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U.S. Department of State

Poland Country Report on Human Rights Practices for 1998

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Poland

Poland is a parliamentary democracy based on a multiparty political system and free and fair elections. Executive power is shared by the Prime Minister, the Council of Ministers, and, to a lesser extent, the President. The Parliament is bicameral (Senate and Sejm). The Government, elected in October 1997, is a two-party coalition composed of Solidarity Electoral Action (AWS)--itself a broad coalition anchored by the Solidarity labor union--and its junior partner, the centrist Freedom Union (UW), also with origins in Solidarity. The judiciary is independent.

The internal security forces and the armed forces are subject to effective civilian control by the government. Since 1996 the civilian Minister of Defense has had clear command and control authority over the military chief of the general staff as well as oversight of military intelligence. The Government continues actively to reform the military to prepare for full membership in NATO.

The country has made a successful transition to a free market economy. Growth slowed during the year to about 5 percent. Inflation was about 9 percent, down from 13 percent at the end of 1997. Unemployment during the last half of the year was in single digits for the first time during the transition. Since 1989 most small- and medium-sized, state-owned enterprises have been privatized, and several major privatizations were launched during the year, including two of the few remaining state-owned banks and the telephone company. Significant reforms were under way in other sectors, including pensions, health, decentralization of government, and the restructuring of industries such as coal and defense.

The Government generally respects the human rights of its citizens, but there were some problems. Prison conditions are generally poor. A cumbersome legal process, poor administration, and an inadequate budget hamper the court system. Court decisions frequently are not implemented, particularly those of the administrative courts, and simple civil cases can take as long as 2 or 3 years. As a result, public confidence in the judicial system is lacking. Many poorly paid prosecutors and judges have left public service for more lucrative employment. The threat of organized crime has provoked legislative responses that raise questions regarding the right to privacy. A large number of wiretaps were authorized, without any independent review, although the number of warrants later was curtailed after intervention by the human rights Ombudsman.

Freedom of speech and of the press generally are respected in theory and practice but were subject to some minor limitations concerning insults to state officials and institutions, among others. However, with few exceptions, the new Criminal Code provides protection for journalists's sources. Spousal abuse continues to affect many women. Trafficking in women to and through the country is a growing problem. Women continue to experience serious discrimination in the labor market and are subject to various legal inequities as a consequence of paternalistic laws. There is some societal discrimination against ethnic minorities. The Government has worked constructively toward resolving issues of concern to the Jewish community. Although the right to organize unions and bargain collectively largely was observed, some employers violated worker rights provided for by law, particularly in the growing private sector.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political killings.

In January a police officer was charged with the beating death of 13-year-old Przemek Czaja following a basketball game in the Baltic coast city of Slupsk. The boy's death, caused when local police charged a group of sports fans, touched off 4 nights of riots and caused scores of additional injuries. In August the Supreme Court decided to grant the regional prosecutor's request for a change in venue. The officer's trial is to be moved from Slupsk to Koszalin. A trial date had not been set by year's end.

A police officer indicted in connection with the shooting deaths of two unarmed civilians and the wounding of another in Brodno, a suburb of Warsaw, continues to await trial. The officer was suspended from the police force and was charged with excessive use of force.

In April a provincial court in Lublin sentenced the former Lomazy police chief to 15 years in prison in connection with the 1997 shooting death of a 19-year-old man who was held for police questioning. Lawyers for the defense appealed the decision in September.

No date has been set for hearing the appeal of two police officers convicted in 1997 of the 1983 beating death of high school student Grzegorz Przemyski. The pair remain free pending the appeal.

Trials related to extrajudicial killings during the Communist period continued during the year. In November the Katowice court of appeals decided to annul the 1997 acquittals of 11 riot policemen accused of killing miners during martial law, citing legal defects in the handling of the case. No action was taken by year's end on the retrial of former Communist Interior Minister Czeslaw Kiszczak,

ordered in 1997.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Criminal Code prohibits torture, and there were no reported incidents of it.

In January a police officer was charged with beating a 13-year-old to death (see Section 1.a.). Several investigations into incidents of police brutality or misconduct are ongoing. The trial of three police officers from Bytom, arrested and charged with the rape of seven underage detainees in 1994, continues. The men were discharged from the police force.

In June a Gdansk court indicted 11 riot police for their participation in the October 1997 beating of soccer fans attending a match in the town of Gdynia. The officers' activities, which took place before, during, and after the match, both at the stadium and at a nearby bar, were captured on videotape. A civil case against the officers, launched by the father of one of the teenage victims, also is pending. Both civil and criminal cases stemming from the incident were pending at year's end.

Citing a lack of evidence, prosecutors in May dropped a case filed by a pair of student groups against former Internal Affairs and Administration Minister Leszek Miller relating to his actions during a 1997 rally organized by the all-Poland Trade Union Alliance (OPZZ) that was disrupted by violence.

In December an Olsztyn court granted the appeal of two Szczytno police officers found guilty of beating two men detained for questioning in September 1996. One policeman's case remains under appeal; the other was again convicted, but his punishment is unknown.

Prison conditions, although rapidly approaching minimum international standards, are still generally poor, according to reports by nongovernmental organizations (NGOs). Many facilities are old, in disrepair, and overcrowded. According to a July report by the National Penitentiary Authority, the prison system is in desperate need of additional funding. Of 156 detention facilities, 100 require considerable renovation. At the same time, the National Penitentiary Authority's annual budget continued to fall; it declined approximately 34 percent since 1991. The Ombudsman for Human Rights complained about the safety of prisoners, noting that inmates are often the victims of violence from other prisoners. In 1996, for example, an 18-year-old mentally retarded boy was beaten and sodomized by fellow inmates. Those found guilty of the rape were convicted and sentenced to 10 additional years in prison. A civil trial against the prison administration for wrongful neglect is pending. Attorneys for the boy asked for approximately \$30,000 (100,000 PLN) in damages. The Ombudsman also suggested that the prison population be reduced, including by decriminalizing certain offenses, pointing out that the ratio of prisoners to rehabilitation officers is very poor.

The Government permits human rights monitors to visit prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government observes this prohibition. Courts rather than prosecutors issue arrest warrants. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to

decide whether to issue a pretrial detention order. During this period, access to a lawyer normally is limited. Once a prosecutor presents the legal basis for a formal investigation, the law provides for access to counsel. Detainees may be held in pretrial 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 pretrial confinement period every 3 months for up to 18 months until the trial date. Bail is available, and most detainees are released on bail pending trial.

The Government does not employ forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision.

