign relations. Liberals from the rival PO were blamed for all the shortcomings of early capitalism, yet the economy ran high—over 5 percent of the gross national product. The immigration of one million Poles to Great Britain, Ireland, and Sweden, which opened their job markets to the European Union (EU) newcomers in 2004, proved to be a mixed blessing: The high unemployment rate in Poland dropped below 15 percent, but doctors, engineers, and educated workers in many trades disappeared.

After more than a decade of moving Poland toward the West, symbolized by the country joining NATO in March 1999 and becoming a member of the EU in May 2004, the reverse process began: Plans for voting on the European Constitution were abandoned, others for a referendum on accepting the euro were announced, and relations with important neighbors (such as Russia and Germany) worsened significantly. Relations with Ukraine are still good but are less intensive since the Polish government began its inward orientation; with a weakened international position, Poland becomes a less attractive partner for Ukraine.

National Democratic Governance. Poland was required to pass high standards of national democratic governance when it joined the EU in May 2004, but since the 2005 elections, the tide appears to have turned in the opposite direction (even though the elections confirmed the stability of the country's parliamentary democracy). The new government let it be known that it cares more about centralization and strengthening the state than self-government and civil society. The civil service

corps was dissolved, giving way to the “state cadres reserve” formed from obedient functionaries. The privatization of industry, which provides thousands of politically attractive positions in 1,600 treasury-owned enterprises, was slowed down. The hunt for Communist-era agents from a stolen list of 160,000 names was replaced with new lustration of over 400,000 employees from the public sector, including media. The president decided which names among former military intelligence agents to disclose to the public. Instead of 561 deputies of regional councils, 16 regional government representatives will have the final word in the division of large EU subsidies devoted to regional projects. According to recent changes in the law, the selection of regional projects for funding will be subject to regional government scrutiny, which can overturn decisions made by local self-governments. This is a firm step toward centralization, but technically speaking it gives more power to the minister of the interior (the governors’ supervisor) than to the prime minister. *Owing to the tendency to concentrate power in the executive branch, which is dominating the political process, Poland’s national democratic governance rating worsens from 2.75 to 3.25.*

Electoral Process. The elections of 2005 and 2006 were judged fair and democratic and were based on a well-grounded system of proportional representation and party lists in the lower chamber of the Parliament, majority vote in the Senate, and proportional representation in local councils. A campaign in 2005 to change the electoral system into a majority system of one-mandate districts produced no results. The pre-2005 election promise by the PiS and PO to form a coalition was not fulfilled, deepening political divisions among post-Solidarity parties. In 2006, the local election legislation was changed just before the beginning of the campaign in order to promote the formation of electoral coalitions. This change was criticized for favoring the ruling coalition but paradoxically gave more advantage to opposition parties. *Recognizing the stability of the electoral system but also the last-minute changes in the electoral legislation, Poland’s rating for electoral process worsens from 1.75 to 2.00.*

Civil Society. Civil society has been thriving in Poland since 1989. It is active and widespread, with 45,000 associations and 7,000 foundations composed of two main traditions: the Solidarity-led fight for political independence and the Catholic Church’s inspired care for the less fortunate. With the government openly hostile to the idea of civil society, it will be even harder for its proponents to progress to the next step: organizing to protect particular interests and increasing the number of watchdog organizations aimed at safeguarding general civil rights, such as press freedom, consumer rights, and voter rights. *Government efforts to curtail civil society and civil freedoms lead to a worsening of Poland’s civil society rating from 1.25 to 1.50.*

Independent Media. The year was mixed for Polish media, which have a strong tradition of independence going back much further than the Communist period.

The print media are private with the exception of the daily *Rzeczpospolita* (48 percent state-owned); among electronic media, public radio and television maintain the strongest positions. The new Axel Springer–owned *Dziennik*, strengthened competition among dailies. Investigative journalists have had successes in uncovering political corruption and sex scandals among top politicians. However, journalists are poorly organized and therefore more prone to political and business pressure. The new government was quick and aggressive in taking over the public media and giving preferential treatment to the extreme Catholic media conglomerate led by Father Tadeusz Rydzyk in Torun. *Owing to the government's forced change in leadership of public television and radio based on political criteria and the mounting purge of journalists who started their careers in the Communist era, the rating for independent media worsens from 1.75 to 2.25.*

Local Democratic Governance. Local self-government, reinstalled after the end of Communism in 1989, gave a chance to thousands of local enthusiasts to govern and improve their “local motherlands.” Keen to receive funds from state- and EU-supported programs, some of these local leaders achieved notable successes. Party politics plays a much smaller role at the lowest level of government, and independent candidates have a better chance to rally voter support. For many young people, self-government has been a means to learn about and participate in politics and governance. After losing in the 2006 local elections to regional councils, the ruling PiS government took away the councils’ prerogative to distribute EU funds. *Owing to the centralization drive, the rating for local democratic governance worsens from 2.00 to 2.25.*

Judicial Framework and Independence. In 2006, there were finally winds of change in the legal system, which had steadily been the weakest part of the Polish administration. The government introduced 24-hour courts for petty crimes, weekend prisons to ease overcrowding, increased computerization, and audio and video recording of court proceedings. However, prosecutors still remain under the tight control of the government, with the minister of justice also serving as prosecutor general, and the executive is highly critical of the independence of the judiciary, especially the Constitutional Tribunal. *The lack of respect for the judiciary as a whole offsets positive changes; therefore Poland's rating for judicial framework and independence remains at 2.25.*

Corruption. In 2006, measured perceptions of corruption in Poland showed improvement for the first time since 2000. Nine percent of Poles confirmed that they gave a bribe, which is a significant drop from 15 percent in 2005. The most corrupt sector is still health care. Corruption scandals were also revealed in professional soccer and the military draft. The new government organized the Central Anticorruption Agency, which is devoted solely to eradicating corruption from the top down. *Owing to a variety of new anticorruption measures and investigations, Poland's corruption rating improves from 3.25 to 3.00.*

Outlook for 2007. The proper use of EU funds will best demonstrate the quality of central and local administration in Poland. The bumpy PiS-led coalition will probably continue despite its instability from political fights among the three coalition partners. The new Law on Lustration may bring to light a new list of former Communist collaborators active in public life, including those in the media, but it also may fail in the Constitutional Tribunal, causing a storm in politics. Foreign policy will be a tough challenge for the Kaczyński brothers, considering: the conflict with Russia over the ban on Polish meat exports, US plans to launch a missile defense system from Poland, cold relations with Germany over compensation suits for German citizens at the European Court of Human Rights, and the loss of special ties with Ukraine because of Poland's current inward orientation.

MAIN REPORT

National Democratic Governance

1999	2001	2002	2003	2004	2005	2006	2007
n/a	n/a	n/a	n/a	n/a	2.50	2.75	3.25

Poland is a parliamentary democracy. Its Constitution, adopted by national referendum in 1997, provides a balance among executive, legislative, and judicial powers. Broad changes to the national law were introduced before May 1, 2004, in order to meet the requirements for EU membership. In 2006, the Constitution was changed to accommodate the European warranty law, which allows for the deportation of Polish nationals who break laws abroad on condition that the same crimes are punishable under Polish law; this restriction does not apply in cases of genocide, crimes against humanity, or war crimes.

