

Poland

by Krzysztof Jasiewicz

Capital: Warsaw
Population: 38.2 million
GNI/capita, PPP: US\$19,160

Source: The data above were provided by The World Bank, *World Development Indicators 2012*.

Nations in Transit Ratings and Averaged Scores

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Electoral Process	1.50	1.50	1.75	1.75	2.00	2.00	2.00	1.75	1.50	1.25
Civil Society	1.25	1.25	1.25	1.25	1.50	1.25	1.50	1.50	1.50	1.50
Independent Media	1.75	1.75	1.50	1.75	2.25	2.25	2.00	2.25	2.25	2.25
Governance*	2.00	2.00	n/a							
National Democratic Governance	n/a	n/a	2.50	2.75	3.25	3.50	3.25	3.25	2.75	2.50
Local Democratic Governance	n/a	n/a	2.00	2.00	2.25	2.25	2.00	1.75	1.75	1.75
Judicial Framework and Independence	1.50	1.50	2.00	2.25	2.25	2.50	2.25	2.50	2.50	2.50
Corruption	2.50	2.50	3.00	3.25	3.00	3.00	2.75	3.25	3.25	3.25
Democracy Score	1.75	1.75	2.00	2.14	2.36	2.39	2.25	2.32	2.21	2.14

* Starting 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(s) of this report. The opinions expressed in this report are those of the author(s). 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

In 2011, the political process in Poland generated further evidence of democratic consolidation and sustainability. The October parliamentary elections resulted in a second term for the parties of the ruling coalition, marking the first such consecutive victory in the history of postcommunist Poland. The achievement indicated that in addition to sound mechanisms of accountability that allow for a change of government through free and fair elections, Poland possesses the attributes of stability and continuity in governance that characterize a mature democracy. The success of the center-right Civic Platform (PO) party and its governing partner, the Polish Peasant Party (PSL), also suggested that Polish voters may be willing to reward parties for their actual policies and contributions to good governance rather than continually throwing their support behind the “highest bidder” in the competition of preelection promises.

The reelection of Prime Minister Donald Tusk’s government was even more remarkable given its international and domestic context. It came amid global economic turbulence and the financial crisis in Europe, which has brought down several governments. Domestically, the election took place in the long shadow of the April 2010 plane crash in Smolensk, Russia, that killed President Lech Kaczyński, his wife, and dozens of senior Polish civilian and military officials. The disaster had prompted disputes over political and criminal responsibility and the most proper ways to honor the victims, increasing the level of polarization in Polish politics. However, the issue was for the most part set aside during the election campaign, allowing for a more civil debate on party platforms and government policies.

National Democratic Governance. Since the end of communist rule in 1989, no prime minister has served for more than one four-year term of the Sejm, the lower house of parliament, and very few have remained in power for even one full term. However, on 9 October 2011, Polish voters for the first time delivered an electoral victory to the parties of the ruling coalition, the PO and PSL, giving Prime Minister Tusk a new mandate. The accomplishment brought a much-desired sense of durability to Polish politics, and indicated the emergence of a more stable and coherent party system. *Poland’s national democratic governance rating improves from 2.75 to 2.50.*

Electoral Process. The parliamentary elections on 9 October were free from disturbances, conflicts, or violations of civil rights. They were governed by a new electoral code that was adopted unanimously in the Sejm, and featured the addition of gender quotas to party lists as well as new mechanisms for absentee voting. Media coverage was seen as balanced, and campaign rhetoric was less hostile and polarizing

than in previous years. Although the results confirmed the dominance of the two main parties, the PO and the opposition conservative Law and Justice (PiS), the system was open to the entry of new players, namely the liberal Palikot Movement. *Poland's electoral process rating improves from 1.50 to 1.25.*

Civil Society. Polish nongovernmental organizations were instrumental in various actions undertaken to protect civil liberties in 2011, and public opinion data show that citizens feel more empowered to influence politics than at any time in the recent past. However, there is still substantial room for improvement with respect to the mobilization and influence of ordinary citizens and informal networks. *Poland's civil society rating remains unchanged at 1.50.*

Independent Media. Amendments to the new electoral code passed in February 2011 would have limited campaigning on radio and television to the unpaid time allocated to all parties or candidates. However, the changes were rejected by the Constitutional Tribunal as a violation of constitutional guarantees of freedom of speech. Other free speech related legislation submitted by the government raised concerns during the year, but the Polish media, which individually may voice their partisan preferences, collectively served the public interest well, scrutinizing government policies and the actions of all political factions. *Poland's independent media rating remains unchanged at 2.25.*

Local Democratic Governance. Throughout 2011, local authorities elected at the end of previous year were occupied mostly with routine matters. The major exception was the Union of Mayors-Citizens to Senate movement, which was launched by several mayors to support independent senate candidates in the October parliamentary elections. The effort was largely unsuccessful, as only one candidate endorsed by the mayors won a seat. *Poland's local democratic governance rating remains unchanged at 1.75.*