The Government is restructuring the court system in order to streamline and accelerate the legal process. At present, there is a four-tiered court and prosecutorial structure. The courts comprise regional, provincial, and appellate divisions, as well as a Supreme Court. These tiers are subdivided further into five parts: Military, civil, criminal, labor, and family. Regional courts are courts of first instance, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while enjoying original jurisdiction for the most serious types of offenses. Appellate courts handle appeals tried at the provincial level, and the Supreme Court handles appeals only about questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate, and regional offices.

Judges are nominated by the National Judicial Council and appointed by the President. They are appointed for life and can be reassigned but not dismissed, except by a court decision. The Constitutional Tribunal rules on the constitutionality of legislation, but at present a two-thirds majority in the Sejm may overrule its decisions. Beginning in 1999, Constitutional Tribunal decisions are to become final and binding, after a 2-year interim period following the entry into force of the new Constitution.

The court system is cumbersome, poorly administered, and underfunded. There are numerous inefficiencies, most notably that many districts have more criminal judges than prosecutors. These factors contribute to a lack of public confidence. Many effective judges and prosecutors have left public service for the more lucrative private sector. Court decisions frequently are not implemented. Bailiffs normally ensure the execution of civil verdicts such as damage payments and evictions. However, according to some observers, they are underpaid, subject to intimidation and bribery, and have a mixed record of implementing court decisions. Civil and administrative rulings against public institutions such as hospitals often cannot be enforced due to a lack of funds. Simple civil cases can take as long as 2 to 3 years before resolution, and the pretrial waiting time in criminal cases can be several months. The backlog and the costs of legal action seem to deter many citizens from using the justice system at all, particularly in civil matters such as divorce. The long wait for routine court decisions in commercial matters is an incentive for bribery and corruption.

All defendants are presumed innocent until proven guilty. At the end of a trial the court renders its decision orally and then has 7 days to prepare a written decision. A defendant has the right to appeal within 14 days of the written decision. Appeals may be made on the basis of new evidence or procedural irregularities.

Criminal cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. The seriousness of the offense determines which is the court of first instance.

Once formal charges are filed, the defendant is allowed to study the charges and consult with an attorney, who is provided at public expense if necessary. Once the defendant is prepared, a trial date is set. Defendants are required to be present during trial and may present evidence and confront witnesses in their own defense. Since 1995 prosecutors have had the authority to grant witnesses anonymity at trial if they express fear of retribution from the defendant. This law, designed to help combat organized crime, impairs defendants' right to confront their accusers. 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.

Trials are normally public. However, the courts reserve 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.

A new Criminal Code and Code of Criminal Procedure went into effect in September. However, a March ruling by the European Court of Human Rights already may necessitate changes. The case was brought before the Court by Antoni Belziuk, who was accused of attempted car theft in the early 1990s. Sentenced to 3 years' imprisonment, Belziuk lodged an appeal with a provincial appellate court. The court subsequently examined the verdict in the presence of the prosecutor, but not the defendant or his representative. (In line with local regulations, law enforcement agencies are not required to escort imprisoned defendants to court when their appeals are examined, and Belziuk had not appointed an attorney to represent him.) The European Court of Human Rights unanimously ruled that the lack of defense presence in that case infringed on the European Convention on Human Rights provisions concerning fair trial.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution provides for the right to privacy of correspondence, but the Government maintains, without outside review, a large number of wiretaps. There is no legislation that provides for the general right to privacy. However, a law passed in August prohibits the collection of information about a person's ethnic origin, religious convictions, health condition, political views, or membership in religious, political, or trade union organizations. The law allows for certain exceptions, specifically, the gathering of information without a person's permission by courts, hospitals, or organizations if the information pertains to their members. All exceptions are subject to some restrictions. A few continuing practices (such as a requirement to fill out "creed" or "nationality" items in some questionnaires) are to become illegal effective April 30, 1999. Violators of these provisions are subject to imprisonment for up to 3 years.

In May the Constitutional Tribunal ruled in favor of an Ombudsman's complaint regarding provisions requiring doctors to include statistical information about a patient's illness on sick leave certificates. The Tribunal concluded that the nature of an employee's illness was confidential and should not be disclosed to employers since this infringed on a patient's right to privacy and conflicted with international conventions to which Poland is a party.

In response to the growing threat of organized crime and money laundering, Parliament permitted the police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involving serious crimes, narcotics, money laundering, or illegal arms sales. Under the Criminal Code, the Minister of Justice and the Minister of Interior, both political appointees, must authorize these investigative methods. In emergency cases, the police may initiate an investigation

that utilizes wiretaps or the opening of private correspondence at the same time that they seek permission from the ministers. Estimates on the number of wiretapping devices installed annually at the request of the police vary widely; however, a high-ranking public prosecutor in 1998 put the number at 4,000. After interventions by the human rights Ombudsman, the Prosecutor General curtailed the number of warrants for wiretapping.

Parliamentarians and human rights groups expressed concern about the lack of control over this type of surveillance. There is no independent judicial review of surveillance activities, nor is there any control over how the information derived from these investigations is used. A growing number of agencies have access to wiretap information, and the Police Code allows electronic surveillance to be used for the prevention of crime as well as for investigative purposes. As is the case under the Criminal Code, police must obtain permission from the Ministers of Justice and Interior before initiating wiretap procedures.

In September 1997, the special Sejm Committee on Security Services announced that the Office of State Protection (UOP) "may have" acted illegally against rightwing politicians in 1993, adding that only an independent court could rule if the law was violated at that time. The Committee made the announcement after examining documents submitted by UOP head Andrzej Kapkowski. Investigations were launched when then-Minister for Special Services Zbigniew Siemiatkowski alleged that the UOP carried out illegal activities in the spring of 1993, including the forging of documents, in order to discredit rightwing parliamentary candidates. Siemiatkowski also alleged that these activities were conducted with the knowledge of then Internal Affairs Minister Andrzej Milczanowski and then-UOP head Jerzy Konieczny. Both Milczanowski and Konieczny have denied the accusations. Siemiatkowski then turned the case over to the prosecutor's office for further investigation. The Warsaw prosecutor's office continues to pursue its case against five UOP officers; no charges were filed by year's end.

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

A law on "lustration" or vetting went into effect in November. The law is designed to expose former government officials and parliamentarians who collaborated with the Communist-era secret police, and it bans from office for 10 years those caught lying about their past. The law requires officials to provide sworn affidavits concerning their possible cooperation with the secret police; an ombudsman then verifies the affidavits and brings suspected cases of misrepresentation before the Court of Appeals. The law was judged constitutional by the Constitutional Tribunal, but human rights groups and some opposition politicians have expressed concern that the procedures may be unfair, in view of the likelihood that records were subject to loss or tampering.