The government is confirmed by a majority of the 460-member Sejm (lower house of Parliament). Both chambers of Parliament—the Sejm and the Senate—work on new legislation and must agree on it, with the president then signing or vetoing it. The president's veto may be overridden by a two-thirds majority of the Sejm. The president may also send legislation to the Constitutional Tribunal, whose 15 members are elected by the Sejm for a single nine-year term. In 2006, six Tribunal judges were elected, and the president chose a new chief justice from two candidates proposed by the Tribunal judges. The Constitutional Tribunal can declare laws or parts of them unconstitutional; its decisions are final and obligatory. The Parliament can form investigative commissions and impeach the president.

In the parliamentary elections of autumn 2005, the Law and Justice Party (PiS) won 27 percent of the popular vote, followed by the Civic Platform (PO) with 24 percent. The PiS first created a minority government with Prime Minister Kazimierz Marcinkiewicz, whose cabinet was easily approved, but it had to shop for support among other parties: the populist Self-Defense League (Samoobrona) and the right-wing League of Polish Families (LPR). In February 2006, the PiS signed a parliamentary agreement with these parties, and they formed a government coalition. In July 2006, the PiS replaced Marcinkiewicz as prime minister with Jarosław Kaczyński, the twin brother of President Lech Kaczyński.

In Poland, the most powerful political office is the prime minister, who can be recalled only by a constructive vote of no confidence. The president plays a more ceremonial role, but personality does count. Lech Wałęsa (1990–1995) greatly influenced the choice of ministers of defense, the interior, and foreign affairs. His successor, Aleksander Kwaśniewski, who held the office for a decade (1995–2005), was more active abroad, gathering support for Poland's NATO membership in 1999 and joining the EU in 2004. During the 2004 Orange Revolution in neighboring Ukraine, he brought together two rival candidates and EU envoys in roundtable

talks to solve the crisis over rigged presidential elections, which was his most spectacular action in international politics. (In 2006, Kwaśniewski tried to organize similar roundtable talks among the Castro regime and members of the opposition in Cuba, but without success.) Lech Kaczyński, elected president in 2005, has been less active on both fronts.

In October 2005, Lech Kaczyński from the PiS became Kwaśniewski's successor with 54 percent of the popular vote, beating out Donald Tusk from the PO. As a result of the parliamentary and presidential elections, Poland's political pendulum swung significantly to the right. The PiS's calls to replace the "rotten" Third Republic compelled enough voter support for the PiS to rule. The public's opinion of the brothers' first year was verified in November 2006 during local elections, in which voters chose party-supported candidates for local councils as well as mayors of municipalities. The opposition won in the cities of Warsaw, Gdańsk, Cracow, Wrocław, Szczecin.

All legislation is published in the *Official Gazette* and on the Sejm, Senate, and president's Web sites, which offer a great deal more information than the obligatory *Bulletin of Public Information*. The proceedings of the Sejm and parliamentary investigative commissions are broadcast live on public television. There is access to a significant part of government, self-government, and other public documents thanks to the Law on Freedom of Information adopted in 2001. However, the law did not replace other acts dealing with this topic; therefore much data, including information on recipients of EU agricultural subsidies, are still not accessible to the public.¹

All members of Parliament (MPs) and government officials must declare their property annually. The media analyze these reports (posted on the Internet) with great scrutiny, but only in one case has a well-known politician had to explain the origins of his wealth. With over 500 officers, the Central Anticorruption Agency (CAA), formed in June 2006, is empowered to fight corruption at the highest levels by acting undercover and performing investigative and control functions. One of its duties is to review the property statements of politicians and officials.

Right after the local elections held on November 12, 2006, the president decided the fate of the Law on Lustration, which was amended during the summer after a long and bitter fight in both chambers of Parliament and in the media. Under the old law, passed in 1997, all public representatives, high-ranking government officials, and attorneys must declare if they had worked for Communist-era secret police or intelligence. Those who hid this information were punished with a 10-year ban on public service after trials in the lustration court initiated by the public interest prosecutor. These procedures often took years and were criticized as too lenient.

The law was changed to allow the Institute of National Remembrance (IPN) to replace the lustration court. Furthermore, the public interest prosecutor will cease to exist, and IPN files of all public officials and journalists will be opened. According to Thomas Hammarberg, human rights representative of the Council of Europe, the new law has such flaws that it should be rewritten.² President Kaczyński signed the law but promised to introduce a quick bill of IPN-prepared amendments

that will eliminate the Information Sources Register listing Communist secret police informants. The opposition declared to fight it anyway in the Constitutional Tribunal; its verdict may start the issue all over again.

The Law on Lustration debate was ignited by the January 2005 disclosure by *Rzeczpospolita* journalist Bronisław Wildstein of a list containing some 160,000 names of Communist-era secret police agents and their victims. Opponents of the secret police files disclosure claimed that the Wildstein list caused the suffering of innocent people accused on the basis of incomplete and possibly mischievous police records. Some of the listed persons have sued Wildstein and the IPN in civil cases. In one instance, the court found the IPN not responsible for the Wildstein list, but other cases are still pending.

Both the PO and PiS, two post-Solidarity parties, wanted to disclose these “skeletons in the closet” to stop “wild lustration” by Wildstein followers, who posted the list online. Several groups spoke out against publication of the list, including left-wing parties, the influential daily *Gazeta Wyborcza*, human rights defenders, and a few bishops. Almost every week until the end of 2006, new names of former agents appeared in the media, including that of Andrzej Grajewski, former head of the IPN Advisory Council, who was accused of cooperating with the military intelligence service (Wojskowe Służby Informacyjne—WSI) after 1989. Grajewski denied the accusations.

On the local self-government front, as a result of recent changes in law, the selection of regional projects for funding will now be the subject of regional government scrutiny, which can overturn the decisions of local self-governments. This is a firm step toward centralization but technically speaking gives more power to the minister of the interior (the governors’ supervisor) than to the prime minister.

The Supreme Chamber of Control (NIK) audits all government institutions. Its head is nominated by the Sejm and approved by the Senate for a six-year term, which keeps the office somewhat immune from political influence. Since 2001, the head of the NIK, Mirosław Sekuła, who was elected by the center-right Solidarity Election Action coalition, has been auditing the two subsequent left-wing governments. His term ends in 2007, which means that the government will have a politically friendly auditor. The chamber audits institutional legality, efficacy, economic sense, and diligence at all levels of the central administration, Polish National Bank, and state and local administration. Leszek Balcerowicz, head of the Polish National Bank and author of the “shock therapy” measures to the Polish economy in the early 1990s, will be replaced by an individual to be nominated by the president in early 2007. The original choice, economics professor Jan Sulmicki, resigned after two days, causing deep confusion at the Presidential Palace.

