

EUROPEAN CONVENTION
ON HUMAN RIGHTS



CONVENTION EUROPÉENNE
DES DROITS DE L'HOMME

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Annual Rule of Law
Report - Council of
Europe input

Directorate General Human Rights and Rule of Law (DG I)

Poland

I Justice System

A. Independence

1. Appointment and selection of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

2. Irremovability of judges, including transfers of judges and dismissal

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

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Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

3. Promotion of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

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Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

4. Allocation of cases in courts

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<https://www.coe.int/en/web/greco/evaluations/poland>

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Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

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3rd round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

The European Commission for Democracy through Law – Venice Commission
CDL-AD(2017)031 English 11/12/2017 - Public

[Poland - Opinion on the Draft Act amending the Act on the National Council of the Judiciary; on the Draft Act amending the Act on the Supreme Court, proposed by the President of Poland, and on the Act on the Organisation of Ordinary Courts, adopted by the Commission at its 113th Plenary Session \(Venice, 8-9 December 2017\)](#)

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

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3rd round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

The European Commission for Democracy through Law – Venice Commission
CDL-PI(2020)002 English 16/01/2020 - Public

[Poland- Urgent Joint Opinion on the amendments to the Law on organisation on the Common Courts, the Law on the Supreme Court and other Laws](#)

7. Remuneration/bonuses for judges and prosecutors

8. Independence/autonomy of the prosecution service

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

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3rd round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

The European Commission for Democracy through Law – Venice Commission
CDL-AD(2017)028 English 11/12/2017 - Public

[Poland - Opinion on the Act on the Public Prosecutor's office, as amended, adopted by the Venice Commission at its 113th Plenary Session \(Venice, 8-9 December 2017\)](#).

9. Independence of the Bar (chamber/association of lawyers)

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

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11. Other - please specify

CPT

Report on the CPT's 2017 periodic visit, [CPT/Inf \(2018\) 39](#), para. 15, 25 and 26

A few allegations of physical ill-treatment (including torture, e.g. asphyxiation using a plastic bag placed over the head; truncheon blows on the soles of the feet).

As on previous visits, the delegation observed that access to a lawyer in police custody was highly exceptional in practice, despite the amendments to Sections 244 and 245 of the CCP (introduced after the 2013 visit) aimed at ensuring such immediate access.

As regards legal aid, there is still no provision in Polish law allowing for the appointment of an ex officio lawyer before the stage of court proceedings. Therefore, persons in police custody who are not in a position to pay for legal services are effectively deprived of the right of access to a lawyer.

The delegation again heard a few allegations according to which, in the rare cases when lawyers had arrived at a police station, their meetings with detained persons had taken place in the presence of a police officer

B. Quality of justice

12. Accessibility of courts (e.g. court fees, legal aid)

13. Resources of the judiciary (human/financial)

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

15. Other - please specify

European Commission for the Efficiency of Justice (CEPEJ)

<https://www.coe.int/en/web/cepej/country-profiles/poland>

C. Efficiency of the justice system

GRECO

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16. Length of proceedings

17. Enforcement of judgements

18. Other - please specify

European Court of Human Rights - country profile

https://echr.coe.int/Documents/CP_Poland_ENG.pdf

Execution of Judgments of the European Court of Human Rights - country factsheets

<https://rm.coe.int/168070975d>

II Anti-corruption framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates that have occurred since these documents were published.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

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19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

B. Prevention

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

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Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

21. Rules on preventing conflict of interests in the public sector

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

24. Any other relevant measures to prevent corruption in public and private sector

C. Repressive measures

GRECO

<https://www.coe.int/en/web/greco/evaluations/poland>

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- 25. Criminalisation of corruption and related offences,
- 26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)
- 27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

III Media pluralism

A. Media regulatory authorities and bodies

- 28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation Rec \(2000\) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#)

- 29. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media authorities and bodies

B. Transparency of media ownership and government interference

- 30. The transparent allocation of state advertising (including any rules regulating the matter)
- 31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)
- 32. Rules governing transparency of media ownership

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

C. Framework for journalists' protection

- 33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities
- 34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#)

- 35. Access to information and public documents

- 36. Other - please specify

Platform to promote the protection of journalism and safety of journalists

<https://www.coe.int/en/web/media-freedom/poland>

Freedom of expression chapters of the annual reports of the Secretary General of the Council of Europe featuring indicators on media pluralism and transparency of ownership, media independence and safety of journalists as well as country-specific assessments:

2018

<https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>

2017

<https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

2016

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680646af8

2015

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168058e01e

IV Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

38. Regime for constitutional review of laws

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2016)026 English 14/10/2016 - Public

[Poland - Opinion on the Act on the Constitutional Tribunal, adopted by the Venice Commission at its 108th Plenary Session, \(Venice, 14-15 October 2016\)](#)

CDL-AD(2016)001 English 11/03/2016 - Public

[Opinion on amendments to the Act of 25 June 2015 on the Constitutional Tribunal of Poland, adopted by the Venice Commission at its 106th Plenary Session \(Venice, 11-12 March 2016\)](#)

B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2016)012 English 13/06/2016 - Public

[Poland - Opinion on the Act of 15 January 2016 amending the Police Act and certain other Acts, adopted by the Venice Commission at its 107th Plenary Session \(Venice, 10-11 June 2016\)](#)

41. implementation by the public administration and State institutions of final court decisions
The European Commission for Democracy through Law – Venice Commission
CDL-AD(2016)012 English 13/06/2016 - Public
[Poland - Opinion on the Act of 15 January 2016 amending the Police Act and certain other Acts, adopted by the Venice Commission at its 107th Plenary Session \(Venice, 10-11 June 2016\)](#)

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

43. Other - please specify

Expert Council on NGO Law report on criminalisation of NGO activity in relation to migration and a compendium of developments 2017-2019 in NGO law, freedom of association

<https://rm.coe.int/expert-council-conf-exp-2020-1-ngos-developments-in-standards-mechanis/16809ccd3a>

<https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>

Private Office procedure on human rights defenders interacting with the Council of Europe

https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe