



Poland

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Poland is a multiparty parliamentary democracy in which executive power is shared by the Prime Minister, the Council of Ministers, and to a lesser extent, the President. Alexander Kwasniewski was reelected President in free and fair elections held in October 2000. The Parliament is bicameral (Senate and Sejm). Free and fair parliamentary elections held in September resulted in a change in Government. The social democratic (post-Communist) Democratic Left Alliance (SLD) formed a majority coalition government with the Union of Labor (UP) and the Polish Peasant Party (PSL). The Government respects the constitutional provisions for an independent judiciary; however, the judiciary is inefficient.

Internal security forces consist of local police, a national office of investigation, and city guards, who are uniformed, unarmed officers. 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. Civilian control was reinforced further by a restructuring of the Ministry of Defense and general staff undertaken as part of the country's entry into NATO in April 2000. Security forces committed a few abuses.

The country's population is approximately 39 million. After several years of strong growth in the mid-1990's, the economy slowed starting in 1998 as a result of the Russian financial crisis and economic slowdown in the country's largest export markets in Europe. Gross domestic product (GDP) growth dropped to 4.0 percent in 2000. In 2000 the per capita gross national product was \$4,200. Inflation dropped to 8.5 percent in December 2000 and decreased to 3.6 percent by year's end. The ongoing process of restructuring and increasing numbers of youths entering the labor force as a result of the postmartial law baby boom have increased unemployment. By year's end, the official unemployment rate was 17.4 percent. Since 1989 most small- and medium-sized state-owned enterprises have been privatized, and the Government launched privatizations of major state-owned enterprises such as insurance, telephone, airline, power generation, petroleum refining, steel, coal, and banks. Significant reforms continued in other areas as well, including pensions, health, decentralization of government, and education. Still to be addressed are the agricultural sector, a major part of the economy (employing more than 25 percent of the labor force), and lagging development in rural areas.

The Government generally respects the human rights of its citizens; however, there were problems in some areas. There were reports that police mistreated persons in refugee camps. Prison conditions remained generally poor. A cumbersome legal process, poor administration, and an inadequate budget hamper the court system, and court decisions frequently are not implemented. Lengthy pretrial detention occurred occasionally. The Government restricted the right to privacy. There were a few restrictions in law and in practice on freedom of speech and of the press. Violence against women continued to be a problem. Women continued to experience serious discrimination in the labor market and were subject to various legal inequities. Child prostitution was a problem. There were incidents of desecration of graves in both Jewish and Catholic cemeteries, and anti-Semitic sentiments persisted. There was some societal discrimination and violence against ethnic minorities. Some employers violated worker rights provided for by law, particularly in the growing private sector, and antiunion discrimination persisted. Trafficking in women and children was a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In 1999 the police officer who was convicted and sentenced for the 1998 beating death of 13-year-old Przemek Czaja in the city of Slupsk appealed a December 1999 judicial decision that increased his sentence to 8 years. At year's end, the defendant remained free on appeal. In March 2000, the District Court in Koszalin decided that the defendant should be examined by psychiatrists from the Szczecin Medical Academy. In June the civil trial began; Czaja's family are demanding \$12,500 (50,000 PLN) from the Pomeranian police.

A police officer indicted in connection with the 1997 shooting deaths of two unarmed civilians and the wounding of another in Brodno, a suburb of Warsaw, was sentenced in December 1999 to 7 years in prison. He remained free pending his appeal.

Several trials related to extrajudicial killings during the Communist period, which were initiated in 1999 and 2000, continued during the year, including the retrial of 22 riot policemen accused of killing miners during martial law under the Communist regime; the retrial of former Communist Interior Minister Czeslaw Kiszczak for his role in the pacification of the Wujek mine; and the retrial of General Wladyslaw Ciaston, one of the two former Communist Security Services generals accused (and acquitted in 1994) of having directed the 1984 torture and killing of Father Jerzy Popieluszko. In December witnesses were interviewed in the Ciaston case; the case was pending at year's end. In November 1999, the Supreme Court ordered that a new trial be held in the Warsaw District Court for former Communist leader Wojciech Jaruzelski and nine other officials who allegedly ordered police to shoot workers during the 1970 riots in Gdansk. On October 16, following nine failed attempts for a new trial, the Warsaw District Court convened a new trial against Jaruzelski and five other defendants, which was ongoing at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, there were reports that police mistreated persons in refugee camps (see Section 2.d.).

