

POLAND ASSESSMENT
APRIL 2000
Country Information and Policy Unit

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I. INTRODUCTION

A. The Scope of the Document:

1.1 This assessment has been produced by the Country Information & Policy Unit, Immigration & Nationality Directorate, Home Office, from information obtained from a variety of sources.

1.2 The assessment has been prepared for background purposes for those involved in the

asylum determination process. The information it contains is not exhaustive, nor is it intended to catalogue all human rights violations. It concentrates on the issues most commonly raised in asylum claims made in the United Kingdom.

1.3 The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4 It is intended to revise the assessment on a 6-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom.

1.5 The assessment will be placed on the Internet (<http://www.homeoffice.gov.uk/ind/cipu1.htm>). An electronic copy of the assessment has been made available to the following organisations:

Amnesty International UK

Immigration Advisory Service

Immigration Appellate Authority

Immigration Law Practitioners' Association

Joint Council for the Welfare of Immigrants

JUSTICE

Medical Foundation for the Care of Victims of Torture

Refugee Council

Refugee Legal Centre

UN High Commissioner for Refugees

II. GEOGRAPHY

A. The Location of Poland

2.1 The Republic of Poland is situated in Eastern Europe. It is bounded to the north by the Baltic Sea and an enclave of the Russian Federation; to the north-east by Lithuania; to the east by Belarus; to the south-east by Ukraine; to the west by Germany; and to the south by the Czech Republic and Slovakia. **[1(a)]**

2.2 Poland is the largest and most populous state in Central Europe, with a population, in

1996, of approximately 38 million. The capital of Poland is Warszawa, commonly known as Warsaw. It is situated in the east of the country and has an estimated population of 1,628,500 (as at 31/12/1996). The next largest city in Poland is Lodz, which has an estimated population of 818,000 and is situated in the centre of the country, closely followed by Krakow (Cracow) and Wroclaw, which each have an estimated population of 740,700 and 640,600 and are situated in the south of Poland. [1(a)]

2.3 The official language of the country is Polish which is spoken by almost all of the population, although there is also a small German-speaking community. The national flag consists of two equal horizontal stripes of white and red. [1(a)]

III HISTORY

A. Recent Political History

3.1 Poland, partitioned in the 18th century, was declared an independent republic on 11 November 1918. The country was ruled by an autocratic and military regime from 1926 until 1939. In that year Poland was invaded by both Germany and the USSR and partitioned between them. After Germany declared war on the USSR in June 1941, its forces occupied the whole of Poland. [1(a)]

3.2 After the war, the pro-communist Polish Committee of National Liberation, established under Soviet auspices in July 1944, was transformed into the provisional government. [1(a)]

3.3 Non-communist political groups suffered severe intimidation during the falsified January 1947 elections, and the communist-led "democratic bloc" claimed an overwhelming victory and Poland effectively became a one-party state. [1(a)]

3.4 Throughout the communist period the majority of Poles remained strongly anti-communist. Serious anti-regime riots occurred in the 1950s and 1970s. Further strikes in the summer of 1980 led to the birth of Solidarity under the leadership of Lech Walesa. Solidarity's demands for legislative reform, including the recognition of basic rights, were seen as a threat by the government, and on 13 December 1981, under heavy pressure from the Soviet Union and Warsaw Pact, the Prime Minister General Jaruzelski introduced martial law. Walesa and many other Solidarity leaders were interned. Martial law was lifted in July 1983 under pressure from the West. [1(a)]

3.5 Some limited liberalisation occurred in the next few years, but by 1988, as new strikes were starting, Poland had reached an impasse; the economy was collapsing and the government was discredited, unable to run the country, and finally agreed to Round Table talks which in April 1989 legalised Solidarity and instituted political reforms, in return for support for unpopular economic measures. [1(a)]

3.6 Elections were held in 1989, 1991 and 1992 leading to a wide range of political parties in the legislature. A total of 29 parties won representation to the Sejm in 1991. The party with the largest number of deputies (62) was Mazowiecki's Democratic Union (UD – Unia Demokratyczne), formed in May 1991 by the merger of the Citizens' Movement Democratic Action (ROAD – Ruch Obywatelski Akcja Demokratyczna) and two other organisations. The Democratic Left Alliance (SLD – Sojusz Lewicy Demokratycznej), an electoral coalition of the Social Democracy of the Republic of Poland (SdRP – Socjal demokracja Rzeczypospolitej) and

the All Poland Trade Unions Alliance, won 60 seats. In the Senate (the Upper House) the UD was also the largest single party. **[1(a)]**

3.7 In early June 1996 some 25 centre-right political parties, including Solidarity, the Centre Alliance and the ZChN, established an electoral coalition, called Solidarity Election Action (AWS), in preparation for the 1997 parliamentary elections. **[1(a)]**

3.8 On 2 April 1997, after four years of parliamentary negotiations, the National Assembly adopted a new Constitution and parliamentary elections on 21 September 1997 marked a return to power for parties based around the Solidarity trade union. Solidarity Election Action (AWS), a coalition of right-wing and trade union groups, secured a third of the vote. They became the senior partners in a coalition government with the liberal, pro-market Freedom Union (UW). After protracted negotiations, the government was finally endorsed by parliament on 11 November 1997 under Prime Minister Jerzy Buzek. **[2(i)]**

3.9 The new government prioritised rapid integration with Nato and the EU, accelerated privatisation and the reform of government structures and pledged to promote Christian and family values. Opposition to government policies such as restructuring of provinces (voivodships) and districts (powiats) and to industrial restructuring was reflected in strikes and protests throughout 1998. Other government measures in 1998 included the adoption of a new penal code to conform with EU criteria which brought about the abolition of the death penalty and granting access to files compiled on citizens during the Communist era. **[1(a)]** (see Section 4a below)

3.10 In March 1999 Prime Minister Buzek reshuffled his government in preparation for a major reform of state administration which took place in April. **[1(a)]**

B. Economic History

3.11 By the mid-1990s Poland had achieved a significant recovery in gross domestic product (GDP) growth, as well as a reduction in the rate of inflation. **[1(a)]**

3.12 Poland's crippling communist inheritance of foreign debt was significantly alleviated by concessions of up to 50% from its major creditors. This debt-forgiveness and the healthy growth of the economy have encouraged foreign investment. **[2(i)]**

3.13 Poland's progressing integration with the world has been further enhanced by globalisation and the significant majority of migrations to Poland have been motivated by the country's economic attractiveness. **[33(a)]**

3.14 Poland's trade with the European Union has continued to increase its share of total trade. **[39]** Poland is also the United Kingdom's biggest trading partner in the former Soviet Block, with trade in excess of \$3 bn in 1998. **[8(b)]**

3.15 For the first time since the early 1990s there was a recent perceptible increase in unemployment at the beginning of 1999 (to more than 11% in January 1999) **[8(b)]**. The coalition government is striving to implement ambitious economic and administrative reforms. Doctors, teachers and farmers have staged strikes or protest marches. However, Poland continues to make rapid progress to capitalism and integration with the west. In March 1999 it was

admitted into NATO (refer to IV, paragraphs 4.66-4.71). The European Commission says negotiations over Poland's EU entry are going well. Its economic growth rate in 1999 remains among the highest in Central Europe, with the National Bank of Poland, the central bank forecasting 4-4.5%. [40]

3.16 Ministers remain committed to reducing budget deficits to zero by 2002. Their priority is financing fundamental reforms such as changes in pensions, health care, education and regional affairs. [40]

IV INSTRUMENTS OF THE STATE

A. Political Affairs

4.1 General elections were held on 21 September 1997, and an alliance of post-solidarity parties, the Solidarity Election Action group (AWS), won approximately one-third of the vote. It has formed a coalition government with the free market Freedom Union (UW). [2(i)]

4.2 On 31 October 1997, President Aleksander Kwasniewski swore in the new coalition cabinet of the Solidarity Electoral Action (AWS) and the Freedom Union (UW). The new Prime Minister, Jerzy Buzek took his oath of office at a ceremony in Warsaw's presidential palace and the UW leader Leszek Balcerowicz was appointed Deputy Prime Minister and Finance Minister. [8(a)(i)]

4.3 On 10 November 1997, just before the meeting of the Sejm, the chairman of the AWS, Marian Krzaklewski, and the UW leader Leszek Balcerowicz, signed a coalition agreement. The document was also signed by the Prime Minister. [8(e)]

4.4 The reform of social insurance, education and health systems, decentralisation of the state and vetting were among the main tasks of the new cabinet formed by Prime Minister Jerzy Buzek. Others included guaranteeing proper living standards to families, repairing state structures, internal and external security of the country and strengthening moral values. Buzek added that the new cabinet intended to pursue a sovereign foreign policy with its main goals being the full membership of NATO confirming Poland's place in the Euro-Atlantic world and the possibility of fast integration with the European Union with respect to Poland's national identity. He also stressed that it was in Poland and Europe's strategic interest to maintain the American military, political and economic presence in Europe. The government intended to develop good relations with Russia. [8(f)]

4.5 Buzek said that inflation was coming down too slowly and declared the removal of the excess red tape in the economy by liquidating monopolies and licences. [8(f)]

4.6 A new law compelling political leaders to reveal past collaboration with Communist era secret police, the "lustracja" or vetting/lustration law, took effect in August 1997. The law requires candidates for high government office, including those for President, the Sejm, the Senate, Prime Minister, or other office that requires nomination by the President or Prime Minister, to sign a declaration stating whether or not they co-operated with Poland's secret services at any time between 1944 and 1990. Although the law does not provide for the punishment of those who admit to collaboration, any Sejm or Senate candidate found to have lied in his or her declaration will be removed from office. Any other government official found to have made false statements will also be excluded from public office for 10 years. The vetting

court held its first hearing on 24 February 1999 and the Justice Minister sacked two prosecutors in the wake of the first vetting list [8(d)(h)]

4.7 Local elections took place on 11 October 1998 at all three government levels (gmina, powiat and voivodship), the winner was the AWS (which altogether won 10,613 seats), followed by the SLD (8,840 seats), the PS Social Alliance (4,583), the UW (1,146), the Ojczyzna Movement (256) and Rodzina Polska (151). Voter turnout was more than 45%. [27(d)]

4.8 A fundamental reform of the state administration entered into force in January 1999. Powers have been devolved to three levels of self-government at regional (voivodships), county (poviats) and commune (gminas) levels and the number of voivodships has been reduced from 49 to 16. It is significant for the future because it will help to prepare Poland for entry into the EU, which places a big emphasis on regional self-government [39][40]

B. The Right of Citizens to Change their Government

4.9 Poles have the constitutional right and the ability to change their government. Poland is a multi-party democracy in which all citizens 18 years of age and older have the right to vote and to cast secret ballots. [1(a)]

4.10 Executive power is shared by the Prime Minister, the Council of Ministers and to a lesser extent the President. Parliament has legislative powers and powers to appoint and control the government. It is composed of an upper house (the Senate, with 100 senators) and a lower house (the Sejm, with 460 deputies). The Constitution provides for parliamentary elections at least every four years. The President, elected for five years, has the right to dissolve Parliament in certain cases and Parliament may impeach the President. [1(a)]

4.11 The electoral law exempts ethnic minority parties from the requirement to win 5% of the vote nationwide in order to qualify for seats in individual districts. [1(a)]

4.12 Election to the Sejm is universal, equal, direct, proportional and conducted by secret ballot. Elections to the Senate are universal, direct and conducted by secret ballot [1(b)][4(c)]

4.13 The principles of equal election rights and equal possibilities to participate in the conduct of public affairs are stipulated in a number of Acts which guarantee universality, directness, equality and secrecy of elections. Any person who enjoys election rights is entered into the register of voters and everyone may file a complaint in respect of any inaccuracies in the register. In the event that the complaint is not complied with, the person concerned has the right to file a complaint before court. [34(d)]

C. The Polish Constitution

4.14 A new permanent, democratic Polish Constitution, to replace the much amended and supplemented Communist Constitution of 1952, was adopted by the National Assembly on 2 April 1997 and endorsed by popular referendum on 25 May 1997. The Constitution did not come into immediate force, pending a decision by the Supreme Court on the validity of the constitutional referendum. On 15 July 1997, the Court ruled that the referendum had been valid, clearing the way for the Constitution to become law, and so it came into force on 16 October 1997. [1(a)]

4.15 The 1997 Polish Constitution is considered to be a comprehensive and virtually

exemplary recognition of human rights in Poland and its standards are compatible with international human rights standards. It has extensively expanded peoples' rights and provided rights of redress which did not previously exist. The individual's rights are given legal protection and the means for achieving this are clearly stipulated. The Constitution specifically introduced for the first time the right for citizens, who believe their constitutional rights have been violated, to submit a complaint to the Constitutional Tribunal. Everyone has the right of access to official documents concerning him or herself, unless there are legal restrictions. Legal protection is given to these civic rights. Citizens now also have the right to initiate legislation. [2(h)]

4.16 The Constitution also grants citizens the right to freely express their opinions and to acquire and disseminate information. It prohibits preventive censorship of the means of social communication and the licensing of the press. Laws can require a permit for the operation of a radio or television station (article 54). Article 14 guarantees freedom of the press and other means of social communications. Article 61 specifies the right to information, stipulating that a citizen has the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. It further specifies that the right to obtain information provides access to documents and entry to sittings of collegial organs of public authority formed by universal elections. Limitations on the rights can be imposed by law solely to protect freedom and rights of other persons and economic subjects, public order, security, or important economic interests of the State.[34(a)]

D. Special Security Services

4.17 The two main special forces in Poland are the Office of State Security (UOP) and the Military Information Services (WSI). The internal security and armed forces are subject to effective civilian control by the government. Since 1996 the civilian Minister of Defence has had clear command and control authority over the military chief of the general staff, as well as oversight of military intelligence. [2h][4(c)]

4.18 All bodies of the police are obliged to receive citizens in the case of complaints and proposals every day during office hours and at least once a week for two hours after office hours. A citizen's right to make complaints and proposals is defined in the Constitution and specified in the Code for Administrative Procedures. At the Department of Internal Affairs and Administration these problems are regulated by the appropriate instructions of the Minister. Every person, regardless of citizenship, is entitled to make complaints and proposals and the Code of Administrative Law introduces the statutory legal protection of the complainant / proposer provided that he acted within the limits allowed by the law. Complaints may be delivered in writing, orally to be placed in a protocol, or in both forms simultaneously. [19]

4.19 In the case where the complaint is upheld, the complainant receives an apology personally or in writing. In cases which result in damage to health or material loss, the police pay damages. Additionally, a policeman who is found guilty of a breach of discipline is liable to service or criminal responsibility. [19]

4.20 Corruption among the Police is not a big problem in Poland. Cases which have been found were of an incidental character. After a complaint is upheld, the consequences are particularly acute; the policeman is dismissed from service and the Prosecutor's office opens an investigation against him. Every sign of corruption by a policeman becomes a subject for particularly penetrating checks. Tables 1 and 2 at Annex E give details of police complaints received. [19]

4.21 The Foreign & Commonwealth Office's, Know How Fund Polish Police Programme of

assistance commenced in 1990 after an initial visit in June 1990. The Fund has been in existence for over 8 years and its aim has been to provide constructive assistance through the transfer of experience from the British police and British judicial system to aid the Polish police to come to terms with the policing needs of a newly formed democracy. The aim has also been to help in the development of a police organisation which is capable of dealing with differing and increasing crime and social problems which have emerged since the breakdown of the totalitarian state. The Polish police have made considerable progress in many of the key areas which are the cornerstone of professional policing, although they have still to overcome many problems in their efforts to create the ideal police service. [23]

E. The Judiciary

4.22 The Constitution provides for an independent judiciary and the government respects this in practice. The government is restructuring the court system in order to streamline and accelerate the legal process. A new Criminal Code and Code of Criminal Procedure went into effect in September 1998. [4(c)] However, a March 1998 ruling by the European Court of Human Rights already may necessitate changes. The Court unanimously ruled that a provincial appellate court's examination of the verdict in the presence of the prosecutor, but not the defendant or his representative, infringed on the ECHR provisions concerning fair trial. [42]

4.23 Poland currently has a four-tier court system, consisting of regional, provincial and appellate divisions as well as a Supreme Court. The tiers are sub-divided into five parts - military, civil, criminal, labour and family. [4c] Regional courts are courts of first instance, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while enjoying original jurisdiction for the most serious types of offences. Appellate courts handle appeals tried at the provincial level and the Supreme Court handles appeals only about questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate and regional offices. Judges are nominated by the National Judicial Council and appointed by the president. Judges are appointed to the bench for life and may be reassigned but not dismissed, except by a decision of the National Judicial Council. The judicial branch is independent of the executive branch. The Constitutional Tribunal rules on the constitutionality of legislation. In October 1999 Constitutional Tribunal decisions became final and binding after a 2 year interim period following the entry into force of the new Constitution during which a two-thirds majority in the Sejm could overrule its decisions. [42]

4.24 The legislative, administrative and judicial machinery in place effectively prevents torture throughout the country. The Police Act of 4 April 1990 and the State Security Office Act of 6 April 1990 lay down specific rules for the disciplinary and criminal responsibility of officials of these institutions. The revision of the criminal legislation (Criminal Code and Code of Criminal Procedure) introduces many new arrangements for further guaranteeing the implementation of the provisions of the Convention. [34(b)]

4.25 The Polish legal system contains indispensable legal measures to guarantee the observance of article 7 of the International Covenant on Civil and Political Rights and of the regulations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984 (Journal of Laws 1989, No.63, items 378 and 379). [34(e)]

4.26 Provisions in Polish law allow access by every person to a fair and public hearing by a competent, independent and impartial court. The right of the parties to appeal to a court of higher instance is given great weight. [34(e)]

4.27 Access to courts and other organs of court administration is regulated by legal Acts which give no grounds for differentiating between people on account of their race, colour of skin, birth or national or ethnic origin. [34(d)]

4.28 In June 1998 the Constitutional Tribunal ruled unconstitutional a 1997 draft law envisioning the possible removal from service of judges proven to have violated judicial independence by issuing unjust verdicts between 1944 and 1989 at the request of the Communist authorities. Disciplinary proceedings against the judges in question were to be initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council or individuals who felt wronged by court verdicts. In December 1998 the Sejm addressed the issue that concerned the Constitutional Tribunal and adopted amendments to the law requiring that procedures against accused judges be initiated before 31 December 2002. The law went into effect in January. [42] According to Adam Strzembosz, the first chairman of the Supreme Court, around 20 judges will be included in the verification procedure. He added that he could not imagine that anyone at all would be unjustly treated in Poland. The National Judiciary Council (KRS) or a person directly wronged by an unjust ruling would be able to make a demand for the punishment of a compromised judge, but only in cases where the wrong is confirmed by a court verdict. [24(b)]

4.29 Commenting on the judiciary in its report of November 1998 and October 1999 [39(a)(b)] the EU Commission considered that the difficulties and constraints identified in the Commission's Opinion [38] remain a challenge. These referred to failure to improve the lengthy average time for processing court cases, the enforcement of court rulings and access to the courts. However, the provisions of the 1997 Constitution set out a framework for significant reinforcement of the rule of law.

4.30 A new Penal Code and Code of Penal Procedures adapted to conform to European Convention on Human Rights standards entered into force on 1 September 1998. The new code replaces capital punishment with life or 25 years' imprisonment. A number of other significant changes are made which serve to reduce the age limit for prosecution of minors on serious offences (15), to reduce the minimum period of detention (1 month), to reduce the maximum punishment threshold for certain serious offences and to increase penalties for serious crimes. The Code also introduces new categories of criminal offences (e.g. computer and environmental crime). [39(a)(b)]

F. Legal Rights/Detention

4.31 The Polish Constitution prohibits arbitrary arrest and detention and the government observes this prohibition. Courts rather than prosecutors issue arrest warrants. The law allows a 48 hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pre-trial detention order. During this period access to a lawyer is normally limited. Once a prosecutor presents the legal basis for a formal investigation the law provides for access to counsel. Detainees may be held in pre-trial detention for up to 3 months and may challenge the legality of an arrest through appeal to the district court. A court may extend this pre-trial confinement period every 3 months for up to 18 months until the trial date. Bail is available and most detainees are released on bail pending trial. [42]

4.32 All defendants are presumed innocent until proven guilty. At the end of a trial, the court gives its decision orally and then has seven days to prepare a written decision. A defendant has the right to appeal against a decision within fourteen days of the written decision. Appeals may

be made on, among other grounds, the basis of new evidence or procedural irregularities. [42]

4.33 Trials are normally public. The court, however, reserves the right to close a trial to the public in some circumstances, such as divorce cases; trials in which state secrets may be disclosed, or cases whose content might offend "public morality". The courts rarely invoke this prerogative. [42]

G. The Ombudsman/the Office of Commissioner for Civil Rights Protection (CCRP)

4.34 If an act of omission of the organs, organisations and institutions, which are obliged to comply with and exercise civil rights and freedoms has resulted in any infringement of the rights and freedoms specified in the Constitution or in other provisions of the law, the person whose rights have been violated is entitled to file a complaint to the Ombudsman. The Ombudsman is also competent to examine issues related to the protection of civil rights and freedoms in respect of foreigners, within the scope of the rights and freedoms to which they are entitled in Poland, as well as the rights of persons residing in Poland whose Polish citizenship has not been established and who at the same time are not citizens of another State. In case he ascertains, on the basis of the complaints and requests obtained, that a given binding provision of the law creates opportunity for an infringement of civil rights and freedoms, the Ombudsman may, among other measures, apply to the Constitutional Tribunal to ascertain the incompatibility of the legal act in question with the Constitution. Between 1992-1996, in none of the cases examined did the Ombudsman ascertain discrimination for racial reasons, and the few cases involving alleged national discrimination have not been confirmed. At the same time, in June 1995 the Ombudsman issued a statement in which he pointed to the disturbing phenomenon in some communities of the spreading of racial and religious hatred. In this statement the Ombudsman criticised the well-known sermon preached by a priest, in Gdansk, in which he incited intolerance against people who have not admitted "whether they come from Moscow or from Israel". This pronouncement has been condemned by the President and the government and criminal proceedings were instituted against the priest. [34(d)]

4.35 According to the EU Commission Report on Poland of November 1998, the office of the Commissioner for Civil Rights Protection (CCRP), with a staff of 190, is functioning well and has made a significant contribution to the protection of citizens rights. The CCRP is appointed by the Sejm for a five year tenure, his decisions are not subject to appeal, citizens are entitled to free access and the Commissioner enjoys high public confidence. The CCRP has reported that further efforts are required to improve provisions for legal recourse for members of certain professional groups (armed forces, medical profession) who have been subject to disciplinary measures. [39(a)]

H. Prisons

4.36 Prison conditions, although rapidly approaching minimum international standards [4(c)] are still generally poor, according to reports by non-governmental organisations (NGOs). Many facilities are old in disrepair and overcrowded. According to a July 1998 report by the National Penitentiary Authority, the prison population is in desperate need of additional funding. Out of 156 detention centres, 100 require considerable renovation. At the same time the Authority's annual budget continued to fall. The Ombudsman for Human Rights complained about the safety of prisoners, noting that inmates are often the victims of violence from other prisoners. [42]

4.37 The Ombudsman has also suggested that prison populations be reduced, including

decriminalising certain offences. The ratio of prisoners to rehabilitation officers is poor. The government permits human rights monitors to visit civilian prisons. [4(c)]

I. Capital Punishment

4.38 A formal moratorium on carrying out executions was introduced in 1995, although the last execution in Poland was in 1988. [10(a)][11(b)]

4.39 The new Penal Code which took effect on 1 September 1998 eliminates the death penalty and introduced life imprisonment as the most severe form of punishment. [26(d)]

J. Organised Crime

4.40 A report prepared by the Minister of Internal Affairs entitled "An assessment of the state of public security and safety in Poland" was submitted to the government at the end of February 1999. It concluded that the opening of borders and the migration in every direction have created conditions for the rise of organised crime and domestic criminal gangs. The report states that in the last few years the crime rate has been rising by about 10% a year, with most crimes being economically motivated. This is reflected in increasing numbers of crimes involving the use of firearms, chiefly in robberies and vendettas, the internationalisation of crime, growing gang warfare and especially kidnappings and criminal terrorism. [41]

4.41 Since 1995 prosecutors have had the authority to grant witnesses anonymity at trial if they express fear of retribution from the defendant. This law designed to help combat organised crime, impairs defendants' right to confront accusers [42] The new Penal Code also has provisions for fighting organised crime, for example, allowing the confiscation of earnings from such activities. [10(a)]

4.42 The threat of organised crime has provoked legislative responses which have raised questions regarding the right of privacy. Parliament has permitted the police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involving serious crimes, narcotics, money laundering or illegal arms sales. Under the Criminal Code the Minister of Justice and the Minister of Interior must authorise these investigative methods. In emergency cases the police may initiate an investigation which utilises wiretaps or the opening of private correspondence at the same time as they seek permission from the ministers. A number of warrants were later curtailed after intervention by the Human Rights Ombudsman. [42]

4.43 The EU Commission noted in its report of November 1998 that the Ombudsman had prepared an assessment of the procedures and practices on wiretapping and control of private correspondence. The EU report of October 1999 also refers to the need to fight organised crime. [39(a)(b)]

K. Polish Citizenship: Foreign Nationals

4.44 Polish citizenship is governed by the Polish Citizenship Act dated 15 February 1962 (Dz.U. of 1962, No.10, item 49 as later amended). The general rule expressed in Article 8, Section (1) is that a foreign national may be granted Polish citizenship if he has been a resident in Poland for a period of not less than five years. Under Section (2), a foreigner may, *in*

particularly justifiable cases, be granted citizenship, despite not having fulfilled the conditions mentioned in Section (1). The phrase "in particularly justifiable cases" is however, very unclear and undefined. Under Article 12, Section (1), a refugee arriving in Poland becomes a Polish citizen by virtue of law. However, this provision is very misleading because a "refugee" is defined as an individual of Polish nationality or ancestry who arrived in Poland with an intention to reside permanently. [12(a)]

4.45 As of 1 January 1999 women have the same right as men to transmit citizenship to their foreign born spouses. [42]

i) Permanent Residence Card

4.46 According to Article 13, Section (1) of the Foreigners' Act dated 29 March 1963 (Dz.U. No.7, item 30 as later amended), a foreign national may be granted a permanent residence card. Under Section (2), such a card is issued by the relevant provincial authority, (a voivod), upon an opinion given by the relevant police authority. This opinion constitutes an administrative decision which can be appealed. [12(a)]

ii) Employment Matters

4.47 An employer may hire a foreign national without a permanent residence card or a "refugee" subject to the prior permission from a local Provincial Employment Office. Such permission is issued for a period of no longer than 12 months. It entitles a foreign national to apply for a right of residence in order to provide services in Poland. It also entitles a foreign national to apply for a right of residence in respect of his/her work in cases where a foreign national is hired by the Ministry of National Education as a language teacher; is a medical doctor, dentist or a graduate of a Polish medical school. Only the acquisition of Polish citizenship guarantees the full employment of rights and benefits as provided by Polish law. A work permit provides certain social benefits for foreign nationals. [12(a)]

4.48 A new law on identity cards came into effect on 27 December 1997 which stated that foreigners holding the right to permanent residency have until 26 June 1998 to apply for a new card at their municipality of residence. The fee would increase after this date. The old cards would not necessarily be invalid after 27 June 1998 but would still be accepted until the new ones have been delivered which was expected to take some time. The new cards should be valid for 10 years and contain a photograph of the bearer. [29(a)]

L. Social Welfare

4.49 Poland has a very comprehensive health care system which is available to Polish Nationals and foreigners who have been given residence status there. Each voivod has a number of district health centres which provide a full range of treatment including mental health care. Psychiatrists and physiologists undertake counselling both for the public funded welfare system and privately. There is a private health care system, although it is expensive. Some of the large state companies have their own medical centres, including mental health care. [2(e)]