Judicial Framework and Independence. Contemporary Poland inherited many ills of the communist-era judiciary, including practices that undermine the independence of the state prosecutor. The courts and prosecutorial offices are understaffed, which leads to delays at all stages of the judicial process. Judges and prosecutors are also underpaid, which exposes them to bribery and undue pressure from elected and appointed state officials. Because there was no significant progress in addressing these problems in 2011, *Poland's judicial framework and independence rating remains unchanged at 2.50.*

Corruption. Poland has a well-developed network of institutions dealing with the problem of corruption. However, developments in 2011 confirmed suspicions that the anticorruption institutions themselves are not entirely free from corruption, with some officials serving partisan political interests rather than the public interest. *Poland's corruption rating remains unchanged at 3.25.*

Outlook for 2012. The next scheduled elections, to the European Parliament and municipal offices, are set for 2014, while the next parliamentary and presidential elections are not due until 2015. This should give the government ample time to design and implement necessary reforms in the domains of public policy and the economy. These reforms will unavoidably include substantial austerity measures. While Poland's economy has been growing at a steady pace, other important statistics provide reasons for concern. Although government debt, at 54.9 percent of gross domestic product (GDP), was still well below the European Union average of 80.2 percent in 2011, the budget deficit, at 7.8 percent of GDP, was slightly above the EU average, and has risen during all four years of the PO-PSL administration. The current government may have to use its renewed electoral mandate to introduce steps that will be unpopular with the public. This will have to be done in coordination with the EU, in which Poland seeks to play a significant role despite remaining outside the eurozone monetary union.

MAIN REPORT

National Democratic Governance

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
n/a	n/a	2.50	2.75	3.25	3.50	3.25	3.25	2.75	2.50

In 2011, the political process in Poland generated further evidence of democratic consolidation and sustainability. In his famous essay *Reflections on the Revolution in Europe*, Ralf Dahrendorf postulated that a postcommunist democracy must undergo at least two changes of government—one in the neoliberal, the other in the social-democratic direction—to be considered mature, or “normal.”¹ Yet a mature democracy is also characterized by indications of stability and continuity in governance. In Poland, “Dahrendorf’s pendulum” has been swinging back and forth every fourth year, if not more often, since 1989. This pattern came to an end on 9 October 2011, when Polish voters for the first time delivered an electoral victory to the parties of the ruling coalition. The success of the center-right Civic Platform (PO) party and its governing partner, the Polish Peasant Party (PSL), brought a much-desired sense of durability to Polish politics. It also suggested that Polish voters may be willing to reward parties for their actual policies and contributions to good governance rather than continually throwing their support behind the “highest bidder” in the competition of preelection promises.

The reelection of Prime Minister Donald Tusk’s government is even more remarkable given its international and domestic context. It came amid global economic turbulence and the financial crisis in Europe, which has brought down several governments. Tusk and his ministers proudly presented Poland as a “green island” in Europe—the only economy in the European Union (EU) that has not experienced recession during the turmoil of the past four years.

Domestically, the elections took place in the long shadow of the April 2010 plane crash in Smolensk, Russia, that killed President Lech Kaczyński, his wife, and dozens of senior Polish civilian and military officials. Disputes over political and criminal responsibility for the accident and the most proper way to honor the memory of those who perished increased the level of contentiousness and polarization in Polish politics.

At the opposite sides of this political divide are the ruling PO and its main opponent, the conservative Law and Justice (PiS) party of the late president Kaczyński and his twin brother Jarosław. While both groupings have roots in the anticommunist Solidarity movement of the 1980s, they offer significantly different visions for the social and political order in Poland, and for Poland’s place in Europe. PiS emphasizes the need to preserve the Polish nation as a community based on traditional values, rooted in the Roman Catholic religion, and bonded by a sense of social solidarity. PO, without negating the importance of national traditions, tends to stress the modernization of Poland along Western European lines, with a

free market economy, pluralist democracy, and respect for individual human rights. Both parties were established in 2001 and have jointly dominated Polish politics since 2005. Once coalition partners on the local level, the two gradually grew apart and eventually became bitter enemies. The controversies following the Smolensk accident only deepened this enmity.

There are, however, indications that many in the electorate are weary of the established parties and their disputes. A new organization, Palikot's Movement (RP), was founded in 2010 by Janusz Palikot, a former PO deputy who left the party and gave up his Sejm seat. In 2011, RP apparently attracted voters at the liberal extreme of the cultural divide who would otherwise vote for the Democratic Left Alliance (SLD) or PO, or abstain altogether.

Palikot and other leaders of his organization—among those elected to the Sejm were a prominent radical feminist and Poland's first transgender member of parliament—expressed their criticism of the public role of the Roman Catholic Church, and voiced support for the relegalization of abortion on demand, the legalization of in vitro fertilization, and the decriminalization of soft drugs (marijuana). On economic issues, however, the RP advocated more right-leaning policies, such as a universal flat tax.²

A second new entrant, the Poland First party (*Polska Jest Najważniejsza*, or PJN), failed to win any seats. Established in 2010 by a group of dissenters from PiS, it has been plagued by internal strife. Its original leader, Joanna Kluzik-Rostkowska, who had been the campaign manager of Jarosław Kaczyński's unsuccessful presidential bid in 2010, eventually left PJN and was elected to the Sejm on the PO list. More importantly, however, it seems that the core PiS electorate is so devoted to the party's brand and to Jarosław Kaczyński personally that no dissident group from within the PiS leadership could attract a substantial following.³ Recent postelection analyses by the Center for Public Opinion Research (CBOS) indicate that PiS supporters would rather stay home on election day than vote for another party. Of those who voted for PiS in 2007, 57 percent did the same in 2011, while 31 percent abstained; only 4 percent switched to PO, while PJN drew a mere 2 percent of this group.⁴

