

POLAND

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Country Information and Policy Unit

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1. SCOPE OF DOCUMENT

1.1 This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a wide variety of recognised sources. The document does not contain any Home Office opinion or policy.

1.2 The assessment has been prepared for background purposes for those involved in the asylum / human rights determination process. The information it contains is not exhaustive. It concentrates on the issues most commonly raised in asylum / human rights 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. These sources have been checked for currency, and as far as can be ascertained, remained relevant and up to date at the time the document was issued.

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

2. GEOGRAPHY

2.1 Official name: The Republic of Poland.

2.2 Situated in central Europe. 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. **[1b]**

2.3 Poland is the largest and most populous state in central Europe. It covers an area of 120,728 square miles (312,685 square kilometres), with an estimated population, in December 2001, of 38,632,500. The capital of Poland is Warszawa (Warsaw). It is situated towards the east of the country and has an estimated population of 1,618,500 (as at 31 December 1998). Other major cities include Lodz (population 806,700), a major industrial centre, and Krakow (pop. 740,700). **[1b]**

2.4 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. **[1b]**

2.5 Following a major reform of the structure of local government which became effective on 1 January 1999, there is a three-tier territorial division of the country.

Poland is now divided into:

- 16 'voivodships' (provinces)
- 380 'powiats' (counties, or districts) including 65 urban 'powiats'
- 2,489 'gminas' (communes, or municipalities). **[54][30n]**

3. ECONOMY

3.1 Economic growth averaged 5% per annum from 1993 to 2000, but slowed in 2001 under the influence of a very tight monetary policy and slower growth in the EU; real GDP growth for 2001 was 1.1% and for 2002 was 1.3%. However, economic growth was more robust in the latter half of 2002, with a year-on-year GDP increase of 2.1% in the fourth quarter. **[33f][64]** Industrial production has been rising - particularly in sectors driven by exports, such as office machinery and computers. The Government has based its 2003 budget on a predicted economic growth rate of 3.5% in this fiscal year, though the National Bank of Poland's monetary policy council, in October 2002, described this prediction as "very optimistic". **[10i.][45c]**

3.2 According to the Central Statistical Office (GUS), the unemployment rate reached 18.8% in February 2003 - the highest it has been since 1990. This represented over 3.3 million registered unemployed people. The unemployment figure for March was 18.7% **[64][38]** The government has identified the reduction of unemployment as a priority. **[8w]** Amendments to the Labour Code, enacted in August 2002, are intended to curb unemployment by easing labour regulations for employers **[10j]** - see '*Employment Rights*' in Section 6A.

3.3 Agriculture employs 28% of the workforce but contributes only about 3% of GDP. Farms are generally small and fragmented and over 40% of all farmers in Poland produce only for their own needs. Almost 70% of all farms are below eight hectares. Pressure to restructure the agriculture sector is intensifying as Poland prepares for accession to the EU. Poland's industrial base now includes fertilisers, petrochemicals, passenger vehicles, machine tools, electrical machinery, electronics and shipbuilding. **[4b][4d][38]**

3.4 Poland's regions are polarised, with areas of relative wealth, especially around Warsaw and Gdansk, and poor areas concentrated in the East, on the border with the Ukraine. Infrastructure is especially weak in the East, and EU assistance (and, once Poland joins, Structural Funds) is intended to improve this area. **[38]**

See also Section 4: **European Union**

4. HISTORY

Recent Political History

4.1 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. **[1a]**

4.2 After the war, the pro-Communist Polish Committee of National Liberation, established under Soviet auspices in July 1944, was transformed into the provisional government. Non-communist political groups suffered severe intimidation during the falsified January 1947 elections, and the "Democratic Bloc", led by the communist Polish Workers' Party (later renamed the Polish United Workers' Party - PZPR) claimed an overwhelming victory and Poland effectively became a one-party state. **[1b]**

4.3 Widespread protests, brutally suppressed, occurred in 1956, 1968 and 1970. Pope John Paul II's first visit to his native Poland in 1979 brought massive crowds out. This further undermined the position of the communist regime and invigorated the dissent so visible in the 1980 strikes. The 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 the Warsaw Pact, the Prime Minister, General Wojciech Jaruzelski introduced martial law. Walesa and other Solidarity leaders were imprisoned. Martial law was formally lifted in July 1983 and an amnesty for political prisoners declared. **[1b]**

4.4 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, largely unable to run the country. Large-scale protests took place after the Government announced the closure of the Lenin Shipyards in Gdansk. The government finally agreed to 'round table' talks with opposition leaders under Lech Walesa, which in April 1989 restored Solidarity's legality and instituted political reforms, in return for support for unpopular economic measures. **[1b]**

4.5 Elections were held in 1989 under rules of "controlled democracy", where 65% of the seats in the Sejm were already allocated to the communists and their client parties and the remaining 35% were freely contested; Solidarity won a decisive victory. In August 1989 Solidarity formed a majority coalition in the Sejm with the United Peasants Party and the Democratic Party, both formerly allies of the Communists; Tadeusz Mazowiecki became the first non-communist Prime Minister in the Eastern bloc. Parliament approved amendments to the Constitution at the end of 1989, including an end to the PZPR's monopoly of power and the restoration of the official name and flag of pre-war Poland. Lech Walesa was elected President in December 1990. Soviet troops began to withdraw from the country the following year. **[1b]**

4.6 The first completely free parliamentary elections were held in October 1991; 29 parties won representation in the Sejm through the system of proportional representation and, following negotiations, a centre-right coalition government was formed in December. After a period of political factionalism and economic stagnation, another general election was held in September 1993 under new electoral rules which included a 5% threshold for representation. The Polish Peasant Party (PSL) and Democratic Left Alliance (SLD), both led by former communists, subsequently formed a coalition government. Poland formally applied for EU membership in April 1994. The Polish economy slowly began to revive. **[1b]**

4.7 In early June 1996 some 25 centre-right political parties, including the trade union, Solidarity, the Centre Alliance and the Christian National Union (*ZChN - Zjednoczenie Chrześcijaństwo Narodowe*), established an electoral coalition, called Solidarity Election Action (*AWS - Akcja wyborcza Solidarnosc*), in preparation for the 1997 parliamentary elections. **[1a]**

4.8 Parliament adopted a new Constitution on 2 April 1997, following four years of parliamentary negotiations; this was approved by a national referendum in May and came into force in October 1997. **[1b]**

4.9 Parliamentary 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 formed a coalition government with the Freedom Union (UW), with Jerzy Buzek of the AWS as Prime Minister and the UW leader, Leszek Balcerowicz, as Deputy Prime Minister and Finance Minister. **[1a]** The new government prioritised rapid integration with NATO and the EU, and accelerated privatisation and the reform of government. Other government measures in 1998 included the adoption of a new penal code to conform to EU criteria, which brought about the abolition of the death penalty and granting access to files compiled on citizens during the Communist era. **[1a]** The coalition agreement collapsed on 6 June 2000 and the AWS formed a minority government on 6 June 2000, with Buzek remaining as prime minister. **[17e]**

4.10 Aleksander Kwasniewski was re-elected President on 8 October 2000, with a majority large enough to obviate the need for a second round of voting. AWS leader Marian Krzaklewski received 15.6% of the popular vote:

<i>Candidate</i>	<i>% of vote</i>
Aleksander Kwasniewski	53.9
Andrzej Olechowski	17.3
Marian Krzaklewski	15.6
Jaroslaw Kalinowski	6.0

Turnout: 61%

Source: State Electoral Commission

Former President Lech Walesa, who had finished a close second to Kwasniewski in the previous presidential election, obtained only 1% of the vote on this occasion and announced on 15 October that he was withdrawing from politics. [17f]

4.11 On 18 March 2001, the council of the Conservative Peasant Party (SKL) voted to withdraw the SKL from the ruling AWS coalition. By May 2001 the AWS held 154 seats in the Sejm, compared with 201 after the 1997 election. [39]

September 2001 Parliamentary Elections

4.12 Free and fair elections [4f] to both the Sejm and the Senate were held on 23 September 2001. The following were the principle parties/coalitions which contested the elections:

- The Democratic Left Alliance (SLD), under Leszek Miller, had formed a centre-left electoral coalition with Labour Union (UP). Their campaign focussed on stability, economic growth, fighting unemployment, and modernising education, and sought to project an image of competent and business-like leadership. The SLD is firmly committed to EU accession.
- Solidarity Election Action -Right (AWS-P): Prime Minister Jerzy Buzek's AWS government had, by the time of the election, lost a great deal of its former public support due mainly to its apparent ineffectiveness in countering a dramatic slowdown in the economy and the unpopularity of the four major socio-political reforms it introduced - in addition to a recent damaging corruption scandal. In May 2001, AWS and part of the Movement for the Reconstruction of Poland (ROP) had agreed to run on a joint list in the parliamentary elections: 'AWS-P'.
- Freedom Union (UW) had withdrawn from the governing coalition in June 2000. The party had suffered a damaging split in December 2000 and members in its liberal faction left to co-found Civic Platform (PO).
- Civic Platform (PO): Formed in January 2001 and positioned as a pro-free market political movement in the liberal centre of Polish politics.(see 4.18)
- Law & Justice (PiS), under former Justice Minister Lech Kaczynski, was formed to contest the 23 September elections. PiS is basically a 'law and order' party. Its candidates included many former AWS politicians.
- Samoobrona (Self-Defence): Populist, Euro-sceptic organisation led by Andrzej Lepper. As one of three farmers' unions, Samoobrona staged disruptive protests and roadblocks in the late-1990's against the government's European and agricultural policies. Adopted a more formal political structure in the lead up to the elections, and now also sought to be seen as the voice of the urban unemployed and of small business, in addition to Poland's hard-pressed farmers.
- Polish Peasant Party (PSL): Left-wing party competing with Samoobrona for support in the rural community. In favour of EU accession, but opposed to the tough, far-reaching agricultural reforms required by Brussels.
- League of Polish Family (LPR) : Formed two months before the elections, the LPR groups far-right nationalist politicians - including several close to Radio Maryja, an ultra-nationalist Catholic radio station.
- Bloc Senat 2001: A centre-right coalition of Civic Platform, Law & Justice, AWS, Freedom Union and Reconstruction Party candidates (all post-Solidarity parties) - formed to contest the Senate election only. [40b][44][45a][38]

Results in the Sejm:

PARTY/COALITION	DESCRIPTION	% TOTAL VOTE	of SEATS
Coalition of the Alliance of the Democratic Left and the Union of Labour (SLD-UP)	Centre-left	41.0	216
Civic Platform (PO)	Centre-right	12.7	65
Samoobrona (Self Defence)	Populist/agrarian	10.2	53
Law & Justice (PiS)	Right/anti-corruption	9.5	44
Polish Peasant Party (PSL)	Left/agrarian	9.0	42
League of Polish Family (LPR)	Right/nationalist	7.9	38
Solidarity Election Action (AWS-P)	Centre-right	5.6	-

Freedom Union (UW)	Centre-right	3.1	-
German Minority (MN)		-	2*
		100.0	460

[43][38] *German minority guaranteed at least two seats

Results in the Senate:

PARTY/COALITION	DESCRIPTION	SEATS
Coalition of the Alliance of the Democratic Left and the Union of Labour (SLD-UP)	Centre-left	75
Blok Senat (includes PO , PiS , AWS-P , UW)	Centre-right	15
Polish Peasant Party (PSL)	Left/agrarian	4
Samoobrona	Populist/agrarian	2
League of Polish Family (LPR)	Right/nationalist	2
Others/Non-affiliated		2
		100

[43][38]

4.13 In the Sejm election SLD-UP, with 216 seats, fell 15 seats short of an outright majority. The parties that had formed the previous government after the 1997 election - Solidarity Election Action and Freedom Union - both failed to gain sufficient support to qualify for any seats. Extremist parties Samoobrona and LPR gained a higher percentage of the vote than had generally been predicted.

