

# Amnesty International annual report extracts

2005-2007

## POLAND

### ANNUAL REPORT 2007

Lesbian, gay, bisexual and transgender (LGBT) people were subjected to discrimination and intolerance. Allegations that Poland had allowed secret detention centres on its territory as part of the US-led "war on terror" were not satisfactorily resolved during investigations by the Council of Europe and the European Parliament. Chechens granted refugee and "tolerated stay" status had difficulties in accessing education services and social benefits. President Lech Kaczyński and a number of other prominent officials called for restoration of the death penalty.

### Background

In a minority government since parliamentary elections in September 2005, the Law and Justice Party (PiS), formed a coalition government in May with the League of Polish Families (LPR) and the Self-Defence (Samoobrona) party. After a political crisis in September, Samoobrona was expelled from the government, but later readmitted when PiS faced losing early parliamentary elections.

### Discrimination on grounds of sexual orientation

Openly homophobic statements made by politicians and officials, including the encouragement of violence against peaceful demonstrators, worsened the climate of discrimination and intimidation.

- Wojciech Wierzejski, LPR Vice-President and member of parliament, in May encouraged the use of force against participants in the annual Equality March in Warsaw in June. He reportedly said, "If deviants begin to demonstrate, they should be hit with batons".
- In May the Deputy Minister of Education said that an international project organized by LGBT rights groups and financially supported by the European Commission would lead to the "depravity of young people", and that such groups should not receive funding. In September a project submitted by one LGBT organization to the National Agency of Youth Programme was rejected by the Ministry of Education on the grounds that it "aimed to propagate homosexual behaviour".
- In June the Minister of Education dismissed the director of the National In-Service Teacher Training Centre for having books that encouraged teachers

to organize meetings with LGBT organizations. The only book that met the description was an anti-discrimination handbook by the Council of Europe, which subsequently expressed concern at the "homophobia and homophobic behaviours" within the government. The Centre's new director said in October that "homosexual practices lead to drama, emptiness and degeneracy".

Demonstrators from the LGBT community and other activists were reportedly attacked by counter-demonstrators and unable to exercise their right to peaceful assembly because of police failures.

- In April, despite the presence of the police, more than 1,000 participants of a Tolerance March in Kraków were reportedly harassed and intimidated by members of a right-wing grouping, the All Polish Youth, who held a counter-demonstration, the Tradition March.

Court rulings clarified the legality of the Equality March in Warsaw arranged for 10 June, which the City Council of Warsaw finally authorized on 1 June. Owing to threats from counter-demonstrators, the march organizers agreed a different route with the Council and the police provided sufficient forces to guarantee security. The march went ahead without major incidents.

- In January the Constitutional Court confirmed a Warsaw court ruling of September 2005 that the banning of the Equality March in Warsaw in June 2005 by the then Mayor Lech Kaczyński was unlawful, and declared that demonstrators need only inform city officials that a public demonstration would be taking place.
- In May the Supreme Administrative Court in Warsaw upheld the decision of the Regional Administrative Court in Poznań, in the case of an LGBT march banned in November 2005, that the threat from a counter-demonstration could not be grounds for banning the demonstration.

### **Secret detention centres and renditions**

In March the Secretary-General of the Council of Europe released his opinion on alleged secret detention centres in member states set up as part of the USA's programme of secret detentions and "renditions" - the illegal transfer of people between states outside of any judicial process. He expressed concern at Poland's inadequate response to questions of whether officials had been involved in the detentions or renditions.

In June the Rapporteur on secret detentions of the Parliamentary Assembly of the Council of Europe (PACE) reported on the global "spider's web" of detentions and transfers by the US Central Intelligence Agency (CIA) and alleged collusion by 14 Council of Europe states. He reported that the Polish authorities were unable, despite repeated requests, to provide information from national aviation records to confirm CIA-connected flights into Poland.

In November a Temporary Committee of the European Parliament, looking into allegations of illegal CIA activity in Europe, deplored Poland's lack of co-

operation and failure to establish a special inquiry committee or an independent parliamentary investigation.