In June the Constitutional Tribunal ruled unconstitutional a 1997 draft law envisioning the possible removal from service of judges proven to have violated judicial independence by issuing unjust verdicts between 1944 and 1989 at the request of the Communist authorities. Disciplinary proceedings against the judges in question would have been initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council, or individuals who feel wronged by court verdicts. In December the Sejm adopted amendments to the law requiring that procedures against accused judges be initiated before December 31, 2002. At year's end, the bill was with the Senate.

In December President Aleksander Kwasniewski vetoed a bill on the establishment of a National Remembrance Institute that would permit those subject to investigation by the Communist-era secret

police to view their police files. Later that month, following the Parliament's overriding of his veto, the President signed the bill into law.

Men are not permitted to marry without parental permission until the age of 21, whereas women may marry at the age of 18 (see Section 5).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the Government generally respects this right; however, there are some marginal restrictions in law and practice. Nonetheless, the press is vigorous and independent.

The new 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. In September 1997, President Kwasniewski filed a private lawsuit against the *Zycie* and *Dziennik Baltycki* newspapers, which had accused him of contacts with Russian spy Vladimir Alganov during his 1994 vacations. Although Kwasniewski withdrew the suit against *Dziennik Baltycki* when its editor in chief retracted the newspaper's charges, the court proceedings in the case against *Zycie* are ongoing. Kwasniewski claimed that *Zycie*'s articles violated his good name and demanded that the newspaper apologize to him and pay approximately \$76,000 (2.5 million PLN), which he intended to use for flood victims. *Zycie* denied that the law was violated and maintained that its journalists acted in the public interest.

This provision of the Criminal Code also can be used by individual citizens and businesses "to protect their good name." In March Network Twenty One, which sells Amway products, and seven of its employees used the provision to prevent the broadcast, showing, or copying of a 1-hour documentary critical of the company and its practices. The documentary originally was shown at a film festival in December 1997, winning the festival's highest award for a documentary. When Public Television Channel One announced plans to broadcast the film, Network Twenty One took the matter to court and won a temporary restraining order. On March 25, the leading daily newspapers carried an open letter to the President and Parliament signed by 48 of the country's most noted journalists, which condemned the court's decision. A popular biweekly television public affairs program criticized the court's temporary injunction as a form of censorship. The court subsequently made its injunction permanent and prohibited distribution of the program.

The case against talk show host Wojciech Cejrowski, charged with publicly insulting President Kwasniewski, was postponed several times and was still pending at year's end. Also pending was a 1995 case against presidential candidate Leszek Bubel for violating a section of the Penal Code which prohibits acts that "publicly insult, ridicule, and deride the Polish nation, the Polish Republic, its political system, or its principal organs." Bubel had claimed publicly that a former head of the presidential Chancellery protected a group of criminals.

In February the Torun regional prosecutor officially dropped pending charges against controversial Catholic radio priest Father Tadeusz Rydzyk. The prosecutor's office had been carrying out an investigation of Rydzyk at the request of a group of Parliamentarians who voted for the liberalization of the abortion law. The Parliamentarians were offended when they were compared on the air to criminals who collaborated with the Nazis during World War II.

The investigation continues in the case of Mikolaj Siwicki, a Warsaw pensioner. In 1996 the Warsaw prosecutor's office brought charges against Siwicki for publication of a hate-mongering book, which, the prosecutor charged, "could seriously damage the interests of the Polish Republic in international affairs." The book allegedly condones crimes committed by Poles during World War II, makes historically dubious claims about Polish crimes against the Ukrainian nation, and calls for lands in southeastern Poland to be given to Ukraine.

The new Criminal Code also stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-year prison term. In 1995 a provincial court charged presidential candidate Leszek Bubel with violating this article by publishing a pamphlet containing anti-Semitic "humor." A verdict still is pending. Catholic organizations also have used the provision. In December 1997 Tadeusz Rydzyk and All-Polish Youth director Roman Giertych, both acting on behalf of the Council for the Coordination of the Defense of the Dignity of Poland and Poles, filed charges against the leftist daily Trybuna for insulting the Pope in one of its articles. Rydzyk and Giertych were offended particularly by the characterization of the Pope as a "boorish vicar," by the reference to one of his statements as "dirty and mumbling," and by the suggestion that he used his position to make slanderous statements. According to one press report, the newspaper's editor in chief apologized for the article twice. In April the Warsaw prosecutor's office decided to drop the case.

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

The new Criminal Code regulates the protection of journalistic sources. The code grants news sources absolute 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 can avoid sanctions by invoking "journalistic privilege" after the new code's entry into force.

There is no restriction on the establishment of private newspapers or distribution of journals; private newspapers and magazines flourish. While RUCH, a national network of newspaper kiosks, still remains in state hands, the Government has not used its control over distribution to suppress any publications. Progress on government plans to privatize the company in 1996 slowed when the bidding process was reopened after having reached near completion. In March a Warsaw court dismissed a civil suit initiated in 1997 by the original winner of the bidding process. An appellate court later upheld the provincial court's decision.

The National Radio and Television Broadcasting Council (KRRiTV) has broad interpretive powers in monitoring and regulating programming on public radio and television, allocating broadcasting frequencies and licenses, and apportioning subscription revenues. In order to encourage the KRRiTV'S apolitical character, the nine KRRiTV members are obliged legally to suspend any membership in political parties or public associations. However, they are chosen for their political allegiances and nominated by the Sejm, the Senate, and the President following political bargaining, thus raising serious questions about the independence of broadcasting oversight from political (although not necessarily government) influence.

The broadcasting law stipulates that programs should not promote activities that are illegal or against state policy, morality, or the common good. The law also requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." However, the law does not fully define the term "Christian values." The Constitutional Tribunal has confirmed the constitutionality of this provision. This provision was not used as a means of censorship during the year.

However, since the KRRiTV has the ultimate responsibility for supervising the content of programs, these restrictions theoretically could be used. The penalty for violating this provision of the law is a fine of up to 50 percent of the annual fee for the transmission frequency or suspension of the broadcaster's license.

Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. The first auction in 1994 gave Polsat Corporation and some smaller local and religious stations licenses to broadcast, while additional licenses were granted to TVN and Nasza Telewizja last year. Private radio flourishes on the local, regional, and national levels alongside public radio.

The Government owns the 2 of the 3 most widely viewed television channels and 17 regional stations, well as 5 national radio networks. PAP, the national wire service, was privatized partially in December 1997. Former Reuters journalist Robert Bogdanski heads a five-member supervisory board that is preparing the service for full privatization. Although public television remains the major source of news and information, satellite television and private cable services (domestic and foreign) are widely available. Cable services carry the main public channels, Polsat, local and regional stations, and a variety of foreign stations.