The unique durability of PiS's electoral base is anchored in its demographic, social, and cultural characteristics. Since the demise of the League of Polish Families in 2007, when PiS essentially absorbed that party's electorate,⁵ it has been the only faction presenting itself as a voice for those who are at once economically underprivileged, culturally conservative, and politically authoritarian.⁶ These older, less educated voters are unlikely to follow dissenters who criticize Jarosław Kaczyński's autocratic leadership style. Nevertheless, a group of deputies elected on the PiS ticket in October 2011 left the party even before the first session of the Sejm, establishing a new caucus called *Solidarna Polska* (SP, loosely translated as Poland in Solidarity). It has so far failed to win more than 2 percent support in public opinion polls.

Unlike PiS, PO has experienced no significant dissent in its leadership, despite the potential votes that were apparently lost to Palikot.⁷ On the contrary,

it successfully won over a broad range of leaders from other parties, from Kluzik-Rostkowska on the right to Dariusz Rosati, a former minister in SLD governments, on the left. However, the intensity of PO's hallmark commitment to effective governance and broadly understood policies of modernization arguably weakened in the months—if not years—preceding the election. The Tusk government did not undertake any major reforms in social or economic policy, and carefully avoided potentially controversial issues such as the legalization of *in vitro* fertilization. This cautious course was indirectly abetted by the opposition, which was similarly wary of alienating voters ahead of the elections.

The most prominent point of contention between PO and PiS in 2011 was the question of responsibility for the Smolensk catastrophe. The Tusk government, following the rules of the Convention on International Civil Aviation (or Chicago Convention), had cooperated with the Moscow-based Inter-State Aviation Committee (MAK) in investigating the causes of the crash. Yet the Polish and Russian sides presented separate findings. The MAK report, published on 12 January, put the blame exclusively on the Polish crew, which made a landing attempt in extremely unfavorable weather conditions. The report of the Polish team, led by Internal Affairs Minister Jerzy Miller, was published on 29 July. It fully recognized the errors committed by the crew, but also pointed out the flaws in the actions of Russian air-traffic controllers and the technical conditions of the airfield. Most importantly, however, the Polish report presented a devastating picture of the insufficient training of pilots and the disregard for proper procedures in the Polish air force. Defense Minister Bogdan Klich resigned on the day the findings were published. Tusk also dismissed or demoted three generals and ten other officers, and ordered the disbandment of the air force regiment responsible for VIP flights. The scale and severity of these penalties surprised even critics of the way the Tusk government had handled the investigation.

In 2010, PiS deputies to the Sejm had established an extraconstitutional committee to monitor the progress of the official investigation. On 29 June 2011, the panel released its own document, which included suggestions of Russian culpability for the crash and a cover-up by the Tusk government. The evidence to support these claims has been dismissed or at least questioned by the government and independent experts, with many points addressed directly or indirectly in the Miller report.

One other matter that stirred controversy during the year was the future of the EU, whose rotating presidency Poland assumed for the second half of 2011. On 28 November, Foreign Minister Radosław Sikorski outlined his vision for a federal Europe in a speech delivered in Berlin. His proposals, which would limit the sovereignty of EU member states, touched off a heated debate, in Poland as much as abroad.⁸ The PiS and PjN deputies to the Sejm submitted a motion for a vote of no confidence in Sikorski. The motion was soundly defeated, even though Tusk and President Bronisław Komorowski, who had apparently been unaware of the exact content of Sikorski's speech before it was delivered, gave their foreign minister rather lukewarm support.

Electoral Process

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1.50	1.50	1.75	1.75	2.00	2.00	2.00	1.75	1.50	1.25

The 9 October elections for the Sejm and senate, like all recent balloting, took place in an orderly fashion, without any major disturbances, conflicts, or violations of civil rights. They were the first elections conducted under an electoral code that had been unanimously adopted by the Sejm in December 2010 and amended in early 2011. Some provisions were later challenged as unconstitutional by a group of PiS members of the Sejm, and the Constitutional Tribunal struck down its restrictions on campaign advertising (see Independent Media) and extension of the voting period for more than one day. Of the provisions that passed constitutional muster, the most important was the introduction of single-member constituencies and plurality (first-past-the-post) voting in the senate elections. This system replaced a candidate-centered bloc vote that had been used, with modifications, since 1989. Candidates had competed in two-to-four-member constituencies, with voters allowed to cast as many votes as the number of seats allotted to the constituency. The tribunal also allowed the new code's mechanisms for voting by proxy and absentee voting by mail, and the introduction of a gender quota for party candidate lists, so that each gender has at least 35 percent representation.