4.14 On 9 October 2001, leaders Leszek Miller of the Democratic Left Alliance (**SLD**), Marek Pol of the Union of Labour (**UP**), and Jaroslaw Kalinowski of the Polish Peasant Party (**PSL**), signed a policy agreement which was to be the basis of a coalition government. **[8v]** The new government formally assumed office when the Sejm convened on 19 October, with Leszek Miller as Prime Minister, and with Pol and Kalinowski as Deputy Prime Ministers. Marek Borowski of the SLD was elected Speaker of the Sejm; Samoobrona leader Lepper became one of the four deputy Speakers. **[8u][46a]**

4.15 In addressing the Senate on 19 October, the President Kwasniewski stressed the importance of this second chamber: "The Senate has exceptional prerogatives that distinguish it against the other organs of state authority: It is a place where the law can be modified and improved". (In its pre-election campaign, SLD-UP had positioned itself in favour of abolishing the Senate.) **[8t][24f]**

4.16 On 29 November 2001, the Sejm voted to dismiss Andrzej Lepper, leader of the populist Samoobrona movement, from his post as deputy Speaker of the Sejm, after he made an inflammatory insult to the Foreign Minister amidst criticism of the Government's EU negotiating positions. During the dismissal procedure, Lepper went on to make a stream of corruption allegations against several well known politicians, including two cabinet ministers and senior members of the opposition Civic Platform (**PO**). The allegations were denied. Nevertheless, it was announced the following day that the Prosecutor's office in Warsaw had opened an investigation to establish whether Lepper's accusations were legal and true. **[30f][8x]** On 1 July 2002, the Prosecutor's office announced that it had dropped proceedings against the politicians being investigated, after a certain Bogdan G., who had been the source of Lepper's information on alleged corruption, withdrew his testimony. **[8z]**

4.17 The Sejm had stripped Lepper of his immunity from prosecution on 28 January 2002, thus exposing him to criminal charges for slander and accusations of corruption levelled against the ministers and members of parliament, as well as the central bank governor. **[45b]** On 30 January 2002, the Appeal Court in Gdansk sentenced Lepper to a fine of 20,000 zloty; he had been found guilty by the District Court in May 2001 of insulting the President and two former deputy ministers at a press conference in 1999. **[8b]** In March 2002 the Regional Court in Slubice sentenced Lepper to a year in prison, conditionally suspended, as well as a fine, for organising an illegal blockade of the Polish-German border crossing in in Swiecko in 1999. **[26a][4f]** In an interview with the Financial Times in 2001, Lepper had admitted that there were 130 criminal charges outstanding against him. **[45b]** Lepper was re-elected chairman of Samoobrona in April 2002. **[8aa]** From May 2002, Samoobrona played a leading role in a number of protests, mainly by farmers, against grain imports, the economic plight of Polish farmers, and the high overall rate of unemployment in the country. Protest actions - some of which were unlawful - have included, for example, an occupation of the Ministry of Agriculture building in Warsaw on 15 May 2002, emptying imported grain from railway wagons on 6 June, road blockades and street protests on 25 June 2002, and a demonstration by 2500 farmers in Warsaw on 4 March 2003. **[65a] [30k][65b][8ab]**

4.18 Two-round local government elections were held on 27 October and 10 November 2002. For the first time, city mayors, gmina mayors and other heads of local government were directly elected, rather than being chosen by councillors. (See Section 5: 'Local

Government')

4.19 At the European Union Summit in Copenhagen in December 2002, Poland was formally invited to join the European Union on 1 May 2004 - subject to the outcome of a referendum. (See *below*)

4.20 On 2 March 2003, the Prime Minister dismissed the Polish Peasant Party (PSL) - and its two ministers - from the governing coalition, after the PSL failed to vote in support of a law introducing motorway vouchers to improve Poland's road system. This had followed a couple of months of repeated political indiscipline by PSL politicians, challenging the Government's line on a variety of issues. The exclusion of the PSL left Leszek Miller's coalition of the SLD and UP with a minority in the Sejm (212 of 460 seats); nevertheless, on 12 March, the Sejm voted against a putting a resolution on the agenda calling for the Prime Minister's resignation. **[45d][76b]** On 26 March 2003 the SLD lost four more MPs from its Parliamentary Party, after they were expelled for voting abuses in the Sejm. **[38]** March 1999 Prime Minister Buzek reshuffled his government in preparation for a major reform of state administration, which took place in April. **[1a]**

European Union and NATO

4.21 Poland signed an association agreement with the European Community in December 1991 as part of its continuing effort to integrate more closely with western European institutions. In April 1994 Poland made a formal application for membership of the European Union. Accession negotiations began in March 1998 and were successfully concluded in December 2002. **[1b][27e][38]**

4.22 In June 2001 the European Union agreed on a common position with regard to the free movement of persons. There will be a period of transition of up to seven years after enlargement during which any current EU members have an option to restrict freedom of movement : During the first two years, an existing member state may deny employment rights to nationals of the ten new member states; for the next three years, existing members can individually apply national measures to restrict the right to work; they can then extend these restrictions for a further two years, up to a total of seven years, if there remains a serious threat to their domestic labour market. **[60]**

On 10th December 2002 the Foreign Secretary announced that, from accession, nationals from the new Member States will gain the same full rights to work in the UK as existing EU citizens. Extending working rights in this way requires a power in the EU (Accessions) Bill to extend the Immigration (EEA) Regulations 2000 to workers from the new Member States. The Bill is planned for introduction in April 2003. The UK will be in a position to suspend free movement rights for workers and reintroduce immigration controls in the event of an unexpected influx of workers from the new Member States that could seriously threaten the standard of living or level of employment in a given region or occupation in the UK.

4.23 At the European Union Summit in Copenhagen in December 2002, agreement was reached on the terms of membership of Poland and nine other Accession States. Subject to the outcome of a referendum in each country, the 10 Accession States will become full EU members on 1 May 2004. **[55a]**

4.24 At the Copenhagen Summit it was agreed to allocate a total of Euro 40.4 billion in funding (e.g. structural funding, agricultural aid), over a three year period from accession (2004 - 2007), to the ten new members. Of this total, about Euro 18.7 bn. will go to Poland. Poland will have early access to Euro 1 bn. to help bridge its national budget deficit. **[55a][76a]**

4.25 The Polish EU accession referendum will be held on 7 - 8 June 2003. According to recent opinion surveys, a majority of Poles remain in favour of EU membership. But there are also indications that that there may not be a high voter turnout in the referendum. **[77][33h]**. For the referendum to be valid, a turnout of 50%+1 is required; if the turnout is less the referendum will be invalid regardless of the result. However, the Sejm has adopted legislation ruling that if the referendum is invalid the Sejm will still be able to vote on ratification of the Accession Treaty by a two-thirds majority. **[38]**

4.26 In January 1994 Poland announced that it was to join NATO's Partnership for Peace programme. A defence co-operation agreement was signed between Poland and NATO in March 1994. Poland, along with the Czech Republic and Hungary, gained full membership of NATO in March 1999. **[1a]** the Sejm election SLD-UP, with 216 seats, fell 15 seats short of an outright majority. The parties that had formed the previous government after the 1997 election - Solidarity Election Action and Freedom Union - both failed to gain sufficient support to qualify for any seats. Extremist parties Samoobrona and LPR gained a higher percentage of the vote than had generally been predicted.

5. STATE STRUCTURES

[Part I](#)

Part II

5. STATE STRUCTURES

THE CONSTITUTION

5.1 A new Polish Constitution, to replace the much amended and supplemented Communist Constitution of 1952, was adopted by the Parliament on 2 April 1997 and endorsed by popular referendum on 25 May of that year. It came into force on 17 October 1997 following the Supreme Court's ruling on the validity of the referendum. **[1b]**

5.2 The full text of the Constitution appears with the Source material accompanying this assessment. **[50]**

5.3 Article 32 provides that all persons shall be equal before the law, and all persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever. **[50]**

5.4 The Constitution (Article 79) provides that anyone whose constitutional rights or freedoms have been infringed has the right to appeal to the Constitutional Tribunal **[50]**

Citizenship and Nationality

5.5 Principles of citizenship are governed by the Polish Constitution and the Citizenship Act of 1962. **[48a][49]**

5.6 Generally, a child - irrespective of where he/she is born - acquires Polish citizenship if both parents are Polish citizens or, subject to certain provisions, if one parent is a Polish citizen. A child who is born in Poland would acquire Polish citizenship if his/her parents are unknown, or are of unknown nationality, or are stateless. **[49]**

5.7 Persons can apply for citizenship through naturalisation after residing in Poland for 5 years, subject to having a basic command of the Polish language and basic knowledge of Polish history. The Senate passed an amendment to the Citizenship Act in July 2000 to recognise dual nationality. The Constitution prohibits involuntary loss of Polish citizenship. **[8r][49]**

5.8 On 29 June 2000, a new Polish Citizenship bill was approved by the Sejm, but subsequently rejected in the Senate. A new draft of the bill was introduced in the Sejm on 27 April 2001, but progress on this was suspended when Parliament dissolved prior to the September elections. **[48]** No further progress had been made on the new bill by April 2003. **[48a]**

POLITICAL SYSTEM

5.9 Legislative power is vested in a bicameral Parliament, which is elected for a four year term. It comprises the 100 member *Senat* (upper chamber) and 460 member *Sejm* (lower chamber). The Senate reviews the laws adopted by the Sejm and may propose their amendment or rejection. **[1b]**

5.10 Senators and deputies are elected by universal, direct suffrage. In the Sejm, deputies are elected under a system of proportional representation. **[1b]** The electoral law exempts ethnic minority parties from the requirement to win 5% of the vote nation-wide in order to qualify for seats in individual districts. **[4a]**

5.11 Executive power is vested in the President of the Republic, who is directly elected for a five year term, and may be re-elected only once; and in the appointed Council of Ministers (Cabinet), led by the Prime Minister. The President is empowered to veto legislation; a three-fifths majority in the Sejm is subsequently required to overturn a presidential veto. The Council of Ministers is responsible to the Sejm **[1b]**

5.12 A 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, as well as members of the judicial system, 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 could also be excluded from public office for 10 years. The lustration court held its first hearing on 24 February 1999 and the Justice Minister sacked two prosecutors in the wake of the first vetting list. **[8d][8h]** During 2000 several high profile cases were heard by the lustration court, including that of a Deputy Defence Minister who was found to have lied in his affidavit; the judgement in this case was upheld at Appeal. The vetting/lustration process remains in operation, but in October 2002 legislation was enacted exempting persons who co-operated with intelligence and counterintelligence agencies from vetting. **[4f]**

Local Government

5.13 Under the administrative structure which came into force on 1 January 1999, powers were devolved to three levels of self-government:

- There are **16 'voivodships' (provinces)**. Voivodship authorities include the 'sejmik', the voivodship parliament chosen in local government elections, and the board of the voivodship. The voivodship is responsible for matters related to regional development.
- **At district, or county, level** there are **315 land 'powiats' and 65 urban 'powiats'** - including 7 that were created in January 2002. The powiat council is elected in local government elections; the powiat board is the executive authority. Powiats are responsible for such matters as social security, maintenance of general hospitals, public order and public security, secondary and technical schools, consumer rights, fire protection, issuing of passports, matters relating to change of citizenship, and measures to counteract unemployment.
- The **'gmina'(commune or municipality)** is the basic unit of territorial division. There are **2,489 'gminas'**. The gmina council and mayor are chosen in local elections, and the gmina board has executive power. Responsibilities include primary schools and kindergartens, social housing, local transport, water and other public utilities, leisure and cultural facilities, local police, and public health (excluding hospitals). **[54][61][30n]**

5.14 Local elections were last held on 27 October and 10 November 2002; voters chose councilors at the commune/municipal ("gmina"), district ("powiat"), and provincial ("województwo") levels, as well as heads of local government - including commune heads ("wojt"), town mayors ("burmistrz"), and city mayors ("prezydent miasta"). Where a candidate for a mayoral post did not receive more than 50 percent of the vote on 27 October, the two highest-placed candidates took part in a runoff ballot on 10 November. This was the first time that mayors and other local government leaders were directly elected, rather than being chosen by councillors. **[40c][10]** Also on 27 October there was an administrative reorganisation of Warsaw; its 11 gminas became one gmina with the rights of a powiat. **[38]**

5.15 The Social Democrats (SLD) secured more council seats than any other party at all three levels of local government, and there were gains for populist and far-right parties. Lech Kaczynski, co-leader of Law & Justice (PiS), was elected mayor of Warsaw. **[40c][40d]**

THE JUDICIARY

5.16 The Constitution provides for an independent judiciary and the Government respects this in practice. **[4f]**

5.17 The Act on the Constitution of Common Courts, which entered into force in October 2001, has replaced the previous structure and functions of the various levels of the court system in Poland. In 2002 there were 296 District courts, 41 Regional or Provincial (Voivodship) courts, 10 Courts of Appeal and the Supreme Court. The new structure also includes 'municipal court divisions', or borough courts, which deal with petty offences - by the end of 2001 there were 314 borough courts. Military courts have jurisdiction in the armed forces. **[27e][36b][9c]**

5.18 The Supreme Court is the highest judicial authority in Poland. It exercises judicial supervision over decisions of all lower courts. It has an autonomous budget. The President of the Supreme Court is appointed by the President of Poland for a term of six years, from among candidates proposed by the General Assembly of the Judiciary. **[36b][1b]**

5.19 The Constitutional Tribunal (Court) rules on the constitutionality of legislation; its decisions are final and binding. **[4f][1b]**

5.20 Criminal cases are tried in district and regional courts by a professional judge and two lay assessors; the seriousness of the offence determines which is the court of first instance. All defendants are presumed innocent until proven guilty. At the end of a trial, the court renders its judgement orally and then has seven days to prepare a written judgement. A defendant has the right to lodge an appeal within 14 days of the written judgement. **[4f]** In 1996 reforms were made that provide for a two-level appeal process in most civil and criminal matters; previously, citizens enjoyed access only to a one-step appeal process. **[16e][4a]** Legal aid is available to defendants in criminal cases and, subject to the consent of the judge, in civil cases as well. **[27e]**

5.21 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. **[4f]**

5.22 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 Court of Appeal decision. **[4f][27e]**

5.23 The court system is said to be inefficient, poorly administered, inadequately staffed and under funded. **[4f]** Over-lengthly court proceedings, long pre-trial waiting times and inconsistency in implementing court decisions have been amongst the factors contributing to a lack of public confidence in the courts system. **[4f][27e]** The European Commission's Reports of November 2001

and October 2002 have, however, noted recent improvements in the functioning of the judicial system: Apart from the restructuring of the courts through the Act on the Constitution of Common Courts, there has been a significant increase in the number of judges, as well as further computerisation and improvements in administrative processes. The average length of criminal proceedings in district courts has reduced from 5.8 months in 2000 to 5.4 months in 2001, and from 6.5 months to 6.1 months in regional courts. There has been a similar reduction in the duration of civil cases. However, in Warsaw the average length of court proceedings has remained at approximately 40 months. The system for executing court decisions has also been reformed with a change in status of bailiffs. **[27d][27e]**