The law on radio and television requires public television to provide direct media access to the main state institutions, including the presidency, "to make presentations or explanations of public policy." The Government sometimes complains of a lack of attention to its point of view, but there is a history of charge and counter-charge. In September, for example, AWS accused public television of manipulating information about its election campaign and criticized the Channel One nightly news for its dishonest reporting on an AWS convention. Program chief Jacek Maziarski responded that the accusations were groundless, describing them as yet another element of the AWS election campaign. Both public and private radio and television provide coverage of all ranges of political opinion. Evidence of overt political tampering in public broadcasting remains scarce, and watchdog organizations are alert to expose quickly any such tampering.

Books expressing a wide range of political and social viewpoints are widely available, as are foreign periodicals and other publications from abroad.

In 1997 complaints were filed with both the Warsaw and the Krakow prosecutor's offices in connection with a billboard advertising the American film "The People vs. Larry Flynt." The complaints argued that the billboards offended religious sentiment. The advertisement pictured a drawing of a man, his arms and legs outstretched in a crucifixion position, superimposed on a larger drawing of a woman's lower half. The Krakow prosecutor (the only prosecutor to have pursued an investigation) dropped the case in August. In September Krakow Cardinal Franciszek Micharski announced that he would appeal the prosecutor's decision.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government respects this right. Permits are not necessary for public meetings but are required for public demonstrations; demonstration organizers must obtain these permits from local authorities if the demonstration might block a public road. For large demonstrations, organizers also are required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairperson who is required to open the

demonstration, preside over it, and close it.

In July a parade to be held as part of the first gay pride festival was called off after Warsaw municipal authorities denied approval, arguing that it was not a cultural event. Gay rights activists view the denial as discrimination. The parade organizers plan to appeal the decision.

The law provides for freedom of association, and the Government generally respects this right. Private associations need government approval to organize and must register with their district court. The procedure essentially requires the organization to sign a declaration that it will abide by the law. However, in practice the procedure is complicated and may be subject to the discretion of the judge in charge.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right. Citizens enjoy the freedom to practice any faith they choose. Religious groups may organize, select, and train personnel, solicit and receive contributions, publish, and engage in consultations without government interference. There are no government restrictions on establishing and maintaining places of worship. More than 95 percent of Poles are Roman Catholic, but Eastern Orthodox, Greek Catholic, and much smaller Protestant, Jewish, and Muslim congregations meet freely. Although the Constitution provides for the separation of Church and State, a crucifix hangs in both the upper and lower houses of Parliament. In June a provincial court decided that a crucifix hung in the meeting room of the Lodz city council in 1990 could remain, denying the complaint of a city resident. An atheist complained that the crucifix threatened religious freedom and discriminated against him. State-run radio broadcasts Catholic mass on Sundays, and the Catholic Church is authorized to relicense radio and television stations to operate on frequencies assigned to the Church, the only body outside the KRRiTV allowed to do so.

Although the Constitution gives parents the right to bring up their children in compliance with their own religious and philosophical beliefs, religious education classes continue to be taught in the public schools at public expense. While children are supposed to have the choice between religious instruction and ethics, the Ombudsman's office states that in most schools ethics courses are not offered due to financial constraints. Although 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, including Protestant, Orthodox, and Jewish religious instruction. Such non-Catholic religious instruction exists in practice, although it is not common, and the Ministry of Education pays the instructors. Priests receive salaries from the state budget for teaching religion in public schools, and Church representatives are included on a commission that determines whether books qualify for school use.

In January Sejm deputies voted 273 to 161 in favor of ratifying the Concordat, a treaty regulating relations between the Government and the Vatican, which was signed in 1993. The vote came after years of bitter disputes between Concordat supporters and opponents over whether the treaty simply ensures Church rights or blurs the line between Church and State. Subsequently passed by the Senate and signed by the President, the Concordat took effect in April.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Although the Constitution does not address freedom of movement, the Government does not restrict internal or foreign travel. Citizens who leave the country have no trouble returning. There are no restrictions on emigration.

The Government generally cooperates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were no reports of forced repatriation of those having a valid claim to refugee status. Foreigners recognized as refugees under the 1951 U.N. Convention Relating to the Status of Refugees are granted full refugee status and permission to remain permanently. According to UNHCR figures, approximately 964 individuals applied for refugee status during the first half of the year. Of the total number of applications awaiting decision (including applications carried over from 1997), 29 were approved, 367 were denied, and 619 were discontinued due to the applicant's failure to appear for a hearing. The remaining cases are pending.

A new law on immigration, initiated in 1995 and signed by the President in 1997, took effect in December of that year. Human rights organizations generally view the new Aliens Act as positive. The new law gives all prospective refugees access to a procedure for adjudicating refugee status and establishes an independent council to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. The law does not recognize the concept of first asylum or any other form of temporary protection.

A Helsinki Foundation report, drafted after extensive monitoring of eight of the country's major border crossings, provided a generally favorable assessment of the country's treatment of refugees. While critical of the general unavailability of interpreters and informational leaflets printed in different languages, the report points out that border officials were acquainted with the contents of the new aliens law, particularly those provisions relating to the application for refugee status, and were well prepared for their duties.

Although some observers have criticized the authorities for using deportation centers in place of refugee centers (when the latter are full), as well as for long delays in the initial review of refugee status applications, the Government cites a lack of resources as a major cause of the problems. Then-Deputy Minister of Internal Affairs Katarzyna Piekarska acknowledged in 1997 that the time taken to review refugee status applications was too long. However, she noted that only nine officials were reviewing several thousand applications.

In April responsibility for the administration of the program that helps refugees integrate into Polish society was transferred from the Office for Migration and Refugee Affairs at the Ministry of Internal Affairs to the Department of Social Assistance at the Ministry of Labor. The Ministry of Labor, in turn, passed responsibility for the program's implementation to authorities at the local level but, thus far, has failed to provide local officials with the information or personnel resources necessary to carry out the task effectively. Advocates for refugees complain that as a result of the transfer, the program has come to a halt, leaving many recently recognized refugees without even the basic necessities of daily life.

In June the Warsaw High Administrative Court ruled in favor of a complainant who was denied refugee status in January. The Ministry of Internal Affairs had refused the complainant's application on the grounds that it had not been submitted "upon" crossing the border (as required under Article 27 of the Aliens Act) but 2 days later. The High Court declared this original ruling invalid, noting that the article fails to define a specific time period and that neither the Aliens Act nor the Administrative Code concerning the documentation of aliens addresses the legal consequences of failing to submit a refugee status application at the border. Advocates for refugees welcomed the ruling.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right and ability to change their government peacefully. This right is provided for in the Constitution and exists in practice. Poland is a multiparty democracy in which all citizens 18 years

age and older have the right to vote and to cast secret ballots. A permanent, democratic Constitution entered into force in 1997.