The Sejm elections were contested by 11 parties and organizations, seven of which managed to register their lists of candidates in all 41 electoral districts. Among them were the four parties that had won seats in the Sejm elected in 2007: PO, PiS, the SLD, and the PSL. The others with nationwide registration were PJN, RP, and the Polish Labor Party–August '80 (PPP-Sierpień 80). The electoral commission denied nationwide registration for Janusz Korwin-Mikke's New Right party due to an insufficient number of petition signatures, and the courts upheld the decision.

The electoral campaign was dominated by the PO-PiS rivalry, though contrary to expectations, the question of responsibility for the 2010 Smolensk accident did not feature prominently in the preelection discourse. The parties of the ruling coalition, PO and PSL, emphasized the government's accomplishments in preserving political and economic stability in the country. PiS seemed to inadvertently acknowledge these accomplishments in its electoral slogan, "Poles deserve more." PiS leader Jarosław Kaczyński, who had blamed the moderate tone of his campaign for his defeat in the 2010 presidential vote, again chose to avoid contentious statements. He also refused to participate in live debates with the leaders of other parties. Only in the final days of the campaign did he make some controversial remarks about German chancellor Angela Merkel, which were promptly criticized by his rivals.

After the relatively mild campaign, the election results were anticlimactic, generally matching the predictions of opinion polls. The parties of the ruling coalition gathered enough votes to secure a majority in the Sejm, and opposition leaders promptly acknowledged this fact in their concession speeches. According to the official results, PO collected 39.2 percent of the vote and 207 seats in the

Sejm, followed by PiS with 29.9 percent and 157 seats, RP with 10 percent and 40 seats, PSL with 8.4 percent and 28 seats, and SLD with 8.2 percent and 27 seats. PJN (2.2 percent), New Right (1.1 percent), PPP (0.5 percent), and Right (0.2 percent) all failed to clear the 5 percent threshold for representation. An organization representing the ethnic German minority, which is exempt from the 5 percent barrier, was granted one seat after earning 0.2 percent of the vote.⁹

The election results confirmed the strength of PO and PiS, which together collected 70 percent of the popular vote, essentially the same as in 2007 (74 percent), and in the first rounds of the presidential elections in 2005 (69 percent) and 2010 (78 percent). The new first-past-the-post system in the senate elections gave these two parties an even greater advantage. Of the 100 senate seats, PO won 63, PiS 31, and PSL 2. The remaining four went to independents, three of whom had been endorsed by PO, which did not compete in their districts.

The 2011 elections also reiterated the known demographic characteristics of the PO and PiS. The latter has a devoted following in rural areas, particularly among people with elementary-level or vocational education, and among those over the retirement age. PO enjoys strong support among the urban middle class, especially at higher levels of education, and in the middle-aged and younger segments of the population.¹⁰ Geographically, PO triumphed in 11 provinces, and PiS in only five, all located in the east and southeast of the country.

Postelection analyses published by CBOS indicate that RP, which emerged as the third strongest party in the Sejm, did particularly well among the youngest voters, winning 21 percent support among 18- to 24-year-olds and as much as 27 percent among high school and college students.¹¹ There is also a clear negative relationship between voting for RP and levels of religiosity. The party received virtually no support among those who go to church more than once a week, and 20 percent among those who never attend religious services. Curiously, despite the feminist rhetoric of its leaders, RP did significantly better among men (12 percent) than women (8 percent).¹² The patterns of support for RP demonstrate that it found two possibly overlapping niches in the electorate: those tired of the PO-PiS quarrels and those seeking political representation for their secular and liberal cultural values.

The new gender quota for party lists generated only a modest improvement in women's representation in the Sejm. While women accounted for 43.5 percent of all Sejm candidates, they made up 23.9 percent of those elected—up from the 20.4 percent recorded in 2007. This discrepancy is mostly due to the fact that women were seldom placed at or close to the top of the list. While all major parties fielded a similar proportion of female candidates, from 39.8 percent to 44.5 percent, PO had by far the highest fraction of women elected, at 35.8 percent. PiS had 17.2 percent, SLD 14.8 percent, RP 12.5 percent, and PSL 7.1 percent.

Civil Society

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1.25	1.25	1.25	1.25	1.50	1.25	1.50	1.50	1.50	1.50

Poland boasts a vibrant civil society with respect to its formal nongovernmental organizations (NGOs), as opposed to informal networks and individual activists. The many NGOs active in the country include chapters of such international organizations as Transparency International, Reporters Without Borders, and the Helsinki Foundation, as well as homegrown groups. Among the latter, the Batory Foundation has monitored election coverage by Polish media since 2006, and in 2011 it issued its report on the parliamentary elections. The Institute for Public Affairs (ISP), a think tank studying the quality of democracy, public debate, and social policy in Poland, has also made a significant impact, issuing analyses that contributed to provisions of the new electoral code.

NGOs were instrumental in various actions undertaken to protect civil liberties in 2011. In March, a broad coalition of NGOs, media outlets, business organizations, journalists, and internet users prevented the inclusion of provisions in an amended media law that could have facilitated state censorship of internet content. Another campaign aimed at blocking legislative changes on public access to information was less successful. The government's original proposal gave state bodies the right to limit or deny access to information to protect "important state interests." This provision was harshly criticized by a number of NGOs and media groups, such as the Helsinki Foundation, the Batory Foundation, and the Chamber of Press Publishers. Eventually, a compromise version was agreed upon and passed in the Sejm, but the Senate restored the original language. While appeals to the Sejm and the president to reject the amendment were fruitless, the NGOs have not abandoned the issue, urging the new Sejm to place it on its agenda.