5.24 The European Court of Human Rights in Strasbourg has found Poland to be in breach of Article 6 of ECHR - involving the right to fair trial within reasonable time - on a number of occasions. Most of these cases were brought, under Article 6(1), by plaintiffs whose civil cases had not been resolved in the Polish courts within a reasonable length of time. **[62][9c]**

5.25 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, or national or ethnic origin. **[16d]**

5.26 The European Commission notes that concerns about corruption within the judiciary persist, but that to some extent there is a divergence between perception and reality. Various reports suggest that some 20 cases were reported in 2000, while the Central Bureau of Investigation indicated that only 3 cases were investigated that year. **[27d]** The 2001 Act on the Constitution of Common Courts has increased the transparency of judicial disciplinary processes and transferred responsibility for lifting the immunity of judges to the Appeal Courts. **[27e]** In 2001 a judge in Torun who was suspected of corruption and 'conduct beneath the dignity of the profession' was stripped of his immunity and disciplinary proceedings were instituted against him. **[9c]**

5.27 The Supreme Court ruled in September 2000 that judges would not require a special security clearance in order to gain access to classified State secrets, as is the normal requirement under the Classified Information Act of March 1999. **[9b]**

5.28 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 replaced capital punishment with life or 25 years' imprisonment. A number of other significant changes were made which served 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 introduced new categories of criminal offences (e.g. computer and environmental crime). **[27a][27b]**

5.29 The Polish legal system contains 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). **[16e]**

LEGAL RIGHTS/DETENTION

5.30 The Polish Constitution prohibits arbitrary arrest and detention and the government generally 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. Bail is available and most detainees are released on bail pending trial. The law provides that 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. The total time of temporary arrest until the first sentence rendered by the court of lower instance may not be more than two years. However, under certain circumstances, the two-year period may be extended further by the Supreme Court. **[4f]**

5.31 On at least two occasions in 2001, the European Court of Human Rights ruled in favour of Polish nationals who had brought cases under ECHR Article 5 (right to liberty and security), on the basis of the length of time they had spent on remand. Both applicants were awarded damages. **[62]** In 2002 there appeared to be no Court of Human Rights judgements against Poland relating to time spent on remand, but the Court found violations of Article 5(3) in three cases, where an individual had not been brought promptly before a judge, or other officer with authorised judicial power, following their arrest or detention. (A prosecutor, being from the executive branch of government, does not have such power.) **[62]**

5.32 Article 40 of the 1982 Act on the Promotion of Sobriety provided that 'a person in a state of drunkenness, who by his/her behaviour causes a scandal in a public place or workplace, or is in a situation in which his/her life is threatened, or constitutes a threat to other peoples' lives or health', may be brought to a sobering-up centre or public health care facility. **[9b]** A number of

observers had expressed concerns about the system, with regard to the rights of detainees, mistreatment of foreigners and lack of access to a lawyer. [27d][7a] In April 2000, the European Court of Human Rights ruled that in the particular case of a 54 year old man who was only "moderately" drunk and was put in a sobering-up centre for six hours after causing a scene at a post office, the police had used excessive means, as the man was neither a threat to himself or to others and could simply have been driven home. [9b]. The law on sobriety which was adopted in July 2001 amended the system. It provides for a right of complaint and a requirement of notification of detention, elements intended to reduce the abuse of the system. [27d]

The Death Penalty

5.33 Poland has abolished the death penalty for all crimes and has ratified Protocol 6 to the European Convention on Human Rights (ECHR). [36a] In May 2002 Poland signed Protocol 13 to ECHR concerning the abolition of the death penalty in all circumstances. [27e]

INTERNAL SECURITY

5.34 Internal security forces consist of local police, a national office of investigation and city guards, who are uniformed, unarmed officers. Both the internal security and armed forces are subject to effective civilian control by the government. [4f]

5.35 The European Commission's Reports of November 2001 and October 2002 noted that there had been concerns over degrading treatment by the police. The Reports stated, however, that there was no evidence of such treatment being either systematic or systemic. [27d][27e]

5.36 According to the Commission's report, 5391 complaints were made against police officers in 2001, compared to 5255 in 2000. [27e] (It is not stated how many of the 5391 complaints concerned ill-treatment or other violations of personal rights - in 2000 there were 572 complaints of ill-treatment by police officers, of which 16 were confirmed. [16k].) Of the total of 5391 complaints, 2884 led to police officers being punished, and 284 to expulsion from the police service. In 2001, 844 criminal proceedings against police officers were initiated, 300 were closed, and in 77 cases the judgement was against the police officer. Human rights groups have expressed a concern that sentencing in such cases has been 'rather lenient'. [27e] In 2000, the majority of law enforcement officials found guilty of 'ill-treatment or other violations of personal rights' were imprisoned. [16k]

5.37 The Polish delegation to the UN Committee against Torture reported in May 2000 that: " Systematic action was being taken to address unlawful behaviour by police officers. New psychological tests had been included in the recruitment procedure. An average of 80 per cent of candidates applying for service in recent months had been rejected on psycho-physical grounds. Training programmes were continuously adjusted in the light of analyses of major human rights abuses involving law enforcement officers. A police code of conduct had been formulated on the basis of United Nations recommendations. It stressed the need to respect human rights and the dignity of the individual. Almost 60 per cent of police officers were young recruits who had entered the force after 1990 and who had a positive attitude to human rights training"... "Training courses for law enforcement officers at all levels placed considerable emphasis on education and information about human rights, particularly the unlawfulness of torture and cruel or degrading treatment." [16h]

5.38 The Polish delegation to CAT described the police control and complaints system as follows: " All law enforcement agencies [have] an extensive control and review system that operated on several different levels. A complaint could be filed against a police officer through the legally sanctioned channels to his or her commanding officer, whose decision could be appealed against at successive levels up to and including the Commander-in-Chief. Secondly, members of the public could use a toll-free telephone number [...] to complain of police abuses of authority. The information is analysed by an internal police department and may lead to the filing of criminal charges. Thirdly, a complaint could be filed directly with the competent prosecutor's office, which conducts its investigations independently of the police force. Fourthly, the Ministry of Internal Affairs had established the office of Spokesperson for Victims' Rights, a mediator who operated independently of the Police and Border Police, co-operated closely with NGOs and could react immediately to complaints by victims of criminal acts, perpetrated in some cases by the police. A similar service [is] performed by the Civic Rights Ombudsman, an institution that had been in existence for over ten years. Watchdog functions are also exercised by NGOs such as the Helsinki Committee, Amnesty International and minority rights organisations, and by the free media. There had been no recorded attempt to prevent the media from disclosing information that tarnished the image of the law enforcement agencies. On the contrary, media publicity had often led to changes in the agencies concerned." [16h]

5.39 The Chairman's Office of the Main Headquarters of Police in Warsaw has advised that, where a 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]

5.40 The British Government's Know How Fund Polish Police Programme of Assistance commenced in 1990. The programme was in existence for over 8 years and its aim was to provide constructive assistance through the transfer of experience from the British police to aid the Polish police to come to terms with the policing needs of a newly formed democracy. The aim was also to help in the development of a police organisation capable of dealing with the crime and social problems which had emerged since the

breakdown of the totalitarian state. The Polish police have reportedly made considerable progress in most of the key areas which are the cornerstone of professional policing. [23][38]

5.41 The International Helsinki Federation for Human Rights and the European Commission against Racism and Intolerance (ECRI) have expressed concerns about police conduct. There were some reports that the police did not react appropriately to racially motivated crime; that they responded slowly and their investigations were inadequate. The 1999 ECRI Report also noted allegations of police violence and abuse directed at members of the Roma community. The Polish authorities have responded to the ECRI report by stating that, in all cases of reported crimes against Romanies, active efforts were launched immediately to clarify the circumstances of the offences and to identify the offenders. They also noted that reported cases of police officers violating regulations or breaking the law are monitored and subject to disciplinary proceedings. Police officers found to have committed violations against criminal suspects have been punished severely - from disciplinary discharge to prosecution and conviction in a court of law. [3]

5.42 The Polish intelligence services were restructured in 2002. Functions are divided among the following agencies: the Intelligence Agency (AW) incorporates both military and civilian intelligence functions; the Internal Security Agency (ABW) has a traditional counterintelligence brief, and also deals with terrorism and organised crime. The former counterintelligence section of army intelligence (WSI) will deal with military counter-intelligence, military tactical intelligence and defence industry security issues. [30][38]

PRISONS AND PRISON CONDITIONS

5.43 According to reports by NGOs, prison conditions are generally poor. Overcrowding, damp cells and a lack of medical treatment are described as the main problems. [4f] The prison system has been in need of additional funding; although the budget of the prisons service rose between 1999 and 2002 these additional resources have been used mainly to meet the daily needs of an increased number of detainees. [27e] Nevertheless, a budget increase of 15% in 2002 provided for the renovation of more than 30 prison facilities and the building of additional cells for 336 prisoners in 5 facilities; a new prison for 600 prisoners is under construction in Piotrkow Trybunalski and new divisions have been opened for violent and dangerous inmates in existing prisons. [4f]

5.44 The Ombudsman for Human Rights has complained about the safety of prisoners, noting that inmates are often the victims of violence from other prisoners. [4f]

Overcrowding has been a problem. In mid-2000 the prison population of 70,000 was 110% of the notional maximum capacity of the system; this figure was often exceeded in large urban prisons. [27c] The total number of prisoners further increased to 81,250 in 2002, of whom about 72% were convicts and about 28% were in detention pending trial. [27e][9c]

5.45 Juveniles under the age of 24 are held separately from adults, and pre-trial detainees are held separately from convicted prisoners. [4f]

5.46 The Government permits visits to prisons by independent human rights monitors. During 2002 the Ombudsman inspected twenty prison facilities, and the Helsinki Foundation visited ten; some of these visits were unannounced. [4f] The Penitentiary Judge, who is independent of the Prison Service but has unlimited access to premises and documents, also monitors prison conditions. [16h]

MILITARY SERVICE (CONSCRIPTION)

5.47 Article 85 of the Constitution states that it is "the duty of every Polish citizen to defend the Homeland". It adds: "Any citizen whose religious convictions or moral principles do not allow him to perform military service may be obliged to perform substitute service in accordance with the principles specified by statute". [50] The present legal basis of conscription is the 1967 Law on the Universal Duty to Defend the Polish Republic. [31]

5.48 All male citizens between the ages of 18 and 28 are liable for military service. [31] This includes members of ethnic minority groups, e.g. Roma. [18] Women are required to register only if they have graduated from a medical school or academy. [38] The duration of military service was reduced to 12 months in March 1999. For graduates of higher education, the duration is 6 months - and two months in the case of graduates of medical academies. Conscripts may request to serve in the Police, Border Guard or Civil Defence, for which the period of service is 18 months. [38] Deferment (postponement) is available to full- and part-time students as well as, on the basis of special regulations, for 'difficult life circumstances'. [24e] Exemption is possible for medical and certain domestic reasons. Under the Law reservist obligations apply up to the age of 60, but in practice no one is called up for reserve training. [31]

5.49 The duration of alternative (substitute) service for conscientious objectors is 21 months. [24e][38] In 1998 it was estimated that alternative service had been granted to approximately 60 per cent of applicants. Such service is most commonly performed in health care institutions, in social care, or in working for local/municipal authorities. [25] A person eligible for alternative service does

not return to armed military service if no jobs in an alternative service field are available at the time - this person automatically obtains a deferment of substitute service until alternative jobs are available. **[51a]**

5.50 Refusal to perform military service or to carry out a task inherent in such service, in peacetime, are punishable by 6 months' to 5 years' imprisonment. **[31]**

5.51 Amnesty International, in their report covering the period January - December 2000, drew attention to the problem of 'hazing', or the ill-treatment or humiliation of new recruits in the armed forces, mainly by older conscripts and non-commissioned officers. **[7a]** The International Helsinki Federation, in its report covering 2001, has also highlighted this problem. **[9e]** The Polish authorities have stated that bullying (*fala*) is not tolerated, and that such crimes are vigorously prosecuted by the Chief Military Prosecutor's Office. By May 2000, a total of 134 soldiers had been charged with *fala*. **[16h]** Under the Penal Code, humiliating or insulting a subordinated recruit is punishable with imprisonment of up to two years, while physical or psychological ill-treatment carries a prison sentence of up to five years - and up to twelve years in certain circumstances. Either military commanders or victims are entitled to bring a prosecution. **[9c]**

MEDICAL SERVICES

5.52 The Polish state has, since the 1950s, provided universal access to health services. Health sector reforms since 1990 have sought to maintain universal coverage of the population and full entitlement, irrespective of risk. **[42]** In particular, Article 68 of the 1997 Constitution specifies that *equal* access to health care services, financed from public funds, shall be ensured by public authorities to citizens, irrespective of their material situation. **[16i]** The 1991 Health Care Institutions Act and subsequent regulations set out a range of basic services which must be provided. Only a few health services were excluded, such as alternative therapy, non-essential cosmetic surgery, and some services in health spas. Abortions are only permitted in certain circumstances (see section 6.B 'Women') **[42]**

5.53 The Universal Health Insurance Act came into force in January 1999, under which contributions to a state health insurance scheme (established as 16 regional funds) are deducted from the salaries of all people in employment. The premium, with effect from 1 January 2003, is 7.75% of income - of which 7.5% is tax-deductible. Non-earner groups, such as the retired and those registered as unemployed, have their contributions covered by the state. **[33c][38]**

5.54 The Mental Health Act of 1994 provides for comprehensive and accessible mental health care and assistance in Poland, and the protection of the civil rights of people with mental disorders. **[68]** The Act also seeks to prevent discrimination against people with such disorders. **[29]** Poland has 7.5 psychiatric beds in hospitals per 10,000 population, compared with 5.8 for the UK. All of the therapeutic drugs listed in the WHO Atlas survey are generally available. **[68]**

EDUCATIONAL SYSTEM

5.55 The 1991 Act on the System of Education (and later amendments) specifies the structure of Polish education. Primary school education begins at age 7 and is compulsory and free of charge. Admission to a school must not be conditional upon race, religion or nationality. **[16e]**

5.56 A reform of the education system came into effect in September 1999, in terms of which fundamental changes were made to the structure of the school system, as well as curricula. Compulsory education in Poland has been increased from eight to nine years. General education is divided into six-year primary schools (*szkola podstawowa*) and three-year intermediary schools, or 'gymnasiums' (*gimnazjum*), for which new syllabuses have been drawn up. Secondary education is received at three-year 'lyceums' (*liceum*), which lead to university entrance, or at two-year vocational schools (*szkola zawodowa*). **[40a][41]**

5.57 The Act on the System of Education also regulates the teaching of native language classes for children of non-Polish nationality. 18,795 pupils were learning their native language in 289 Polish institutions (schools and inter-school groups) in 1997. These languages included Belarussian, Lithuanian, Ukrainian, Slovak and German. **[16d]**

See also "Ethnic Minority Groups: General" and "Roma: Education".