The early 1990s goal of creating a depoliticized, high-quality corps of civil servants working for all government agencies has not been fulfilled. Although the National School of Public Administration has been educating professional civil servants for 15 years, every government during that time has avoided organizing contests for general director positions in its various ministries and replacing lower-ranking posts with political dependents. In autumn 2006, Kaczyński’s government

declared the end of “political hypocrisy” and replaced the civil service corps with a state cadres reserve of its own.

The Polish economy now generally comprises private corporations, but after 17 years of privatization, the state still holds shares in 1,641 companies and owns 38 percent of Poland’s territory.³ With every change of government, new individuals take over management of the biggest state companies, such as the national postal service, national airports, the Powszechna Kasa Oszczędności bank and Bank Gospodarstwa Krajowego, national copper mines and mills, and the national oil company (Orlen). In 2006, all faced changes at the top levels.

In 2006, Lew Rywin, the country’s top film producer, served prison time for the biggest bribery scandal in post-Communist Poland. Rywin had approached Adam Michnik, editor of the leading *Gazeta Wyborcza*, in 2002 offering US\$17 million bribe in return for changing the broadcasting law in favor of the media holding company Agora. In 2005, he was sentenced to two years in prison but served only six weeks and was released owing to poor health. In the autumn, after losing an extra appeal in the Supreme Court and following the change in government, Rywin was back in prison—the only conviction in an affair that devastated Poland’s political landscape in 2003. The scandal led to the transfer of the prime minister office from Leszek Miller to Marek Belka a year later, right after Poland joined the EU, and laid the groundwork for the PiS victory in the 2005 parliamentary elections. In November 2006, after serving half of his sentence, Lew Rywin was released from jail.

One of the first tasks of the new government was the reorganization of the military intelligence service WSI, the only part of the intelligence services not professionally vetted after 1989. The WSI was accused of concealing the identities of its pre-1989 agents and post-1989 activities that extended far beyond its mandate, including spying on, taping, and spreading false rumors about the party of Lech and Jarosław Kaczyński in the early 1990s. These abuses of power were infamously documented by Colonel Jan Lesiak, the police officer in charge of these actions.

The shining success of the Sejm’s investigative commissions started to dim in 2006 with the failure of the Investigative Commission to Study State Organs’ Inaccuracies in the Process of Transformation of Certain Banks (Bank Commission) to call Polish National Bank president Leszek Balcerowicz to testify. When Balcerowicz refused, the commission interrogated his wife, an economist, and soon the Constitutional Tribunal found the commission’s prerogatives too vague to act at all. The Bank Commission has been the fourth investigative commission in the Parliament. The success of the first, set up to untangle the “Rywingate” affair, paved the way for the formation of two others: an investigation into the dubious arrest of the CEO of the national oil company, Orlen, and another concerning the privatization of the national insurance company, Powszechny Zakład Ubezpieczeń (PZU). Both commissions continued to work until September 2005, focusing on the Democratic Left Alliance’s (SLD) misuse of the secret police and abuse of ministerial powers (in the Orlen case) and the inability of different governments to privatize the national insurer (in the PZU case).⁴

In 2006, an investigation was conducted by a European Parliament delegation into the existence of U.S. Central Intelligence Agency secret prisons in Poland, used for the torture of suspected terrorists. The investigation was met with resistance by authorities and opposition alike.

Electoral Process

1999	2001	2002	2003	2004	2005	2006	2007
1.25	1.25	1.25	1.50	1.50	1.75	1.75	2.00

Controversial changes were made to the Polish electoral legislation in advance of the 2006 local elections. These changes included allowing minority parties in electoral coalitions to transfer seats to stronger partners, provided the coalitions pass the 10 percent threshold (15 percent in regional councils)—not to be confused with the 8 percent threshold mentioned later, which is different. The law was challenged in the Constitutional Tribunal as being introduced too hastily (only seven days of *vacatio legis*) and for lacking sufficient public hearings, which had been curtailed abruptly in the Parliament on “technical grounds.” The Court, acting under pressure to either push through the changes or cancel the elections, allowed the changes; however, three judges (including the Court chief justice) wrote dissenting opinions.

In January, another change in the electoral legislation allowed for the nonorganization of elections in Warsaw, whose mayor, Lech Kaczyński, resigned from the post at the last possible moment before being sworn in as Poland’s new president.

Poland’s multiparty parliamentary system with proportional representation was introduced in 1993. The electoral thresholds are 5 percent for parties and 8 percent for coalitions. Before these thresholds were introduced, there were over a dozen political parties in the Parliament and seven in the ruling coalition. Thresholds do not apply to national minorities. In practice, this means that the German minority traditionally wins two seats in the Sejm, although their voting power is less than 0.5 percent.⁵ The Sejm has 460 members elected for four-year terms. The Senate has 100 members elected by majority vote on a provincial basis, also for four-year terms. The electoral system is considered free and fair; international monitors have not been present during elections, even though no legal barriers prohibit their observation. The Supreme Court electoral protest system works well.

The 2005 elections for Parliament and president changed the ruling party, which has been the pattern since the first elections in 1989 that ended Communist rule. The Democratic Left Alliance (SLD), which won 41 percent in 2001, lost badly four years later, gaining only 11 percent and 55 seats in the Sejm. But in 2001, after four years in power, the Solidarity Election Action (AWS) won no mandates at all. However, the new parties that formed out of it—the PO, PiS, and LPR—were successful in electing candidates. Only Freedom Union—the party that created the first non-Communist government in 1989 and a political partner of the

AWS—failed to gain Sejm seats in both the 2001 and 2005 elections, seemingly ending its prospects on the political scene.

A steady decline in voter turnout has been marring the election process in Poland since the beginning of the Third Republic in 1989. In the 2004 elections to the European Parliament, with only a 21 percent turnout, the winners were the PO with 24 percent, followed by the LPR (16 percent), the PiS (13 percent), and Samoobrona (11 percent). The pro-European, economically liberal, and socially conservative PO was sure to take power in 2005. However, the big winner in the 2005 elections was the PiS, receiving 27 percent of the popular vote, which gave it 155 seats in the Sejm. The PO received 24 percent and 133 seats. The 2005 elections produced much deeper political change than anticipated and were proclaimed as the origins of the Fourth Republic, replacing the so-called rotten Third Republic.

In 2006, there was debate over the free flow of money in presidential elections and the lack of oversight by the State Electoral Commission. In monitoring presidential campaign finances, the Stefan Batory Foundation and the Institute of Public Affairs found several inaccuracies in documents presented by the campaign committees of Lech Kaczyński, Donald Tusk, and Andrzej Lepper. The commission accepted explanations from committee representatives who argued that the costs of presidential and parliamentary campaigns were impossible to divide, which means that the presidential campaign was financed partially from taxpayer funds.⁶

Civil Society

1999	2001	2002	2003	2004	2005	2006	2007
1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.50

Freedom of association is secured in Article 58 of the Polish Constitution and the Law on Associations. The only prohibitions are on those groups promoting Nazism, Fascism, and Communist ideology, racial and national hatred, secret membership, or the use of power to overthrow the authorities. Although freedom of assembly and demonstration is assured by Article 57, it was the most abused right in 2005.