4.50 All citizens who pay (national) insurance are eligible for free health care no matter what their residential circumstances. Those who do not pay the (national) insurance may also use the state medical facilities but they pay the medical fees which relatively small, e.g. to consult a doctor as an out-patient costs PLN 5 (approximately £1). There are also social services all over Poland which provide assistance to those who are homeless or without money. The Polish Ministry of Health has confirmed that no-one is left without medical care in Poland. [2(j)] The

number of patients per doctor in Poland is around 400 people, lower than the United States, Germany and Holland. Furthermore, one quarter of hospital beds in Poland remain unoccupied. [30(a)]

4.51 Medical care is provided free for all workers and rural population. Welfare benefits are available to the to the unemployed and pensions are organised and managed by the Union of Pensions, Invalids and Retired Persons. [1(b)] Prime Minister Jerzy Buzek has declared that the coalition attached great importance to changes in the health sector. [8(g)][27(b)]

M. Education

4.52 Education is free and compulsory between the ages of 7 and 14 years. Before the age of 7, children may attend creches or kindergartens. In 1996/97 enrolment at primary schools and secondary schools was equivalent to 99.1% and 86.6% respectively of children in the relevant age group. Secondary education is free to candidates who are successful in the entrance examination. At this level there are general secondary schools, vocational technical schools and basic vocational schools. Vocational technical schools can lead to qualifications for entering higher educational establishments, while general entry to secondary schools may lead to college or university. [1(a)]

4.53 The Regulation of the Minister of National Education of 24 March 1992 on organising instruction with a view to maintaining the sense of national ethnic and linguistic identity of students who belong to national minorities (Dz. U. No. 34, item 150), makes this statutory provision more specific by showing the means to be used in exercising the educational rights of minorities as well as the mechanisms which co-ordinate the education policy of the State in this field. A section of the Regulation reads: "The supervision over proper execution of the educational rights of national and ethnic minorities shall be exercised by the school superintendent". Section 3 reads: "Native language classes for national minorities shall be organised on a voluntary basis. They shall be organised by the director of the school (kindergarten) upon a written request of parents or legal guardians of children. In case of teenagers from secondary schools, the declarations expressing their wish to participate in native language instruction at school may be made by students themselves". Section 12 reads "The educational process at schools for national minorities as well as the instruction in the field of the arts shall promote respect for the world cultural heritage and the maintenance of regional traditions and culture". [34(d)]

4.54 18,795 persons learn their native language in 289 Polish institutions (schools and inter-school groups). [34(d)]

(please also see the Section V, L, Ethnic Minority Groups (General))

N. Refugees

4.55 The government co-operates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organisations in assisting refugees. There were no reports of forced repatriation of those having a valid claim to refugee status. Foreigners recognised as refugees under the 1951 UN Convention Relating to the Status of Refugees are granted full refugee status and permission to remain permanently. According to UNHCR figures,

approximately 2,864 individuals applied for refugee status during the year. Of the total number of applicants awaiting decision (including applications carried over from 1998), 46 were approved, 2,404 were rejected and 762 were otherwise discontinued. [42]

4.56 A law on immigration signed by the President in 1997 took effect in December of that year. Human rights organisations generally view the Aliens Act as positive. The law gives all prospective refugees access to a procedure for adjudicating refugee status and establishes an independent board to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. This board has been fully operational since January and refugee advocates noted that it serves as an impartial and independent adjudicator of appeals. The law does not recognise the concept of first asylum or any other form of temporary protection. [42] Recent public opinion polls indicate that more and more Poles are favourably disposed to refugees. [35]

4.57 Although some observers have criticised the authorities for using deportation centres in lieu of refugee centres (when the latter are full), as well as for long delays in the initial review of refugee status applications the government no longer uses deportation centres as refugee centres. UNHCR received no complaints about the government's handling of refugee processing. [42] The EU Commission in its report of October 1999 considered that further efforts were required to improve the speed of processing. [39(a)(b)]

4.58 A Helsinki Foundation Report drafted after extensive monitoring of eight of Poland's major border crossings, provided a generally favourable assessment of the country's treatment of refugees. [4(c)]

O. Europe and NATO

4.59 Integration into western economic and security structures, principally NATO and the EU, has been an overriding goal of Polish foreign policy. In 1991 Poland signed an Association Agreement with the EC and in April 1994 submitted its application to join the EU. In July 1997 Poland received a favourable Opinion from the European Commission on its readiness to undertake accession negotiations and in December 1997 the Luxembourg European Council confirmed that Poland should be invited. [2(i)]

4.60 On 12 March 1999, after a period of accession negotiations, Poland, together with the Czech Republic and Hungary were admitted as full members of NATO. [26(a)]

4.61 EU membership remains a top priority for the government and there is currently popular support for EU membership. On 30 March 1998 the accession process was formally launched by a meeting of Ministers of Foreign Affairs of the 15 EU member States, the ten Central and Eastern European applicant states and Cyprus. Poland hopes to be ready to join by the end of 2002. [38]

4.62 The Commission of the European Union reports regularly to the European Council on the progress made by each candidate country of Central and Eastern Europe in preparation for membership. [39(a)(b)]

V HUMAN RIGHTS

A. Actual Practice with regard to Human Rights:

5.1 Poland submitted its application for membership of the European Union on 5 April 1994.

In preparing its Opinion, the European Commission applied the criteria established at the Copenhagen European Council in June 1993. The conclusions of this Council stated that those candidate countries of Central and Eastern Europe who wish to do so, shall become members of the Union if they meet the following Copenhagen criteria:

- ◆ stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- ◆ the existence of a functioning market economy, as well as the ability to cope with competitive pressures and market forces within the Union and
- ◆ the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

5.2 In preparing its Opinion, the Commission analysed the situation in Poland, taking into account progress accomplished and reforms already underway. It also analysed the current situation, going beyond a formal account of the institutions to examine how democracy and the rule of law operated in practice. In the light of these considerations, the Commission concluded that Poland presents the characteristics of a democracy with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities. The Commission, therefore, recommended that negotiations for accession should be opened with Poland. **[38]**

5.3 In its reports submitted to the European Council in November 1998 and October 1999 the Commission reported on Poland's progress towards accession. It concluded that Poland continues to fulfil the Copenhagen political criteria. With respect to Human Rights and the Protection of Minorities, the report stated that "it would appear that there have been no cases of inhuman and degrading treatment recorded in Poland since the Opinion. Poland has already acceded to most of the major human rights instruments. The 1997 Constitution provides explicit protection for the citizen's right to privacy. The ECHR Conventions Protocols 6,7 and the Framework Convention for the Protection of National Minorities are not yet ratified. However, Poland has ratified Protocol 11 of the ECHR and the European Social Charter during 1998. **[39(a)(b)]**

5.4 Commenting on civil and political rights, the Commission found that basic rights continued to be respected and also made a number of other comments, including:

- The need to intensify the fight against corruption continues to be a source of serious concern; **[39(b)]**
- The new national administrative structure effective from 1 January 1999 will provide significant opportunities for economic and democratic development; **[39(b)]**
- The office of the Commissioner for Civil Rights Protection (CCRP) - with a staff of 190 is functioning well and has made a significant contribution to the protection of citizens rights. The CCRP is appointed by the Sejm for a five year tenure, his decisions are not subject to appeal, citizens are entitled to free access and the Commissioner enjoys high public confidence. The CCRP has reported that further efforts are required to improve provisions for legal recourse for members of certain professional groups (armed forces, medical profession) who have been subject to disciplinary measures; **[39(a)]**
- As far as freedom of expression is concerned, Poland continues to have a lively and active press; **[39(a)]**
- Poland's NGOs continue to play an important and influential role in national debate;

[39(a)]

• With respect to the judiciary, the difficulties and constraints identified in the Commission's Opinion remain a source of concern, the average time for processing court cases has progressively increased and the enforcement of court rulings and access to the courts have not improved since the opinion. However, the provisions of the 1997 Constitution set out a framework for significant reinforcement of the rule of law. Important developments during the year included : **[39(a)(b)]**

- The 1997 Constitution has enhanced the functioning of the rule of law in particular regarding the powers of the Constitutional Tribunal to resolve issues of conflict between different branches of the state authority and by providing citizens with judicial recourse in cases relating to the infringement of their Constitutional freedoms; **[39(a)]**
- The principle of the independence of the judiciary has been clarified in the context of the Lustration process; **[39(a)]**
- The new Criminal Procedures Code, providing for improved operation of the criminal justice system in line with the European Convention on Human Rights entered into force on 1 September 1998. The new code includes a greater emphasis on defence rights and respect for human dignity, reduces maximum detention time from 72 to 48 hours and provides alternative punishments to incarceration; **[39(a)]**
- A new Penal Code and Code of Penal Procedures adapted to conform to European Convention on Human Rights standards entered into force on 1 September 1998. The new code replaces capital punishment with life or 25 years' imprisonment. A number of other significant changes are made which serve to reduce the age limit for prosecution of minors on serious offences (15), to reduce the minimum period of detention (1 month), to reduce the maximum punishment threshold for certain serious offences and to increase penalties for serious crimes. The Code also introduces new categories of criminal offences (e.g. computer and environmental crime). **[39(a)]**

5.5 The Commission further considered that basic social, economic and cultural rights continued to be guaranteed. Nevertheless, Human Rights organisations have expressed their concerns about the need to make progress on national policies improving the treatment of women. **[39]**

5.6 With respect to minority rights and the protection of minorities, the Commission considered that respect for, and protection of minorities continues to be assured and functions well and that:

- policy towards the Germanophone minority continues to be constructive with continuing special rights to electoral representation resulting in 2 members of the Sejm being elected. **[39(a)]**
- The President and government of Poland have worked constructively to meet the concerns of the Jewish community. In particular, the government has made commitments to contribute to an international assistance fund for victims of Nazi oppression.
- The 1998 Penal Code also provides for penalties against those who use the mass media to "advocate discord" on national, ethnic, racial or religious grounds. **[39(a)]**

5.7 The Polish government respects the rights of its citizens. There were no reports of political killings or any reports of politically motivated disappearances in 1999. Nor were there any reports of political prisoners or cases where persons were exiled in 1999. The Polish Criminal Code prohibits torture and there were no reported incidents of such treatment in 1999. [42]

5.8 The Polish Constitution also provides for the right to privacy of correspondence however, the government maintains without outside review a large number of wiretaps. There is no legislation that provides for the general right to privacy. However, a 1998 law prohibits the collection of information about a person's ethnic origin, religious convictions, health condition, political views or membership in religious, political or trade union organisations. [42] Although there is no legislation guaranteeing the right to privacy, Poland has signed the European Convention on Human Rights, which provides for that right. [4(c)]

5.9 In response to the growing threat of organised crime and money laundering, however, Parliament permitted the police and intelligence services to monitor private correspondence and to use wire taps and electronic monitoring devices in cases involving serious crimes, narcotics, money laundering, or illegal arms sales. Under the Criminal Code the Minister of Justice and the Minister of Interior must authorise these investigative methods. In emergency cases, the police may initiate an investigation using wiretaps or opening private correspondence at the same time as they file an application for permission with the Ministries to engage in these activities. After interventions by the human rights Ombudsman the Prosecutor General curtailed the number of warrants for wiretapping. (also refer to Section IV, paragraphs 4.43 – 4.44). [42]

5.10 The law forbids arbitrary forced entry into homes. Search warrants issued by a prosecutor are required in order to enter private residences. In emergency cases when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. In the most urgent cases, in which there is no time to consult with the police commander, police may enter a private residence after showing their official identification. There were no reports that police abused search warrant procedures in 1999. [42]

5.11 The United Nations' Committee Against Torture, in its June 1996 report, welcomed the measures taken by the Polish authorities in cases of incitement to racial hatred. Furthermore, it considered the work of the Ombudsman in relation to the promotion and protection of human rights to be a positive development, as well as the efforts undertaken by the authorities to protect minorities. In this regard, the bilateral treaties, which include specific provisions of protection against racial discrimination and guarantees of equal rights with regard to minorities, that have been signed with neighbouring countries, are an encouraging development. They also noted with satisfaction that the Act on the Elections to the Sejm of 28 May 1993 provided measures for promoting minority rights in the electoral process. [34(b)]

5.12 The second periodic report on the implementation by Poland of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment showed the continued changes in legislation made to create and strengthen legal guarantees to ensure respect for the civil and political rights that are the components of a State subject to the rule of law. Poland also ratified the European Convention on Human Rights and established contacts with international NGOs such as Amnesty International, the Helsinki Federation of Human Rights and Interpol. The implementation of the provisions of the Convention has become an enduring and very important factor in the process of transforming the legal system and the way in which it is applied. [34(b)]

5.13 Human rights are more and more widely promoted and taught in Poland. At several universities (e.g. Gdansk, Poznan, Torun, Lublin, Warsaw) human rights have become a subject

of regular lectures. A number of monographs on human rights have been published. They are widely available in bookshops and libraries. The judicial decisions of the European Commission and Court in Strasbourg are widely published, both in professional publications ("Prokuratura i Prawo" - "Prosecution and Law", "Palestra" - "The Bar") as well as in daily papers (the legal supplement to "Rzeczpospolita" - "The Republic"). The Ministry of Justice organises a number of training sessions for judges and prosecutors, which are devoted to human rights. The Supreme Court organises seminars on this subject. Particularly intensive training sessions are conducted by the community of attorneys as well as by the Association of Active Judges "Iustitia". [34(d)]

5.14 Review of government policy on the national and local levels with respect to the elimination of racial discrimination is encouraged by the promotion of human rights in Poland as well as by the ratification by Poland of several conventions concerning human rights. [34(d)]

B. Human Rights Monitoring and NGOs

5.15 A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are co-operative and responsive to their views. Some domestic NGOs believe that a hostile regulatory climate is developing in parts of the government bureaucracy [42]