Executive power is divided between the President and a government chosen by the Sejm, or lower house of Parliament. There is also an upper house (the Senate). The Constitution provides for parliamentary elections at least every 4 years. The President, elected for 5 years, has the right, in certain cases and after seeking the opinion of the Speakers of the Sejm and the Senate, to shorten the Sejm's term of office. Whenever the Sejm's term of office is shortened, the Senate's term is automatically shortened as well. Parliament may impeach the president.

Women are underrepresented in government and politics. Only 13 percent of parliamentarians are women, while only 3 of the 23 cabinet ministers are women. The Speaker of the Senate is the only female parliamentary leader, and none of the leaders of the nation's largest political parties are women.

Two members of the German minority party are members of Parliament. The electoral law exempts ethnic minority parties from the requirement to win 5 percent of the vote nationwide in order to qualify for seats in individual districts.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views.

The Helsinki Foundation, a major NGO, conducts human rights investigations without government interference. Members of the Foundation report that the Government displays a generally positive and helpful attitude towards human rights investigations. However, some local NGO's believe that a hostile regulatory climate is developing in parts of the government bureaucracy.

The Office of the Commissioner for Civil Rights Protection (the Ombudsman), established in 1987, is the Government's watchdog for human rights. The Ombudsman's office is an effective, independent body with broad authority to investigate alleged violations of civil rights and liberties. The Ombudsman registers each reported case and files grievances, where appropriate, with the relevant government office. He has no legislative authority and is sworn to act apolitically. The Government cooperates with his office.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that "no one shall be discriminated against in political, social, or economic life for any reason whatsoever." The Government attempts to ensure that these provisions are observed; however, violence and societal discrimination against women and ethnic minorities persist.

Women

Violence against women continues to be a problem. According to statistics released by the Public Research Center in October 1997, 9 percent of women polled admitted to being repeatedly beaten by their husbands. Approximately 11 percent of respondents admitted to knowing women who were beaten

repeatedly while approximately 60 percent admitted to knowing women who were beaten on at least one occasion. However, women's organizations warn that the number of women suffering from domestic abuse is probably much higher. They explain that battered women usually refuse to admit abuse even to themselves. Violence against women remains hidden, surrounded by taboos and accompanied by shame and guilt, particularly in small towns and villages. Government and police statistics do not differentiate between male and female victims of violence. In addition the Government has not supplied public information on the problem. Police 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 (raised from a maximum sentence of 6 months under the previous Criminal Code) or from 2 to 10 years if the victim attempts suicide as a result of the abuse. However, statistics suggest that a large majority of convictions result in suspended sentences.

A 1997 seminar on combating violence against women organized by the Women's Rights Center revealed that law enforcement officials and prosecutors rarely treat domestic violence seriously. Former victims of violence participating in the seminar complained about investigations that dragged on for several months, as well as about procedures that were intimidating, unfamiliar, and unfriendly.

The law has no provision for restraining orders to protect battered women against further abuse. For example, in divorce cases for example, courts frequently grant a divorce but do not issue a property settlement, sending the woman back to live with the abusive husband. This problem is exacerbated by the lack of alternative housing. Women's advocacy groups also have complained about the small number of state-supported shelters for battered women. Minister of Family Affairs Kazimierz Kapera stated in the spring that scarce money for family services should be spent on keeping families together rather than helping battered women. In November 1997, he suspended a program offered by the U.N. Development Program for training of psychologists and lawyers who treat victims of family violence.

Trafficking in women is illegal, and several specific provisions in the Criminal Code address this problem. Those convicted of trafficking in women or children may be sentenced to prison for 3 to 10 years. A provision of the new Criminal Code threatens those convicted of luring individuals to work as prostitutes abroad with a prison sentence of 1 to 10 years. However, incidents of trafficking are on the rise. According to police statistics, 84 cases of such trafficking were reported in 1997. The bulk of these cases involved women being induced to work as prostitutes in Western Europe after being promised work as domestic workers, nurses, nannies, or teachers. The perpetrators are most often the acquaintances of family or friends but have been known also to include job agencies, talent scouts, and matchmaking services. Verdicts have been delivered in 20 of the 84 cases, with the courts sentencing perpetrators to, on average, 10 yearsâ imprisonment. However, the actual number of trafficking cases is likely much higher as most victims do not want to speak about their experiences out of fear or shame. Poland also serves more and more frequently as a transit country for trafficking in women from other countries, particularly the former Soviet Union and Bulgaria. Women from these countries often are forced into prostitution in Poland, then sent on to European Union countries as well as Switzerland and Israel. According to unofficial estimates, approximately 3,000 Bulgarian women "work" in Poland, in most cases under the control of international criminal networks.

Public discussion of the problem of sexual harassment is relatively new, but women increasingly are talking about the problem and speaking out against it. While laws specifically addressing sexual harassment do not exist, social awareness is increasing, as are mechanisms with the potential to deal with the problem. For example, the new Criminal Code, states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to prison for up to 5 years. According to a Supreme Court advisory opinion, such a relationship can occur between employers and employees, between supervisors and subordinates, or between teachers and students. However, this provision can only be used when sexual harassment occurs between a supervisor and an individual in a

subordinate position. It may not be used when harassment occurs between persons of equal rank.

The Constitution provides for equal rights regardless of sex and grants women equal rights with men in all fields of family, political, social, and economic life, including equal compensation for work of similar value. However, in practice women frequently are paid less for equivalent work, mainly hold lower level positions, are discharged more quickly, and are less likely to be promoted than men. Ministry of Labor statistics indicate that 60 percent of the unemployed are women and that, despite a generally higher level of education, women earn on average 25 percent less than men.

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. However, legal barriers, such as clauses in social insurance law limiting child sick care benefits to women only and mandating earlier retirement for women, can encourage discrimination in hiring. The law does not address equality in hiring practices (there are no legal penalties for discriminatory behavior in this area), and advertisements for jobs frequently indicate a gender preference. Although women have access to a number of previously forbidden careers since the Labor Code was modified in 1996, they still are prevented from working underground or in jobs that require heavy lifting.