Poland's civil society is based on the traditions of the Solidarity trade union and other anti-Communist opposition movements of the 1970s and 1980s, as well as social activity by the religiously dominant Catholic Church. Frequent changes of government in the 1990s helped to establish civil society structures: foundations, think tanks, and analytical centers in which the current opposition is maintained until the political pendulum repositions its members back within the official mainstream. Since 2004, the Law on Public Benefit Activities and Volunteering has given nongovernmental organizations (NGOs) the option to register as "public benefit organizations," allowing tax breaks and 1 percent personal income tax donations but also stricter rules on salaries and an obligatory annual audit.

Over 45,000 associations and 7,000 foundations are registered as active in sports, recreation, tourism, hobbies, culture and art, education, social help, and health protection. More than 60,000 people work in the third sector, which also includes 1 million volunteers. The main sources of financing are member dues, self-government donations, donations from private persons, and funding from institutions.⁷ Major donors are the Polish American Freedom Foundation, Stefan Batory Foundation, Agora Foundation, and Kronenberg Foundation.⁸

The most well-known charity action is the annual first New Year's Sunday telethon of the Great Holiday Help Orchestra. In 2006, 120,000 young volunteers made 29 million zlotys (US\$9.7 million) from street collections and auctions, and the proceeds went to purchase medical equipment for handicapped children.⁹

Polish Humanitarian Action (PHA), which collects money for natural disaster victims abroad, was established in the early 1990s by charity activist Janina Ochojska as repayment for help that Poland received from the West during the martial law period a decade earlier. PHA helps victims of natural disasters and armed conflicts in Chechnya, Palestine, Iraq, Sri Lanka, and other countries. It also helps poor children and refugees in Poland.¹⁰ The biggest charity organization in Poland is Caritas, which feeds the poor and shelters the homeless on behalf of the Catholic Church.

With the Constitutional Tribunal's 2005 ruling that organizers of gatherings need only notify local authorities of public events instead of asking for a permit, administrative restrictions on gay and lesbian parades were no longer applied. In June in Warsaw and in November in Poznan, under heavy police protection, gay marches took place peacefully, but in general 2006 was not a peaceful year for this most controversial civic society group in Poland. The year started with a voice of support from the European Parliament in Brussels, which criticized the 2005 bans against gay and lesbian marches in Poland and appealed to EU governments to fight intolerance against sexual minorities. The Polish response came the following month in a declaration in Prague by President Lech Kaczyński that any legalization of homosexual partnerships is "unthinkable" in Poland, so there is no need to veto it, as did the Czech president. "I would love to do the same," declared Kaczyński, earning criticism even from usually supportive columnists.¹¹

"I am frightened by the acceptance of homophobic behavior by the Polish government," wrote Terry Davies, secretary general of the Council of Europe, referring to the case of Mirosław Sielatycki, head of the Teachers Qualifications Improvement Center, who was fired for publishing a textbook dealing with citizens' rights and the education of youth. The book was prepared by the Council of Europe and translated into 17 languages. Designed for teachers, not students, it advised inviting gay and lesbian organization representatives to teach a lesson devoted to sexual minorities. The minister of education, who also heads the LPR party, found the textbook passage to be a "promotion of homosexuality."

"I have asked Polish authorities for an explanation of this decision, because being a member of the Council of Europe means that you accept all the values of it and not choose only what you would like," wrote Davies, warning that the case of Mirosław Sielatycki may go all the way to the European Court of Human

Rights (ECHR). Lawyers from the International Helsinki Federation for Human Rights have supported the case.¹² The Polish Ministry of Education denied European funds for the Campaign Against Homophobia, which organized a summer camp for thirty students from Poland, Estonia, and Spain to discuss gender issues in 2005, but in 2006 the minister declared this to be “immoral.”

In another rights dispute, two politicians from Poznan agreed in court to declare that in 2004 they “did not equate and did not want to equate homosexuality to pedophilia, zoophilia, and necrophilia.” Two journalists from the popular Talk FM radio openly declared their sexual orientation. The Council of Europe human rights representative, Thomas Hammarberg, declared that Poland is obliged to establish a special office for supporting equal rights for all people, regardless of gender or sexual orientation.

The trade union movement has good standing in Poland thanks to the tradition of Solidarity, but it is only a shadow of its former strength, when 10 million employees belonged to it in 1981. The All-Poland Alliance of Trade Unions has about 1.5 million members; Solidarity has fewer than 1 million. The majority of these are from state-owned factories, steel mills, mines, railways, and budget-funded health care and education facilities. In 2006, strikes broke out in the public health system and among postal, railway, and mine workers. Private business owners tried to keep trade unions away. The supermarkets had the most success in union bashing. However, with the help of union organizers, especially from Solidarity, union cells were set up in some of them. There was no success in efforts to organize private media.

Independent Media

1999	2001	2002	2003	2004	2005	2006	2007
1.50	1.50	1.50	1.75	1.75	1.50	1.75	2.25

At the end of 2006, Deputy Prime Minister Roman Giertych proposed new media legislation that included media courts, speedy procedures, and fines up to 1,000 times the minimum wage (about US\$300,000). This proposal came in the aftermath of a highly publicized sex scandal in which the party of another deputy prime minister (Andrzej Lepper) was accused of a number of its members hiring women for sex in its offices. Giertych had his own reason for the proposal: The media accused a junior partner in his party (Młodzież Wszechpolska) of tolerating Nazi gestures and hate speech. The war over the media, proclaimed by PiS leader Jarosław Kaczyński at the beginning of 2006, was thus concluded with an action by Kaczyński's allies.

In Reporters Without Borders' 2006 yearly worldwide Press Freedom Index, Poland was ranked 58, the last among EU countries but not far behind the United States in 53rd place. Among the reasons for Poland's low ranking, the Paris-based

NGO mentioned “censorship enhancing political climate, politicians’ frequent attacks on media, legal action against the German weekly *Tageszeitung* for ridiculing the Polish president, and the fact that in 2005, Poland was the only country in the EU where a journalist was serving a prison sentence for his writings”.¹³

In Poland, the importance of free media is well understood by those whose great-grandfathers’ writings were censored by czarists before 1918; whose grandfathers were publishing illegal papers under Nazi occupation; and whose fathers printed and distributed illegal, uncensored books and newspapers in the People’s Poland of the 1970s and 1980s. It is no surprise, then, that according to the Polish Constitution, the state “shall ensure freedom of the press and other means of social communication.”¹⁴ However, other legal acts still contain traces of authoritarian rule that endanger this basic freedom.

Article 133 of the penal code mandates up to three years’ imprisonment for persons who “publicly insult the Polish nation or the state”; however, the statute has not been used recently. A new direct threat to freedom of speech was aroused when amendments to the vetting legislation were passed in 2006. The new crime of “insulting the Polish nation” was added to the penal code, which now states, “Anyone publicly insulting the Polish nation or participating in or organizing Nazi or Communist crimes may be punished with up to three years in jail.” Wojciech Sadurski, a leading law professor at Warsaw University, commented, “This way an introduction of the new, radical, and nonsense curb of freedom of speech was done quietly, without any public debate,” describing the new statute as “the revival of censorship.”¹⁵

Libeling the president is punishable by up to three years in jail (Article 135§2). The year-long case of a homeless man prosecuted for calling policemen “the president’s henchmen” concluded in a Warsaw court in December 2006 without punishment. Libeling MPs or government ministers is punishable by up to two years in jail (Article 226§3) and libeling other public officials by one year (Article 226§1). However, in October 2006 the Constitutional Tribunal found this article to be unconstitutional in certain circumstances where officials are libeled while fulfilling official duties.