5.16 The Helsinki Foundation a major NGO conducts human rights investigations without government interference. Members of the Foundation reported that the Polish government displayed a generally positive and helpful attitude towards human rights investigations. [42]

5.17 The Office of the Commissioner for Civil Rights Protection (the Ombudsman), established in 1987, is the Government's watchdog for human rights. It is an effective and independent body with broad authority to investigate alleged violations of civil rights and liberties. The Ombudsman registers each case that is reported to his office and files grievances, where appropriate, with the relevant government office. He has no legislative authority and is sworn to act apolitically. The government co-operates with his office. (Also refer to Section V, paragraph 5.4 (c) and Section IV, paragraphs 4.35-4.36) [42]

5.18 According to the EU Commission Report on Poland of November 1998, the country's NGOs continue to play an important and influential role in national debate. [39]

C Women

5.19 The Constitution provides for equal rights regardless of sex and accords women equal rights with men in all fields of family, political, economic, and social, life, including equal compensation for equivalent work. In practice, however, women are paid less for equivalent work, mainly hold lower level positions, are discharged more quickly, and are less likely to be promoted than men. According to statistics men have a higher employment rate (59%) than women (39%) and women have a higher unemployment rate (12%) than men (9%). Despite a generally higher level of education women earn on average 30% less than men. In August 1999 the UNHCR expressed its concern about the situation and agreed that women are discriminated against in the employment market. [42]

5.20 Violence against women continued to be a problem in 1999. Police do intervene in cases of domestic violence, and husbands can be convicted for beating their wives. According to the latest Women's Rights Centre report there has been significant progress in awareness of the issue of violence against women. It has become more visible in the media and an increasing number of NGOs are addressing the problem. [42]

5.21 The Ombudsman for Human Rights monitors the rights of women within the broader context of human rights. Observers consider that the broad scope of the office's mandate dilutes its ability to function as an effective advocate of women's issues. Within the Cabinet in 1997 the government Plenipotentiary for Family Affairs replaced the government Plenipotentiary for Women and the Family a change that many women's rights groups perceived as an example of discrimination. Several women's rights NGOs exist, including the Polish Foundation for Women and Family Planning and the Women's Rights Centre. These groups are active advocates of gender equality and advance their goals through research, monitoring, and publication. Several church-sponsored women's advocacy organisations also exist, but their co-operation with other women's NGOs is limited. [42] Human Rights' organisations have expressed their concerns about the need to make progress on national policies improving the treatment of women. [39]

5.22 Public discussion of the problem of sexual harassment is relatively new but women are increasingly talking about it and speaking out against it. While laws specifically addressing sexual harassment do not exist, social awareness is increasing, as are mechanisms with the potential to deal with the problem. The new Criminal Code, for example, states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to prison for up to 3 years. According to a Supreme Court advisory opinion, such a relationship can occur between employers and employees, between supervisors and subordinates, or between teachers and students. This provision can only be used when the harassment occurs between persons of unequal rank. [42]

5.23 Trafficking in women to and through Poland is a growing problem. The practice is illegal and several provisions in the Criminal Code address this problem. Those convicted of trafficking in women or children may be sentenced to prison for between three and 10 years and those convicted of luring individuals to work as prostitutes abroad can be sentenced prison for between one to 10 years. [42]

D. Children

5.24 The principle of equality of all children, regardless of their race, colour, sex, language, religion, national and social origin, property or birth, lies at the base of the legal regulations concerning every child, and is strictly observed whenever law is applied. The ratification by Poland of the Convention on the Rights of the Child has had a substantial impact on the creation and observance of law aimed at the protection of the rights of every child. [34(e)]

5.25 An indispensable network of child-care establishments was set up in the educational system. In this system institutions provide child-care to children from their birth to their coming of age (for example crèches, kindergartens, infant orphans' homes, orphans' homes run by families, guardianship emergency centres, special care educational homes, school dormitories, youth community centres, sociotherapy centres, etc.). [34(e)]

5.26 Vital importance is given to the High Court judgment dated 12 June 1992 concerning the increasing number of adoptions of Polish children by applicants in permanent residence abroad. In its judgment the High Court acknowledged that adoption of a Polish child - which involves removal of the child to another country - may take place in the event that no possibility exists to place the child in a foster or adoptive family in Poland in the equivalent conditions. The High Court underlined that this procedure gives precedence to the well-being of the child, provided for in article 20, paragraph 3 and article 21 (b), of the Convention on the Rights of the Child. [34(e)]

5.27 The Constitution extends some state protection to the family and children and provides for the appointment of an Ombudsman for children's rights. However, an ombudsman had not been appointed since Parliament passed legislation which was awaiting the President's signature

at the end of 1999. The government sponsors some health programmes targeted specifically at children, including a vaccination programme and periodic check-ups conducted through the schools. However, budget shortfalls prevent complete implementation of these programmes. [42]

5.28 Article 48 of the Polish Constitution, whilst stipulating that parents have the right to raise their children according to their own beliefs, states that this right must be exercised with "allowance for the degree of the child's maturity, and for the freedom of his or her conscience, religious belief and convictions". [4(a)]

5.29 Prostitution among 12 and 13 year olds is reported to be increasing. Violence against children is illegal. A provision of the new Criminal Code threatens those who physically or psychologically abuse a juvenile with a prison sentence of 3 months to 5 years. If the victim attempts suicide the sentence is increased as it is if the perpetrator is found to have acted with extreme cruelty. Abuse is rarely reported and convictions for child abuse are even rarer. There is no societal pattern of abuse of children. Incidents of trafficking in children are on the rise and the country is a source, destination and transit point for traffickers. There is a growing market for girls as young as 12 or 13 years old to work as prostitutes. In May 1999 the Department of Justice organised an international symposium on trafficking in women and children. Government officials and NGO representatives from Poland, Lithuania and Latvia met to discuss ways to address this growing problem. [42]

E. Homosexuals

5.30 Polish law states that "all are equal under the law" and makes no reference to sexual or any other minority. In the main, Poland follows International Convention which, although it does not refer to homosexuals specifically, does apparently state that "people of different race, religion, skin colour and others should not be discriminated against under law." [2(d)]

5.31 Certain restrictions are, however, placed on same sex relationships. These relationships are not allowed to contract a legal marriage, adopt children or inherit from each other. Officially registered organisations, recognised by the Polish Courts, exist to help sexual minority cases should they arise. One view taken is that although homosexuality is generally tolerated in the larger towns and cities, condemnation by the local populace is extremely likely in the rural areas. [2(d)]

F. People with Disabilities

5.32 In 1996 there were approximately 5 million disabled persons in Poland, and the number is expected to reach 6 million by the year 2010. In 1995 the Central Bureau of Statistics (GUS) reported that 17% of disabled persons able to work are unemployed. Advocacy groups claim that the percentage is much higher. GUS data from 1997 indicate that 57% of the disabled have no more than an elementary school education, compared with 30% of those without disabilities and that only 3.5% have a university education, compared with 7.7% of the non-disabled. [42]

5.33 The Constitution provides for aid to disabled persons "to ensure their subsistence, professional training, and social communication," and a number of laws protect the rights of people with disabilities. Implementation, however, falls short of rights set out in the legislation. Public buildings and transportation are generally not accessible to people with disabilities.

Current law provides only that buildings should be accessible. [42]

5.34 The law creates a state fund for the rehabilitation of the disabled that derives its assets from a tax on employers of over 50 persons, unless 6% of the employer's work force are disabled persons. While the fund has adequate resources, its management has encountered difficulties, including frequent changes in leadership. According to press reports, the fund has 4,000 grant applications pending. In addition, the fund by law cannot be used to assist disabled children, that is, persons under 16 years of age. [42]

5.35 A 1996 law allows individuals from certain disability groups to take up gainful employment without the risk of losing their disability benefits. Previously, disabled individuals from those groups lost their benefits once they began to work. [42]

G. Religious Freedom

5.36 The Constitution ensures freedom of faith and religion. The government respects this right. Citizens enjoy the freedom to practice any faith they choose. Religious groups may organise, select and train personnel, solicit and receive contributions, publish and engage in consultations without government interference. There are 14 religious groups in the country whose relationship with the State is governed by specific legislation and 140 other religious communities. The legislation outlines the internal structure of the religious groups, their activities and procedures for property restitution. There are no government restrictions on establishing and maintaining places of worship. Current law places Protestant, Catholic, Orthodox and Jewish communities on the same legal footing and the government has attempted to address the problems that minority religious groups face. [42]

5.37 The Guarantee of Freedom of Conscience and Religion Act dated 17 May 1989 provides the possibility to set up churches and other religious associations by every person wishing to do so. The procedure requires a declaration of adherence to be delivered and an entry into the register to be made. As at 1 July 1994, religious activity was carried out in Poland by about 100 Churches and other religious associations. Some of them (15 Churches) have their own legal status regulated by the Act. The others have so far used the procedure of entry into the register. This double form of regulation is used merely to ease the settlement of the legal condition of the new religious associations. It does not, however, cause any differences in the rights of these associations to perform their religious functions. [34(e)]

5.38 The Roman Catholic Church was granted full legal status in May 1989, when three laws regulating aspects of relations between the Church and the State were approved by the Sejm. The legislation guaranteed freedom of worship, and permitted the Church to administer its own affairs. The Church was also granted access to the media, and allowed to operate its own schools, hospitals and charitable organisations. [1(a)]

5.39 The Republic of Poland guarantees its citizens the right to take part in religious practices and rites also through the mass media, and in particular through the all-Poland radio which, in the field of radio programmes for churches and minority denominations, plays an essential role. The basis for this policy is the agreements concluded with the Polish Ecumenical Council, the Seventh Day Adventists Church and the Union of Jewish Religious Communities in the Republic of Poland, and also by the practice, which has developed over many years, of co-operation between "Polish Radio" SA and religious communities other than the ones mentioned above. [34(d)]

5.40 The Constitution gives parents the right to bring up their children in compliance with their own religious and philosophical beliefs, religious education classes continue to be taught in the public schools at public expense. Although the Catholic Church representatives teach the vast

majority of religious classes in the schools, parents can request religious classes in any of the religions legally registered in Poland, including Protestant, Orthodox, and Jewish religious instruction. Such non-Catholic religious instruction exists in practice, and the instructors are paid by the Ministry of Education. [42]

H. Main Religions

5.41 In 1995 an estimated 35 million people, some 95% of the population of Poland were estimated to be adherents of the Catholic Church. [1(a)]

150,000 of the population in Poland in 1994, were estimated to be Protestants such as:-

Baptist Union of Poland

Evangelical Augsburg Church in Poland

Evangelical-Reformed Church

Pentecostal Church

Seventh-day Adventist Church in Poland

United Methodist Church

as well as several other small Protestant churches including the Church of Christ, the Church of Evangelical Christians, the Evangelical Christian Church and the Jehovah's Witnesses. [1(a)]

5.42 In 1994, there were also estimated to be some 5,000 Muslims of Tartar origin in Bialystok Province (eastern Poland), and smaller communities in Warsaw, Gdansk and elsewhere. [1(a)]

5.43 There is also a Union of Jewish Communities in Poland, which comprises 14 synagogues and has a registered following of approximately 2,500 members. [1(a)] According to The Economist, of 23 November 1996, the Jewish population of Poland was approximately 6,000 in 1994. [3]

I. Jews

5.44 Anti-Semitic feeling persists among certain sectors of the population occasionally manifesting itself in acts of vandalism and physical or verbal abuse. Surveys in recent years show a continuing decline in anti-Semitic sentiment and avowedly anti-Semitic candidates fare very badly in elections. [42]

5.45 Since 1989 Poland has undertaken concerted efforts and measures to improve Polish-Jewish relations. The government has worked constructively towards resolving issues of concern to the Jewish community. In July 1996 the Prime Minister and the Mayor of Kielce apologised on behalf of the Polish nation for the 1946 pogrom in that city in which 42 Jews were murdered. The President and Prime Minister opposed the building of a supermarket near the Auschwitz concentration camp and successfully encouraged local authorities to find alternatives to the planned development. This co-operative approach was praised by Jewish organisations. [4(a)] Where anti-semitic incidents have occurred they have been condemned by the authorities and dealt with by the police. [4(b)(c)]

5.46 In 1998 progress was reported on the 1997 law permitting the local Jewish community to

submit claims for property owned prior to World War II. Claims must be made by 2002. On 20 February 1997 the Sejm passed a law on Jewish communal property restitution to allow the local Jewish community to submit claims for property owned prior to World War II. Possible communal property claims include synagogues, cemeteries, and Jewish community headquarters, as well as buildings that were used for other religious, educational, or charitable activities. [4(c)]

5.47 There are no significant anti-Semitic parties in Poland, although there is occasional anti-Semitic rhetoric at political rallies and demonstrations. [2(i)] In October 1997, a well-known church figure, Father Henryk Jankowski, made overtly anti-Semitic remarks in a public sermon. Top Polish Roman Catholic officials promptly denounced Jankowski and suspended him from his post for one year. [7][8(p)]

5.48 The President's Office announced in March 1998 that it would make every effort to speed the process of restoring citizenship to Jews who were forced to emigrate during a Communist anti-Semitic campaign in 1968. Between 12,000 and 20,000 persons of Jewish descent are believed to have fled the country as a result of the campaign. [4(c)] President Kwasiewski described the purge which led to the emigration of some 13,000 Jews as a shameful period in Poland's history [28(a)]