The Ombudsman for Human Rights monitors the rights of women within the broader context of human rights. Observers note that the broad scope of the office's mandate dilutes its ability to function as an effective advocate of women's issues. Within the Cabinet, the Government Plenipotentiary for Family Affairs replaced the Government Plenipotentiary for Women and the Family, a change that many women's rights groups perceived as an example of discrimination. Several women's rights NGO's exist. Among the most notable are the Polish Foundation for Women and Family Planning and the Women's Rights Center. These groups are active advocates of gender equality and advance their goals through research, monitoring, and publishing. Several church-sponsored women's advocacy organizations also exist, but their cooperation with other women's NGO's is limited.

No progress occurred during the year in amending the 1962 Citizenship Law, which discriminates against women by refusing them the same right as men to transmit citizenship to their foreign-born spouses.

Children

The Constitution extends some state protection to the family and children and provides for the appointment of an Ombudsman for children's rights. However, an Ombudsman had not been appointed by year's end. Education is mandatory until age 18, and public schools are free of charge. The Government sponsors some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted through the schools. However in reality budget shortfalls prevent complete implementation of these programs. There are no procedures in schools to protect children from abuse by teachers; in fact, the teachers' work code provides legal immunity from prosecution for the use of corporal punishment in classrooms.

Prostitution among 12- and 13-year-olds is increasing, and unemployment, alcoholism, and housing shortages affect the quality of life of children. Moreover, there are no laws that explicitly address violence against children or corporal punishment. Abuse rarely is reported, and convictions for child abuse are even rarer. There is no societal pattern of abuse of children.

Young men and women are treated unequally in terms of the age of majority. Men and women reach majority at the age of 18 under the Civil Code. However, a young woman can reach majority at the age

of 16 if she has entered into marriage with the consent of her parents and the guardianship court. In addition, men are not permitted to marry without parental consent until the age of 21, whereas women may do so at the age of 18. Lawmakers' rationale for this difference in treatment is the assumption that it is better that men entering compulsory military service not be encumbered with families.

People With Disabilities

There were approximately 5 million disabled persons in 1996, and the number is expected to reach 6 million by the year 2010. In 1995 the Central Bureau of Statistics (GUS) reported that 17 percent of disabled persons able to work are unemployed. Advocacy groups claim that the percentage is much higher. The latest GUS data indicate that 57 percent of the disabled have no more than an elementary school education, compared with 30 percent of those without disabilities and that only 3.5 percent have university education, compared with 7.7 percent of the nondisabled.

The Constitution provides for aid to disabled persons "to ensure their subsistence, professional training, and social communication," and a number of laws protect the rights of the disabled. However, implementation falls short of rights set forth in the legislation. Public buildings and transportation generally are not accessible to the disabled. Current law provides only that buildings "should be accessible."

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

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

Religious Minorities

Current law places Protestant, Catholic, Orthodox, and Jewish communities on the same legal footing, and the Government attempted to address the problems that minority religious groups face. Progress was made, for example, in implementing a 1997 law permitting the local Jewish community to submit claims for property owned prior to World War II. The law, which mirrors legislation benefiting other religious communities, allows for the return of synagogues, cemeteries, and community headquarters, as well as buildings that were used for other religious, educational, or charitable activities. Under the 1997 law, claims must be made by 2002. Of the thousands of potential claims, only 224 had been filed by December 10, mainly because the local Jewish community lacks the information and financial resources to prepare claims more quickly. Of the 224 claims, the Commission on Property Restitution had processed 80 claims. It considered and closed 30 cases; in 50 cases the Commission directed the parties to reach a settlement or submit new documentation; and in 20 of those cases a settlement was reached.

However, the law does not address the private property of any group. Nor does it address the issue of Jewish communal properties to which third parties now have title, leaving several controversial and complicated cases unresolved. In a number of cases over the years, buildings and residences were built on land that included Jewish cemeteries that were destroyed during or after World War II. For example, a school for disabled children now stands on the site of a completely destroyed Jewish cemetery in

Kalisz. The existence of the school complicated the issue of returning the cemetery to the Jewish community. Efforts were under way at year's end to reach a resolution acceptable to all concerned.

Anti-Semitic feelings persist among certain sectors of the population, occasionally manifesting themselves in acts of vandalism and physical or verbal abuse. However, surveys in recent years show a continuing decline in anti-Semitic sentiment, and avowedly anti-Semitic candidates fare very poorly in elections.

In January a rock was thrown through the window of the Jewish community headquarters in Katowice, hitting the doors of an adjacent prayer room. Immediately following the incident, then National Police Chief Marek Papala instructed the Katowice provincial police chief to work with the Jewish community to tighten security around the property. Papala also sent a letter to the other province-level police commanders instructing them to make themselves available to discuss Jewish community security concerns. Local police continue to work with Jewish community leaders to resolve the case.

In May vandals desecrated 27 Jewish graves in the Warsaw Jewish cemetery in two separate incidents. Police investigated the attacks but have been unable to identify any suspects. Jewish graves also were vandalized at the Palmiry cemetery near Warsaw, which houses the graves of victims of Nazi executions during World War II. The grave of pre-World War II Sejm speaker Maciej Rataj--a Polish Catholic--also was vandalized in that attack. Within days of the incident, both Prime Minister Jerzy Buzek and Sejm Speaker Maciej Plazynski visited the cemetery and laid flowers on the desecrated graves. In a public address, the Prime Minister condemned the act and stressed that society must do all it can to prevent similar acts in the future. He also pledged government funds to restore the vandalized graves. The vandals responsible for both incidents are still at large.

In July unknown perpetrators vandalized a plaque commemorating Rzeszow Jews killed in the Holocaust. The vandals spray-painted anti-Semitic and anti-German slogans below the plaque, which hangs on the wall of a Rzeszow synagogue. Rzeszow city officials reacted swiftly and cleaned up the plaque upon discovery of the vandalism. Vandals in that area previously had targeted Catholic churches and cemeteries as well as a statue of a World War II hero. Police continue to search for those responsible.

The Gdansk prosecutor's investigation into the 1997 beating of a 14-year-old Jewish boy by a 17-year-old skinhead is ongoing. The attack, which occurred a week after controversial Gdansk priest Henryk Jankowski delivered a sermon warning against the presence of Jews in the Government, was widely believed to have been motivated by anti-Semitism.

The President's Office announced in March that it would make every effort to speed the process of restoring citizenship to Jews who were forced to emigrate during a Communist anti-Semitic campaign in 1968. Between 12,000 and 20,000 persons of Jewish descent are believed to have fled the country as a result of the campaign.