Libel suits against media professionals are common, but those found guilty are usually only fined. In 2005, one journalist was close to serving three months in jail for libeling a local official, but he left prison after two days, released by order of the Constitutional Tribunal, which accepted the motion based on his case.¹⁶ Ruling in a case on Article 212 of the penal code, which penalizes defamation in the media with up to two years in prison, the Tribunal found the article to be in accordance with the Constitution; however, three judges, including the chief justice, wrote dissenting opinions. They pointed out that the truth of questioned statements protects the journalist against the defamation charge only if it safeguards “a socially protected interest.” Therefore only the reverse should be proved, so the clause is unconstitutional.

The requirement of truth concerning both facts and opinions is against the verdict of the ECHR in Strasbourg, which states it is impossible to fulfill this

requirement for opinions, therefore it infringes upon the freedom to express them.¹⁷ Other legal dangers to press freedom include court gag orders based on the “securing the motion” article in the civic procedures code (Article 730), prosecutors’ enforced publication of corrections, and the authorization of interviews (the last two stipulated in the 22-year-old Law on the Press).

In the beginning of 2006, Prime Minister (and PiS party leader) Jarosław Kaczyński stated that there was “no free media” in Poland because all were part of “the deal.” He described this circumstance as a supposed secret understanding among politicians, businesspeople, former secret police, and Mafia. He also called on journalists to fight for freedom against media owners, to “re-Polonize the media,” and to set up a special parliamentary commission to investigate “breaks in media freedom and the society’s right to fair information on the years 1990–2006.” The Press Publishers Chamber answered the attack with a statement warning that “unproved charges, dim threats, and insulting talk” lead to curbs in press freedom.¹⁸

At the same time, criticism of President Lech Kaczyński by *Sukces* monthly writer Manuela Gretkowska led to an unprecedented act of censorship in March 2006: In 90,000 copies of *Sukces*, the page with an antipresident satire was removed at the request of the owner, millionaire Zbigniew Jakubas, who was frightened by a letter from the Office of the President criticizing a previous antipresident satire by the same author.

In early 2006, the authorities announced the proposed formation of a National Media Monitoring Institute as well as plans to introduce a new Law on Electronic Media to replace the one from 1992, a new Law on Public Media, amendments to the Law on the Press, and plans to strengthen legal protection for minors against violence and pornography in the media. These plans were heavily criticized by the opposition and the media, and none were implemented until the end of the year. However, a change in the media did occur: All state-owned media (that is, the national press agency PAP, *Rzeczpospolita*, and public television and radio) were forced to receive new bosses. The most important position heading public television (TVP) was given to Bronisław Wildstein.

One of the aims of the National Media Monitoring Institute—that is, uncovering journalists who cooperated with Communist secret services—was advanced by the TVP program *Special Mission* and leaks in other media, disclosing a dozen well-known names (only one journalist confirmed the accusations). This “wild lustration” of media professionals raised calls for the vetting of all journalists born before 1972, which is scheduled to occur in 2007 on the basis of the amended Law on Lustration. Another part of the original media plan, if approved by the Sejm, may introduce backdoor, “moral” censorship by pushing controversial topics to late-night broadcasts or mandating that newspapers be wrapped in plastic bags and placed on the top shelves of kiosks and supermarkets.

Despite these dangers, the Polish media landscape was vibrant in 2006. Two major newspapers, *Gazeta Wyborcza* (circulation 443,000 copies; owner the Polish Agora) and *Rzeczpospolita* (150,000 copies; sold in 2006 to the British investment fund Mecom along with all Orkla Media titles), got a strong new competitor,

Dziennik Polska Europa Świat (240,000 copies; owner Axel Springer, in short *Dziennik*), in April 2006. Outlets with the largest circulations are the tabloids: *Fakt* (508,000 copies; owner Axel Springer) and *Super Express* (198,000 copies; owner Bonnier, with Polish capital). In March 2006, after only three months of publishing, Agora closed its own daily tabloid, *Nowy Dzień*. Polskapersse (owner Passauer Neue Presse) announced the launch of a new daily beginning in 2007.

There are three major opinion weeklies: the left-wing *Polityka* (166,000 copies; owned by a journalist co-op), the centrist *Newsweek* Polish edition (132,000 copies; owner Axel Springer), and the right-wing *Wprost* (138,000 copies; owner Agencja Reklamowa Wprost). The 2005 newcomer *Ozon*, a conservative Catholic weekly, sold only 32,000 copies and ceased to print in June 2006. On the other hand, the religious weekly *Gość Niedzielny*, published by the Catholic Church in Katowice, started to sell more than *Newsweek* (137,000 copies).

At the beginning of 2006, *Nasz Dziennik*, a conservative nationalist daily, together with Radio Maryja and Trwam TV founded by Father Tadeusz Rydzyk (a nationalist, right-wing media evangelist with political ambitions), became a government outlet. Officials were interviewed there in a friendly, nonconfrontational style, and the parliamentary coalition agreement signing ceremony was covered exclusively by Father Rydzyk's media, which prompted a protest by the heads of the other outlets, including public radio and television, and PAP.¹⁹ Prime Minister Jarosław Kaczyński took part in Radio Maryja's 15th anniversary celebrations, thanking its listeners, who are called "mohair berets"—usually older, less educated, fundamentalist Catholics and the most faithful PiS voters.

The Catholic liberal *Tygodnik Powszechny* (29,000 copies) has a strong intellectual reputation from the past as the only independent (though censored) paper of Communist Poland. *Przekrój*, published by Edipresse (67,000 copies), used to be the authority in cultural matters but has changed its format to appeal to the younger generation. The private Polish weekly *Nie* (99,000 copies), run by Jerzy Urban, spokesman for former president Wojciech Jaruzelski, is anticlerical, left-wing, and often provocative.²⁰ Two English weeklies (*Warsaw Voice* and *Warsaw Business Journal*) and a Russian weekly are published in the capital.

Besides these leading titles, there are hundreds of other dailies, weeklies, and monthlies on all topics published countrywide. The local press is also vibrant and produces more than 3,000 titles, but media concentration has become a real threat. The major media companies already dominating Warsaw-based and regional press include Axel Springer, Agora, Mecom (the new owner of Orkla Media), and Polskapersse (Passauer Neue Presse). Media acquisitions appear to be on the rise: News Corporation, owned by Rupert Murdoch, bought 24.5 percent of TV Puls and requested that National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji—KRRiT) allow changes to the religious format of the station.