In June 1998, a Gdansk court indicted 11 riot policemen for their participation in the October 1997 beating of soccer fans attending a match in the town of Gdynia that was captured on videotape (see Section 2.a.). Initially the court acquitted the police officers, but the prosecutor appealed; the criminal case remained pending at year's end.

Several Belarussian and Chechen asylum seekers have alleged harassment ranging from verbal abuse to forcible removal from one location (usually refugee camps or shelters) to another (see Section 2.d.).

Prison conditions remained generally poor. According to reports by nongovernmental organizations (NGO's), overcrowding, damp cells, and a lack of medical treatment are the chief problems. The prison system is in urgent need of additional funding; since 1999 the National Penitentiary Authority's budget declined by approximately 34 percent. Of 156 detention facilities, 98 require considerable renovation, of which 8 are in very poor condition and need to be completely rebuilt. The Ombudsman for Human Rights continued to complain about the safety of prisoners, noting that inmates are often the victims of violent attacks by other prisoners. Civil litigation against the prison administration in the 1996 case of an 18-year-old mentally retarded boy who was beaten and sodomized by fellow inmates was considered by the Bydgoszcz district court in February 2000; the case remained pending at year's end. Reportedly the ratio of prisoners to rehabilitation officers is very poor. Women are held in 21 detention facilities, but only 5 are strictly for women; in the remaining 16 detention facilities, men and women are held separately. Juveniles under the age of 24 are held separately from adults, and pretrial detainees are held separately from convicted prisoners.

The Government permits visits by independent human rights organizations. During the year, the Human Rights Ombudsmen monitored 16 detention facilities, and the Helsinki Foundation visited 2 facilities; all of the visits were unannounced prior to the visit.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions. 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. Bail is available, and most detainees are released on bail pending trial.

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. The total time of temporary arrest until the first sentence rendered by the court of lower instance may not be more than 2 years. However, under certain circumstances, the 2-year period may be extended further by the Supreme Court.

The Constitution prohibits forced exile, and the Government does not employ it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice; however, the judiciary remains inefficient and lacks resources and public confidence.

There is a four-tiered court and prosecutorial structure. The courts consist of 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 only handles appeals about questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate, and regional offices. 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.

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. Constitutional Tribunal decisions are final and binding.

The Government continued to restructure the court system in order to streamline and accelerate the legal process; however, the court system remained cumbersome, poorly administered, overstaffed, and underfunded. There are numerous inefficiencies, most notably the fact 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 appear 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.

The law requires that disciplinary procedures be taken against those judges accused of violating judicial independence by issuing unjust verdicts between 1944 and 1989 at the request of the Communist authorities. Cases must be initiated before December 31, 2002. Such cases may be initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council, or individuals who felt wronged by court verdicts. According to the National Judiciary Council, 19 cases were filed against judges during the year.

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.

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 the trial and may present evidence and confront witnesses in their own defense. However, prosecutors have 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. Trials are usually 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" (see Section 1.f.). The courts rarely invoke this prerogative. A two-level appeal process is available in most civil and criminal matters.

In September 2000, the law was amended to allow for a defendant and a representative, in addition to the prosecutor, to be present for a provincial appellate court's examination of a verdict.

There were no reports of political prisoners.

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

The Constitution prohibits such actions; however, the Government does not always respect these prohibitions in practice. The Constitution provides for the general right to privacy; however, there is no legislation that provides for this right. In past years, politicians in the various opposition parties have reported that the secret service illegally collected information on them; however, these reports have not been confirmed, nor has there been an investigation into them.