6. HUMAN RIGHTS

6A HUMAN RIGHTS ISSUES

[Part I](#)

[Part II](#)

6. HUMAN RIGHTS

6A. HUMAN RIGHTS ISSUES

OVERVIEW

6.1 The European Commission, in its Report of October 2002 on Poland's Progress towards Accession, has confirmed that Poland continues to fulfil the Copenhagen political criteria. The criteria, as laid down by the Copenhagen European Council in June 1993, stipulate that the country must have achieved "stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities". **[27e]**

6.2 The Commission further considered that, "in Poland, respect for and protection of *minorities* continues to be assured". **[27e]**

6.3 Poland has ratified the European Convention on Human Rights (ECHR), the Council of Europe Framework Convention for the Protection of National Minorities, the European Convention for the Prevention of Torture, the European Social Charter, the Convention Against Torture (CAT), the Convention on the Elimination of all forms of Racial Discrimination (CERD), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and other international human rights conventions. **[27c][27d]** Article 91 of the Constitution provides that any ratified international agreement constitutes a part of Polish domestic law. Therefore, for all treaties relating to the protection of minorities which Poland has ratified, citizens may rely on the provisions contained in them, and the courts are obliged to apply them. Where the provisions of an international treaty conflict with Polish statutory law, precedence is to be given to the international norm over the statutory norm. **[20b]**

6.4 The US State Department report for 2002 (released March 2003) stated that the Polish government generally respects the rights of its citizens, but that problems remain in such areas as prison conditions, the inefficiency of the courts system and lengthy pre-trial detention, right to privacy, and violence against women. There was some societal discrimination and violence against ethnic minorities, and anti-Semitic sentiments persist. The Constitution prohibits arbitrary arrest and detention, and the government observes this prohibition. There were no reports of political prisoners or cases where persons were exiled in 2002. The Polish Criminal Code prohibits torture and there were no reported incidents of such treatment in 2001. **[4f]**

6.5 The Constitution provides for the right to privacy of correspondence. In response to the growing threat of organised crime and money laundering, 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 firearms 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 that utilises wiretaps or the opening of private correspondence at the same time that they seek permission from the ministers. **[4f]** The Government has established the General Inspectorate of Financial Information (GIFI), responsible for collecting, processing and exchanging information received from financial entities on financial transactions, with a view to curbing money-laundering. **[27e]** A 1998 law prohibits - with certain specific exceptions - 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. **[4f]**

6.6 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. **[16b]**

6.7 The study of Human rights has been widely promoted in Poland. At several universities (e.g. Gdansk, Poznan, Torun, Lublin, Warsaw) human rights has become a subject of regular lectures. A number of monographs on human rights have been published. They are readily 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'. **[16d]**

Human Rights Monitoring and NGOs

6.8 Domestic and international human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are co-operative and responsive to their views. **[4f]**

6.9 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. **[4f]**

6.10 In 2001 new registration procedures were introduced, and all NGOs were required to re-register. As a result of the stricter registration requirements and administrative difficulties with the new process, many NGOs have been denied registration. This has discouraged the establishment of new organisations and disrupts the work of some active organisations. **[27e]**

6.11 The Office of the Commissioner for Civil Rights Protection (the Ombudsman), 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, though it has no legislative authority or powers of enforcement. **[4f]** (See section headed "*The Office of Commissioner for Civil Rights Protection*" below.)

The Office of Commissioner for Civil Rights Protection (The Ombudsman)

6.12 The Commissioner for Civil Rights Protection (the Ombudsman) was first appointed in 1989 and, in accordance with the Polish Constitution, protects the rights and liberties of citizens as provided for by the Constitution and other laws. The Ombudsman is elected by the Sejm for a five-year tenure and his decisions are not subject to appeal. **[16d]**

6.13 Any individual may file a complaint with the Ombudsman if their legal rights or liberties have been breached or violated by administrative, governmental or other bodies or institutions, or officers of those authorities. **[16d]** A complaint may also be based on the inaction ('silence') of a public authority. **[16i]** The Ombudsman registers each reported case. **[4f]** The Ombudsman can sue public authorities and appear before the courts and tribunals in support of individuals whose rights have been violated. **[27d]**

6.14 In addition, if the Ombudsman finds that a particular provision of the law creates the opportunity for an infringement of civil rights and freedoms, he may apply to the Constitutional Court (Tribunal) to rule on the incompatibility with the Constitution of the legal act in question. **[16d]**

6.15 The United Nations Human Rights Committee commented in 1999 that the Commissioner for Civil Rights had a substantial staff and was vested with broad competence. **[16g]** The European Commission reported in November 1998 that the Ombudsman's office, with a staff of 190, was already functioning well and had made a significant contribution to the protection of citizens' rights. **[27a]** In 2000 the Ombudsman received almost 50,000 letters, of which 31,000 were formal submissions. **[27d]**

6.16 A new Ombudsman, Professor Andrzej Zoll, was elected by Parliament in June 2000. Professor Zoll, a criminal law expert, was chairman of the State Electoral Commission and president of the Constitutional Tribunal from 1993 to 1997, and Chairman of the Prime Minister's Legislative Council between 1998 and June 2000.

A Children's Ombudsman was also appointed by Parliament in June 2000. **[8q]**

6.17 A Unit for the Protection of Foreigners' and National Minorities' Rights has been set up within the Ombudsman's Office specifically to deal with minority rights issues. To date, very few complaints relating to minority rights have been received by the Ombudsman. **[27d][27e]**

FREEDOM OF SPEECH AND THE MEDIA

6.18 The Constitution provides for freedom of speech and the press and the Government respects this right. However, there are a few restrictions in law and practice. **[4f]**

6.19 The Criminal Code states that an individual who "publicly insults or humiliates a constitutional institution of the Republic of Poland" is subject to a fine or imprisonment of up to 2 years, while an individual who insults a public functionary is subject to a fine or imprisonment of up to 1 year. **[4f]**

6.20 During 2001, a number of persons, including journalists, faced charges of slander. For example, in August a city council member from Zagan received a fine for slandering the police. In May Andrzej Lepper, leader of Samoobrona, was sentenced to 16 months' imprisonment for slandering President Kwasniewski, National Bank governor Leszek Balcerowicz, and former Deputy Prime Minister Tomaszewski; Lepper was accused of calling them thieves and criminals. (An appeals court subsequently changed the sentence to a fine of 20,000 PLN.) In May 2000, a Warsaw district court ordered the daily newspaper, Zycie, to apologise to President Aleksander Kwasniewski for publishing untrue information; an appeal against the court's decision was still pending at end-2002, but the newspaper went bankrupt and ceased publication in December 2002. **[4c][4f]**

6.21 The State Secrets Act allows for the prosecution of citizens who publish or otherwise betray state secrets. Human rights groups criticise this law, contending that it restricts the right of free speech. **[4f]**

6.22 The Criminal Code regulates the protection of journalistic sources. The code grants news sources protection, except in cases

involving national security, murder, and terrorist acts. Pursuant to the law, statutory provisions are applied retroactively if their terms are beneficial to the accused. Journalists who refused to divulge sources prior to the new code's enactment also can avoid sanctions by invoking "journalistic privilege." [4f]

6.23 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 licences, 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. [4f]

6.24 The Act on Radio and Television Broadcasting 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. [4f] In July 2002, the Sejm approved an amendment to the Act on Radio and Television Broadcasting to regulate the extent of cross-ownership of the media. President Kwasniewski had refused to sign an earlier, more restrictive, version of the bill in May 2002. [30o][32a]

6.25 Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. Satellite and cable services (domestic and foreign) are available across most of the country. Private radio flourishes on the local, regional, and national levels alongside public radio. [4f]

6.26 The government owns the most widely viewed television channel and 17 regional stations, as well as five national radio networks. Opposition politicians, watchdog institutions, and commentators have accused public television of being influenced by politicians from the governing coalition which, until March 2003, comprised the SLD, UP and PSL. Members of these parties have majorities on supervisory and management boards in public television and radio. [4f]

6.27 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. [4f]

6.28 The Act on Access to Public Information was signed by the President in October 2001. It sets out a clear definition of the right to public information, the entitlement to view official documents, and entitlement of access to sittings of elected government bodies. [27d] The Helsinki Foundation in Poland concluded that, although the implementation of the new Act was yet to be evaluated, the introduction of a broader scope of access to information undoubtedly represents considerable progress. [9c]

6.29 In December 2002 one of Poland's leading dailies alleged that Lew Rywin, a film producer, had approached the Head of Poland's largest private media concern the previous July, asking for USD17.5 million, in return for which he would ensure that the media bill under debate at the time would be less restrictive for private media. Rywin claimed to have been acting for the SLD, and with their knowledge. There is now a Public Prosecutor's investigation into the case, as well as a Parliamentary Investigative Committee, which is in the process of interviewing a range of senior media and political figures, including the Prime Minister. [38]

FREEDOM OF RELIGION

6.30 Article 53 of the Constitution guarantees freedom of faith and religion. The government respects this right in practice. 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 15 religious groups in the country whose relationship with the State is governed by specific legislation, and 141 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. Religious communities may register with the Government, but they are not required to do so and may function freely without registration. All churches and recognised religious groups share the same privileges, such as reduced taxes. [4f] Reports in the media during 2003 have suggested that the privilege of reduced taxes has been abused by some founders of new "bogus" churches, which are said to be a cover for economic activity or trade. [38]

6.31 The Guarantee of Freedom of Conscience and Religion Act dated 17 May 1989 provides for the setting up of 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. **[16e]**

6.32 The Roman Catholic Church was granted full legal status in May 1989, when the Sejm approved three laws regulating aspects of relations between the Church and the State. 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. **[1a]**

6.33 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. **[16d]**

6.34 The Constitution gives parents the right to bring up their children according to 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. The Ministry of Education pays the instructors. **[4f]**

6.35 Article 257 of the Criminal Code provides that anyone who insults a person or group of people in public because of, *inter-alia*, their religious status, or absence of a religious denomination, could be liable to imprisonment for up to three years. Under Articles 118 and 119, the use of violence, or an unlawful threat of violence, against a person or group because of their religious status carries a prison sentence of up to five years. Article 256 specifies penalties for incitement of racial, ethnic or religious hatred. **[16i][57b]**

Main Religions

6.36 In 2001 there were estimated to be 34.6 million baptised Roman Catholics in Poland, about 90% of the population. **[4e]** Estimates of the membership of some other churches, based on the 2001 Annual Statistical Yearbook, are:

Orthodox Church: 509,500

Greek Catholic: 123,000

Jehovah's Witnesses: 122,575

Lutherans (Augsburg): 87,300

Lutherans (Reformed): 3,610

Baptists: 4,367

Catholic Mariavits: 2,610

Church of Christ: 3,593

Evangelical-Reformed Church

Pentecostal Church: 19,840

Seventh-day Adventists: 9,942

United Methodist Church,

[4e]

6.37 In 2001 there were 5,123 members of the Muslim Religious Union **[4e]**

6.38 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. **[1a]**

Religious Minorities: Jews

6.39 The Jewish community in Poland is variously estimated to number between 5,000 and 30,000 - compared with about 3.3 million prior to World War II. **[4e][70][71a]** Although surveys in recent years have shown a continuing decline in anti-Semitic sentiment, and although avowedly anti-Semitic candidates have fared very badly in elections since 1989, anti-Semitic feeling persists among certain sectors of the Polish population, occasionally manifesting itself in acts of vandalism and physical or verbal abuse. **[4f][3]**

6.40 Sporadic incidents of harassment directed against the Jewish community continued to occur in 2001 and 2002, often perpetrated by skinheads and other marginal societal groups. For example, on 11 November 2001, during Polish Independence Day, approximately 400 Polish ultra nationalists who chanted anti-Semitic and anti-EU slogans marched through Katowice. The march culminated in a rally at which demonstrators burned the Israeli and EU flags. **[4f]** Police suspect that a fire at a synagogue in Breslau on 10 May 2002 may have been arson. They have reinforced protection at the synagogue at the community's request. **[70]**