5.49 In March 1998 controversy arose over the "Pope's Cross" located on the grounds of a former Carmelite convent in Oswiecim adjacent to the Auschwitz concentration camp museum. The cross originally adorned the altar at a mass conducted by Pope John Paul II near Birkenau in 1979 and was erected at the site of the Carmelite mission in 1989. After the Plenipotentiary for Relations with the Jewish Diaspora announced in 1998 that the cross would be removed as disrespectful of the Jewish legacy at Auschwitz a large group of government and non government leaders went on record as opposing the removal of the cross. Two radical rightwing groups also emerged and opposed the plan. Throughout 1998 and the first half of 1999 radical nationalist anti- Semites erected dozens of additional crosses outside Auschwitz despite the opposition of the country's bishops. In May 1999 the Parliament passed a government sponsored law to protect the sites of all the former camps in the country. The Government consulted with international Jewish groups in preparing the law which gave the Government the power it needed to resolve the issue of the new crosses. After the arrest of the self-proclaimed leader of one of the groups for possessing explosives and making public threats in late May 1999 local authorities removed the crosses, except the Pope's Cross, to a nearby Franciscan monastery under the supervision of the local bishop. Later they sealed off the site to prevent the erection of additional crosses. On 8 November 1999 the Oswiecim district court ruled in favour of the Ministry of Treasury's suit to regain legal possession of the gravel pit adjacent to the former Auschwitz concentration camp where the new crosses had been erected. [42]

J. Religious Sects

5.50 The number of such sects in Poland was estimated to be around 300 and it is believed that nearly one million Poles are under the influence of various sects and quasi-religious organisations. Polish law does not provide for measures to control the activities of the sects. In September 1997, the then Prime Minister, Wlodzimierz Cimoszewicz, appointed the Inter-Ministry Team for New Religious Movements, which is to conduct research into the potential threats posed by particular organisations to state security or to law and order. [10(c)]

5.51 With regard to Astrologers, Faith-Healers and Practitioners of Witchcraft, the Polish law states that "all are equal under the law" and makes no reference to practitioners of witchcraft etc.

or any other minority. In the main, Poland follows International Convention which, although it does not refer to practitioners of witchcraft specifically, does state that "people of different race, religion, skin colour and others should not be discriminated against under law." [2(f)]

5.52 Poland's Ombudsman is empowered to investigate complaints against state bodies etc. As in most Western countries, individuality is generally tolerated in the larger towns and cities. Many newspapers and women's magazines carry horoscopes etc. and are readily available for sale in bookshops and road-side kiosks. [2(f)]

K. Abortion

5.53 In December 1997, the Sejm accepted the ruling of the Constitutional Tribunal acknowledging that the termination of pregnancy on social welfare grounds was inadmissible. This means that a pregnancy will only be allowed to be terminated in three cases, i.e. when it threatens the life or health of the woman; when it is the result of a crime (rape or incest); or when the foetus is badly damaged. [24(c)]

5.54 The 1997 report on the basis of Health, Education, Labour and Justice Ministry statistics indicates that the number of abortions rose in 1997 as a result of more liberal anti-abortion regulations. However, these have dropped as a consequence of the Constitutional Tribunal ruling. [27(a)]

L. Ethnic Minority Groups (General)

5.55 The EU Commission Report of October 1997 and November 1998 found that the respect for and protection of minorities continues to be assured and the 1997 Constitution's explicit protection for minorities appears to be functioning well. [39(a)(b)]

5.56 According to the information from the Parliamentary Commission (in 1996), the overall population of national minorities in Poland is between 1 million and 1.3 million people, i.e. 3-4 per cent of the whole population of the country. The number of the citizens of non-Polish nationality according to the two sources is illustrated by the table below. [34(d)]

Nationalities	Sources of data	
	Parliamentary Commission	National Associations
Belorussian	250-350,000	400,000
Ukrainian	250-300,000	250-300,000
Lithuanian	25- 20,000	30,000
Slovak/Czech	15- 25,000	25- 30,000
German	350,000	250-300,000
Jewish	8- 10,000	6- 10,000
Roma (Gypsy)	25,000	3,000

5.57 There are also minorities of an emigration nature - mainly Greeks but also including Macedonians, Vietnamese, Palestinians, Kurds - numbering from several hundred to 2,000

people in total. Significant religious and ethnic minorities also include Karaims - about 200 persons - and Polish Tartars-Muslims - 3,000 members. [34(d)]

5.58 The Act on Polish Citizenship of 15 February 1962 (Dz. U. No. 10, item 49 with later amendments) does not include any restrictions on account of race, nationality or religion in respect of the right to obtain Polish citizenship. [34(d)]

5.59 The Office for Culture of National Minorities which deals with the problems of minorities and is authorised to subsidise publications connected with national activities of national minority issues in Poland. The Office also undertakes efforts to influence the Roma situation in other areas such as through the intra-governmental Commission on National Minority Issues. Social and education problems of national minorities are within the competence of the Ministry of Labour and Social Policy as well as the Ministry of National Education. [5]

5.60 Steps began in 1989, and there has been progress since, to ensure ethnic (national) minorities their rights to preserve and develop their own social and cultural rights, to profess and practise their own religion and to use their own language. At present all the minority groups have their own associations or social organisations. In 1993 there were 109 associations and 13 minority group foundations registered, and in 1994 about 120 organisations of this type carried out activities. The aim of these activities is above all to preserve and to increase the knowledge of their own history and traditions, to develop cultural activity, and in many instances also to study their mother tongue. [34(e)]

5.61 The Republic of Poland has undertaken to reject all forms of racial discrimination, and this principle has been elevated to the rank of constitutional norm. There exist no legal acts which would allow the State authorities and State administrative organs to differentiate between citizens according to racial criteria, and no such acts may be enacted. On the contrary - all forms of racial discrimination are considered to be offences punishable by imprisonment (arts. 272, 273, 274, 276, 278, 280 of the Criminal Code). [34(d)]

5.62 Apart from social activity, the minority groups in Poland also carry out political activity. Belarusians in Poland have their own political party - the Belarus National Federation. In the Diet the National and Ethnic Minorities Committee was established. Its activities include matters connected with the preservation of the cultural heritage of national, ethnic and linguistic minorities and the protection of their rights. [34(e)]

5.63 In order to safeguard proper development and full exercise of the rights of minorities, the Bureau for the Culture of National Minorities has been established in the Ministry of Culture and Art. At present the Bureau cooperates with 11 representative organisations of the following national and ethnic minorities in Poland: Ukrainian, German, Belorussian, Lithuanian, Tartar, Armenian, Karaim, Czech and Slovak. The responsibilities of the Bureau consist of providing funding support for cultural events organised by minorities, as well as publishing 21 periodicals. Two investments have been financed from the State budget: the construction of the Lithuanian Culture House in Pusk and the construction of the Museum in Hajnowka (Belorussian minority). The General Conservator of Monuments provides supportive funds for the renovation of sacral monuments, as well as for Orthodox Church cloisters and cemeteries. [34(d)]

5.64 To safeguard the political rights of national minorities under the Act on the Elections to the Sejm of 28 May 1993 the requirement of the percentage threshold (5 per cent) of votes cast in the whole country does not apply to the electoral committees of the registered organisations of national minorities. In the present parliament there are two members of the German minority party. Representatives of Belorussian, Lithuanian and Roma minorities have previously run for

the Sejm, but did not obtain the required number of votes. [34(d)][4(c)]

5.65 National minorities have access to the public radio. In the regions where different minorities reside, local radio stations broadcast programmes in the national languages of these minorities. Specific television programmes are also devoted to the problems of national minorities. In recent years a considerable increase in the number of periodicals and publications published by different minorities has been reported. They are mainly supported from the government budget. Information relating to the minorities' rights to profess and practise their own religion was presented under article 18 of the Covenant on Civil and Political Rights. Facilities are provided in schools to maintain the national, ethnic and linguistic identity of pupils belonging to minority groups (Journal of Laws No.34, item 150). [34(e) 4(b)]

5.66 The magazines and newspapers published by minority groups include:

- The Ukrainian minority publishes 10 magazines (including two which are devoted to the Orthodox Church religion, one for young people, one bilingual Ukrainian-Polish). A supplement in the Ukrainian language is also published along with the "Ukrainian Review". Apart from the above-mentioned "Radio Bialystok", also Radio "Olsztyn", "Elblag", "Rzeszow" and "Szczecin" broadcast programmes in the Ukrainian language, mostly once a week. [34(d)]
- Roma publish one monthly magazine, the Lemkos three magazines, the Armenians one bulletin, the Polish Tartars a yearly publication, the Czechs and Slovaks one monthly. [34(d)]
- The Jewish minority publishes three magazines (including one in the Polish language for young people). The vigorous E.R. Kaminska State Jewish Theatre in Warsaw is at the centre of the Jewish culture. [34(d)]
- The Germans publish 13 different magazines, bulletins and brochures, some of them bilingual. On Radio "Katowice" they broadcast a one-hour programme for the German minority and on Radio Opole the programme "Out Homeland", both once a week. Television Katowice broadcasts every two weeks a half-hour programme in the German language. [34(d)]

5.67 The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. Poland's bilateral treaties with Germany and Belarus contain provisions relating to the rights of these national minorities, and human rights groups have described these provisions as "close to ideal." A programme was initiated during the 1996-97 school year to teach Lithuanian to pupils of Lithuanian descent in 12 schools in north-eastern Poland. Some 4,000 students began learning Belarussian in the Bialystok region in 1996. [4(b)]

5.68 In a report on Poland dated May 1998, the European Commission Against Racism and Intolerance (ECRI) of the Council of Europe wrote that the Polish government's officially tolerant policy towards national minorities is not always accompanied by equally tolerant attitude on the part of the general society. [30(c)]

5.69 Authors of the report see the largest danger of intolerance in Poland as the still existent anti-Semitic undercurrents in society and the lack of interest in the problems of minorities. The Commission recommended that the government take steps aimed at increasing public awareness of minorities' problems, including improving education and the use of minority languages. The report also praised the Catholic Church in Poland for fostering tolerance towards minorities. [30(c)]

5.70 In addressing the ethnic minorities of the Bialystok region in June 1998, the Prime Minister, Jerzy Buzek, said that respect for the rights of ethnic minorities was one of the crucial components of a democratic system. He observed that ordinary disputes among people in that

region were frequently classified as religious or ethnic disputes. He declared that ethnic minorities could count on a very serious treatment of their problems under Polish law which also guarantees them cultural and educational development. [30(d)]

M. Roma (Gypsies):

5.71 The Roma community, numbering about 40,000 [42] in Poland can basically be divided into four tribes:

Lowland Roma (Polska): The Polska are natives of Poland who regard the Kalderash and Lovari Romas as foreigners. Their language borrows much from German and their surnames usually end in -ski or -cki, e.g. Majewski, Czarnecki, Glowacki. The Russian Roma (Taharnobytsky) and the Galician Roma (Galitsyaki) also belong to this group. [5][6]

Kalderash (Kalderari or Kelderasz): These Roma derive their name from the Romanian word for "tinsmith". They are an exceptionally wealthy, resourceful and enterprising group. Since 1945, they have started to follow the Lowland way of life, and have generally travelled within Poland. [5][6]

Lovari: The Lovari derive their name from the Hungarian word for "horse" and related to their original occupation. However, as horse trading has died out the Lovari now tend to employ their talents in tinsmithing, and are, as a result, similar to the Kalderash in lifestyle. Some of the Lovari clans arrived from the Soviet Union after 1945. The most important clans are the Michaj, Lakatosz and Kopasz who live mainly around Lublin, Wroclaw, Poznan, Szczecin and Krakow. The Lovari consider themselves to be the Roma aristocracy. [5][6]

Highland Roma (Bergitka): The Highland Roma live a settled life in the Carpathians and Tatra regions, particularly around Nowy Targ and Nowy Sacz. They are the poorest group of Roma and are held in contempt by other Roma. Highland Roma are basically unskilled and have replaced fortune-telling with begging. Common names are Gil, Szczerba and Mirga. [5][6]

5.72 Recent history: In brief, as in the rest of Central and Eastern Europe, Roma reached Poland in the fourteenth and fifteenth centuries. They were reported to have Indian roots. [15] In pre-war Poland there were about 50,000 Roma, although during the war as many as 35,000 Roma were exterminated by the Nazis, reducing their numbers to approximately 15,000 after the Second World War. However, in the succeeding 50 years, the Romas' numbers swelled to approximately 30,000. After the war some 75% of Polish Roma were still nomadic. Communism's forced settlement policies, however, officially brought their travelling to an end by 1964. [14] Roma could be prosecuted or imprisoned for such minor offences as lighting bonfires, not registering a change of address, itinerancy, or failure of their children attending school. As a result 10% of Roma men have a criminal record today. [6]

5.73 There is anti-Roma prejudice in Poland. It is perhaps less frequent in Poland only because the number of Roma are smaller and they are widely scattered with only a few concentrated settlements to be found in the south of the country. It is clear that the Roma do encounter discrimination from elements within Polish society, and old antagonisms have been exacerbated by the apparent wealth of some, and their different lifestyle, together with the social pressures of rising unemployment. The Polish Government, however, is committed to addressing this problem, but this is likely to take some time as it is necessary to change underlying prejudices. [2(a)]

5.74 According to a report to the UNHCR by Mark Braham in March 1993, most of the Roma have good flats and live well, even though there are poor communities. Local Poles, however, considered themselves to be poor, which led to hostilities of rivalry and jealousy when some

Roma began to build and reside in beautiful houses. [14]

5.75 It has also been alleged that there have been cases when the police have not always intervened as often or as effectively as they should. In November 1992, Marek Nowicki of the Polish Helsinki Committee supported the view of the Romany Association in Poland that during the June 1991 riots in Mława, the police had failed to intervene to protect the Roma, especially in the initial phase of the rioting. [2(a)]

5.76 More recently, on 5 March 1998, Roma in Czaniec near Kety in southern Poland attacked seven young men. The attackers sought local skinheads who for several weeks had been challenging and threatening them. The Commanding Police Officer for the area stated that this was the first sign of any discord in the area. He added that this particular incident was a result of a quarrel over an unpaid bill by a Rom. The tense situation was quelled by Roman Kwiatkowski, president of the Association of Gypsies in Poland, who arrived in the area and gave assistance both to the Roma and the police. Racist or xenophobic attacks may also be directed at people of Polish origin. [31(a)]

5.77 In September 1998 a 14 year old Romani girl from Bytom was injured seriously when a skinhead threw a molotov cocktail into the apartment where she was sleeping. A suspect is awaiting trial. [42]