Poland is one of the few countries in Europe where media cross-ownership has not been regulated, and as a result, Axel Springer signed a contract to buy 25.1 percent of Polsat TV. Because Springer already owns the biggest tabloid, *Fakt*, one of three opinion dailies (*Dziennik*), and the opinion weekly *Newsweek Polska* and

also wants to buy Radio Wawa, the deal has to be approved by the competition authority. Polsat is planning to be publicly traded in 2008. Press distribution is provided evenly by the state-owned Ruch and private Kolporter companies. The privatization of Ruch began at the end of 2006 and should be completed in two years. The Press Publishers Chamber organized a consortium of major publishers willing to buy Ruch, which may happen in 2007.

The Polish electronic media have less freedom than their print counterparts and are controlled by the KRRiT, a body elected by the Parliament and the president. Before the 2005 elections, the KRRiT was composed almost completely of left-wing nominees. The new, right-wing government reduced the KRRiT from nine to five members (two nominated by the Sejm, one by the Senate, and two by the president, who also picks the chairperson). The new KRRiT members also had political ties, this time to the Right. Three months later, the Constitutional Tribunal ruled that the president could not nominate the head of the KRRiT; the law was corrected, and the same head was elected. After getting organized, the new KRRiT started to watch electronic media with a new vigor. Soon, Radio TOK FM was reprimanded for a listeners' call-in program in which a poem ridiculing the president was read; another program made fun of a listener discussing sex before marriage. Private Polsat TV was fined 500,000 zlotys (€130,000, US\$175,000) for ridiculing a handicapped girl, Magda Buczek, on Radio Maryja.

The 2006 purge of the public television's top leadership based on political criteria raised serious concerns. TVP has a dominant position with viewers and advertising markets with its 3 terrestrial channels (TVP1, TVP2, and TVP3, together with 16 local branches) and 3 satellite channels (TVP Polonia, TVP Kultura, and TVP Sport). This strong position comes at the price of high commercialization and political influence on programming, formerly from the Left but now from the Right since the new leadership was installed. Monitoring TVP's two main newscasts and local news in five cities before the local elections in November, the Stefan Batory Foundation reported preferential treatment for PiS mayoral candidates in Warsaw and Gdańsk. TVP responded that the heavier right-wing presence compensates for the previous leftist orientation of public television.²¹

Two-thirds of TVP's income comes from advertising, the rest from broadcasting fees paid by about 50 percent of Polish households and about 5 percent of businesses. Increasingly commercialized, TVP in prime time looks exactly like its private competitors: movies, soap operas, and talk shows. Education and high-culture programs as well as award-winning documentaries are shown either in the afternoon or late at night. TVP's main private competitors include Polsat and TVN, the Canal+ cable channel owned by UPC, and Father Rydzyk's Trwam TV, a religious satellite channel broadcasting from Torun.²²

Among radio stations, the public Polskie Radio—with 6 Warsaw-based channels and 17 local radio stations—has a strong position, but private competitors Radio ZET and Radio RMF FM are the leaders in audience and advertising revenues. Radio Maryja, broadcasting since 1991 and founded by Father Rydzyk,

has played an important role in gathering support for right-wing political parties (originally the LPR and then the PiS).

Fifty percent of Polish households have a computer and use the Internet, which is uncensored in Poland. Offensive remarks are rarely blocked, and operators claim not to be responsible for them. Child pornography is the only prosecuted Web offense. Naukowa Akademicka Sieć Komputerowa (NASK), an academic institution, keeps a registry of sites, but there are no address restrictions. Almost all printing media have their own Web sites, and the number of personal Web sites and blogs has grown rapidly.

With the strong presence of print and electronic media and the advance of online publications, there is no clear estimate of how many journalists are working in the media sector, but the minimum count is about 20,000. Only a few hundred of these are members of trade unions (the Journalists Syndicate and a branch of Solidarity), and only a few thousand journalists, mostly older professionals, are members of the Polish Journalists Association and Republic of Poland Journalists Association. They maintain ethical codes and lobby for new press legislation and changes in the penal code, but their voice and authority are weak.

With PiS attacks against the press, the political divisions between media and journalists have become deeper and more visible. On the weakening left-wing and center-left side, there are the private TV channels TVN, TVN24, and Polsat; and the opinion weekly *Polityka* and the biggest daily, *Gazeta Wyborcza*. On the right-wing and center-right sides are the public media (TVP and Polish Radio); the new daily *Dziennik* (a direct competitor of *Gazeta*), the third-biggest daily, *Rzeczpospolita*, the tabloid *Fakt*, and the weekly *Wprost*. The majority of Polish journalists work without a collective agreement or wage bargaining, and publishers keep their salaries secret. Strikes and other union actions—enjoyed by colleagues working for the same media companies in France, Germany, and the Nordic countries—are unheard of in Poland.

Local Democratic Governance

1999	2001	2002	2003	2004	2005	2006	2007
n/a	n/a	n/a	n/a	n/a	2.00	2.00	2.25

Over 67 percent of local councillors—elected to two levels of local councils (*gmina* and *powiat*, or town councils) and 16 regional (*voivodship*) assemblies in the 2006 local elections—have no party affiliation. The strongest party representation is the peasant Polskie Stronnictwo Ludowe, with 10 percent, then the PiS with 9.6 percent, the PO with 5.9 percent, the Left and Democrats Party (LiD) with 4 percent, Samoobrona with 2.4 percent, and the LPR with 0.7 percent. Among the regional councils, the PO and the LiD were stronger in the more affluent western part of Poland, and the PiS was stronger in the poorer east and south. At the regional level,

Samoobrona and the LPR, allies of the ruling PiS, have lost two-thirds of their voters since the 2002 local elections.

Self-government traditions are strong in Poland. This is especially true in the west and south, where more than a century ago, in the absence of a Polish state, local authorities worked with Catholic and Protestant clergy to maintain Polish schools and nurture Polish customs in choirs, folk dance, gymnastics groups, fire brigades, and credit unions. One of the first acts of the Solidarity government after 1989 was the restoration of local self-governance by re-creating the approximately 2,500 *gminas* (Poland's basic territorial divisions) that were canceled in the 1950s. Ninety thousand local officials were transferred from the state administration to local governments. In 1998, the number of regions was reduced from 49 to 16, and 314 counties and 65 cities with equal status were added.

According to the Constitution, local government is a permanent feature of the state based on the principles of subsidiarity. The powers and independence of local authorities are protected by the courts, and there is a presumption that *gmina* competences extend to all matters not reserved for other institutions of central administration. Local authorities are responsible for education, social welfare, local roads, health care, public transport, water and sewage systems, local culture, public order, and security. Municipalities are responsible for a majority of these tasks. Regional accounting chambers are responsible for auditing local authorities.

Local representatives are elected every four years. As a result of Poland's joining the EU in 2004, citizens of other EU states are eligible to participate in the elections. In 2006, a Czech citizen was one of the local candidates in Warsaw's Ursynów neighborhood. Mayors of cities and towns are elected directly, as are members of local, county, and regional councils. County members elect the heads of *powiats*, and members of regional assemblies elect the heads of the *voivods*. In the 16 *voivods*, elected heads (marshals) must cooperate with government-nominated *voievodas*, the national authority representatives outside Warsaw. They have the legal power to control *gmina* resolutions by suspending them within 30 days if they contradict the law. Appeals to *voivod* decisions are filed with the regional administrative courts.