6.41 Occasional cases of cemetery desecration, including of both Jewish and Catholic shrines, also occurred in 2001 and 2002. In February 2001, and again in September 2002, tombstones were knocked down in the Jewish cemetery in Wroclaw. On 8 May 2001 unknown perpetrators overturned 39 tombstones in a Jewish cemetery at Oswiecim (Auschwitz). On 1 September 2002, 70 tombstones in Czeladz were knocked down or desecrated with anti-Semitic and Nazi slogans; a police investigation was in progress at year's end. Government authorities have consistently criticised such actions and made efforts to prevent similar acts from occurring in the future, for example, by increasing police patrols around Jewish sites. **[4c][4f][70]**

6.42 In May 2000, the presidents of Israel and Poland joined thousands of marchers from Poland and abroad in the 12th March of the Living from Auschwitz to Birkenau to honour victims of the Holocaust. In September 2000, the refurbished Chevra Lomdei Mishnayot synagogue and the Jewish Centre were opened at Auschwitz. **[4a]**

6.43 In November 2002 the National Remembrance Institute published the findings of its investigation into the into the circumstances surrounding the 1941 massacre of several hundred Jews - by their Polish neighbours - in the town of Jedwabne, which was then under Nazi occupation. The report also referred to incidents in more than 20 other towns in the Podlasie region in 1941 in which Jews died at the hands of Poles; most of these attacks were instigated by Germans. **[73][30q][71a]** At a commemoration ceremony in Jedwabne on 10 July 2001, President Kwasniewski unveiled a new memorial and issued an apology on behalf of the nation. He was supported there by SLD leader - now Prime Minister - Leszek Miller. **[30q][4f]** Extreme nationalists and anti-Semites in Poland have, in the meantime, conducted a campaign against the commemoration of the Jedwabne massacre, which some deny having taken place. **[70]**

Religious Minorities: Religious Sects

6.44 The number of such sects in Poland has been 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 religious sects. **[10c]**

6.45 In March 2001, the Government established a department within the Interior Ministry to monitor the activities of "new religious groups" and "cults". In April 2002 the Government closed the department; however, there is still a person in the Interior Ministry's Public Order Department who monitors religious movements. **[4e]**

FREEDOM OF ASSEMBLY AND ASSOCIATION

6.46 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. Permits for public gatherings are issued routinely. **[4f]**

6.47 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. **[4f]**

EMPLOYMENT RIGHTS

6.48 The Constitution (Article 65) provides that everyone shall have the freedom to choose and pursue their occupation and place of work, except as specified by statute. Article 66 guarantees the right to safe and hygienic conditions of work, and to annual paid holidays. These provisions are specified in a more precise manner in the Labour Code. **[50][16i]**

6.49 Both the Constitution and the Labour Code prohibit discrimination in the workplace on account of, *inter alia*, gender, race or

ethnicity. [16i][50][53]

6.50 The law provides that all workers, including civilian employees of the police and armed forces, have the right to establish and join trade unions of their choosing, and workers exercise these rights. In 2000 there were approximately 360 officially registered unions at national level; the two largest trade union organisations are NSZZ (Solidarity) and OPZZ, the All-Poland Alliance of Trade Unions. Unions have the right to strike, except in 'essential services' such as uniformed services and local government. [4c]

6.51 The Ministry of Labour, trade unions and employers organisations negotiate a revised national minimum wage every three months. However, enforcement of the national minimum wage is difficult, partly because of the large size of the informal economy. Many workers in agriculture, particularly foreign seasonal workers, and many construction workers earn less than the minimum wage. [4c]

6.52 On 26 July 2002 the Sejm approved a series of amendments to the Labour Code; these were subsequently approved by the Senate and signed into law in August 2002. The amendments, which are intended to curb unemployment by making employment regulations more flexible, concern, *inter-alia*, fixed term work contracts, remuneration during sick leave, overtime hours and severance terms. The amendments had followed negotiations in a Tripartite Commission in April-May 2002 involving the two trade union organisations NSZZ (Solidarity) and OPZZ; employers organisations and the Government. NSZZ had held a large street demonstration against the amendments in April 2002 and have continued to be critical of certain elements within them. [10][67]

6.53 The Labour Code defines strict and extensive standards for the protection of workers' health and safety. [4c]

PEOPLE TRAFFICKING

6.54 The law prohibits trafficking in persons; however, Poland is a country of origin, transit, and destination for trafficked persons, primarily women and girls and to a lesser extent boys. Since statistics on prostitution do not distinguish victims of trafficking from those wilfully engaged in prostitution, escort services, pornography and other aspects of the sex trade, the scope of the trafficking problem is difficult to define. The international NGO La Strada has estimated that approximately 60 percent of foreign women who work as prostitutes in the country are victims of trafficking. [4f] The Centre for Reproductive Law and Policy notes that there has been a growth in trafficking of teenaged women, mainly between the ages of 15 and 18. [63] Polish women are trafficked mainly to western European countries. Women and girls are trafficked to and through Poland from countries such as Ukraine, Bulgaria, Romania, Belarus, and Russia. [4f]

6.55 Victims are trafficked through such means as fake employment offers, arranged marriages, fraud, and coercive measures. Many believe that they are accepting employment as waitresses, maids, or nannies abroad. In the last few years, trafficking has become increasingly organised and has been associated with a rampant growth in document fraud. The trafficking of a single woman usually involves a network of criminals. [4f]

6.56 Several provisions in the Criminal Code specifically address the problem of trafficking. The law prohibits trafficking in human beings and pimping and imposes sentences of up to 10 years on those convicted. It also bans recruiting or luring persons into prostitution; penalties for this offence are also up to 10 years. The most severe sentences are reserved for individuals trafficking in children and those luring women into prostitution abroad. [4c] In Poland 240 cases were initiated in connection with trafficking in human beings during the period 1995-2001. Criminal charges were brought in 187 of the 240 cases. The total number of victims involved was 1083. Of the 187 cases, 174 had been completed by April 2003, with only 9 "not guilty" verdicts. Poland was the destination country in 45 of the 187 cases. [38] Foreign victims of trafficking have a right to temporary stay in Poland if they agree to testify. In July 2003 a new regulation will be implemented which allows for video testimony to be obtained from victims/witnesses who have returned to their home countries. [38] Regulations on seizing profits from illegal sources, including trafficking, have proved difficult to implement. [38]

FREEDOM OF MOVEMENT

6.57 Although the Constitution does not specifically address freedom of movement, the Government does not restrict internal or foreign travel. Citizens who leave Poland have no problems returning and there are no restrictions on emigration. [4f]

6.58 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). The cards are not only proof of identity but also include information about where the person resides. 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. When a person changes their address

they should re-register with the Population and Identity Card Department District Office, which will amend or replace the identity card. A newly- introduced card looks like a plastic banking card and is valid for 10 years, or until there is a change in the individual's address or other circumstances. Everyone born in Poland is eligible for an ID Card. Checks have failed to locate anyone who has been refused an ID Card. There is no connection between political affiliation and obtaining an ID Card. [21][38]

6.59 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. [21]

6.60 The law provides for the granting of refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and amendments to the Aliens Law in 2001 brought asylum legislation in Poland further in line with EU standards. Persons recognised as refugees under the Convention are granted permission to remain in the country permanently. The Aliens Act now provides for humanitarian protection to be granted to certain categories of applicants who may not otherwise qualify for refugee status, and for temporary protection to be granted in event of a mass influx. Those refused asylum have a right of appeal to the Refugee Board, and a further right of appeal, on procedural grounds, to the High Administrative Court. Applications considered to be 'clearly unfounded' move through an accelerated appeals process. The Government co-operates with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organisations in assisting refugees. In 2002 the Government received 5,169 applications for asylum, compared with 4,506 in 2001; 253 applicants were granted refugee status. The majority of applicants were from the Russian Federation and of Chechen origin. There were no reports in 2002 of the forced return of persons to a country where they feared persecution. Individuals who have been refused asylum, but cannot return to their home countries, are granted the right to 'tolerated stay', which entitles them to work and to apply for social benefits. [4f][72][38]

6B. HUMAN RIGHTS - SPECIFIC GROUPS

[Part I](#)

[Part II](#)

6B. HUMAN RIGHTS - SPECIFIC GROUPS

ETHNIC MINORITY GROUPS: GENERAL

6.62 Article 35 of the Polish Constitution ensures Polish citizens belonging to national and ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions and to develop their own culture. National and ethnic minorities have the right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity. Article 32 stipulates that all persons are equal before the law, all have the right to equal treatment by public authorities and no one may be discriminated against in political, social or economic life for any reason whatsoever. Article 13 forbids political parties or other organisations whose programmes or activities sanction racial or national hatred. [20b][50]

6.63 Poland has ratified the Framework Convention for National Minorities, and the Convention on the Elimination of All Forms Of Racial Discrimination (CERD). [27e] Article 91 of the Constitution provides that any ratified international agreement constitutes a part of Polish domestic law. Therefore, for all treaties relating to the protection of minorities which Poland has ratified, citizens may rely on the provisions contained in them, and the courts are obliged to apply them. Where the provisions of an international treaty conflict with Polish statutory law, precedence is to be given to the international norm over the statutory norm. [20b]

6.64 In February 2002 it was reported that the Sejm was reviewing the draft Law on National and Ethnic Minorities, and that this bill had passed through the first reading procedure in the Sejm. The Sejm Commission on National and Ethnic Minorities had spent several years working on this draft law, which is intended to assure the rights of minorities to maintain their own culture, language and identity and protect them against assimilation. The law covers such areas as education and culture, and provides for the right to use one's own language in official matters. The bilingual status of certain counties, for example, may extend to public institutions and road signs. **[30g][30h]**

6.65 Reports of the European Commission, from 1997 to 2001, have stated that, in Poland, respect for and protection of minorities continues to be assured. The November 2000 Report also commented that, since 1993, there has been a reduction in negative attitudes towards minorities in Poland. **[27a][27b][27c][27d]** The 2001 Report noted that Poland has an established track record of providing appropriate international and constitutional legal safeguards for human rights and protection of minorities. **[27d]**

6.66 Poland has one of the lowest percentages of minorities in Europe. According to the information from the Parliamentary Commission (in 1996), the overall population of national and ethnic minorities in Poland is between 1 million and 1.3 million people, i.e. only around 2.5 per cent of the total population of the country. The following table shows the estimated number of people in each community, according to various sources:

	Sources of data	
	Parliamentary Commission	Other Estimates
Belarussian	250,000 - 350,000	200,000 - 400,000
Ukrainian/Lemko	250,000 - 300,000	250,000 - 300,000
Lithuanian	20,000 - 25,000	25,000 - 30,000
Slovak & Czech	15,000 - 25,000	25,000 - 30,000
German	350,000	300,000 - 450,000
Jewish	8,000 - 10,000	10,000 - 15,000
Roma	25,000	25,000 - 60,000
Russian		10,000 - 15,000
Armenian		8,000 - 10,000

[16e][53a][20b][4f]

6.67 There are also minorities of an 'immigrant' nature - including Greeks and Macedonians (5000), Vietnamese (20-25,000), Palestinians, Kurds - numbering from several hundred to 2,000 people in total. Significant religious and ethnic minorities also include Karaims - about 200 persons - and Tartars, 3 - 4000 members. **[16d]**

6.68 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. **[16d]**

6.69 The Section for National Minorities was established in 2000 within the Department for Citizenship in the Ministry of the Interior. This Section deals with general national and ethnic minority issues, in particular related to rights and obligations as citizens. It also co-ordinates the work of the Interdepartmental Group for National Minorities (Inter-governmental Commission on National Minority Issues) which is composed of representatives of different ministries. The main task of this Group is to co-ordinate the activities of government administrative bodies in implementing national policy towards national minorities as well as the preparation of government programmes for minorities when necessary. **[38]**

6.70 Social and education matters of national minorities are within the competence of the Ministry of Labour and Social Policy as well as the Ministry of National Education. **[38]** Issues related to the preservation of culture and tradition of national minorities are the responsibility of the Department for Culture of National Minorities (in the Ministry of Culture and National Heritage), which is authorised to subsidise publications, festivals and other cultural events. **[38]** 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, and to promote the use their own language. **[16d]** The Department for Culture of National Minorities funds the publication of many periodicals and co-operates with 11 representative organisations of the following national and ethnic minorities in Poland: Ukrainian, German, Belarussian, Lithuanian, Tartar, Armenian, Karaim, Czech and Slovak. Two investments have been financed from the State budget: the construction of the Lithuanian Culture House in Punska 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. **[16d]**

6.71 All minority groups have established associations or social organisations, the aims of which are mainly to preserve and

increase knowledge of history and traditions, develop cultural activity, and in many instances also to promote the study of languages. In 1993 there were 109 associations and 13 minority group foundations registered, and in 1994 about 120 organisations of this type carried out activities. **[16e]**

6.72 The Polish delegation to the UN Human Rights Committee has stated that 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 (articles. 272, 273, 274, 276, 278, 280 of the Criminal Code). **[16d]**

6.73 The Act on the Elections to the Sejm of 28 May 1993 contains a provision, which states that the percentage threshold (5%) of votes cast in the whole country does not apply to the electoral committees of the registered organisations of national minorities. This is to safeguard the political rights of national minorities. **[16d][4a]**

