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Reporters Without Borders

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**Evidence of Reporters Without Borders, an NGO with special consultative status, about
press freedom in POLAND**

Press freedom

Poland came 56th in the 2007 Reporters Without Borders worldwide press freedom index, mainly due to its refusal to amend laws about press offences.

Article 212.2 of the criminal law allows imprisonment for up to two years for defamation. The constitutional court upheld this provision on 30 October 2007, saying public humiliation of someone was punishable by up to a year in prison, and double that if the defamation was repeated in the media.

The court said freedom of expression was “one of the most important principles in a democratic country” but that the dignity and reputation of individuals had priority. Several international human rights organisations continue to call for an end to imprisonment for press offences as contrary to article 10 of the European Convention on Human Rights.

A Warsaw court on 30 October 2007 ordered the arrest on 12 December of the editor of the pro-government weekly *Gazeta Polska*, Tomasz Sakiewicz, and his deputy Katarzyna Hejke to ensure they attended the next hearing of their trial two days later. They are accused of defaming the privately-owned TV station *TVN* in an October 2006 article saying a *TVN* director, Milan Subotic, had collaborated with the communist secret police. Subotic was dismissed soon afterwards. The opposition accused the paper of trying to discredit the station by suggesting it was run by a group of former communists.

A court in the eastern city of Lublin gave journalist Jacek Brzuszkiewicz a suspended six-month prison sentence for defamation on 12 July 2007 and fined him 5,000 zlotys (€1,300). He told Reporters Without Borders that “the legal system in Poland is against press freedom. Article 212.2 of the criminal law allows imprisonment of journalists. I hope my case will help change the situation.”

The OSCE Representative on Freedom of the Media, Miklos Haraszti, asked the government on 6 August 2007 to abolish articles of the criminal law that hindered press freedom. Zbigniew Holda, of the Helsinki Foundation, said parliament had gone “too far towards criminalisation,” especially where political debate was concerned.”

Phones of anti-government journalists tapped

Former interior and administration minister Janusz Kaczmarek told a parliamentary commission on 22 August 2007 that justice minister Zbigniew Ziobro and the then-prime minister, Jaroslaw Kaczynski, had tapped the phones of many journalists critical of the government to compromise them or have power over them. Kaczmarek was arrested at the apartment of freelance journalist Sylwester Latkowski on 30 August. He said he was ready to testify before a special parliamentary commission.

Intolerance of criticism

President Lech Kaczynski and his twin brother the ex-prime minister have tolerated little criticism. The Warsaw public prosecutor began legal action in July 2006 against reporter Peter Kohler, of the German daily *Tageszeitung*, for an article he wrote making fun of the pair headed “Poland’s new yokels.” The government was furious, likened the paper to the pro-Hitler press and demanded that the German government condemn the article. The Polish foreign ministry said on 4 July it would not longer answer any questions from the paper’s Polish correspondent, Gabrielle Lesser, who also received threatening e-mails.

Legal action was begun in the southwestern city of Wroclaw on 5 June 2007 against the Spanish daily *El País* for “insulting the Polish people” in an article on 17 March the same year by former Spanish MP Pilar Rahola headed “Poland sends a shiver down your spine.”

The Constitutional Court struck down on 11 May 2007 some of the controversial “decommunisation law” designed to vet the backgrounds of some 700,000 Poles. Articles involving journalists, school heads and university rectors were ruled illegal.

Under the law, in force since the previous 15 March, journalists were obliged to swear they had never collaborated with the communist-era secret police, on pain of losing their jobs and being banned from writing for 10 years.

The court made sure to rule before the 15 May deadline for swearing the affidavits. Most Poles concerned had waited for the ruling before sending affidavits to the Institute for National Remembrance (IPN), which looks after the secret police (SB) archives.

Government efforts to improve the situation

Maintenance of Article 212 symbolises the legal system's refusal to liberalise laws on freedom of expression. Central and Eastern European countries are decriminalising laws against defamation, but Poland is getting touchy about them. Moldova and Romania are trying to conform to European legislation, while Poland, one of the first Eastern bloc countries to be admitted to the European Union, is becoming the EU's bad boy in matters of freedom of expression.

The deterioration of the political and social climate in Poland has harmed efforts to defend press freedom. Influential media outlets have openly incited racial and religious hatred and a commentator on *Radio Maryja* (which has three million listeners), Stanislaw Michalkiewicz, said in March 2007 that "Jews humiliated Poland internationally by demanding money" for property left behind in the country. Xenophobia and anti-Semitism has increased on the station which has not been reprimanded by the broadcasting authorities.

Cooperation with NGOs

Very little.

Recommendations

Laws on press offences should be liberalised to provide more freedom of expression.

Methods used

The material in this update was gathered and checked by Reporters Without Borders, which has a worldwide network of correspondents (in 130 countries) and partner organisations (in about 20).

Journalists in some countries can be sent to prison for several years just for a word or a photo that offends. Jailing or killing a journalist eliminates a vital witness and threatens the right of each of us to be kept informed. Reporters Without Borders has been fighting day-by-day for press freedom since it was founded in 1985.