The law forbids arbitrary forced entry into homes, and 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 1998 law prohibits the collection of information about a person's ethnic origin, religious convictions, health condition, political views, or membership in religious, political, or trade union 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. Despite being illegal, a few restrictive practices such as a requirement to fill out "creed" or "nationality" items in some questionnaires continued. For example, some nongovernmental entities persisted in asking for such information; violators are prosecuted; if convicted they are subject to imprisonment for up to 3 years. The Ministry of Justice reports that from March 1998 to September 2000, the office of the prosecutor received 324 notifications of crimes pursuant to Articles 49 to 54 of the 1998 Law on Personal Data Protection. Of those, 304 have been closed; the office declined to prosecute 90 cases; 39 cases were referred to the court; and 170 cases were discontinued by the court. In nine cases, the prosecutor recommended conditional discontinuance. There is no record of a conviction obtained in any case.

The Government maintains, without judicial review or oversight, a large number of wiretaps. In June in response to the growing threat of organized crime and money laundering, the Government established the Financial Investigative Unit (FIU), a division of the Ministry of Finance. Inspectors collect information and examine suspicious transactions in excess of \$8,600 (36,201 PLN). Since the unit was established in June 2000, inspectors have initiated proceedings in approximately 300 cases and notified prosecutors in 10 more cases. In 37 cases, the value of suspicious transactions exceeded \$160 million. 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 firearm 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. There are unconfirmed reports that the total number of wiretaps rose from the years 1999 to 2000. 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 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.

The law on "lustration" or vetting, designed to expose government officials who collaborated with the Communist-era secret police, bans from office for 10 years those persons caught lying about their past. The law requires officials to provide sworn affidavits concerning their possible cooperation with the secret police; the public interest spokesman (lustration prosecutor) then verifies the affidavits and brings suspected cases of misrepresentation before the lustration court, a special three-judge panel whose decisions may be appealed.

In 2000 several high-profile cases came before the court, including that of a Deputy Defense Minister who was judged to have lied in his affidavit; in November the Supreme Court returned the case to the appellate court, and the appeal was pending at year's end. Many of these cases are closed to the public because they involve classified documents. Critics continue to voice concern that the procedure of vetting politicians may be unfair, in view of the likelihood that secret police records were subject to loss or tampering. In June 2000, Parliament agreed on a chairman for the Institute of National Remembrance, a body mandated by the lustration law to organize all Communist-era secret police files and eventually give citizens access to their files.

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 of the press, and the Government generally respects this right; however, there are a few restrictions in law and practice.

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.

During the year, 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, the leader of the Samoobrona (Self-Defense) political party, was sentenced to 16 months' imprisonment for slandering President Kwasniewski, Leszek Balcerowicz, and former Deputy Prime Minister Tomaszewski; Lepper was accused of calling the politicians thieves and criminals. An appeals court subsequently changed the sentence to a fine of \$5,000 (20,000 PLN). In February supporters of the League of Polish Families received a \$375 (1,500 PLN) fine for "slapping in the face and slandering" the late Sejm Deputy Andrzej Urbanczyk.

In May 2000, the Warsaw district court ruled that the daily newspaper, *Zycie*, must apologize to President Aleksander Kwasniewski for publishing untrue information suggesting that the President had contacts with Russian spies. *Zycie* was appealing the court's decision at year's end. This provision of the Criminal Code also can be used by individual citizens and businesses "to protect their good name." In December 1999, the trial began in Elblag in the case of Andrzej Lepper, who was accused of insulting Prime Minister Jerzy Buzek and state officials in January 1999; the case remained pending at year's end. The case against talk show host Wojciech Cejrowski, charged with publicly insulting President Kwasniewski, was decided against the defendant in April 1998; an appeal was pending at year's end. Also pending was a 1995 case against presidential candidate Leszek Bubel for violating a section of the Penal Code that prohibits acts that "publicly insult, ridicule, and deride the Polish nation, the Polish Republic, its political system, or its principal organs." There was no progress during the year in the ongoing investigation into the case of Mikolaj Siwicki for attempting to publish a hate-mongering book that allegedly could damage the nation's interests. The Criminal Code 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"; however, observers believe that it is unlikely that the court would render a verdict on this case.