6.74 In the regions where different minorities reside, local radio stations regularly broadcast programmes in the languages of these minorities. The Act on Broadcasting calls on public television and radio channels to 'take into consideration the needs of national minorities and ethnic groups', though it does not specify minimum airtime ratios. **[53a]** In recent years there has been a considerable increase in the number of periodicals published by different minorities. They are mainly supported by financial grants from the Department for Culture of National Minorities. In 1998 the Department was subsidising 33 minority magazines and newspapers, of which 20 were published in minority languages. **[16e][4a][53a]**

6.75 With regard to education, the law provides for national and ethnic minorities to have access to the learning of their native tongue and to instruction in their own language. According to a report published in 2001, 37,000 pupils in Poland were receiving minority language tuition in 532 schools, or inter-school groups. However, instruction in Romani is only provided in some regions, and at the level of primary education. According to the Government, instruction in Romani is difficult to achieve because of the diversity of the Roma community in Poland (several groups which differ in terms of language and culture), as well as a non-availability of suitably qualified teaching staff. **[20b][16i]**

6.76 In a report on Poland published in June 2000, the European Commission Against Racism and Intolerance (ECRI) noted a lack of public awareness of the problems faced by minority groups, and a marked lack of interest in other cultures and societies. The current moves towards setting up a legislative and policy framework acknowledging the existence and needs of Poland's national minorities are an encouraging sign in a society where before 1989 any acknowledgement of the existence of national minority groups was suppressed. **[3]**

6.77 In Poland, ultra-national parties expressing hostility towards minorities and propagating anti-Semitic slogans are at the margin of political life. They have little public support. In parliamentary elections in 1991, 1993 and 1997, such parties ("Polish National Community -Polish National Party" and "Homeland - Polish List") altogether gained less than 30,000 votes (approx. 0.2% of votes cast), and secured no seats in Parliament. **[20b]**

6.78 Violent attacks on visible minorities are not common, but incidents of verbal abuse occur. It has also been reported that a significant number of visitors to Poland of African, Asian and Arab origin have experienced some type of aggression during their stay, often in the form of verbal abuse. **[3]** In May 2001, a young woman asylum seeker from Rwanda was reportedly attacked and racially abused by three men at Dabak. The Public Prosecutor later terminated the investigation, apparently because it was not possible to identify the perpetrators, but the Prosecutor's report did not note the racist nature of the assault. **[7b]** The following month a refugee from Cameroon and his Senegalese visitor were attacked by four men at a bus stop in Warsaw; the police failed to provide assistance or to adequately investigate this incident. **[7b]** In July 2002, two Polish men in Krakow shouted racial slurs at one foreigner of African descent and one African-American foreigner and assaulted them. The legal proceedings in this case were ongoing at year's end. **[4f]**

6.79 Articles 118 and 119 of the Criminal Code specify punishment for the use of violence or unlawful threats against a person or group of people because of their ethnic, national, racial or religious status. Article 257 punishes the insulting of a person or group of people in public on the basis of their national, ethnic, racial or religious affiliation. Article 256 specifies penalties for incitement of racial, ethnic or religious hatred. **[16i][57b]** These provisions are enforced in practice. **[16i]**

6.80 A Unit for the Protection of Foreigners' and National Minorities' Rights has been set up within the Ombudsman's Office specifically to deal with minority rights issues. Such issues have traditionally accounted for a small percentage of complaints received by the Ombudsman and it is hoped that the new unit will provide a clearer contact point for complaints. **[27d][27e]**

6.81 In addressing the ethnic minorities of the Bialystok region in June 1998 the former 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. [30d]

ROMA

Background

6.82 The present size of the Roma population in Poland is unknown; most estimates range between 25,000 and 60,000, with several sources quoting around 30,000. (The total population of the country is about 38 million.) [20b][4a]

6.83 Roma in Poland are divided into four main groups, which are differentiated by history, tradition and dialects:

- *Polska or Polish Roma (Lowland Roma)*: Largest of the four groups, the Polska Roma are natives of Poland, having first arrived possibly as early as the fifteenth century. Their language borrows much from German. In the make-up of the Polska Roma are also three sub-groups: *Chaladytka Roma* (from the territory of Russia), *Sasytka Roma* (from the former Prussia) and *Galicjaki* (from the former Austrian partition). The Polska Roma have a traditional leader known as "Szero Rom".
- *Kalderash (Kelderara or Kelderasz)*: Are *Vlach* or Wallachian Roma who speak Romani dialects influenced by Romanian. Kalderash Roma started to arrive in Poland from Romania and Hungary in the 19th century. The group is composed of clans or 'vitsa'. Traditionally tinsmiths.
- *Lovari (Lowarzy)*: Are also *Vlach* Roma. Many 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.
- *Bergitka or Carpathian Roma (Highland Roma)*: Live mainly in the Carpathians and Tatry regions, particularly around Nowy Targ and Nowy Sacz. Bergitka Roma are traditionally 'settled', whereas the Polska, Kalderash and Lovari groups were traditionally nomadic. They are recognised as the poorest group of Roma in Poland. [See Paragraph 6.93]

[5][6][52][20a][58]

It is reportedly not uncommon for members of different Roma groups living in a particular area not to communicate with each other, or to be antagonistic towards one another. [52][38]

6.84 Roma first arrived in the Polish territories in the fifteenth century. It is believed that their roots are in northern India, which they left a thousand or more years ago. [15][52] Before World War II there were about 50,000 Roma in Poland; as many as 35,000 Polish Roma perished in the Holocaust. [14]

6.85 After the War some 75% of Polish Roma were still nomadic. Communism's forced settlement policies during the period 1950 - 1980 (especially of March 1964) forced the Roma population to become sedentary; Roma could, at that time, be prosecuted or imprisoned for such minor offences as lighting bonfires, not registering a change of address, itinerancy, or failure of their children to attend school. [14]

6.86 The dissolution of communism brought some basic changes in the legal position of national and ethnic minorities in Poland. The existence of minorities was publicly and politically acknowledged and institutions for their protection were established. [20b]

Roma: National policy in Poland

6.87 The Roma community in Poland is treated as a national and ethnic minority, and as such it is entitled to receive full protection and assistance from the state in accordance with national legislation and international agreements ratified by Poland. (Ratified international agreements have the force of law in Poland.) [20b]

6.88 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] The Helsinki Foundation for Human Rights, in a report of September 1997, commented that after 1989 the treatment of Roma by the authorities in Poland had changed markedly. The authorities now recognised the Roma community as a national minority, which should be helped and protected by law. 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, though there was an absence of a homogeneous legal regulation with regard to minorities. The report added that the policy of the state towards Roma, as it is actually carried out, is not of a discriminatory character. **[20a]**

6.89 The European Commission stated in its November 2000 report that there is no overt policy of discrimination on the part of the Polish government towards the Roma minority, but that the economic and social circumstances of the Roma are poor and worse than those of the population in general, and that some acts of discrimination by public authorities do take place. **[27c]**

6.90 Article 32 of the Constitution stipulates that all persons are equal before the law, all have the right to equal treatment by public authorities and no one may be discriminated against in political, social or economic life for any reason whatsoever. **[16i]**

6.91 A Unit for the Protection of Foreigners' and National Minorities' Rights has been set up within the Ombudsman's Office specifically to deal with minority rights issues. Such issues have traditionally accounted for less than 1 percent of complaints received by the Ombudsman and it is hoped that the new unit will provide a clearer contact point for complaints. **[27d]**

6.92 The Department of National Minorities within the Ministry of Culture funds two bilingual Romani/Polish periodicals: *Dialog Pheniben* and *Rrom-po-Drom*. This funding amounted to 108,000 PLN in 1998. **[53a]**

The Pilot Programme in the Malopolska Province for the years 2001 - 2003

6.93 During the year 2000, several working meetings of the Interdepartmental Group for National Minorities were devoted to the issues of Bergitka Roma, who have been recognised as the poorest Roma group in Poland. As a result, the 'Pilot Government Programme for the Roma Community in the Malopolska Province' for the years 2001 - 2003 was prepared and launched in March 2001 to focus on this region in south-eastern Poland where Roma face particularly severe hardship. The main aim of the programme is 'to achieve full participation of Roma who live (in this region) and to mitigate the disparities between this group and the rest of society'. **[38]**

6.94 Prior to the current Programme there was a project in Malopolska in 1999 - 2000, initiated and conducted by the European Institute for Democracy in co-operation with the British Know How Fund. **[53a][38]**

6.95 The basic areas of activity in the Programme are as follows:

- Education
- Combating unemployment
- Health care
- Living conditions, including housing
- Security
- Culture
- Information ('Knowledge in and about the Roma Community') **[57]**

Further information on specific projects appears under the headings Education, Unemployment and Housing, below.

6.96 During the first year of the current Programme (2001) available funding was limited due to the withholding of a special purpose reserve, and only a limited number of tasks were therefore realised in that year - although parallel funding from the Ministry of Education allowed core education projects to proceed. (See *paragraph 6.111*) **[53b]** The US State Department reports that funding increased fivefold in 2002. **[4f]** About 80% of total resources are to come from the State budget. **[53b]**

6.97 On the basis of the Pilot Programme, a Poland-wide programme for Roma is now under preparation. **[38]**

Roma: Popular prejudice

6.97 The European Commission against Racism and Intolerance (ECRI) has stated that: "Prejudices against the Roma community persist in Poland, and certainly lead to discriminations in everyday life" and "It is reported that the Roma community is generally excluded from the Polish communities alongside which it lives..." **[3]**

6.98 The Polish Helsinki Committee observed in 1999 that Roma are often stereotyped very negatively and, in public opinion polls, are "placed at the end of the list of most liked national group". This report added, however, that "prejudices towards Roma in everyday life do not take drastic forms and restriction of Roma to their own society helps to ease these prejudices". **[20b]**

6.99 Polish authorities have also stated that relations between Roma and non-Roma communities are largely based on stereotypes. Dishonesty, reluctance to work, a lack of hygiene and high levels of criminality are some of the elements in the image of Roma which still prevails in Polish public opinion. This report continued: "On the other hand, living in social isolation which has been both imposed on and chosen by them, Roma are distrustful and contemptuous of 'outsiders', though often not showing their feelings." [57]

6.100 According to the Chairman's Office of the Police Headquarters in Poland, in localities which are inhabited by Roma communities, 'conflicts with the local communities happen and the reasons for these vary greatly'. In a 1997 letter, the Office cited a number of cases to support their view that many such conflicts and offences are motivated by factors other than intolerance or racial discrimination. [19]

6.101 At a meeting of Roma representatives in Warsaw in December 2001 to sum up the results of the "Romanies in local communities" programme, an appeal was made to the Polish media to present Romanies in a better light. (The "Romanies in local communities" programme has been implemented by the European Institute for Democracy and funded by the British Know-How Fund.) The Ombudsman, who attended this meeting, also expressed the importance of making other Poles aware of how Romanies live. [8y]

Roma: Violence against Roma

6.102 There have been occasional incidents of racially motivated violence directed at Roma, usually involving 'skinheads'. Members of the Roma community are also sometimes the victims of verbal harassment and malicious damage to property. Racist graffiti often appears in the vicinity of Roma communities. [4c][53][37b]

6.103 Although some incidents of violence may not have been reported to the police, and though the police may sometimes deny that racial motivation played a role in certain other cases [53], it is apparent that the actual incidence of racially-motivated violence in Poland is somewhat lower than the anecdotal evidence in some reports might suggest. The European Commission against Racism and Intolerance (ECRI) stated in their Report published in June 2000: "...violent manifestations of racism appear to be relatively rare in Poland"...and "violent attacks on visible minorities are not common; however, incidents of verbal harassment occur". [3] The US State Department Report published in March 2002: "There have been *occasional* incidents of skinheads clashing with Roma and racially motivated violence directed at Roma". [4c] According to a report of the Open Society Institute, based in turn on information from other sources, fifteen incidents of racially motivated violence against Roma were reported by NGO's and Roma Associations during the years 1999 and 2000. This document adds, however, that the actual figure could be considerably higher due to incidents not reported. [53]

6.104 Articles 118 and 119 of the Criminal Code specify punishment for the use of violence or unlawful threats against a person or group of people on the basis of their ethnic, national, racial or religious status. Article 257 punishes the insulting of a person or group of people in public because of their national, ethnic, racial or religious affiliation. Article 256 specifies penalties for incitement of racial or ethnic hatred. [16i][57b]

6.105 ECRI, the International Helsinki Federation for Human Rights and the European Roma Rights Centre (ERRC) have expressed concern about various reports that the police did not always react appropriately to racially motivated crime; that they responded slowly and their investigations were sometimes inadequate. An ERRC report of September 2002 noted that investigations were often stalled or discontinued, apparently on the grounds of insufficient evidence, and claimed that the police, in a number of cases, did not recognise the offences as being racially-motivated. The ECRI and ERRC have also noted allegations of police violence and abuse directed at members of the Roma community. [3][37b] The Polish authorities have responded to the ECRI report by stating that, in all cases of reported crimes against Romanies, active police efforts were launched immediately to clarify the circumstances of the offences and to identify the offenders. They also noted that reported cases of police officers violating regulations or breaking the law are monitored and subject to disciplinary proceedings. Police officers found to have committed violations against criminal suspects have been punished severely - from disciplinary discharge, to prosecution and conviction in a court of law. [3]

6.106 The European Commission has noted, in its report of October 2002, that police officers found guilty of serious misconduct have been prosecuted and convicted [27e] - see Section 5: '*Internal Security*'. An individual who has suffered ill-treatment by the police has a variety of effective remedies under Polish law. If he or she wishes not to make use of the police complaints mechanism, they have the option of filing a complaint with the Commissioner for Civil Rights Protection (the Ombudsman), or they may take their case directly to the relevant prosecutor's office. [16h]