5.78 Dr T A Acton, a lecturer in the Sociology of Social Policy and Professor of Romani Studies, stated in his report of 14 November 1997, that movements against racism and Romani organisations in Poland do not possess the resources to support those who are threatened in 'safe areas'..". He accepted "... the general goodwill of the Polish government, and its policy against racism, and the existence of courageous Gypsy organizations campaigning with some degree of central government support, for civil rights and freedom from racial attack and discrimination..." [37]

5.79 In his report of July 1997, Dr D Kendrick stated that in his view "... The central and local authorities are unwilling or unable to stop attacks against Gypsies by skinhead and other bands..." He supported this view by listing several isolated incidents between 1991 and 1996. [36]

5.80 The UNHCR however, concluded in their letter of 20 September 1995, that "On balance, for a Roma asylum seeker to be recognised, he/she would need to provide particularly strong and credible elements." [13]

5.81 In the **Helsinki Human Rights Foundation** report of September 1997, the Foundation concluded that after 1989 the treatment of Roma by the authorities in Poland has changed markedly. The authorities recognise the Roma community as a national minority which should be helped and protected by law. The main problem of the Roma in Poland is their distance from the "majority" of the society. However, it is to be stressed that the situation of this group in Poland is positively better than in other countries of central and eastern Europe. [20(a)]

5.82 In the opinion of the Helsinki Human Rights Foundation, the Polish Roma who apply for asylum in the United Kingdom do not fulfil the conditions for granting them refugee status in the terms of the decisions of Article 1, passage a, point 2 of the 1951 Convention regarding the Status of Refugees. The Polish legal system (with regard to the Constitution, legislature and executive orders) and Polish international obligations institute basic guarantees for the protection rights of Roma and of other people who belong to ethnic national minorities. However, there is an absence of a homogeneous legal regulation with regard to minorities. The Helsinki Foundation added that they would like to emphasise once again that the treatment of Roma by the authorities in Poland has changed markedly and that the Roma community is recognised as a

national minority. Similarly, the policy of the state towards this group as it is actually carried out is not of a discriminatory character. [20(a)]

5.83 The Ombudsman: In a 1997 report the Ombudsman reported that he received a minimal number of complaints from Polish Roma. In his opinion, the local authorities take proper action in all cases involving Roma. However, there are Polish citizens who are prejudiced and aggressive towards national minorities, such as Jews, Roma, Lithuanians, etc. He added that Roma do not criticise the public authorities attitude towards them, but their slow actions against those who attack Polish Roma. [21]

5.84 Criminal Conflict: According to the office of the Chief Commander of the Police in Poland, in localities which are inhabited by Roma communities, conflicts with the local communities happen and the reasons for this vary greatly. It is definitely not the case that the ground of such conflicts and offences is intolerance or discrimination. Indeed the majority of motives do not have any connection with intolerance or racist discrimination. Tables showing statistical data provided by the Main Headquarters of Police (in Poland) with regard to offences in which Roma appear both as victims and as perpetrators of crime are set out at Annex D, Tables 1 and 2. [19]

5.85 The office of the Chief Commander of the Police in Poland further stated that it considers as unjustifiable, Polish Romany attempts to motivate their asylum applications with alleged racist discrimination or intolerance by Poles, the Polish State institutions and most of all the Polish police. The office added that the Romany migration and their will to settle in other countries, inter alia in the United Kingdom, have an economic basis. [19]

5.86 National policy: The Roma minority in Poland is treated as a national minority. The general conception of a national policy with respect to the problems of the Roma community began to crystallise in 1996. This was due to two factors, on the one hand, in the middle of 1989 a general change in the approach of authorities towards national minorities took place. At the same time, the Roma community started to organise itself and put forward representatives for contact with official institutions. In 1996, for the first time, changes in the Roma situation were being supported at a national level. [5]

5.87 Assistance provided by the Office for Culture of National Minority Affairs is mainly centred on subsidising cultural activities of the Roma. Meetings of Gypsy music groups and cultural meetings are organised by the Centre of Roma Culture in Tarnow and activities of the Roma Association in Poland. A Roma newspaper and monthly magazine have been subsidised and publications of Roma poetry have been sponsored by the Polish authorities. Between 1990 and 1995, 2,350 million zlotys were designated for the support of Roma cultural initiatives. Following a meeting between Roma representatives and the Parliamentary Commission on National and Ethnic Minorities in May 1994, an intra-governmental Commission on National Minority Issues meeting devoted to Roma issues was held on 14 June 1994 during which the need to survey the social situation of Roma families was stressed and discussed in depth. [5]

5.88 Educational problems: Although no detailed data are available, both representatives of Roma organisations and the Ministry of National Education acknowledge that many Roma children do not complete primary schooling. Education of these children often ends at the age of 12 years, and cases of illiteracy are not uncommon. In the vast majority of cases Roma children go to integrated classes, together with Polish school children. One of the reasons why Roma children fail in school is insufficient knowledge of the Polish language. [5]

5.89 Some schools have experimented with separate classes for Romany children, stating that because of economic disadvantage, languages barriers and parental illiteracy, Romany children

are behind their non-Romany counterparts when starting school. [42]

5.90 It seems that the worst situation exists in the Podhale region, where primitive housing conditions and high unemployment are the rule. In 1992, on the initiative of the local Roma, a priest, Father Stanislaw Opocki, and local teachers, separate classes for Roma children who had not earlier attended school were created. The experiment with special Roma classes was approved by the Ministry of Education for a period of three years to prepare children to continue their education in mass classes. According to the Ministry, these classes would not form an alternative to existing forms of education and would not solve the long term educational problems of the Roma. [5] However, according to a study on this matter carried out over the years 1990-1994, there was an evident increase in the number of children who successfully completed various classes. The number of unsatisfactory marks dropped by 6%. [22]

5.91 Employment: According to the leaders of the Roma community, the Roma have faced disproportionately high unemployment and were more negatively affected by the current economic changes and reforms than were ethnic Poles. While the national government does not overtly discriminate against Roma and is aware of the need to do more to help the Roma community, some local officials have been known to discriminate by not providing services in a timely manner or at all. [13][42]

5.92 It has also been reported however, that although unemployment has been the source of so many problems across Central and Eastern Europe, this is not apparently a major problem for the Polish Roma as, for the most part, they are self-employed. Some Polish Roma still follow their traditional activities as metal workers and cleaners of large metal pots, vats and cauldrons used in restaurants and institutional kitchens. Other Roma are traders, buying and selling whatever goods are available. During the crisis of the 1980s when unemployment was increasing and Polish workers were in a very difficult situation, the Roma were largely unaffected. Not having been previously employed, they were able to deal with the crisis by earning money in their own way. There is only one group of Roma that has taken up permanent employment; former blacksmiths who settled in the south of the country over a century and a half ago. But after the 1960s there was less work for them to do, and they began taking jobs in state enterprises. It appears that they have now been able to establish small businesses of their own. [14]

5.93 Health & Medicine: The Polish Roma do not appear to have any health problems that are any different from those of the Polish population in general. However, not being regularly employed, the Roma do not benefit from the government's health insurance schemes and must pay their own medical and hospital bills. [14]

5.94 Military Service: The duty of fulfilment of the military duty by Polish citizens is regulated by the Act of 21 November 1967 concerning the general duty of the defence of the Polish Republic. The Act does not mention release from this duty for reasons of national respect - that is for those groups of Polish citizens who belong to national minorities. This means that Polish citizens who are Romany have the duty of military service in accordance with the general rules. [18]

5.95 Marriage: It is often the case in Poland that the family/Church ceremony is the event that has the most personal and social importance. However, up until the Concordat was ratified by the Sejm in 1997, such marriages were not recognised by the Polish Government and in order to be officially married in the eyes of the Polish authorities and law etc. a civil ceremony was necessary. The civil ceremony had to take place in a Civil Registry Office at which time a standard marriage certificate was issued by that office. A Roma marriage does not have any official documentation of any kind, by itself. [2(g)]

N. Ukrainians and Lemkos:

5.96 The Ukrainian and Lemko community make up approximately 300,000 of Poland's population. Although they are two separate communities, the Lemkos have, in the past been labelled as Ukrainian. The Lemko community's response to this has been the establishment of several cultural and social organisations, including two historically competing "ideological" camps on the question of Lemko identity, i.e. the "pro-Rusyn" Lemko Association, founded in 1989; and the "pro-Ukrainian" Union founded in 1990. The Lemkos have given the impression over the years that they regard themselves as ethnic Poles and tend to follow the Orthodox religion. [10(d)]

O. Lithuanians:

5.97 On 3 September 1998, President Kwasniewski met with representatives of the Polish minority in Vilnius, Lithuania. The Lithuanian President, Valdas Adamkus, assured, President Kwasniewski during private talks that he would personally supervise the drafting of a new administrative division of Lithuania which is being prepared at present. The proposed division aroused concern with the Polish Lithuanians who are convinced that the division of the regions inhabited by the Polish minority will make them difficult to win seats in parliament and local elections. [26(c)]

P. African-American Citizens:

5.98 Individuals of African, Asian, or Arab descent continue to experience occasional verbal abuse or other types of aggression. [42]

Q. Silesian Nationals:

5.99 In September 1997 the registry department of the Katowice provincial court began its consideration of the Silesian registration issue. A small number of Silesians in this area have sought to register themselves as a national minority. The Katowice provincial office has opposed their registration on the grounds that Silesians do not constitute a separate nation. Official registration would allow representatives of the Association of the Population of Silesian Nationality, as the group calls itself, to run for Parliament under the preferences accorded national minorities under electoral law. [4(c)]

VI OTHER RELATED ISSUES

A. Freedom of Speech and the Press:

6.1 The Constitution provides for freedom of speech and the press and the government respects this right. However, there are some marginal restrictions in law and practice. Polish citizens may express their opinions publicly and privately. Nonetheless the press is vigorous and independent. [42]

6.2 The State Secrets Act allows for the prosecution of citizens who publish or otherwise betray state secrets. Human rights groups criticise this law, since it restricts the right of free speech of private citizens. [42]

6.3 There is no restriction on the establishment of private newspapers or distribution of journals. Private newspapers and magazines flourish. There was no progress in the ongoing privatisation of RUCH a national network of newspaper kiosks. [42]

6.4 The National Radio and Television Broadcasting Council (KRRiTV) has broad powers in monitoring and regulating programming on public radio and television, allocating broadcasting frequencies and licenses, and apportioning subscription revenues to public media. In order to encourage the KRRiTV'S apolitical character, the nine KRRiTV members are legally obliged to suspend any membership of political parties or public associations. They are, however, chosen for their political allegiances and nominated by the Sejm, the Senate, and the President following political bargaining, thus raising potentially serious questions about the independence of broadcasting oversight from political influence. [42]

6.5 The broadcasting law stipulates that programmes should not promote activities that are illegal or against state policy, morality, or the common good. The law, whose constitutionality has been confirmed by the Constitutional Tribunal, also requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." This provision has never been used as a means of censorship, although the restrictions theoretically could be used as such. [42]

6.6 Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. The first auction in 1994 gave the Polsat Corporation and some smaller local and religious stations licenses to broadcast. In 1997 additional licenses were granted to TVN and Nasza Telewizja. Private radio flourishes on the local, regional, and national levels alongside public radio and a new radio station, Radio Trefl, began broadcasting in September 1997. [4(b)][42]

6.7 The government owns two of the three most widely viewed television channels and 17 regional stations, as well as five national radio networks. PAP, the national wire service, was partially privatised in December 1997 and a 5 member supervisory board is preparing the service for full privatisation.. Although public television remains the major source of news and information, satellite television and private cable services (domestic and foreign) are widely available. Cable services carry the main public channels, Polsat, local and regional stations, and a variety of foreign stations. [42]

6.8 Books expressing a wide range of political and social viewpoints are widely available, as are foreign periodicals and other publications from abroad. Academic freedom is respected in Poland. [42]

6.9 A new Polish Language Bill was adopted by the government in 1998 which set out a financial punishment on those who incorrectly translate documents, in matters such as commercial agreements, advertising or medical products. The Bill places an obligation on the media to use the language properly and counteract course language. It does not however, transgress the rights of ethnic minorities. [26(b)]

6.10 The UN Special Rapporteur welcomed the developments he was able to observe during his visit to Poland in May 1997. Freedom of opinion and expression, a highly cherished value during the struggle for freedom, clearly finds the protection it warrants and any attempt at restriction is closely scrutinised by all sectors of society. The long struggle for freedom of expression in the country is undoubtedly one of its unique features. [34(a)]

(please also see Section V, L, Ethnic Minority Groups (General))

B. Freedom of Assembly and Association

6.11 The law provides for freedom of assembly and the government respects this right in practice. Permits are not necessary for public meetings but are required for public demonstrations; demonstration organisers must obtain these permits from local authorities if the

demonstration might block a public road. For large demonstrations, organisers are also required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairperson who is required to open the demonstration, preside over it, and close it. [42]

6.12 The law also provides for freedom of association, and the government generally respects this right in practice. Private associations need government approval to organise and must register with their district court. The procedure essentially requires the organisation to sign a declaration to abide by the law. In practice, however, the procedure itself is complicated and may be subject to the discretion of the judge in charge. [42]

6.13 Under the 1990 law, political parties are not obliged to file for registration, but by April 1995 a total of 272 parties had been registered. In January 1998 however, the number of registered parties declined from 360 to 60 as a result of new regulations, according to which existing parties had been obliged to apply for re-registration by the end of 1997, presenting a list of a minimum of 1,000 supporting signatures, instead of the previous 15. [1(a)][28(b)]

(please also see Section III, A, Political History, and Section VI, C, Workers' Rights)

C. Workers' Rights

6.14 All civilian workers, including military employees, the police and frontier guards, have the legal right to establish and join trade unions of their own choosing. The law sets the minimum size requirements for establishing a trade union; 10 persons may form a local trade union, and 30 may establish a national union. Unions, including inter-branch national unions and national inter-branch federations, must be registered with the courts. A court decision refusing registration may be appealed to an appeals court. In 1999 the number of officially registered national-level unions remained about the same as in 1998, at about 360. [42]