The law allows for the prosecution of citizens who publish or otherwise betray state secrets. Human rights groups have criticized this law, arguing that it restricts freedom of speech.

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."

There is no restriction on the establishment of private newspapers or distribution of journals, and there are numerous private newspapers and magazines representing a wide variety of viewpoints. There was no progress in the ongoing privatization of RUCH, a national network of newspaper kiosks. Books expressing a wide range of political and social viewpoints are widely available, as are periodicals and other publications from abroad.

The national radio and television broadcasting council (KRRiTV) has broad powers in monitoring and regulating programming on radio and television, allocating broadcasting frequencies and licenses, and

apportioning subscription revenues to public media. In order to encourage the KRRiTV's apolitical character, the nine KRRiTV members are 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 potentially serious questions about the independence of broadcasting oversight from political influence.

The Government owns 2 of the 3 most widely viewed television channels and 17 regional stations. Center-right politicians, watchdog institutions, and commentators accused public TV of being influenced by politicians from the center-left SLD and PSL peasant parties. Members of these parties have majority seats in supervisory and management boards in public television and radio.

Although public television remains a major source of news and information, private broadcast television, satellite, and private cable services (domestic and foreign) are available across most of the country. Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. The TVP and its two channels remained the most widely viewed television in the country (with joint market shares of over 50 percent), but it has faced strong competition from the two private networks, TVN and Polsat, which draw viewers to their popular reality shows. During the parliamentary elections, TVN was the first commercial station to compete with TVP's traditional monopoly on election night coverage. The TVN also was the first station to launch a 24-hour news channel, TVN 24. The new broadcasting company, Catholic TV, is considered to present a far-right, conservative point of view, although the impact is marginal and viewership is below 1 percent. Cable television and various satellite services, as well as global frequencies, carry the main public and private television channels, as well as local and regional stations and a variety of foreign offerings to viewers throughout the country.

In 2000 the civil case concerning the 1997 Gdansk soccer riot ended; the court ordered Public TV to pay \$2,500 (10,000 PLN) and private TVN to pay \$1,250 (5,000 PLN). The stations were also ordered to apologize to the victim on their news programs (see Section 1.c.).

The Government owns 5 national radio networks. Private radio flourishes on the local, regional, and national levels alongside public radio. During the year, the KRRiTV renewed virtually all radio licenses. The three most popular nationwide radio stations are public Polish Radio Channel 1 and the private commercial stations Radio ZET and RMF FM. During the year, companies with shares in nationwide dailies began creating networks with local radio stations. As a result of the effects of the recession on the media market, small local radio stations have set up several networks for facilitating advertising and programming matters.

The Broadcasting Law stipulates that programs 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, 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.

The Broadcasting Law on radio and television also 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 President and the Prime Minister have complained occasionally of the other's abuse of the access privilege. Both public and private radio and television stations provide coverage of all ranges of political opinion.

The Internet is available widely and is not regulated or restricted.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for the freedoms of assembly and association, and the Government generally respects these rights in practice.

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. Permits for public gatherings are issued on a routine basis.

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 commits it to 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 generally respects this right in practice

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.

Religious communities may register with the Government, but they are not required to do so and may function freely without registration. Registration requires that the group submit the names of 100 members as well as information regarding the group itself. This information on membership must be confirmed by a notary public, although the registration itself often appears to be a formality. Two new religious communities were registered during the year: The Independent Hebrew Religious Community in Poznan and the Church of the Mercy of Jesus. All churches and recognized religious groups share the same privileges, such as duty-free importation of office equipment and reduced taxes.