Roma: Education

6.107 According to the 1999 ECRI Report, most Roma children do not complete primary schooling. Education for these children often ends at the age of twelve, and cases of illiteracy are not uncommon. **[3][5]**

6.108 In the majority of cases Roma schoolchildren are in integrated mainstream classes, together with other Polish schoolchildren. **[38][5]** Other Roma pupils attend separate remedial classes, or so-called 'Romani classes', offered by some schools under the Initial Teaching Programme for Roma - for the first three years of schooling. This programme was initiated by a priest, Father Opocki, in 1991 and adopted by the Ministry of National Education in 1992. It is justified by the Education Ministry on the basis that, because of a poor command of the Polish language, economic disadvantage, parental illiteracy and other factors, many Romany children are behind their non-Romany counterparts when starting school; accordingly, the aim of this programme has been to prepare Roma children to continue their education, from class IV, in integrated classes. Roma leaders have criticised 'Romani classes' as being discriminatory and 'inferior', though some Roma communities are in favour of them. **[58][3]** In the Pilot Programme in the Malopolska Province during 2001 - 2003, the Government is providing for intensive support to Roma children within integrated classes, rather than having separate 'Romani classes'. **[57a]**

6.109 A high percentage of Roma children do not attend school on a regular basis. Polish authorities are of the opinion that Roma parents do not attach due importance to schooling and generally underestimate the value of education to their children. **[57a][3]** Roma participants in an Open Society Institute 'Roundtable' in Warsaw contended that one of the principle reasons Roma children drop out of school at a young age is discriminatory treatment by teachers; according to one, Romani parents believe it is 'better for their children to earn a living than to face pressure, tension and discrimination in school'. **[53a]**

6.110 The Ombudsman, in July 2001, was reported to have called for the implementation of institutional and long term solutions in Roma education, which took account of the history, specific culture and traditions of the Roma community. He expressed the opinion that the low level of education amongst Roma was not only the result of attitudes and lifestyle, but was also caused by a lack of initiative in this area on the part of the Polish authorities. Professor Zoll added that there was currently a shortage of qualified teachers with a knowledge of Roma languages. **[8s]**

6.111 The Pilot Programme in the Malopolska Province makes education a priority. It includes, amongst other things, financing of pre-school (zero-class) education for Roma children, Polish remedial classes, after-school activities in mixed groups, and the employment of Romani support teachers and assistants. **[8s][58]** See *paragraph 6.93*

The Programme's education projects that were realised in 2001 have been described as very successful - notably the projects for Roma teachers' assistants and compensatory classes - and have apparently been widely welcomed by Roma parents, leaders and school directors. These projects have also brought about improved results and attendance by Roma pupils attending classes suitable for their age. **[53b]**

Roma: Unemployment and Social Welfare

6.112 Although there are no official unemployment statistics by ethnic group, several sources acknowledge high rates of unemployment among the Roma. A report prepared by the National Labour Office in 1999 found that no more than 43 per cent of Roma surveyed indicated employment as a source of income for their families. **[53a][57a]** Estimates by Roma leaders put rates of unemployment at 90% in both Krakow and Tarnow, and as high as 99% in Nowy Sacz. According to an Ombudsman's report, the level of Roma unemployment in the area of Czarny Dunajec reaches 100%. **[53a]** In the Swietokrzyskie region Roma unemployment has been estimated at 90%, according to a Social Mapping Report of Roma in that region. **[38]**

6.113 Polish authorities stress that unemployment among Roma is directly related to their low level of education and lack of job-related qualifications, and insufficient knowledge of the Polish language. Other contributing factors include the overall high rate of unemployment in Poland (currently over 17%), the restructuring of industry and the collapse of state-owned enterprises where Roma have been employed in the past, and the disappearance of traditional Roma occupations such as smithing, horse trading, etc. **[57a]**

6.114 According to the 1999 ECRI Report, disadvantage in the labour market is also frequently attributable to discrimination and prejudice, as well as to past discrimination in access to education and social inequality. However, "little information appears to be available on the possible extent of discrimination in the field of employment, be it statistical information about unemployment levels among the various minority groups, or caselaw pertaining to the relevant provision against discrimination in the labour code". **[3]** In responding to the ECRI Report, Polish authorities have stated that the 1994 Law on Employment and Counteracting Unemployment prohibits discrimination on the basis of nationality or ethnicity, as regards access to employment. **[3]**

6.115 Article 32 of the Constitution provides that no one shall be discriminated against in economic life for any reason whatsoever. **[50]** Article 11 [3] of the Labour Code of 1996 prohibits any form of ethnic or racial discrimination in labour relations - however, it is difficult to evaluate the efficacy and scope of this law because it has, as yet, only been invoked in a limited number of cases. **[53a]**

The Constitution (Article 67) stipulates that any citizen who is involuntarily without work and has no other means of support, shall have the right to social security, the scope of which is specified by statute. **[50]**

6.116 Long-term unemployment is particularly acute among Bergitka Roma in the south-east. The Government's 2001-2003 Pilot Programme in the Malopolska Province provides funds for occupational training, creation of subsidised workplaces, and various other projects. **[57a]**

6.117 According to the explanatory report for the Pilot Programme, the overwhelming majority of Roma living in the foothill areas of the Malopolska province live on social welfare. In 10 gminas of the province inhabited by Roma, 75% of Roma families received or still receive benefits, and in some gminas various forms of support are granted to over 95% of families. Welfare support includes cash allowances, and in-kind assistance such as fuel and meals paid for school-attending children. However, because of rent arrears, Roma families are often ineligible for accommodation allowances. **[57a]**

Roma: Housing

6.118 There is generally an acute shortage of dwelling units in Poland. In December 2000 it was estimated that close to 1.5 million Polish families did not have their own lodgings. **[10h]**

6.119 Although housing conditions for Roma are varied and should not be generalised, many Romany families, often with a large number of children and several generations, live in overcrowded municipal apartments that are badly in need of repair. Access to public utilities and other amenities is, in many cases, shared among large numbers of residents. Inhabitants in some settlements, particularly in the south-east, live in small, makeshift, hastily constructed houses, or sometimes in sheds or old railway wagons - in conditions of high density and often without adequate sanitation. Some Roma (and other Poles) reside in former barracks. **[57a][53a]**

6.120 The provision of housing is the responsibility of the local (*gmina*) authority. **[16i]** According to Roma leaders and advocacy groups, there have been cases of discrimination against Roma families by local officials with respect to housing. For example, in a move disproportionately effecting Roma, the Tarnow housing authorities demanded the eviction of around thirty families in 1999 on the grounds of irregular rent payments, apparently regardless of their condition. **[53a]** There have also been instances where local non-Roma residents have protested the housing of Romanies in their neighbourhood, on explicitly racist grounds. For example, in March 2001, in response to public discussion of proposals to provide public housing for Roma, residents of three villages sent a letter to the mayor of Lacko, stating: "We, the undersigned residents, do not agree to build a Roma community on municipal plots, owing to the lack of guarantee that new arrivals from other places will not settle [...] Roma do not want to help themselves, are onerous neighbours, are degenerate [...] and are riddled with diseases such as jaundice and tuberculosis which can spread to other members of our municipality". **[53a]**

6.121 The Pilot Programme in the Malopolska Province in south-east Poland provides funds for repairing existing dwellings, building new low-income or subsidised apartments, connecting Roma settlements to water and sewage systems, as well as for various other projects. **[57a]**

UKRAINIANS AND LEMKOS (RUTHENIANS)

6.122 The Ukrainian and Lemko minority makes up approximately 300,000 of Poland's population; this figure includes an estimated 50-60,000 Lemkos (*Lemkowie*). Ukrainians in Poland are dispersed over a number of different regions of the country as a result of the forced resettlement of the majority of them in 1947. **[20b]** According to the US State Department report for 2002, the Ukrainian minority occasionally experiences petty harassment and discrimination. **[4f]**

6.123 Within the Lemko community, there are two historically competing 'ideological' camps on the question of Lemko identity: some Lemkos consider themselves an ethnographic group within the Ukrainian minority, while others maintain they constitute a national minority separate from the Ukrainians. **[20b][16i]** They are represented respectively by the "pro-Ukrainian" Union, founded in 1990, and the "pro-Rusyn" Lemko Association, founded in 1989. **[10d]**

WOMEN

6.124 The Constitution grants men and women full and equal rights and freedom from discrimination on the basis of gender. Article 33, in particular, specifies the right to equal compensation for work of similar value. **[50]** The provisions of the Constitution are translated into employment relations through the Labour Code, which guarantees men and women equal rights when engaged in comparable work. The Labour Code, however, lacks provisions and mechanisms to enforce legal claims, and it does not specifically cover discrimination in staff recruitment. **[63]**

6.125 In practice, however, women frequently are paid less for equivalent work, mainly hold lower positions, and are less likely to be promoted than men. **[4f]** According to the Central Statistical Office (data collected in August 1998), the national average salary for women constituted 82% of men's salary for similar work. **[9d]**

6.126 Nevertheless women are employed in a wide variety of professions and occupations, and a number of women occupy high positions in government and in the private sector. **[4f]** In the Sejm, 20% of those elected in 2001 were women (previously 13.5%) and in the Senate 23% (previously 12%). There is one female Cabinet Minister. **[27e]** In December 2000, the Constitutional Tribunal ruled that the law setting retirement age at 60 for women and 65 for men is discriminatory, as it reduces women's chances for promotion and better pensions. Based on this verdict women can appeal to the labour court if employers insist that they retire at 60. **[4f]** Women have a right to paid maternity leave and pregnant women enjoy special protection under the Labour Code. **[63]** . Both men and women have the right to claim child sick care. **[4c]**

6.127 A Plenipotentiary for Equal Status of Women and Men was appointed by the Government in October 2001. The office has 11 staff and its main functions are : analysing and evaluating equal treatment; initiating and co-ordinating activities aimed at securing equal opportunities ; issuing opinions, and co-operating with relevant state bodies, NGOs and educational institutions to promote equal opportunities. **[27e]**

6.128 Violence against women continues to be a problem. According to a police spokesman, there were 24,200 cases of family abuse reported during 2001, with 213 of those being of particularly severe abuse. Police do intervene in cases of domestic violence, and husbands can be convicted for beating their wives. Sentences for abuse of family members range from 3 months to 5 years - or from 2 to 10 years if the victim attempts suicide as a result of the abuse. However, some NGOs maintain that the courts often treat domestic violence as a minor crime, pronounce lenient sentences or dismiss cases. According to a 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. In July 2000, an Office of Victims' Rights Spokesman at the Ministry of Internal Affairs and Administration was established. The main task of the office is to ensure that victims of violence are treated with respect by law enforcement and the judicial system. The office provides legal and psychological assistance for victims and their families. **[4a][4c][4f]**

6.129 During 2001, there were 2,339 cases of rape reported to the police. **[4f]** However, NGO's report that women often are unwilling to report this crime and estimate that the actual incidence of rape is 10 times higher than these statistics suggest. Police began proceedings in 1,803 of the 2,029 cases reported in 1999; perpetrators were found guilty and convicted in 83% of cases. **[9d]**

6.130 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. 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. **[4f]**

6.131 While laws specifically addressing sexual harassment do not exist, social awareness is continuing to increase, and there are mechanisms to deal with the problem. The Criminal Code, for example, provides that taking advantage of a position of power in a relationship to gain sexual gratification is an offence which carries a prison sentence of up to 3 years. In May 2002 a former director of a hospital emergency ward was sentenced to 16 months in prison (suspended) for sexually harassing nurses. **[4f]**

6.132 Legislation introduced in 1993 provides for abortion only in the following three circumstances: the life or health of the mother is endangered; pre-natal examinations reveal the sickness or damage of the child; the pregnancy is the result of a crime, i.e. rape. A clandestine abortion system is said to be well developed in Poland, with attendant risks to the life and health of women. In recent years, many women have travelled to other countries for abortions. **[9d]**

CHILDREN

6.133 The ratification by Poland of the UN Convention on the Rights of the Child (CRC), in 1990, had a substantial impact on the creation and observance of law aimed at the protection of the rights of children. **[16e]** Poland has also ratified the Council of Europe Convention on the Exercise of Children's Rights, as well as the various European conventions relating to adoption; children born out of wedlock; and the restoration of custody. **[47]** Article 91 of the Constitution provides that any ratified international agreement constitutes a part of Polish domestic law, and is therefore enforceable in the courts. **[20b]**

6.134 Primary school education begins at age 7 and is compulsory and free of charge. Admission to any school must not be conditional upon race, religion or nationality. **[16e]**

6.135 The Criminal Code provides that anyone who physically or psychologically abuses a minor may receive a prison sentence of 3 months to 5 years, or more in certain circumstances. **[4f]** Sexual molestation of a minor under 15 years of age carries up to 10 years imprisonment, as does using children in pornography. **[63]**

6.136 The law prohibits child prostitution: The Penal Code states that anyone who, with the purpose of obtaining a material benefit, incites a minor into prostitution or facilitates such prostitution is liable to a sentence of up to 10 years imprisonment. **[4f]** Nevertheless, this appears to be a growing problem, though it is difficult to estimate its extent. In 2000, of the 198 cases initiated by prosecutors under Article 204, which prohibits luring persons into prostitution, 22 involved victims who were minors. **[4c]**