An even broader campaign has been launched under the slogan "Strike Out 212 KK" (*Wykreśl 212 KK*). Its goal is to remove from the penal code Article 212, which criminalizes defamation and prescribes fines or even jail time for defamatory statements that are disseminated in mass media, including the internet. The action was initiated by the Helsinki Foundation, the Association of Local Newspapers, and the Chamber of Press Publishers, and joined by other NGOs, media outlets, and bloggers. The organizers of the campaign point out that Article 212 is typically used not to defend personal dignity, but to curb criticism of authorities, in particular on the local level, by the media or even private citizens. The campaign began as a single webpage and now boasts over 280,000 webpages and hundreds of news items addressing the issue.¹³

While Poland's NGO sector is strong, theorists from Adam Ferguson to Robert Putnam have argued that the concept of civil society refers not only to formally registered organizations, but also to the activities of informal groups and networks, and of individual citizens in their neighborhoods, places of employment, and elsewhere.¹⁴ In this respect, Polish civil society still has substantial room for improvement. For example, levels of electoral participation have been notoriously

low by European standards. Turnout for the October 2011 elections was only 48.9 percent, almost 5 percent lower than in 2007. Moreover, Poles rarely engage in organized, unpaid activities for the benefit of their communities. In a CBOS survey conducted in April 2011, only 24 percent of respondents claimed to have committed any of their free time to work for any organization over the past year. Among those who volunteered their time, a plurality of 30 percent did so for various charities. Others volunteered for groups including educational organizations (such as teacher-parent associations), churches and religious communities, sports clubs, and firefighting squads. However, when asked if they volunteered their time and efforts individually, outside any organizational framework, a full 80 percent responded positively, citing work done for their relatives (69 percent), friends (67 percent), neighbors (49 percent), individual strangers (36 percent), or their local community (20 percent).¹⁵ Most of those who engaged in such activities cited their personal conviction that people should help one another. Polish citizens also display a sense of their own empowerment: the fraction of those who believe that people like themselves can work together to resolve important problems within their local community or social group has reached almost two-thirds of CBOS respondents.¹⁶

Independent Media

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1.75	1.75	1.50	1.75	2.25	2.25	2.00	2.25	2.25	2.25

Opponents of restrictions on political speech in Poland scored an important victory in 2011. On 3 February, less than a month after the new electoral code became law on 5 January, the Sejm voted to amend it with provisions including bans on the use of paid campaign advertisements on radio and television and the display of posters larger than two square meters. Those restrictions would effectively limit campaigning on radio and television to the unpaid time that is allocated to all parties or candidates, as well as prevent the use of billboard advertisements. Supporters of the regulations said they would reduce the expenses associated with electoral campaigns and level the playing field by giving all parties or candidates essentially the same advertising resources.

The new provisions were contested by some PiS deputies, who requested a review by the Constitutional Tribunal. In its 20 July decision, the court found that such restrictions violated constitutional guarantees, pointing out that the appropriate way to limit the election-related expenses would be a specific regulation of campaign financing, not a general restriction of the freedom of speech. Unlike the votes in the Sejm on both the December 2010 bill and the February 2011 amendments, the court's decision was not unanimous.¹⁷

The Polish government submitted two other legislative initiatives in 2011 that could infringe on freedom of speech. In March, the parliament debated revisions of the legislation regulating electronic media as part of a broader reform designed to make Polish law compatible with EU rules. Among the proposed changes was a

senate-backed requirement that all online video-on-demand (VoD) services register with the National Broadcasting Council (KRRiTV). This caused an uproar among Polish internet providers, journalists, and users who interpreted it as a barely veiled attempt to subject internet content to state censorship. Indeed, the measure's vague definition of VoD services allowed a very broad interpretation, essentially requiring formal registration of any website containing video material. However, this apparently was not the government's intention. Prime Minister Tusk, responding to the criticism, asked the senate to amend the bill by removing the controversial passages related to the internet. The senate complied, and the Sejm confirmed its changes.

In September, in another attempt to harmonize Polish and EU legislation, the parliament revised the law regulating public access to information. As noted above, the senate added an amendment that gave state bodies the right to limit or deny such access to protect "important state interests." Subsequently, the Sejm accepted the senate's changes and the bill was sent to the president, who had the options of vetoing it, sending it for review by the Constitutional Tribunal, or signing it into law. President Komorowski chose to sign it, citing the urgency of meeting EU expectations.¹⁸ The new Sejm elected in October will in all likelihood revisit the controversial provision.

Other threats to independent media in 2011 arose outside the legislative sphere. On 17 May, officers of the Internal Security Agency (ABW) searched the residence of a blogger who ran a service devoted to critical and satirical materials aimed at Komorowski. The legal basis for the investigation and search warrant was Article 135.2 of the penal code, which prescribes jail time for defamation of the president. In addition, the authorities cited the fact that the content of the service included the encouragement of acts of violence (terrorism). The ABW raid prompted renewed calls for the deletion of Article 135.2 from the penal code. An even broader action has been aimed at the deletion of Article 212, which penalizes defamation of any person in mass media (see Civil Society).