In March the Government established a department within the Ministry of Interior to monitor the activities of "new religious groups and cults"; by year's end, the new department was not yet active, although personnel were undergoing training to deal with criminal activities by "sects". The department has been criticized by Seventh-Day Adventist church leaders, who allege that the "antisect" training material gives a distorted picture of minority religions that could lead to discrimination against them.

The Criminal Code stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-year prison term (see Section 2.a.).

Although the Constitution provides for the separation of church and state, a crucifix hangs in both the upper and lower houses of Parliament. 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.

Progress continued in implementing the laws that permit local religious communities to submit claims for property owned prior to World War II that subsequently was nationalized. The laws governing restitution of communal property allow for the return of churches and synagogues, cemeteries, and community headquarters, as well as buildings that were used for other religious, educational, or charitable activities.

The time limit for applications by the Catholic Church expired in December 1991. By the end of the year, 2,670 of the 3,050 claims filed by the Church had been concluded: 1,269 claims were settled by agreement between the Church and the party in possession of the property (usually the national or a local government); 882 properties were returned through decision of the Commission on Property Restitution, which rules on disputed claims; and 502 claims were rejected. Claims by the local Jewish community (whose deadline for filing claims under the law expires in May 2002) are being filed slowly, in part because ongoing disputes between the local Jewish community and representatives of international Jewish organizations have prevented reaching an accord between the two groups that could provide needed resources to the local community. By year's end, 1,009 claims had been filed: The Commission on Property Restitution considered 926 cases; closed 198 cases, 102 of which were closed by an agreement between the parties. By year's end, Lutheran claims for 1,200 properties had resulted in 560 cases being closed with the return of the properties in question (the deadline for filing such claims was July 1996) by an agreement between the parties.

Laws on religious communal property do not address the private property of any group. In February the Parliament passed a reprivatization law that included controversial provisions requiring claimants to have held Polish citizenship as of December 1999. In March President Aleksander Kwasniewski vetoed the bill, citing the likely cost of the proposed bill, as well as the need for any reprivatization law to be inclusive and eschew citizenship requirements. Claims continued to be filed and property returned throughout the country through an ad hoc process of local court rulings and private arrangements between contending parties.

The laws on communal property restitution also do not address the issue of communal properties to which third parties 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 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 continued during the year to reach a resolution acceptable to all concerned.

Although the Constitution gives parents the right to bring up their children in compliance with their own religious and philosophical beliefs, religious education classes continued 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. Catholic Church representatives are employed to teach religious classes in the schools. Such classes constitute the vast majority of all religious education classes offered, since the population of the country is approximately 95 percent Catholic. However, parents can request religious classes in any of the religions legally registered, including the Protestant, Orthodox, and Jewish religions. Such non-Catholic religious instruction exists in practice, although it is not common; the Ministry of Education pays the instructors. Priests and other instructors receive salaries from the state budget for teaching religion in public schools, and Catholic Church representatives are included on a commission that determines whether books qualify for school use.

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

Although the Constitution does not address freedom of movement, the Government generally respects these rights in practice. The Government does not restrict internal or foreign travel; under the law citizens cannot be refused the right to return to the country; and there are no restrictions on emigration.

The law provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Persons recognized as refugees under the Convention are granted permission to remain in the country permanently. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. In 2000 the Government received 4,588 petitions for refugee status, compared with 2,864 in 1999. Of the 4,588 applications received, 78 were approved. Between 1999 and 2000, the approval rate for refugee applications was 1.5 percent, which granted them refugee status in the country, while the vast majority remained in processing. The other cases were denied, discontinued, abandoned or were being processed at year's end.

The 1997 Aliens Act, amended during the year, addresses immigration issues. Human rights organizations generally view the Aliens Act as positive. The law gives all prospective refugees access to a procedure for adjudicating refugee status and established an independent board to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. Refugee advocates note that the board serves as an impartial and independent adjudicator of appeals. The amended Aliens Act created the Bureau of Repatriation and Aliens (BRA), which began operating during the year. This office controls the various Refugee Boards and agencies and has some political control over the border guards. The Border Guard Academy includes significant training on the handling of potential refugees.