6.137 A significant development has been the adoption in January 2000 of a law establishing an independent Ombudsman for the Rights of Children; The first children's Ombudsman was elected to this post by Parliament in June 2000. The Ombudsman's role mainly involves children's rights in the fields of health protection, the family, social conditions and education. **[27c][8q]** The Ombudsman responds to individual problems or complaints from children, or those representing children, and has successfully intervened in many individual cases. He also initiates and supports changes in the law. **[74]**

Child care facilities

6.138 In accordance with the UN Convention on the Rights of the Child, as well as under Polish domestic law, a child has the right to State protection and assistance in the case of deprivation for any reason of his or her family environment. **[16l]**

6.139 There are over 300 orphanages, or "children's houses" as they are called in Poland. **[56][16l]** These are centres of complete care for children from three years of age until they become independent, up to the age of 24 years. In addition, there are two "children's villages", based on the model of the SOS Kinderhof Association. Separate facilities, called "small child houses", care for infants younger than three years. However, the Polish authorities favour placing children with foster families, and provide financial assistance to such families. **[16l]**

6.140 'Centres for Emergency Care', of which there are about 50, provide emergency assistance and care to children from 3 to 18 years of age on a temporary basis, until the child is transferred to another facility. **[16l]**

HOMOSEXUALS

6.141 Article 32 of the Constitution states "All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever." **[50][11]**

6.142 Homosexuality was decriminalised in 1932, and there is an equal age of consent of 15 years regardless of sexual orientation. **[11]**

6.143 In common with other central European countries, there is a degree of societal prejudice against homosexuals, though a survey carried out by OBOP in 2000 showed that this was less pronounced than had been the case seven years previously. A higher level of tolerance has been evident in the big cities and amongst better educated people. **[11]** Perceptions and attitudes in the media changed significantly during the 1990s. **[11]** In a survey of 215 gay, lesbian and bisexual respondents conducted by the Association Lambda Warsaw in 2001, 51% said that they had, at some time in the past, encountered harassment as a result of their sexual orientation - in most cases this had taken the form of verbal abuse. 22% claimed to have been victims of violence on at least one occasion. A small percentage of respondents claimed discrimination in the workplace. **[75]**

6.144 According to the International Lesbian and Gay Association (ILGA) the Polish police have been observed to show an increasing tolerance of gays and lesbians since 1985. In particular, ILGA states that lesbians and gays who are victims of violent crimes have received more comprehensive assistance and better treatment from the police in recent years. **[11]**

6.145 There are no known cases of discrimination against gays or lesbians in the health service, including those who are HIV positive. **[11]**

6.146 Gay clubs, bars and discotheques have been established in several cities and towns. Five Polish lesbian and gay magazines are available in regular newspaper kiosks. The Association Lambda is an organisation of the Polish lesbian and gay community, and also provides a counselling service through its 'Rainbow' Centre. Other major associations include ISOMS, a lobbying organisation, and the Lesbian Archives. **[11][66]**

ANNEX A:

CHRONOLOGY OF KEY EVENTS

1950s - 1970s

Serious anti-regime riots occurred.

1978

Karol Wojtyla, Cardinal of Krakow, became Pope.

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 Wojciech Jaruzelski 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 Tadeusz 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 Olszewski 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 Suchocka, was approved by parliament.

May 1993

The government lost a vote of "no confidence".

19 September 1993

General 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

Oleksy resigned after being accused of co-operating with the Russian Secret Service well into the 1990s.

March 1996

Former Justice Minister, Włodzimierz Cimoszewicz (SLD) was appointed Prime Minister and formed a government.

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 Organisation for Economic Co-operation and Development (OECD).

February 1997

Further strikes took place, which were supported by Solidarity.

2 April 1997

Parliament 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 Sejm approved the programme of the new government, led by Jerzy Buzek as Prime Minister.

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 admitted as a full member of NATO. Government reshuffle took place

April 1999

Significant reform of state administration took place.

September 1999

Large protests in Warsaw against the reform of the health, education and pension systems. Demands for the Prime Minister to resign.

11 October 1999

Solidarity Electoral Action (AWS) and the Freedom Union (UW) renewed their coalition agreement.

May-June 2000

The Freedom Union (UW) threatened to withdraw from the government on 23 May in protest at the Prime Minister's failure to control rebellious factions in Solidarity Electoral Action (AWS). Talks between the two parties failed and the UW resigned from the Government on 6 June. AWS formed a minority government on its own.

October 2000

Aleksander Kwasniewski re-elected President of Poland

January 2001

Civic Platform (PO) founded.

23 September 2001

Parliamentary elections: The centre-left SLD - UP coalition, with 41% of the vote, secured 216 of the 460 seats in the Sejm - 15 seats short of an absolute majority. The new Civic Platform (PO) won 65 seats in the Sejm, while the parties of the previous government - Solidarity Election Action (AWSP) and the Freedom Union (UW) - both failed to qualify for any seats. In the Senate, 75 of the 100 seats went to SLD-UP.

9 October 2001

Leaders Leszek Miller of the Democratic Left Alliance (**SLD**), Marek Pol of the Union of Labour (**UP**), and Jaroslaw Kalinowski of the Polish Peasant Party (**PSL**), signed a policy agreement which was to be the basis of a coalition government.

19 October 2001

Parliament convened and the new coalition government of Leszek Miller was sworn in.

27 October 2002.

Local elections at regional, powiat and gmina level; first round of direct elections for mayors. 10 November 2002: second round of direct elections for mayors.

2 March 2003

The Polish Peasant Party (PSL) was expelled from the governing coalition, leaving Leszek Miller's Government with a minority in the Sejm.

ANNEX B:

POLITICAL ORGANISATIONS

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 operating in Poland had declined from 360 to 60, as a result of new regulations, according to which existing parties had to apply for re-registration by the end of 1997, presenting a list of 1,000 supporters instead of the previous 15. The principle ones are:

Democratic Left Alliance (*Sojusz Lewicy Demokratycznej - SLD*): Warsaw; f. 1991; electoral coalition of Social Democratic Party of the Republic of Poland (SdRP), the successor party to the old Communist Party, and the National Trade Union Alliance. Transformed itself into a political party in 1999. Won 216 seats in the Sejm in the September 2001 elections and formed a centre-left governing coalition with Union of Labour (UP) and Polish Peasant Party (PSL); this became a minority government when the PSL was expelled from the coalition in March 2003. Leader: Prime Minister Leszek Miller.

Civic Platform (*Platforma Obywatelska - PO*): A centrist ('liberal conservative') political movement formed in January 2001 by Andrzej Olechowski (runner-up in the 2000 presidential election), Sejm speaker Maciej Plazynski from the AWS, and deputy Senate speaker Donald Tusk, who left the Freedom Union following its December 2000 congress. They were joined by several hundred former members of the Freedom Union, including Warsaw mayor Pawel Piskorski, former prime minister Jan Krzysztof Bielecki, and a number of members of parliament who initially sat as independents. Secured 65 seats in the Sejm in the September 2001 election.

Freedom Union (*Unia Wolnosci-UW*): f. 1994 by merger of Democratic Union (*Unia Demokratyczna - UD*) and the Liberal Democratic Congress (*Kongres Liberalno-Demokratyczny - KLD*). Suffered a damaging split at its congress in December 2000 after Leszek Balcerowicz stood down as leader after only two members of the 'neo-liberal' wing of the party, comprising mostly former KLD members, were elected to the 100-member national council. Several prominent people left the UW and joined the *Civic Platform*, as did hundreds of other UW members across Poland. Former foreign minister Bronislaw Geremek was elected the new UW leader at this congress. He was subsequently succeeded as leader by Wladyslaw Frasyniuk in October 2001.

German Minority of Lower Silesia (*Mniejszosc Niemiecka Slaska Opolskiego*): Leader: Henryk Krol. Guaranteed 2 seats in the Sejm.

Law & Justice (PiS): This right-wing group was founded by former Justice Minister Lech Kaczynski, and his brother, Jaroslaw, to contest the September 2001 elections. Its main activists are members of the former Centre Alliance. The most important parts of its manifesto is its fight against corruption, harsher penalties for criminals, and financial transparency in public life. 44 seats in the Sejm. Merged with the Alliance of the Right (PP) in April 2002. Lech Kaczynski was elected mayor of Warsaw in November 2002. Leaders: Lech and Jaroslaw Kaczynski.

League of Polish Family (LPR) : Formed two months before the 2001 elections, the LPR groups far-right politicians - including several close to Radio Maryja, an ultra-nationalist Catholic radio station. Opposes Poland's accession to the EU. Leader: Roman Giertych. 38 Sejm seats in 2001.

Movement for the Reconstruction of Poland (*Ruch Odbudowy Polski - ROP*): f. 1995, and has experienced several splits and changes since then; right-wing; Chairman: Jan Olszewski. In May 2001, ROP and AWS agreed to run on a joint list in the September 2001 elections, to be called Solidarity Election Action-Right (AWS-P).

Polish Peasant Party (*Polskie Stronnictwo Ludowe - PSL*): f. 1990 to replace United Peasant Party (*Zjednoczone Stronnictwo Ludowe*; f. 1949) and Polish Peasant Party-Rebirth (*Polskie Stronnictwo Ludowe-Odrodzenie*; f. 1989); exists mainly to represent the agricultural community ; 200,000 members. Won 42 seats in the Sejm in 2001. Formed a governing coalition with the Social Democrats (SLD) and Union of Labour (UP) after the 2001 parliamentary election; was forced to withdraw from the coalition in March 2003. Leader: Jaroslaw Kalinowski.

Samoobrona (Self-Defence): Founded in 1992, initially as a protest movement for farmers in debt after the post-1989 economic reforms. As one of three farmers'unions, Samoobrona staged road blocks and other aggressive protests against Poland's pro-EU policies but, in 2000/2001, adopted a more formal political structure - and won 53 seats in the Sejm in the 2001 election. Has styled itself as the voice of Poland's hard-pressed farming community, as well as of small business and the urban unemployed, but remains populist and Eurosceptic. Leader: Andrzej Lepper.

Solidarity Election Action (*Akcja wyborcza Solidarnosc - AWS*): founded in 1996; as a centre-right electoral alliance of some 36 parties. Re-formed in 1999 as '**Solidarity Election Action-Social Movement**' (**RS AWS**). Formed a renewed alliance with the Christian National Union (ZChN), Polish Party of Christian Democrats (PPChD) and Conservative Peasant Party in December 2000. In May 2001, AWS and part of the Movement for the Reconstruction of Poland (ROP) agreed to run on a joint list in the September

2001 parliamentary elections, to be known as **Solidarity Election Action of the Right (AWS-P)**, but they failed to secure any seats in the Sejm. ZChN and PPChD withdrew from the coalition after the election defeat. Leader until 20 October 2001 was former Prime Minister Jerzy Buzek; he was replaced by Senator Mieczyslaw Janowski.

Social Movement (RS): On 28 April 2002, 'Solidarity Election Action-Social Movement' (RS AWS) was renamed 'Social Movement' (RS). Senator Krzysztof Piesiewicz was elected leader.

Union of Labour (*Unia Pracy* - **UP)**: f. 1993; a social democratic party. Leader: Marek Pol. Contested the 2001 parliamentary election in a coalition with the SLD, and subsequently became part of the governing coalition.

Sources: [1a, 2a, 33b, 17f]

ANNEX C:

PROMINENT PEOPLE

Head of State

President: Aleksander Kwasniewski (Re-elected October 2000)

Current Government

Prime Minister: Leszek Miller (SLD)

Deputy PM & Finance Minister Grzegorz Kolodko (SLD)

Deputy PM & Infrastructure Min. Marek Pol (UP)

Interior & Administration Krzysztof Janik (SLD)

Foreign Affairs Włodzimierz Cimoszewicz (SLD)

National Defence Jerzy Szmajdzinski (SLD)

Economy, Labour, Social Policy Jerzy Hausner (SLD)

Treasury Piotr Czyzewski (SLD)

Health Leszek Sikorski (SLD)

Education Krystyna Lybacka (SLD)

Culture Waldemar Dabrowski (SLD)

Justice Grzegorz Kurczuk (SLD)

Agriculture & Rural Development Adam Tanski (Ind)

Environment Minister Czeslaw Sleziak (SLD)

Science Michal Kleiber (SLD)

Without portfolio Lech Nikolski (SLD)

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SLD = Democratic Left Alliance; UP = Union of Labour; PSL = Peasant Party

Other prominent people:

Jerzy Buzek	Former Prime Minister (to October 2001)
Wladyslaw Frasyniuk	Chairman of Freedom Union (UW)
Jaroslaw Kaczynski	Joint Chairman of Law and Justice Party (PiS)
Lech Kaczynski	Joint Chairman of Law and Justice Party (PiS) and mayor of Warsaw
Jaroslaw Kalinowski	Polish Peasant Party (PSL) Chairman
Roman Giertych	League of Polish Families (LPR) Leader
Andrzej Lepper	Leader of Samoobrona
Maciej Plazynski	Joint Chairman of Civic Platform (PO)
Marek Pol	Union of Labour (UP) party Chairman
Szero Rom	Title of the traditional leader of the Polska Roma
Donald Tusk	Joint Chairman of Civic Platform (PO)
Lech Walesa	President of Poland, 1990 -1995. Nobel Peace Prize, 1983.
Andrzej Zoll	Commissioner for Civil Rights Protection (Ombudsman)

(October 2002)

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[Part I](#)

[Part II](#)

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