Controversy over the functioning of the KRRiTV continued during the year. The council was created in 1992 to provide unbiased control of both public and private media. Since its inception, however, the KRRiTV has been a highly politicized body. In June 2010, the Sejm, senate, and acting president rejected the council's annual report, which automatically terminated its tenure. In August that year, after amendments were made to the media law, the Sejm, senate, and president chose appointees to serve six-year terms on the new KRRiTV. Subsequently, the council selected new program and management bodies for the public broadcasters Polish Radio and TVP. However, partisan disputes between government (PO) and opposition (SLD) appointees to the KRRiTV cast doubt on the integrity of the process. The bickering extended in 2011 to the PR and TVP managing boards, and also involved appointees associated with the PSL, the junior partner in the ruling coalition. In response to these prolonged quarrels, both the Sejm and the senate rejected the council's annual report in 2011. With the exception of the SLD, whose share of seats on the KRRiTV exceeded by far its strength in the parliament,

all parties supported the rejection. However, President Komorowski decided to accept the report, giving the KRRiTV and the managing boards of the RP and TVP another year to improve their performance.

The partisanship affecting the TVP management was only sparsely reflected in its news programs, including its coverage of the national elections. As in previous years, the Batory Foundation monitored the six most-watched television news programs, four on public and two on private networks. Unlike during the 2010 presidential election, when the TVP was heavily biased in favor of Jarosław Kaczyński and SLD candidate Grzegorz Napieralski, the 2011 election coverage was found to be generally nuanced and evenhanded, though the producers of particular programs in most cases still followed their partisan preferences in the selection of news items and in editorials.

Partisanship remains the most notable feature of Polish print and electronic media, and they often engage in tabloid-style speculation rather than solid investigative reporting. But while individual outlets display various ideological leanings, they collectively serve the public interest well by playing a watchdog role with respect to government policies and the actions of all political factions. They typically act as agents of civil society, and in return receive support of NGOs and the public when threats to press freedom arise.

Local Democratic Governance

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
n/a	n/a	2.00	2.00	2.25	2.25	2.00	1.75	1.75	1.75

Since the end of communist rule, Poland has developed a well-functioning system of local democratic governance. A series of reforms designed by both practitioners and academics, such as Jerzy Regulski and Michał Kulesza, were implemented in 1990, 1998, and 2002, reintroducing principles of local self-governance that had been abolished by the communist regime. Above all, the reforms made the municipality (*gmina*) the basic unit of public administration, endowed with all powers that are not specifically reserved for other levels of government. In addition, the reforms established the three-level administrative division of the country and direct elections for municipal leaders. Local elections conducted in November and December 2010 provided substantial evidence of the viability of local democracy in Poland.

Throughout 2011, the local authorities elected at the end of the previous year were occupied mostly with routine matters. One development, however, deserves special attention.

The new electoral code, used for the first time during the October 2011 parliamentary elections, introduced single-member constituencies and a plurality or first-past-the-post voting system for the senate. Until 2011, senators had been elected in two-to-four-member districts, with voters casting as many ballots as there were seats in their district. The top vote-earners were awarded the seats. The

rationale for the reform was to simplify the electoral rules and create a more direct bond between voters and elected officials.

This reasoning also became the basis of an initiative by the mayors of several major cities. In the 2010 local elections, independent mayoral candidates had won in 64 of the 107 largest cities, many by a landslide. In July 2011, eight of these independents, including Rafał Dutkiewicz of Wrocław, Jacek Majchrowski of Kraków, Wojciech Szczurek of Gdynia, and Wojciech Lubawski of Kielce, launched a movement to support independent candidates in the senate elections, known as Union of Mayors-Citizens to Senate (*Unia Prezydentów Miast-Obywatele do Senatu*). They were soon joined by other mayors and received endorsements from many business leaders and intellectuals.¹⁹

The mayors sought to break or at least make a dent in the two main parties' domination of the Polish political scene. They criticized the PO-PiS rivalry and the political polarization it caused, arguing that the parties had become so entangled in their quarrels with each other that they had ceased to truly represent the interests of citizens. But the mayors rejected the idea of establishing a new party, believing that any such group would eventually have to commit itself to narrow, partisan interests.

The movement's founders also had a more far-reaching goal in mind. In their opinion the senate should no longer play the limited role of a "chamber of reflection"—meant to correct whatever errors the Sejm might have made or overlooked in a given bill. Instead, the mayors reasoned, the senate should represent the interests of local communities and enable ordinary citizens to "regain real influence over public life."²⁰

The Citizens to Senate movement eventually fielded or endorsed 46 candidates to run for seats in the 100-member senate. However, despite a well-designed campaign and a generally warm reception in the media, only one among them, Jarosław Obremski of Wrocław, was successful. Obremski, who collected 42 percent of the votes, defeating a PO candidate with 35 percent, ran on the coattails of the extremely popular Mayor Dutkiewicz, the informal but unquestioned leader of the movement. Elsewhere, the independent candidates failed to mount a serious challenge to the two major parties.