## **Refugees**

The majority of asylum seekers from Chechnya in the Russian Federation were denied refugee status, in violation of the 1951 Refugee Geneva Convention, and were granted "tolerated stay" permits only.

UNHCR, the UN refugee agency, reported in May that almost half of school-age children seeking asylum did not attend school at all. People with only "tolerated stay" permits were denied the social assistance given to asylum-seekers and the integration package provided for refugees.

The number of asylum-seekers sent back to Poland from other European Union (EU) states increased following application of the so-called Dublin II Regulation, which establishes criteria and mechanisms for determining which EU state will examine an asylum application.

## **International scrutiny**

In March, reporting on its last visit in 2004, the European Committee for the Prevention of Torture made recommendations to the government on the treatment of detainees. It urged police officers to be informed on a regular and frequent basis that physically or verbally ill-treating detainees was unacceptable and would be severely punished; that only strictly necessary force should be used during arrests; and that there was no justification for striking detainees once they were brought under control. The Committee called on the authorities to ensure that judges and prosecutors who heard a complaint of police ill-treatment from any person before them should immediately request a forensic medical examination. The Committee expressed concern that Poland had not implemented recommendations on police detention facilities for children made during its previous visit in 2000.

## **Death penalty**

President Kaczyński called for the restoration of the death penalty in Poland and throughout Europe in a Polish public radio broadcast on 28 July, saying: "Countries that give up this penalty award an unimaginable advantage to the criminal over his victim, the advantage of life over death." In August the LPR announced a campaign for Europe-wide restoration of the death penalty and for a referendum on its reintroduction in Poland. Wojciech Wierzejski called the EU's ban on the death penalty "anachronistic."

In response, the European Commission said that the death penalty was "not compatible with European values." The President of the PACE wrote in an open letter to President Kaczyński that "its reintroduction? would be a direct attack on our common values, which are founded on respect for the basic human dignity of every person."

## **ANNUAL REPORT 2006**

**Racism and intolerance towards minorities was reported in both the private and public spheres. No action was taken against public figures whose statements appeared to incite intolerance. Police reportedly used excessive force against non-violent demonstrators.**

### **Background**

2005 was a year of significant political changes. After general elections in September and a presidential election in October, the Law and Justice party (Prawo i Sprawiedliwość», PiS) came to power. Before the elections, the PiS criticized gay rights campaigners and expressed support for the death penalty. Following Lech Kaczyński's election as President, the European Commission issued a formal warning to Poland, saying that it could lose its European Union (EU) voting rights if the President continued to oppose gay rights and sought to introduce the death penalty.

One of the first decisions of the new government was to abolish the Office for Gender Equality, making Poland the only EU country without a statutory equality watchdog.

### **Identity-based discrimination**

Members of sexual minorities continued to face discrimination and restrictions on their right to freedom of expression and assembly. In June, Lech Kaczyński, then mayor of Warsaw, refused for the second year to authorize the Equality Parade, holding that such an event would be "sexually obscene" and offensive to other people's religious feelings. An improvised parade still took place on 10 June, gathering more than 2,500 participants. Less than a week later, the mayor authorized the so-called Normality Parade, allowing an extremist homophobic grouping known as All Polish Youth (Młodzież Wszechpolska) to mobilize on the streets of Warsaw.

In November the mayor of Poznań banned a gay parade, ostensibly because of security concerns. However, the parade's organizers claimed that the Poznań municipality had earlier indicated that there were no reasons to ban the parade, and that the mayor had given in to the demands of the conservative political parties Law and Justice and the League of Polish Families (Liga Polskich Rodzin). An unauthorized parade which took place on 19 November was met with physical attacks and verbal abuse from members of All Polish Youth. As a protest, demonstrations in support of tolerance and equality took place throughout Poland on 27 November. In December an administrative court in Poznań annulled the authorities' decision to ban the parade.