In March a controversy arose over the "Pope's Cross," located on the grounds of a former Carmelite convent in Oswiecim adjacent to the Auschwitz concentration camp museum. The cross originally adorned the altar at a mass conducted by Pope John Paul II near Birkenau in 1979 and was erected at the site of the Carmelite mission in 1989. The Plenipotentiary for Relations with the Jewish Diaspora, Krzysztof Sliwiniski, was quoted in a French newspaper as saying that the cross would be removed, as being disrespectful of the Jewish legacy at Auschwitz. By the end of March a large group of government and nongovernment leaders, including Chief of the Prime Minister's Cabinet Wieslaw Walendziak, 130 Sejm deputies, 16 Senators, former President Lech Walesa, Cardinal Jozef Glemp, Bishop Tadeusz

Rokoczy, and Gdansk Archbishop Tadeusz Gocłowski went on record as opposing the removal of the cross. The cross is clearly visible from the former camp's Block 11 and marks the site where Polish political prisoners (possibly including Catholic priests) and later Jewish prisoners were murdered by the Nazis. Two radical rightwing groups also emerged that oppose the plan to remove the cross. The leader of the Defenders of the Pope's Cross, Kazimierz Switon, and Mieczyslaw Janosz, leader of the Association of War Victims, which leased the land on which the crosses stand, distributed inflammatory anti-Semitic leaflets opposing the removal of the crosses. In August radical nationalist anti-Semites erected dozens of additional large crosses outside Auschwitz, despite the opposition of the country's bishops. At year's end there were over 250 crosses.

In September the Government revoked the lease on the land held by the Association of War Victims. The Government wanted the local courts to agree to appoint an administrator for the former convent site pending a legal decision on the validity of the lease revocation. In October the local court refused the request to appoint such an administrator, a decision upheld in December by an appeals court in Bielsko Biala, which returned the lease issue to the local court. At year's end, complicated legal maneuverings were continuing, and two separate cases were before the local court--the Government's effort to break the lease and the tenants' effort to have the government action ruled illegal.

National/Racial/Ethnic Minorities

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. However, controversy has arisen over the publishing of Lithuanian textbooks. In February the Lithuanian Ambassador to Poland, Antanas Valionis, complained to Polish Minister of Education Miroslaw Handke that since 1991, 172 editions of textbooks in Polish had been published in Lithuania while only 4 textbooks in Lithuanian had been published in Poland since 1989. Valionis also noted that during 1997 Lithuania, despite significantly more modest financial resources, published 27 different textbooks for the 20,000 Polish pupils in Lithuania, while Poland published only 3 for Lithuanian pupils in Poland. There are 792 ethnic Lithuanian students in 18 schools of various levels ranging from preschool to high school and vocational school.

The Romani community, numbering around 40,000, faced disproportionately high unemployment and was harder hit by economic changes and restructuring than were ethnic Poles, according to its leaders. The national Government does not discriminate overtly against Roma; however, some local officials have been known to discriminate by not providing services in a timely manner or at all. Some schools have experimented with separate special classes for Romani children, stating that because of economic disadvantage, language barriers, and parental illiteracy, Romani children are behind their non-Romani counterparts when starting school. In April in Kety, a small town in southern Poland, local skinheads and Roma clashed over a period of several weeks. In September a 14-year-old Romani girl from Bytom was injured seriously when a skinhead threw a Molotov cocktail into the apartment where she was sleeping. Police immediately made an arrest in the case and are pursuing an indictment.

The small Ukrainian and Belarusian minorities occasionally experience petty harassment and discrimination. Individuals of African, Asian, or Arab descent continue to experience verbal abuse or other types of aggression, including physical abuse, usually in nonurban areas. In July in downtown Krakow, two skinheads beat a black South African student following a nationalist demonstration. Prosecutors dropped the case because the police were unable to find the skinheads involved.

The Warsaw Supreme Court rejected in March the attempt by a small number of Silesians in Katowice to register themselves as a national minority. The Silesians appealed their case to the European Court of Human Rights. Official registration would allow representatives of the League of Silesian National Identity, as the group calls itself, to run for Parliament under the preferences accorded national

minorities under electoral law.

Section 6 Worker Rights

a. The Right of Association

The law provides that all civilian workers, including military employees, police, and frontier guards have the right to establish and join trade unions of their own choosing. The law sets minimum size requirements for establishing a trade union: 10 persons may form a local union, and 30 may establish a national union. Unions, including interbranch national unions and national interbranch federations, must be registered with the courts. A court decision refusing registration may be appealed to an appeals court. In 1998 the number of officially registered national-level unions remained about the same as in 1997, about 350. No precise data exist on work force unionization, although the trend continues to be downward. Recent studies suggest that only some 13 percent of workers belong to a union. As a rule, newly established small- and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises. The Independent Self-governing Trade Union (NSZZ) Solidarity has a verified regular dues-paying membership of about 1 million. Small spin-offs from mainstream Solidarity include the rival factions Solidarity '80, August '80, and the Christian Trade Union Solidarity (Popieluszko). There are no reliable estimates of their membership.

The other principal national unions are those affiliated with the All-Poland Trade Union Alliance (OPZZ), the Communist-aligned confederation established in 1984 as the sole legal alternative to then-outlawed NSZZ Solidarity, and its teachers' affiliate, the Polish Union of Teachers (ZNP). The OPZZ reports that its membership has dropped by more than 50 percent in recent years to about 3 million, but this figure is unverified, and independent sociological surveys suggest that its regular dues-paying membership is considerably less than Solidarity's; a recent survey found that Solidarity represents some 6.3 percent of all Polish workers while the OPZZ represents only 3.6 percent.

The law on collective bargaining, in force since 1994, does not require union membership figures to be verified or based on dues-paying members in order for unions to be considered "representative" negotiating partners for management and government. Solidarity protested some unions' (largely OPZZ affiliates) participation in negotiations with the Government on the grounds that their membership figures remain unproved.

In 1997 there was some movement in the long-running dispute between the OPZZ and Solidarity over Communist-era trade union property administered by the OPZZ, but Solidarity charged that these steps favored the OPZZ. In 1997 the Ministry of Labor divided 12 properties between Solidarity and the OPZZ. These had belonged to the Communist-era trade union organization Association of Trade Unions/Central Council of Trade Unions (ZZZ/CRZZ) until 1984, after which the OPZZ administered them. Solidarity charged that the OPZZ received the best properties, including the former headquarters building located in downtown Warsaw. In 1997 President Kwasniewski signed a bill that transferred as many as 400 properties (the exact number is still unknown) in the nationwide system of workers' vacation houses/hotels to a new limited liability company controlled entirely by the OPZZ. Solidarity announced that it would challenge this law in the Constitutional Tribunal, which in June struck down the bill as unconstitutional. The ownership and future of scores of other trade union assets belonging to branch unions remain under dispute. The continuing dispute over assets remains a major reason behind International Confederation of Free Trade Unions (ICFTU) and European Trade Union Confederation (ETUC) unwillingness to affiliate with the OPZZ. Neither the ICFTU nor the ETUC attended the OPZZ's Fourth Congress in May. In December legislation was passed requiring that trade unions that lost property worth some \$40 million during martial law be compensated either through restitution of the property or through other compensation.