The outcome of the Citizens to Senate campaign was consistent with predictions based on political science literature. The so-called Duverger's Law,²¹ from the name of the French sociologist Maurice Duverger, states that plurality-based voting tends to favor the strongest parties and generate two-party systems. In the 2011 senate election, the PO and PiS won a combined 94 percent of the senate seats, compared with only 70 percent in the Sejm, which uses a proportional-representation system. Furthermore, the fact that the elections to the Sejm and the senate were conducted concurrently could have led many voters to support the same ticket in both contests. Voters may have also been driven by other considerations, such as a desire to secure support in both chambers of the legislature for a government of their favorite party. The history of elections in democratic Poland seems to bolster this supposition: the parties that did best in the Sejm elections have generally dominated the senate as well. By contrast, in direct mayoral elections, as in 2010, voters may be more

attuned to the specific credentials of particular candidates, and especially to their past accomplishments in a given role. For example, Dutkiewicz won reelection in Wrocław with almost 80 percent support. Ultimately, the change in the senate voting system did not substantially alter these dynamics.

The fate of the Citizens to Senate initiative illustrated the durability of Poland's party system—a desirable quality given the system's past volatility and the international context of collapsing public trust in political parties. But it speaks also volumes about the vibrancy of Polish local democracy. This is not likely to be the last national initiative by the mayors and residents of Polish cities.

Judicial Framework and Independence

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1.50	1.50	2.00	2.25	2.25	2.50	2.25	2.50	2.50	2.50

The judicial framework of contemporary Poland has its roots in both the pre–World War II Polish state and the postwar communist regime. Formally, it does not differ significantly from analogous institutions in other continental European states, with independent courts and a centralized system of state prosecutors' offices. Besides the system of common courts, there are also the Chief Administrative Court, the Constitutional Tribunal, and the Tribunal of State. All of these institutions proved well suited to the needs of a young democracy and have enjoyed high levels of esteem among the public.

Beyond the sound institutional framework, however, the contemporary Polish law enforcement system and judiciary suffer many ills. Polish judges and prosecutors are overworked, which leads to delays at all stages of the judicial process. They are also underpaid, which exposes them to the temptations of bribery and to undue pressure from elected and appointed state officials. There was no significant progress on addressing these problems in 2011.

The flaws in Polish law enforcement expose the government not only to the criticism of the public, but also to scrutiny by international institutions, such as the European Court of Human Rights (ECHR). In 2011, the court issued its judgment in a particularly controversial case, *Mirosław Garlicki v. Poland*. Garlicki, a prominent heart surgeon, was arrested in February 2007 on charges of corruption, abuse of power (in relation to his coworkers), and involuntary manslaughter (for the deaths of heart-transplant patients due to negligence). The case received unusually intensive coverage in the media, with the handcuffed suspect paraded in front of television cameras. Furthermore, after the arrest, top state officials at the time openly expressed their belief in Garlicki's guilt, including Justice Minister and Prosecutor General Zbigniew Ziobro, Health Minister Zbigniew Religa, and Prime Minister Jarosław Kaczyński. Garlicki was released on bail after three months in jail. Most of the charges were later dropped, and the accused was acquitted of others; one charge of involuntary manslaughter was still pending at the end of 2011.

Garlicki, who has always maintained his innocence, sued Ziobro for defamation and won the case in the Polish courts, but decided to seek an additional judgment at the ECHR. The Strasbourg-based tribunal ruled in favor of the applicant, finding that his arrest warrant was issued improperly by a clerk who lacked judicial independence as defined by European standards. The court stated that other claims by Garlicki, including improper treatment while in custody and violation of the presumption of innocence, although supported by the evidence provided, either should be or already had been addressed by the Polish courts.

The case was in many ways typical of the complaints brought by Polish citizens against their state at the ECHR. Of the 26 judgments the court issued in cases involving Poland in 2011, the majority were related to violations of Articles 3, 5, and 6 of the European Convention on Human Rights (seven, nine, and nine cases, respectively). The cases under Article 3, which prohibits torture and inhuman or degrading treatment, have often pertained to inhuman conditions in Polish prisons. Article 5 guarantees the right to liberty and security, and forbids unlawful arrest or detention, as in the Garlicki case. Article 6 guarantees the right to a fair and speedy trial.²²

No one in Poland denies the factual background of such cases. The overworked judges and prosecutors often make hasty decisions regarding arrest or continued detention, which leads to the overcrowding of jails and increases the backlog of cases. While reforms are being introduced, they are proceeding slowly. For example, the question of political pressure on state prosecutors was addressed in 2010 with the separation of the office of prosecutor general from that of justice minister. It is still too soon to assess the effectiveness of this change.

The heavy caseload of the courts may be relieved to some extent by the introduction of e-courts. In this system, small claims are submitted and judgments are delivered via the internet. The first such court was established in 2010 and based in Lublin, though it accepts cases from the entire country. By July 2011 it had accepted and resolved over a million cases.²³

However, the government and the judicial profession may have differing visions for further reform. The latter has historically been organized in a guild system, with separate associations for judges, prosecutors, defense attorneys, and the like. It tends to tightly guard its group interests, for instance by controlling access to the profession through an intricate system of clerkships and internships. The government would prefer broader access and more transparent rules guiding the process, and its newly appointed justice minister, Jarosław Gowin of PO, is not a lawyer, meaning he will presumably be free of professional biases as he pursues judicial reform.