6.15 Most trade unions were active in politics at all levels. Scores of union activists were parliamentarians, and several became senior government officials. Solidarity plays a key role in political life. With 62 deputies, 27 senators, dozens of ministers, governors and other senior national and local officials, the union serves as the backbone of the ruling AWS coalition. The OPZZ has 42 deputies, about one quarter of the opposition Democratic Left Alliance caucus. [42]

6.16 The 1991 law on trade unions created a favourable environment to conduct trade union activity. Labour leaders, however, reported numerous cases of employer discrimination against workers seeking to organise or join unions in the growing private sector. [4(c)]

6.17 Compulsory labour does not exist, except for prisoners convicted of criminal offences, and is otherwise prohibited by law. The Labour Code forbids the employment of persons under the age of 15 years. Persons aged 15 to 18 years may be employed only if they have completed basic schooling and if the proposed employment constitutes vocational training and is not harmful to their health. The age minimum rises to 18 years if a particular job might pose a health danger. The law prohibits forced and bonded child labour and the government enforces this prohibition effectively. [4(b)]

6.18 Unions have the right to strike except in "essential services". However, labour leaders complain that the 1991 Act on Collective Dispute Resolution prescribes an overly lengthy process before a strike may be called. Employers consider the law to be too lenient, since it allows only one quarter of the work force to vote to call a strike. [42]

6.19 Arbitration is not obligatory and depends on the agreement of disputing parties. The

number of strikes in the first 6 months of the year remained relatively low and dropped to 25 from 31 in the same time period in 1998. However, significant work stoppages, hunger strikes and demonstrations, some violent, took place in the mining, health, armaments and agricultural sectors at various times throughout the year. In February the All-Poland Doctors Trade Union, which claims to represent 70% of health care workers, launched a 10 day nationwide strike to protest low spending on health care. The union promised to continue providing emergency oncological, paediatric, gynaecological and maternity care during the strike. On 19 November between 20% and 50% of teachers participated in a protest against low wages and low funding for education. [42]

(please also see Section III, A, Political History; and Section VI, B, Freedom of Assembly and Association)

D. Freedom of Movement within the Country and Foreign Travel

6.20 Although the Constitution does not address freedom of movement, the government does not restrict internal or foreign travel. Citizens who leave Poland have no trouble returning and there are no restrictions on emigration. [42] Passport law entitles authorities to refuse passports to "persons failing to meet their legal obligations." [4(a)]

6.21 All citizens of Poland are issued with identity cards (sometimes referred to as residence permits) when they are 18 years old. These cards are issued by local government offices (Population and Identity Card Departments). These cards are not only proof of identity but also include information about where the person resides. The residence entry makes up only one part of the ID Card. The instructions on the inside of the back cover of the ID Card booklet state that everyone in Poland should be able to identify themselves to the authorities if required. [2(j)]

6.22 The ID cards are updated to show changes of personal circumstances, for example marriage, divorce, death of a partner, photo update and change of address. Whenever a person changes their address they should re-register their residential address with the Population and Identity Card Department District Office, which will amend and stamp the identity card. [2(j)]

6.23 For people who have either been evicted from their homes, for example, for not paying rent or bills, or who choose a nomadic/homeless style of life, or who have moved to another country and the move has been formally reported to the Polish authorities by a family member at the same address, they will have an entry on page 6 of their ID Card which in English literally means "registered at nowhere". [2(j)]

6.24 Everyone born in Poland is eligible for an ID Card. Checks have failed to locate anyone who has been refused an ID Card and/or to have a residential entry put in the card. There is no connection between political affiliation and obtaining an ID Card. The Polish Ministry of Education also advised that there is no mention of any registration requirement in the regulations regarding a matriculation certificate or taking exams for Universities. A matriculation certificate is obtained by anyone who graduates from school after passing an examination. [2(j)]

6.25 In normal circumstances, members of the public are not required to register with the police, with the exception of anyone who is subject to criminal proceedings. [2(j)]

E. Military Service

6.26 In August 1997 the strength of the armed forces in Poland was estimated to be 241,750

(down from 248,500 in August 1996) (including 147,600 conscripts): broken down as follows; army, 168,650; air force, 56,100; and navy, 17,000. Paramilitary forces of 23,400 comprised border guards (16,000) and police prevention units (7,400). [1(a)]

6.27 The duty of fulfilment of the military duty by Polish citizens is regulated by the Act of 21 November 1967 concerning the general duty of the defence of the Polish Republic. All male Polish citizens of military age (19-24 years old and in some cases up to 28 years old) who, with respect to their health, are able to do military service, are obliged to do so-called general military service which, until recently, lasted 18 months in time of peace. [18]

6.28 In January 1999 the Sejm passed legislation amending the law on conscription. From 1 April 1999, conscripts in the Polish Armed Forces will serve for one year, rather than for eighteen months. The Defence Ministry announced that it will be more difficult to evade the shortened service. [24(e) 30(b)]

6.29 The Polish Armed Forces are also committed (in the Ministry of Defence's 15 year plan for the modernisation of the armed forces, as submitted to NATO in September 1997) to reduce significantly the number of conscripts as a percentage of their overall force [2(k)]

6.30 Recruits who are students in schools of higher education (with the exception of marine schools) have the duty of military training in military units for a period of 6 to 8 months after the conclusion of their studies. The Act does not mention release from this duty for reasons of national respect that is for those groups of Polish citizens who belong to so-called minorities. This means that Polish citizens who are Romany have the duty of military service in accordance with the general rules. [18]

6.31 This Act, and also executive regulations which have been issued under its authority with regard to the fulfilment of military service (the Decree of the Council of Ministers of 10 November 1992 with regard to the case of granting recruits postponements from active military service or releasing soldiers from this service before its fulfilment and also recognising recruits as the only support of a family [Dz.U.of 1992, No.85, Art.431] and the Decree of the Ministry of National Defence of 22 June 1992 concerning general military service and time-determined general military service or military training [Dz.U.of 1992, No.56, Art.277; of 1994 No.9, Art.34 and of 1995 No.42, Art 218 and No.100, Art 499]), allow for circumstances in which a recruit - despite the formal duty of military service - in cases which have been strictly determined and justified, may not be called-up to the army. In accordance with the above-mentioned, the duty of military service and transfer to the reserve without fulfilment of military service concerns:

i) recruits who have become clergymen in churches or religious associations which have legal status in the Polish state under the condition that they perform the functions of clergymen on a full-time basis. They will be transferred to the reserve before the conclusion of military service age on the day they obtain their status of clergymen; and

ii) recruits being Polish citizens who live permanently abroad and those who undergo service similar to the military such as the Police, the Office for State Protection or the Frontier Guards, as well as students of schools preparing for these services - if no changes occur in their factual and legal situation, they will be transferred to the reserve after they have reached the age of 24 years. [18]

6.32 Also, recruits are not required to do military service if they are serving a prison sentence or are dispossessed of public rights. If they are still in this situation when they reach the age of 28 years they will be transferred to the reserve without fulfilment of military service. [18]

6.33 The regulations also include circumstances where there are temporary impediments to the

fulfilment of general military service by a recruit. Until recently, a postponement of military service was obligatory in the case of the state of health or the existence of reasons such as the necessity of personal care of a juvenile member of the family or a handicapped person, or personal involvement in running a farm or becoming a deputy in the Parliament, Senate or institutions of self-government. The postponement of military service is usually granted for a determined period of time but if the reasons for the postponement still exist it may be repeated. If as a result of consecutive postponements recruitment to military service does not occur, the recruit will be transferred to the reserve when he reaches the age of 28 years. [18]

6.34 Following recent amendments to the conscription law, it has been reported that deferral will be available to ordinary students and those studying at evening and extra-mural classes. It will no longer be automatically available to sole providers of families and to farmers who are the owners of their farms. They will however, be able to seek deferral on the basis of special regulations on difficult life circumstances. Alternative military service will last 21 months. The Defence Ministry announced that it will be more difficult to evade the shortened service. [24(e)][30(b)]

6.35 Despite the above regulations, the Act also allows the recruit who has been allocated for general military service, or military training for graduates of schools of higher education, and who does not postpone military service, to apply in writing to the Recruitment Commission to place him in the so-called replacement service instead of general military service (military training) because of his religious convictions or spiritual principles which would not allow him to fulfil the military service (firing guns etc.). [18]

6.36 In 1988 legislation permitting conscientious objectors to perform an alternative community service was enacted. [1(b)] The Law on the General Duty of Defence, which was passed in 1992, deals with Polish practice on conscientious objection. Article 189 of this Law states:

"Conscripts ... who have not deferred military service, may, because of religious convictions or ideological moral principles, approach the regional conscription office with a written request for alternative service". [2(b)]

6.37 Alternative service would be one of a variety of things, including health service work, environmental protection and church work. A recruit who applies to be placed in alternative service has a duty to supply an application including his motives to the Regional Recruiting Commission. This application may be delivered directly to such Commission or through the Military Recruiting Board, however not later than the day of receipt of the call-up card to military service. After the application has been delivered and until the decision is made a recruit is not liable for call-up to military service. [25]

6.38 In a case of a negative decision of the Regional Recruiting Commission a recruit may appeal within 14 days to the Voivodship Recruiting Commission whose decision is final. However, in accordance with the regulations of the Code of Administrative Procedure even a final decision of the Voivodship Recruiting Commission may be subject to the Main Court of Administration. [25]

6.39 Every year, of the whole population of men who are obliged to fulfil the duty of conscription, approximately 1.5-2% enter applications for alternative service. Of these, approximately 5% justify it by religious motives and approximately 95% by moral reasons. [25]

6.40 Alternative service is granted to approximately 60% of applicants. Among the persons who undertake alternative service the greatest number of them, are in health care institutions i.e. over 37%; 18.2% at social care institutions; and 15.8% in the regional/municipal economic

sphere (Annex F refers). [25]

6.41 "Draft dodgers" risk up to three years in prison. [2(b)]

6.42 In general, the civil service is responsible for determining whether or not ideological convictions are genuinely held or not. In peace time desertion is punished by prison sentences only. [2(c)]

6.43 In accordance with Article 189 of the Law on the Universal Duty to defend the Polish Republic dated 21 November 1967 conscripts, i.e. men who reach the age of 19 years in a given calendar year, are assigned to:

- ◆ basic military service
- ◆ civil defence service
- ◆ military pre-training, those who have not had their military service deferred (because of, e.g. education in a higher educational establishment, school or university) may, because of religious beliefs or moral principles, file a written request at the regional conscription office for assignment to alternative service. [12(b)]

6.44 Alternative service in peacetime includes:

- ◆ environmental protection tasks
- ◆ health service jobs
- ◆ social welfare assignments
- ◆ water management tasks
- ◆ fire protection works
- ◆ residential construction projects
- ◆ telecommunications; and
- ◆ other community service tasks. [12(b)]

6.45 Article 189 has however, become a source of many doubts concerning the possibilities of objecting on the basis of religious beliefs or moral principles. Appeals against decisions concerning military service are examined by the Supreme Administrative Court. [12(b)]

6.46 In a judgement dated 4 November 1992 (Sygm. SA/Ka 1014/92), the Supreme Administrative Court stated that in relying upon "religious convictions" it was necessary to show that the belief held excluded the possibility of military service. This ruling in practice deprived Roman Catholic males of the possibility of being excused from basic military service, stating that "one cannot derive from the Fifth of the Ten Commandments "thou shalt not kill" the conclusion that the Catholic religion forbids one to carry out basic military service. This interpretation of the Commandment should be based upon the documented social teaching of the Church and on the statements of the Pope John Paul II expressed during His fourth Pilgrimage to His Homeland at a meeting with the Polish Army in Koszalin on 2 June 1991. [12(b)]

6.47 The judgement dated 14 September 1993 (Sygn. II SA 1702/93) confirmed that "religious convictions could not be the basis for release from the obligation to carry out military service. However, they do constitute a reason to endeavour to secure assignment to alternative military

service." [12(b)]

6.48 With regard to conscripts relying upon pacifism as a moral canon, the Supreme Administrative Court in its judgment dated 8 November 1994, ruled that it is not sufficient to rely on general concepts of vegetarianism and pacifism, rather it is essential to show real conflicts between one's individual rules of conduct and duty to carry out military service. [12(b)]

6.49 It is also worth noting a judgement dated 11 May 1993 (Syng. SA/Wr 202/93) where the Court stated that:

- "the Law in force does not provide for a possibility of releasing conscripts who are Jehovah's Witnesses also from alternative service on basis of the religious convictions.
- Alternative military service is not connected in any way with organisation subordination to the military administration or with military training and the use of arms and as such is of the nature of social service and does not infringe universally accepted moral principles or religious convictions." [12(b)]

ANNEX A

PARLIAMENTARY ORGANISATIONS IN POLAND

Political Organisations

Centre Alliance (Porozumienie Centrum): f.1990 by supporters of Lech Walesa; Christian democratic party; main component of Centre Citizen's Alliance, coalition formed to contest 1991 elections; supports market economy based on private ownership; 10,000 members; Chair of bd: KRZYSZTOF TCHORZEWSKI; Chair of Supreme Political Council: ANTONI TOKARCZUK.

Christian Democratic Labour Party (Chrzescijanska Demokracja Stronnictwo Pracy-ChDSP): reactivated 1989, merged with Christian Democracy group in 1994; 2,750 members; Chair. TOMASZ JACKOWSKI; General Secretary. ZBIGNIEW JECZMYK.

Christian Democratic party of the Third Republic: f.1997; Pres. LECH WALESZA; Chair. MAREK GUMOWSKI.

Christian National Union (Zjednoczenie Chrzescijansko Narodowe-ZChN): f.1989; about 10,000 members; President. MARIAN PILKA; General Secretary. ARKADIUSZ URBAN.

Confederation for an Independent Poland (Konfederacja Polski Niepodleglej-KPN): f. 1979; centre-right; about 35,000 members; Chair. LESZEK MOCZULSKI.