The amended Aliens Act also creates an expedited system of refugee processing; however, the Government's implementation of the amendments has been slow and continued at year's end. Under the Act, aliens should receive an answer to their petition within 2 days. If denied they may appeal to the Refugee Board, which is required to respond within 5 days. If their claims are found to be "manifestly unfounded," they are denied and no further appeal is available to them. This is expected to represent a significant change from the old system, in which refugees could wait up to 3 months for the first answer and could then appeal all the way to the Supreme Court. Refugee rights groups have reported no significant improvement in processing time, which is reliably reported to range from 4 months to 2 years. According to the new amendments, a decision granting or denying asylum should be rendered within 6 months from the date of the initiation of the procedure. However, in practice decisions can take up to 2 years from the time of the application. Refugee rights groups have consistently complained about applicants living in legal limbo, unable to work legally, while awaiting decisions on their cases.

The law does not recognize the concept of first asylum or any other form of temporary protection. However, the Aliens Act as amended during the year includes the category of humanitarian assistance as a reason for resettling aliens. Previously the Government only had categories for asylum seekers and for refugees. The new category was created for those who do not qualify as refugees but who cannot be returned to their countries of origin; however, the law's practical implications were untested.

In 2000 the UNHCR expressed concern over the fate of unaccompanied children seeking asylum in the country. It urged that procedures and practices concerning the appointment and maintenance of supervisors and guardians for minors be improved. The safety of child refugee seekers is not assured because of a shortage of funds for supervision in the camps. At the Debak camps, there have been allegations of sexual assaults on children, one of which was confirmed. The refugee camp's educational facilities often are insufficient, and school supplies were unavailable. Camps were extremely crowded, and ethnic and cultural

conflicts often occurred as a result.

Many of the problems that the Government faces in dealing with aliens present in the country center around funding. The Government receives significant European Union (EU) funds for upgrading its refugee processing system, which includes money for such things as fingerprinting equipment and running the refugee centers. However, the Government has very little money available to send aliens who have been denied status back to their country of origin. Most denied applicants simply receive a letter informing them that their petition has been denied and that they should leave the country. The Government does not have funds to help assimilate those persons who receive permission to permanently reside in the country. Refugees may receive the same subsidies given to citizens living below the poverty line, but no additional money is available to them. The approved petitioners receive funds from various NGO's, but this covers only basic living needs, and no services such as language training, medical care, or other social benefits.

The country is becoming a destination point for refugees, rather than simply a transit point. The UNHCR reports that significantly fewer persons are abandoning their refugee applications and that fewer persons are leaving the country after receiving status.

There were no reports of the forced return of persons to a country where they feared persecution; however, the UNHCR reported isolated incidents of border guards turning away potential refugees. In particular there were reports that Chechen asylum applicants encountered difficulties with admission to the country when arriving from Ukraine and Belarus. However, in October, the BRA stated that they no longer would use the internal flight alternative as a reason to deny Chechen asylum applications. The BRA estimated that approximately 4.5 to 5 percent of all asylum seekers receive refugee status, while 10 to 15 percent of all Chechen asylum applicants are granted refugee status. Afghan asylum seekers also encountered problems when arriving from Ukraine and Belarus.

There were reports of the harassment of refugee camp inhabitants by local persons and there were some reports of mistreatment by police. Several Belarussian and Chechen asylum seekers have alleged harassment ranging from verbal abuse to forcible removal from one location (usually refugee camps or shelters) to another. There were no formal investigations during the year; the allegations were attributed to moving asylum seekers from the cities to the countryside. Government officials have stated that any relocation was to improve conditions, not harassment.

The UNHCR and the Helsinki Foundation have been working with government officials, police, and hospital personnel to sensitize them to the plight of refugees and train them in better ways of handling refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. All citizens 18 years of age and older have the right to vote and to cast secret ballots, and voting is voluntary. Multiple candidates from various political parties participated in the elections and had access to the media.