In 2006, the PiS empowered *voievodas* with veto power over the decisions of regional assemblies, where the opposition PO has a majority of deputies. Prime Minister Jarosław Kaczyński, who was against this change, announced that he would ask *voievodas* to abstain from using the law and in extreme cases take decisions himself. In that event, the prerogatives of 16 regional assemblies with a total of 561 locally elected deputies would be transferred to a single central government head. So much for local democracy.

The 1990 Law on Local Government introduced referendums as a tool of direct democracy. They are used to decide such issues as voluntary taxation for public purposes and the dismissal of the council before its term. The motion to conduct a referendum must be supported by at least 10 percent of the voters, and a referendum is valid only with a minimum of 30 percent of voters participating. This has proved to be an empty option: In the majority of referendums, usually organized to

recall local elected officials, the turnout has been too low to make them valid. Voter turnout in the 2006 local elections was surprisingly high at 46 percent.

Polish law limits the power of local government to levy taxes. Municipalities are allowed to collect taxes on farms, properties, forests, pet registrations, and transportation. New taxes can be organized only via a referendum. Personal and corporate income taxes account for 75 percent of local government income. There is also a mechanism to redistribute taxes from richer to poorer local governments.

The central government is supposed to consult local governments on every bill that may add costs to their budgets. However, the time given for consultation to the Common Commission of the Government and the Territorial Self-Government is often extremely short, and cost estimates are vague. Local self-governments must consult citizens on certain decisions, such as seeking opinions from environmental organizations when granting building licenses. In Warsaw, this measure allowed environmental groups to block many development plans.

The 2006 local elections caused a power shift in the most important race in Warsaw. The capital was ruled from 2002 until the end of 2005 by Lech Kaczyński (now president of Poland), then by his acting successor, and then for the final three months before the elections by the most popular politician in Poland, former prime minister Kazimierz Marcinkiewicz. He, however, lost by 6 percent to the PO candidate, similar to the results in the Kaczyński–Tusk presidential race. In many cities, like Katowice, Cracow, and Gdańsk, the incumbent mayors won easily, no matter what their political affiliation (some of them, as in Wrocław and Gdynia, by over 80 percent of the votes). There were shifts of power from right-wing to center-oriented politicians in Szczecin and Białystok, but in general, political affiliations in these elections were less important than the candidates' past record and personality.

Judicial Framework and Independence

1999	2001	2002	2003	2004	2005	2006	2007
1.50	1.50	1.50	1.50	1.50	2.00	2.25	2.25

As stated in the Constitution, the judiciary has full independence from the executive and legislative branches of government. The court system consists of the Supreme Court, 310 district courts, 43 regional courts, 11 appeals courts, garrison and provincial military courts, 14 regional administrative courts, and the main administrative court. The Tribunal of State is elected by the lower chamber of Parliament to determine constitutional violations by the highest officials. The Constitutional Tribunal analyzes the conformity of Polish and international laws to the Polish Constitution, adjudicates disputes of authority between central state bodies, and recognizes the temporary incapacity of the president to perform his or her office. Decisions of the Court are final and are applied directly after being published in the *Official Gazette*. Constitutional Tribunal judges are elected by the Sejm for a single nine-year term. In 2006, six vacancies were filled (all proposed

by the ruling coalition), including the head of the Court, who is nominated by the president from two candidates proposed by the Court judges.

PiS politicians originally criticized the Constitutional Tribunal as a political opposition to their power, but they softened their tone after several restrained decisions and the change of 6 out of 15 Tribunal members. Tribunal judges partly annulled the last-minute decision to end the term of the KRRiT but did not find that abruptly ending the term of the constitutional body was against the Constitution. Also, introducing “election coalition lists” for parties the week before the election was found to be constitutional, albeit with three dissenting voices. Official bodies sometimes passively resist Tribunal verdicts by not fulfilling them at all or by fulfilling them only after significant delays. This was the case in such matters as freeing rents in private apartments and the state taking responsibility for mistakes in administrative decisions.²³

In general, judges are appointed by the president after being nominated by a majority of the National Judicial Council. The council is part of the Office of the President and was supposed to receive an independent budget starting in 2007, but changes proposed by the PiS may delay it until 2010. The president also wants to oblige the council to lustrate the courts and make efforts to unify sentencing, but judges call these motions “unconstitutional and aimed at short-term objectives.”²⁴ Polish judges are independent; they cannot be members of political parties or trade unions and cannot perform any public functions that might jeopardize their independence. They must be at least 29 years of age (27 for junior judges), and there is no prerequisite of performing earlier work as prosecutors or lawyers. Judges cannot be arbitrarily dismissed or removed.

Polish courts suffer from inefficiency caused by lengthy proceedings and temporary arrests. By the end of 2005, the ECHR had accepted 51 cases brought by Polish citizens against the country; no violations of the law were found in 12 of the cases. Poles frequently appeal to the ECHR: In 2006, there were 4,470 Polish applications lodged, 3,990 cases “allocated to a decision body,” and 5,816 “inadmissible” cases. At the end of 2006, about 5,100 cases from Poland were pending, representing 5.7 percent of all 89,900 cases from the 46 countries of the Council of Europe to come before the Court.²⁵

In 2006, the Supreme Court took a dangerous position that undermined the direct application of ECHR verdicts in Poland. The case concerned Janusz Podbielski, a Polish craftsman whom a local municipality did not pay for construction work. Podbielski won his case in Strasbourg against the too high fee the Polish court demanded from him in a civil suit, but the Polish Supreme Court refused to renew the case. (In civil suits the fee is obligatory; only in special circumstances might the court give a break to the petitioner.) Podbielski has taken the case back to the ECHR.²⁶

The computerization of court protocols, begun in the late 1990s, has made significant progress but is still far from being completed. The next steps include recording court procedures on audio and video discs. In 2006, there were 800 sets

of equipment installed, and 4,000 more will be installed in 2007. All recordings will be archived.²⁷

Prosecutors are held in low esteem since they are considered part of the judiciary. In fact, however, they are under the control of the executive branch. According to experts, as long as the minister of justice automatically becomes the prosecutor general, there is no chance for autonomous, nonpolitically motivated work by prosecutors, who are under the almost military command of their superiors. Prosecutors themselves express different opinions—only 12 percent say that their superiors put pressure on them.

According to the penal procedures code, prosecutors have three months to present an indictment to the court. In practice, that period is three to four times longer. Prosecutors do not have terms of office but, rather, may be advanced or removed at any time, which happens on a wide scale every four years. The majority have origins in Communist Poland. The left-wing government of Leszek Miller proposed a bill that would have authorized the prime minister to nominate the prosecutor general and instituted four-to-six-year terms for regional and district prosecutors, but the bill failed in the Parliament. The current right-wing cabinet of Prime Minister Jarosław Kaczyński keeps prosecutors firmly in its hands. The result is that prosecutors are easily swayed by political winds, slowing down or accelerating work on individual cases according to their superiors' expectations.