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

Unions have the right to strike except in "essential services." However, labor leaders complain that the 1991 Act on Collective Dispute Resolution prescribes an overly lengthy process before a strike may be called. Employers consider the law too lenient, since it allows only one-quarter of the work force to vote to call a strike. As a result, as many as 60 to 90 percent of strikes called in recent years have been technically "illegal" because one or both of the sides did not follow each step exactly as required by law. Labor courts act slowly on deciding the legality of strikes, while sanctions against unions for calling illegal strikes, or against employers for provoking them, are minimal. Arbitration is not obligatory and depends on the agreement of disputing parties. Unions allege that laws prohibiting retribution against strikers are not enforced consistently and that fines imposed as punishment are so minimal that they are ineffective sanctions to illegal activity. Workers who strike in accordance with the law retain their right to social insurance but not to pay. However, if a court rules a strike "illegal," workers may lose social benefits, and organizers are liable for damages and may face civil charges and fines. The social partners (unions, employers, and the Government) continued to work out ambiguities in dispute resolution mechanisms in the new Labor Code, which went into effect in 1996, and which represented a major overhaul of Communist-era labor regulations.

The number of strikes remained relatively low (31 in the first 6 months of 1998), down from a high of several thousand per year in the early 1990's. Workers in the bankrupt Gdansk shipyard went on strike in March to protest its sale to the neighboring and more successful Gdynia yard. Anesthesiologists staged a lengthy work stoppage late in 1997 to protest low pay and poor working conditions, which complicated medical treatment for an extended period of time. Work slowdowns and other work protests occurred throughout the year.

Unions have the right to join labor federations and confederations and to affiliate with international labor organizations. Independent labor leaders reported that these rights were observed in practice. Solidarity is a full member of the ICFTU, the World Confederation of Labor, and the ETUC.

b. The Right to Organize and Bargain Collectively

The 1991 Law on Trade Unions created a favorable environment for trade union activity. However, labor leaders report that the 1991 law has not prevented employers from discriminating against workers who attempt to organize or join unions, particularly in the growing private sector. The law also has not prevented employer harassment of union members for labor activity.

The 1991 law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, in the last resort, to the Supreme Court. In a typical year, Solidarity takes several thousand cases to labor courts, several hundred to the prosecutor general, and dozens to the Supreme Court for resolution. In an overwhelming majority of these cases, the courts ordered employers to correct practices or reinstate dismissed workers or unions to reimburse employers for activity found to be illegal. However, penalties are minimal and are not an effective deterrent.

Enterprise-level collective bargaining over wages and working conditions increasingly characterized the labor relations system. Labor and management are adapting their relationship to the demands of a market economy, but experience in modern labor relations is still in its early stages. Many enterprises

rolled over agreements concluded in earlier years.

Since its formation in early 1994, the Tripartite Commission (unions, employers, government), currently chaired by Labor Minister Longin Komolowski, has become the main forum that determines national-level wage and benefit increases in such politically sensitive areas as the so-called budget sector (health, education, and public employees), while rendering opinions on pension indexation, energy pricing, and other important aspects of social policy. The Commission serves as an important forum in which the social partners air differences, discuss grievances, and often negotiate agreements before problems erupt into social conflict.

Many disputes arose because of the weakness of the employer side of the union/employer/government triangle. Key state sector employers (largely in heavy industry and the budget sector) still were unable to negotiate independently with organized labor without the extensive involvement of central government ministries to which they are subordinate, although the Government repeatedly stated that its intention was not to be drawn into labor disputes. This weakness complicated and politicized the Government's new labor relations system.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Compulsory labor does not exist, except for prisoners convicted of criminal offenses, and is otherwise prohibited by law, including that performed by children. There were no reports of forced or compulsory labor by children.

d. Status of Child Labor Practices and Minimum Age for Employment

The law contains strict legal prescriptions about the conditions in which children may work. The Labor Code forbids the employment of persons under the age of 15. Those between the ages of 15 and 18 may be employed only if they have completed primary school and if the proposed employment constitutes vocational training and is not harmful to their health. The age requirement rises to 18 years if a particular job might pose a health danger.

Child labor is not a problem, although the State Labor Inspectorate reported that increasing numbers of minors now work and that many employers violate labor rules in employing them (by underpaying workers, paying them late, etc.). Inspectors found violations on stud farms, in restaurants, and, in some instances, in small private sector businesses and factories.

The law prohibits forced and bonded child labor, and the Government enforces this prohibition effectively (see section 6.c.).

e. Acceptable Conditions of Work

The Ministry of Labor, the unions, and employers' organizations negotiate a revised national minimum wage every 3 months. The minimum monthly wage in state-owned enterprises is approximately \$140 (500 PLN). While this represented a real increase over 1997, it was insufficient to provide a worker and family with a decent standard of living in view of rapidly rising prices. A large percentage of construction workers and seasonal agricultural laborers from the former Soviet Union earn less than the minimum wage. The large size of the informal economy and the small number of state labor inspectors make enforcement of the minimum wage very difficult. As long as unemployment remains high,

workers often agree to inferior working conditions and lower pay in order to find or keep their jobs.

The standard legal workweek is 42 hours, which allows 6- or 7-hour days, including at least one 24-hour rest period. The law requires overtime payment for hours in excess of the standard workweek. The new Labor Code defines minimum conditions for the protection of workers' health and safety. Provisions are strict and extensive, and trade unions have the right to stop production or extract a worker from dangerous working conditions without jeopardy to the worker's continued employment. However, enforcement is a major problem, because the Labor Inspectorate is unable to monitor the state sector sufficiently, much less the private sector, where a growing percentage of accidents take place. In addition, there is a lack of clarity concerning which government or legislative body has responsibility enforcing the law.

In the 44,581 work-related accidents reported during the first 6 months of the year, 269 individuals were killed and 749 seriously injured. The government's Central Statistical Office reported that most accidents were in the public sector, while most serious accidents were in the private sector, where proportionally more deaths also occurred. Solidarity contends that the problem lies not in the law, which establishes safe standards, but in enforcement, because employer sanctions for illegal behavior are minimal. Standards for exposure to chemicals, dust, and noise are exceeded routinely. Workers may remove themselves from dangerous working conditions without losing their jobs, but there were reports that fears of such loss prompted some to stay on the job.

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