Confederation for an Independent Poland (Patriotic Camp – KPN OP) Leader ADAM SLOMKA.

Conservative Peasant Party (SKL): Warsaw; f. 1997 by merger of Peasant Christian Party and

Conservative Party; Chair: Jan Maria Rokita

Democratic Left Alliance (Sojusz Lewicy Demokratycznej-SLD): Warsaw; f. 1991; electoral coalition of Social Democracy of the Republic of Poland and the All Poland Trade Unions Alliance; Chair: Leszek Miller General Secretary Krzysztof Janik

All Poland Trade Unions Alliance (Ogólnopolskie Porozumienie Związków Zawodowych-OPZZ). Leader: Jozef Wiaderny

Freedom Union (Unia Wolności-UW): f. 1994 by merger of Democratic Union (Unia Demokratyczna-UD) and the Liberal Democratic Congress (Kongres Liberalno-Demokratyczny-KLD); 12,500 members; Leader LESZEK BALCEROWICZ;

German Minority of Lower Silesia (Mniejszość Niemiecka Śląska Opolskiego): Leader HENRYK KRÓL.

Movement for the Reconstruction of Poland (ROP): f. 1995; conservative; 12,000 members; Leader JAN OLSZEWSKI.

National Pensioners' Party (Krajowa Partia Emerytów i Rencistów – KPEiR) Chair ZENON ZUMIŃSKI.

Non-Party Bloc in Support of Reforms (Bezpartyjny Bloc Wspierania Reform-BBWR): f. 1993 by Lech Wałęsa; Leader LESZEK ZIELIŃSKI; Chair. Professor ZBIGNIEW RELIGA.

Party of Real Politics (Stronictwo Polityki Realnej): f. 1996, following a split in the Polish Union of Real Politics; right-wing; Chair. MARIUSZ DZIERŻAWSKI.

Party X: f. 1991; advocates free-market economy, expansion of industry and agriculture, gradual elimination of unemployment and universal access to education, culture and health; 9,000 members; Leader JOSEF KOSSECKI.

Peasant Democratic Party (Partia Ludowo Demokratyczna – PLD): f. 1998; Leader: ROMAN JAGIELIŃSKI.

Polish Beer-Lovers' Party: f. 1991 by LESZEK BUBEL; contested legislative elections with support of business executives; subsequently split into 'Large Beer' (now Polish Economic Programme) and 'Small Beer'.

Polish Economic Programme (Polski Program Gospodarczy-PPG): f. following split in Polish Beer Lovers' Party; Leader TOMASZ BANKOWSKI.

Polish Peasant Party (Polskie Stronictwo Ludowe-PSL): f. 1990 to replace United Peasant Party (Zjednoczone Stronictwo Ludowe; f. 1949) and Polish Peasant Party-Rebirth (Polskie Stronictwo Ludowe-Odrodzenie; f. 1989); right-wing party, stresses development of agriculture; 200,000 members; Chair. JAROSŁAW KALINOWSKI.

Polish Socialist Party (Polska Partia Socjalistyczna-PPS): f. 1892, re-established 1987; 5,000 members; Leader. PIOTR IKONOWICZ.

Polish Union of Real Politics (Polskie Stronictwo Polityki Realnej): f. 1996;

Leader STANISŁAW MICHALKIEWICZ.

Social movement of Solidarity Election Action (Ruch Społeczny Akcja Wyborcza Solidarność – RS AWS): f. 1997; christian-democratic; Chair.MARIAN KRZAKLEWSKI.

Socio-Cultural Association of Germans of Upper Silesia (Towarzystwo Społeczno-Kulturalne Niemców Wokółództwa Katowickiego): Katowice.

Solidarity Election Action (Akcja wyborcza Solidarność – AWS): f. 1996; electoral alliance of some 36 centre-right parties now consolidated into four main groupings: the SKL, PPChD, ZChn and RS AWS: Leader MARIAN KRZAKLEWSKI; General Secretary Kazimierz Janiak

Union of Labour (Unia Pracy-UP): f. 1993; Leader MAREK POL

[1(a)]

ANNEX B

CHRONOLOGY OF KEY EVENTS

- 1950s - 1970s:** Serious anti-regime riots occurred.
- Summer of 1980:** Further strikes led to the birth of Solidarity under the leadership of Lech Walesa.
- December 1981:** Under heavy pressure from the Soviet Union and Warsaw Pact, the Prime Minister General Jaruzalski introduced martial law. Walesa and many others were interned.
- July 1983:** Martial law was lifted under pressure from the West.
- 1988:** New strikes took place as the economy collapsed.
- April 1989:** The Round Table Accords legalised Solidarity and instituted political reforms in support for unpopular economic measures.
- June 1989:** Solidarity won the elections with a sweeping victory and humiliation for the ruling parties and Mazowiecki became Prime Minister.
- December 1989:** The legislature voted to rename the country the Republic of Poland.
- December 1990:** Walesa decisively defeated Mazowiecki in the Presidential elections.
- 1991:** Poland signed an Association Agreement with the EC.
- October 1991:** Poland's first fully democratic post-war general elections were held. A right-wing Solidarity government was formed with Jan Olszaeski as Prime Minister.
- June 1992:** A vote of "no confidence" in the government was approved by the Sejm.
- July 1992:** A new centre right coalition headed by a Solidarity lawyer, Ms Hanna

Suchoka, was approved by parliament.

May 1993: The government lost a vote of "no confidence".

19 September 1993: Polish elections took place in which left wing parties won a substantial victory. The new government was a coalition of the SLD and the PSL led by Waldemar Pawlak.

February 1994: Poland signed up to NATO's Partnership for Peace (PfP).

April 1994: Poland submitted its application to join the EU.

February 1995: Political and economic tensions led to the resignation of Pawlak. Jozef Oleksy became the new Prime Minister and formed a new government.

January 1996: Olesky resigned after being accused of co-operating with the Russian Secret Service well into the 1990s.

March 1996: Former Justice Minister, Wldozimierz Cimoszawicz (SLD) was appointed Prime Minister and formed a government.

September 1996: Jacek Buchacz, Minister of Foreign Economic relations was dismissed.

November 1996: Demonstrations were staged at the Gdansk shipyard in an attempt to secure government loan guarantees in order to secure the completion of an existing contract. Poland joined the Organization for Economic Co-operation and Development (OECD).

February 1997: Further strikes took place which were supported by Solidarity.

2 April 1997: The National Assembly adopted a new Constitution.

21 September 1997: Parliamentary elections marked a return to power for the parties based around the Solidarity trade union. Solidarity Elections Action (AWS), a coalition of right-wing and trade union groups, secured a third of the vote.

17 October 1997: The new Constitution came into force.

11 November 1997: The new government was endorsed by the Prime Minister Jerzy Buzek.

30 March 1998: EU accession process formally launched.

April 1998: The Concordat, a treaty regulating relations between the government and the Vatican came into effect.

1 September 1998: New Criminal Code and Code of Criminal procedure came into effect.

11 October 1998: Local government elections took place.

January 1999: Four major reforms introduced: local government; pensions; health care and education.

12 March 1999: Poland was admitted as a full member of NATO.

Government reshuffle took place

April 1999 Significant reform of state administration took place

ANNEX C

PROMINENT PEOPLE

- Aleksander Kwasniewski:** President of Poland.
- Jerzy Buzek:** Prime Minister of Poland (AWS).
- Leszek Balcerowicz:** Deputy Prime Minister, Minister of Finance and Chairman of Government Economic Committee (UW).
- Longin Komolowski** Deputy Prime Minister and labour minister (AWS)
- Bronislaw Geremek** Foreign Affairs Minister (UW)
- Hanna Suchocka:** Minister of Justice (UW). In 1992/93 she headed a coalition government as Prime Minister.
- Lech Walesa:** Former Leader of Solidarity and previous President of Poland.
- Waldemar Pawlak:** Prime Minister between 1993 and 1995.
- Jozef Olesky:** Prime Minister between 1995 and 1996.
- Włodzimierz Cimoszewicz:** Prime Minister between 1996 and 1997.

ANNEX D

MINISTRY OF NATIONAL DEFENCE
OFFICE OF MILITARY ATTACHÉ
LIAISON OFFICER DEPARTMENT

Warszawa, 27.01.98

Dear Colonel

In response to note No.012 of 21 January 1998 with regard to information concerning the regulations of obligatory military service in the Armed Forces of the Polish Republic, I am forwarding you the reply, received today, from the General Headquarters of the Polish Army.

Yours sincerely

[signature of]

Colonel Krzysztof Kucharski

Commanding

at the Embassy of the United Kingdom of Great Britain and Northern Ireland

in Warszawa

Annex

1. **OBLIGATORY MILITARY SERVICE**

In accordance with art.85 of the Constitution of the Polish Republic, the defence of the Homeland is a Polish citizen's duty.

The main legal act which regulates the above mentioned duty is the Act of 21 November 1967 concerning the general duty of the defence of the Polish Republic (unified text of Legal Gazette (Dz.U.) of 1992, No.4, art.16 together with later changes) and legal acts issued on its basis.

All Polish citizens with regard to their age (from 18 to 60 years old) and state of health are obliged to perform the general duty of defence. Within the general duty of defence, Polish citizens are obliged to fulfil military service, service in civil defence, to perform defence

training, participate in the self-defence of the population, service in military units, to perform alternative service and services for defence.

Within the framework of military service, citizens perform obligatory military service, military training and military exercises of the reserve.

Recruits serving in armed units which do not belong to the Armed Forces are deemed to have fulfilled the duty of military service. Such units (for the time being) are: the prevention squads of the Police and the Frontier Guards.

Obligatory military service, which at present lasts for 15 months, is the most common form of the fulfilment of the duty of military service by Polish citizens. This service is performed by men, generally between 19 and 24 years old, whose health permits its performance.

A citizen whose health would permit the undertaking of obligatory military service may not be called-up on the basis of postponements which are granted in the below-mentioned circumstances:

- the necessity of conducting direct care of a member of the family,
- personal involvement in running a farm,
- studies
- conducting one's own election campaign or being elected to Parliament, Senate or territorial institutions of government,
- being recognised as the only bread-winner of the family.

Every year during the so-called, call-up, medical and recruiting commissions which are established by Government institutions determine the level of capability for military service of 19 year-old recruits. Out of the whole population approximately 26% of them are recognised as not capable for this service for health reasons, whereas approximately 40% of recruits receive temporary postponement for different reasons (mainly because of studies in secondly, post secondary and schools of higher education).

Furthermore, recruits who undergo preliminary service in the Police, the Office for State Protection, the Frontier Guards or who study in schools of the Internal Affairs Department, together with clergy and members of orders, churches and religious associations which have a legal status, who consist of approximately 1.6%, are not called-up every year are released in that year from the duty of military service totally or temporarily.

11. ALTERNATIVE SERVICE

In accordance with art.85, Act 3 of the Constitution of the Polish Republic, a citizen who is not allowed to fulfil military service because of his religious convictions or moral rules may be obliged to fulfil alternative service.

Matters connected with alternative service are regulated in the Act of 21 November 1967 concerning the general duty of the defence of the Polish Republic (Dz. U. of 1992, No. 4, art. 16,

together with later changes) and the regulation of the Council of Ministers of 3 November 1992 concerning alternative service (Dz. U. No. 85, art. 429) which was issued on its basis.

In accordance with the regulations of the above mentioned Act the supervision of the fulfilment of alternative service is conducted by the Minister of Employment and Social Policy. The length of alternative service is 24 months, but for graduates of schools and higher education - 9 months.

Alternative service in time of peace consists of performing works for the benefit of the protection of the environment, health service, social care, water management, fire protection, the building of dwellings, communication and other institutions of public utility. The detailed conditions of its fulfilment are specified in the agreement signed between a manager of the Voivodship Office of Employment and the enterprise (institution) in which a recruit is to fulfil his alternative service.

Within the framework of alternative service recruits may do works for the benefit of State organisational units and economic subjects in which the State Treasury has at least 50% of the shares. Upon the recruit's application, work for the benefit of church institutions or other religious associations which have legal status, territorial self-government and foundations may also be conducted.

Recruits who have been designated to obligatory military service or long term military training who do not use a postponement from military service may apply for a placement in alternative service because of their religious convictions or moral principles.

A recruit who applies to be placed in alternative service has a duty to supply an application including his motives to the Regional Recruiting Commission. This application may be delivered directly to such Commission or through the Military Recruiting Board, however not later than the day of receipt of a call-up card to military service. After the application has been delivered and until the decision is made a recruit is not liable for call-up to military service.

In case of a negative decision of the Regional Recruiting Commission a recruit may appeal within 14 days of its receipt to the Voivodship Recruiting Commission whose decision is final. However, in accordance with the regulations of the Code of Administrative Procedure even a final decision of the Voivodship Recruiting Commission may be a subject of appeal to the Main Court of Administration.

Every year, of the whole population of men who are obliged to fulfil the duty of conscription, approximately 1.5 - 2% enter applications for alternative service. Of these, approximately 5% justify it by religious motives and approximately 95% by moral reasons.

Alternative service is granted to approximately 60% of applicants.

Among the persons who undertake alternative service the greatest number of them are in health care institutions - over 37%, at social care institutions - 18.2%, and in the regional/municipal economic sphere - 15.8%.

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- (d) Vetting court begins work, dated 24 February 1999
- (e) Two ruling parties sign official coalition agreement, dated 10 November 1997
- (f) Premier presents policy statement to parliament, dated 10 November 1997 (g) Premier says budget includes health reform funds, dated 25 November 1997

- (h) Justice Minister sacks two prosecutors in wake of first vetting court, dated 3 March 1999
 - (i) Solidarity to appoint majority of local governors, dated 30 October 1997
 - (j) Auschwitz town residents up in arms against camp protection law, dated 10 March 1999
 - (k) New territorial army to be operational from 2005, dated 19 June 1998
 - (l) Parliament to vote on Vatican Concordat in January, dated 17 December 1997
 - (m) Government to appeal against Auschwitz Gravel Pit decision, dated 19 October 1998
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