There was no action against public statements inciting intolerance against sexual minorities, such as that made by a then Member of the European

Parliament from the League of Polish Families: “After the elections, we will legalize all homosexual organizations and we will attack paedophiles who are statistically the most numerous among them.”

## **Racism**

In its third report on Poland, released in June, the European Commission against Racism and Intolerance (ECRI) expressed concern that the authorities rarely investigated and prosecuted cases of racial hatred, and allowed anti-Semitic material to freely circulate on the market. ECRI pointed out that in investigating violent attacks against ethnic minorities, such as Roma or migrants, the police often did not take into account the racist motivation of crimes, which resulted in a lighter sentence for the perpetrator, if convicted. Moreover, there was still no comprehensive body of legislation prohibiting racial discrimination in all fields of life.

**Three people died as a result of unlawful use of firearms by police officers. Domestic violence was not effectively investigated and prosecuted, and the victims frequently did not receive adequate protection. Lesbians and gay men were not adequately protected by the police. A march to promote the rights of lesbians, gay men, bisexual and transgender (LGBT) people in Warsaw was prohibited in violation of the right to freedom of assembly.**

### **Unlawful use of firearms by police**

Three people died in two separate incidents when police officers used firearms in circumstances that were in breach of international standards. Both incidents were being investigated. Some members of the Sejm (parliament) called for a thorough reform of the police force as well as of its recruitment and training, but their recommendations were not adopted.

- On 29 April in Poznań, police officers shot dead a 19-year-old man and seriously injured another after they pursued a car they reportedly believed was occupied by criminal suspects. The two unarmed suspects attempted to run away after their car was blocked by an unmarked police car, reportedly believing that they were being pursued by carjackers.
- On 9 May in Łódź, police officers intervened after a group of young men assaulted some students. In the ensuing clash, the officers used riot guns and fired six shots, killing a 19-year-old male student and a 23-year-old woman who were not involved in the violence. According to the police, the guns had been loaded with live ammunition by mistake. The incident prompted the Łódź police chief and his deputy to resign, and the province's police chief was dismissed.

### **Women's rights**

In November a report by the UN Human Rights Committee expressed concern about the high number of cases of domestic violence against women. It reported that measures such as restraining orders and temporary arrests were not widely used, that appropriate protection was not afforded to victims, that shelters did not exist in many places, and that training for law enforcement officers was inadequate. The Committee recommended specific steps that Poland should take to address these problems.

The Committee was also concerned about the low number of women in senior positions in public services and the disparities in remuneration between men and women.

### **Expulsion of refugee**

- In May, Imam Ahmed Ammar, a Yemeni national who had lived in Poland for 14 years, was ordered by the Wielkopolski Voivodship (local administration) office to leave the country within a week because he was “a risk to security”. The decision was apparently made on the basis of an opinion of the Internal Security Agency, which refused to reveal the grounds for its decision. Ahmed Ammar appealed against the decision. In June, after he was forced to obey another order to leave the country, Ahmed Ammar was reportedly arrested by Political Security officers on his arrival in Yemen and taken to prison in Aden. He was released a month later.

### **Identity-based violations**

LGBT people were assaulted by groups of young men. In May in Krakow, around 3,000 participants in a demonstration – the March for Tolerance – were inadequately protected by the police when they were assaulted by 300 people, including some representatives of the Sejm and local authorities. In November, football supporters in Poznań assaulted several hundred participants in a demonstration calling for greater respect for the rights of sexual minorities. Subsequently, nine people suspected of violent conduct were arrested.

In June, Lech Kaczyński, the mayor of Warsaw, did not permit the holding of the Equality Parade, a march of LGBT people and their supporters. He reportedly stated that such an event would be “sexually obscene” and offensive to other people’s religious feelings.

The UN Human Rights Committee was concerned that the right of sexual minorities not to be discriminated against was not fully recognized in Poland and that discriminatory acts and attitudes against people on the ground of sexual orientation were not being adequately investigated and punished. It recommended appropriate training for law enforcement and judicial officials, and for discrimination on the ground of sexual orientation to be specifically prohibited in Polish law.