The government kept its promise to introduce 24-hour courts for petty crimes such as pickpocketing, football fan offenses, minor assaults, and so on. Offenders must be accused in 48 hours, and the court has the next 24 hours to sentence them. The new law will go into effect in March 2007. Also in 2007, weekend prisons will be introduced for those serving six months or less. This measure will allow the system to keep twice as many prisoners in the same prison wards, which are now overcrowded. In 2006, there were almost 90,000 prisoners in Poland, while the capacity of prisons was set at 72,000. The minimum standard of three square meters per prisoner has not been maintained since 2003. Under the new measure, 27,000 inmates should be eligible for weekend prisons.²⁸

Corruption

1999	2001	2002	2003	2004	2005	2006	2007
2.25	2.25	2.25	2.50	2.50	3.00	3.25	3.00

The Corruption Barometer, an annual public opinion poll run by the Stefan Batory Foundation, shows that in 2006, for the first time, less than 10 percent of Poles confessed to having given a bribe. For the last six years, the figure has hovered between 14 and 17 percent. Also for the first time, doctors, not politicians, were at the top of the list of bribe takers, yet politicians still came in second.²⁹ Typically, doctors distinguish between flowers or a bottle of good alcohol handed them by a happy

patient and cash given before or after treatment. The first is a “farewell gift,” which Polish doctors have accepted for decades; the second is a bribe. Very low wages in the public health care sector not only require workers to take multiple jobs, but compel them to demand money from patients for hospitalizations and surgeries.

According to the Ministry of Health, the value of yearly bribes in the sector is about 6 billion zlotys (US\$2 billion). The ministry opened a secure telephone hotline to report cases of corruption; it also plans, with the help of the Central Anticorruption Agency established in mid-2006, to use agents to hand out “secret bribes.” Grażyna Kopińska, head of the Stefan Batory Foundation anticorruption program, says the hotline is not enough.³⁰ Other areas filled with corruption are the annual army draft, where getting an “unfit” health grade requires a bribe of between 2,000 and 4,000 zlotys (US\$600 and \$1,200), and traffic offenses, where drunk driving and smaller violations may be fixed with bribes of from 100 to 2,000 zlotys (US\$35–\$706) paid to traffic police. Beginning in 2006, policemen caught taking bribes are stripped of their special pension privileges.

A bribery scheme involving Polish soccer tournaments started in 2005 and gained momentum in 2006. “There is hardly any soccer club from the first and second league whose name has not been mentioned in the corruption context,” said Robert Tomankiewicz, the prosecutor from Wrocław who has been investigating football corruption cases all over Poland. In this investigation, 56 soccer judges and club functionaries were charged, and 4 of them were arrested. The investigation has reached to the top of the Polish Football Union, and only Poland’s successful bid to host the 2012 Union of European Football Associations cup (with Ukraine) stopped further charges.³¹

After the 2006 “good behavior” release of Lew Rywin, who served only half of his two-year sentence, other top corruption prisoners during the year were former SLD deputy Andrzej Pęczak and lobbyist Marek Dochnal. This series of left-wing corruption affairs started back in 2003, with the investigation of Rywin’s corruption proposal to Agora. In the other scandals, Dochnal paid Pęczak to pave the way to then prime minister Leszek Miller and other officials whom he wanted to lobby for privatization deals in the energy sector.

According to Transparency International’s Corruption Perceptions Index (CPI), Poland is still the most corrupt country in the EU, but the situation has been improving. The CPI for Poland in 2005 was 3.4, while in 2006 it rose to 3.7. Poland was ranked 61 among 163 countries in 2005 and 70 in 2006. This positive change in the perception of corruption in Poland was a result of a number of actions: the formation of the CAA, arrests of high-ranking Ministry of Finance officials with Mafia connections, arrests of corrupt SLD politicians, and the extradition motion for Edward Mazur. A U.S. businessman of Polish descent, Mazur was involved in the 2001 murder of Polish police commander Marek Papała and is being held in a Chicago jail.

Still, changes need to occur closer to home, in small and medium-size towns in Poland where local deals with public prosecutors, judges, politicians, and business people are plentiful. Transparency International recommendations for lowering the

corruption level in Poland include one-mandate election precincts, responsibility taken by government officials for wrong decisions and delays in the decision-making process, legal definitions for conflicts of interest, anticorruption procedures in central and local governments, better quality of laws, and an increase in the transparency of administration and public institutions through the full implementation of the 2001 Law on Freedom of Information.³²

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- ¹ See Poland at www.farmsubsidy.org.
 - ² Ewa Siedlecka, "Nowa lustracja narusza prawa człowieka [New Lustration Law Harms Human Rights]," *Gazeta Wyborcza*, December 7, 2006.
 - ³ See *2005 State Treasury Report*, www.msp.gov.pl/index_msp.php?dzial=45&cid=768.
 - ⁴ Report from the commission last session, www.sejm.gov.pl/Biuletyn.nsf/fkskr?OpenForm&SORN.
 - ⁵ Exactly 0.29 percent. See September 25, 2005, elections results available at www.pkw.gov.pl/gallery/33/40/33402.pdf.
 - ⁶ See more in "Against Corruption" at www.batory.org.pl.
 - ⁷ Polish NGOs' 2004 report at <http://english.ngo.pl>.
 - ⁸ NGOs' Web sites: www.ngo.pl; Polish American Freedom Foundation: www.pafw.pl; Stefan Batory Foundation: www.batory.org.pl.
 - ⁹ See more at www.wosp.org.pl.
 - ¹⁰ See more at www.pah.org.pl.
 - ¹¹ Jerzy Pilch, "Para zarejestrowanych prezydentów," [Pair of Registered Presidents], *Polityka*, February 25, 2006.
 - ¹² Terry Davies, "Polsko, strzeż się homofobii," [Poland, Beware of Homophobia], *Gazeta Wyborcza*, October 2, 2006.
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 - ¹⁴ Constitution of Republic of Poland, Article 14, www.sejm.gov.pl/prawo/konst/angielski/kon1.htm.
 - ¹⁵ Wojciech Sadurski, "Cenzura zza grobu," [Censorship from Grave], *Gazeta Wyborcza*, July 31, 2006.
 - ¹⁶ See www.freepress.org.pl/old/280904_marek.html.

- ¹⁷ See <http://www.trybunal.gov.pl/OTK/otk.htm>, sprawa (case) 10/06; see also Ireneusz C. Kamiński, “Polish Media Freedom in Law and Practice,” www.policy.hu/discus/messages/102/ceaserk-evalpolmedialaw.pdf.
- ¹⁸ “Oświadczenie Izby Wydawców Prasy,” [Press Publishers Chamber Statement], *Gazeta Wyborcza*, March 15, 2006.
- ¹⁹ “Oświadczenie mediów po skandalu w Sejmie,” [Media Statement After a Scandal in the Parliament], *Gazeta Wyborcza*, February 4–5, 2006.
- ²⁰ All numbers are second quarter of 2006 sold copies; data from Press Distribution Control Association, http://www.teleskop.org.pl/dane_ogolnodostepne.php.
- ²¹ More of TVP monitoring at www.batory.org.pl.
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