There are also signs that the problem of partisanship in the judiciary and law enforcement may be receding. In 2010, Sejm deputies from the ruling PO party refused to support a well-qualified candidate for a seat on the Constitutional Tribunal, because his candidacy was submitted by the SLD, an opposition party. However, the PO deputies corrected their stand in May 2011, when the candidacy of Andrzej Wróbel, a law professor from Kraków, was resubmitted by the SLD. He was elected with 243 votes, versus 148 for his PiS-backed competitor.

Corruption

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
2.50	2.50	3.00	3.25	3.00	3.00	2.75	3.25	3.25	3.25

Poland has a well-developed network of institutions that deal with the problem of corruption. In the 2007–11 PO-PSL government there was a separate ministerial portfolio to coordinate anticorruption efforts, though this position was abolished after the October 2011 elections. The Central Anticorruption Bureau (CBA), established in 2006, has been charged with both coordinative and investigative tasks. The Internal Security Agency (ABW), the Central Bureau of Investigations (CBS), and other police units and state prosecutors' offices also participate in combating corruption.

However, a sound institutional framework does not guarantee successes in the elimination of corruption. Developments in 2011, as in previous years, bolstered the idea that the anticorruption institutions themselves are not entirely above suspicion, as their leaders may serve partisan political interests, act on behalf of former or potential business partners, or simply seek personal gain. Even if suspicions aired in the media are eventually found insufficient to merit an investigation, the public rightly remains wary of any overlap between business and public service. For instance, General Krzysztof Bondaryk, head of the ABW, was accused in June of exercising undue influence on behalf of, and receiving favors from, his former employer, the communications company ERA. Prime Minister Tusk accepted Bondaryk's confidential explanations and took no disciplinary action, though this failed to dispel the doubts of many observers.

Two older corruption scandals progressed during 2011. In April, a state prosecutor's office closed its investigation of the so-called Gambling Affair, having found no grounds to charge anyone with a crime. The case centered on two PO politicians, Zbigniew Chlebowski and Mirosław Drzewiecki, who were accused of exercising undue influence on a bill regulating the gambling industry, allegedly on behalf of business interests. They had been already cleared of any punishable wrongdoing by a Sejm investigative committee, and by the government in a special report in 2010. The prosecutor's decision closed the case, but neither of the two accused politicians has so far returned to work in PO. Chlebowski ran unsuccessfully for a senate seat as an independent candidate.

Separately, a special committee of the Sejm, appointed in 2007, concluded its examination of the case of Barbara Blida, a former minister in an SLD government who committed suicide during a search of her home by ABW agents investigating corruption allegations against her. The committee, chaired by Ryszard Kalisz of the SLD, found possible political motivations on the part of the PiS government at the time, and recommended referring the cases of then prime minister Jarosław Kaczyński and justice minister and prosecutor general Zbigniew Ziobro to the Tribunal of State. The Sejm elected in October 2011 will likely put this issue on its agenda.

Another Sejm special committee, tasked with the investigation of all possible cases of political pressure exercised by the 2005–07 PiS government on law enforcement agencies, and chaired by Andrzej Czuma of PO, concluded that such pressure had indeed occurred. However, this conclusion was questioned not only by the PiS-appointed members of the committee, but also by Czuma himself. In his dissenting opinion he expressed the belief that no solid evidence could be presented to support the committee's conclusions.²⁴

Some new cases of corruption by high-level officials were made public in 2011. The most spectacular was a case involving General Gromosław Czempiński, who served from 1993 to 1996 as the chief of the Office for the Protection of the State, an institution that was replaced by the ABW in 2002. On 22 November, Czempiński, along with attorney Michał Tomczak, businessman Andrzej Piechocki, and two other individuals, was arrested by the CBA on charges of corruption related to the privatization of the public utilities company STOEN and the Polish national airline, PLL LOT, after he had already left public service. Those arrested were charged with accepting bribes totaling almost US\$3 million and subsequently released on bail. By year's end, no other details had been made public. The investigation seems to have been focused on a money-laundering scheme; the legality of the privatization process itself has not been questioned. All of the accused denied any wrongdoing.²⁵

The case against Czempiński caused a particular interest among the media, the public, and the political elite, as he had enjoyed the status of a national hero of sorts. A state security officer in the communist era, he was allowed to remain in the Polish intelligence services after 1989, and in 1990 he led Operation Samum, the extremely risky evacuation of six CIA officers from Iraq before the beginning of the Persian Gulf War. For this action, Czempiński received a high award from President George H.W. Bush.²⁶

In their efforts to curb corruption, state agencies are aided by NGOs, such as Transparency International, the Batory Foundation, and the Helsinki Foundation. The latter two have established an umbrella organization, the Anticorruption Coalition of Nongovernmental Organizations (AKOP), which monitors the corruption-related declarations and actions of political parties. These include the aforementioned probes conducted by special investigative committees of the Sejm, which make most of their documents and testimony immediately available to the public.

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