The country is a multiparty democracy. 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 once every 4 years. The President, elected for 5 years, has the right, in certain very limited 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 automatically is shortened as well. Parliament may impeach the President.

The Government formed after free and fair elections in 1997 was a two-party coalition composed of the center-right Solidarity Electoral Action (AWS) party anchored by the Solidarity Labor Union and the Centrist Freedom Union (UW), also with origins in Solidarity. In June 2000, the UW withdrew from the coalition, and the AWS Government continued to function as a minority Government until the last elections held in September.

The percentage of women in government and politics does not correspond to their percentage of the population. During September elections, the number of females in Parliament increased from 63 to 94 (of 460), and from 19 to 22 (of 100) in the Senate. The new Government's Cabinet has 16 members, all from the ruling coalition; the Justice and Education Ministers are both females.

Two members of the German minority party are Members of Parliament (see Section 5). 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 domestic and international human rights groups in general operate without government restriction, investigating and publishing their findings on human rights cases. Government officials 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.

The Office of the Commissioner for Civil Rights Protection (the Ombudsman) 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. The Ombudsman has no legislative authority, no powers of enforcement, and is sworn to act apolitically. The Government cooperates with the Ombudsman.

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," and the Government attempts to ensure that these provisions are observed; however, violence and societal discrimination against women and ethnic minorities persisted.

Women

Violence against women continued to be a problem. There are no comprehensive surveys that document the problem adequately. According to the Women's Rights Center, 23 percent of women have been victims of domestic violence. According to the NGO La Strada 18 percent of married women admitted to being victims of physical abuse by their husbands. Women's organizations assert that the number of women suffering from domestic abuse is probably much higher due to the fact that battered women usually refuse to admit abuse even to themselves. Violence against women remains hidden, particularly in small towns and villages. Government and police statistics do not differentiate between male and female victims of violence. Physical abuse is illegal and spousal rape is treated in the same manner as other types of rape. Police intervene in cases of domestic violence. In 1998 the police, in cooperation with the State Agency for Solving Alcoholic Problems, introduced the "blue card," a record-keeping system designed to better document incidents of spousal abuse. 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, statistics show that a large majority of convictions (83 percent) result in suspended sentences. According to a spokesman for the police, there were 23,987 cases of family abuse reported in 2000, with 213 of those being of particularly severe abuse. According to NGO's, the courts often treat domestic violence as a minor crime, pronounce lenient verdicts, or dismiss cases.

In 2000 there were 2,399 rape cases reported, compared with 2,029 in 1999, and according to police statistics, the frequency of rape further increased during the year. However, NGO's reported that women often are unwilling to report the crime and estimate that the actual number of rapes is 10 times higher than that reported.

According to the Women's Rights Center Report, there was significant progress in raising public awareness of the problem of violence against women. The topic received increasing coverage in the media during the year, most notably through a highly visible media and billboard campaign. In addition an increasing number of NGO's are addressing the problem. A total of 15 centers have been established to assist victims, to provide preventive treatment as well as resocialization counseling to perpetrators, and to train personnel working with victims of domestic violence. In July 2000, the Government established an Office of Victims' Rights Spokesman at the Ministry of Internal Affairs and Administration. 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.

The law has no provision for restraining orders to protect battered women against further abuse. For example, in divorce cases, courts frequently grant a divorce but do not issue a property settlement, forcing women to return to their abusive husbands. This problem is exacerbated by a lack of alternative housing in the country. Women's advocacy groups also have complained about the small number of state-supported shelters for battered women.

Paying for sexual activity is illegal, as is pimping; however, selling sex is not illegal. However, due to a

crackdown on prostitutes who work along major thoroughfares and at truck stops, the prostitution industry has moved to brothels, massage parlors, or agencies offering escort services. Since 1997 the total estimated numbers of prostitutes declined by 45 percent; however, police believe the apparent decline in prostitution may be the result of much greater numbers of women working in brothels, or so-called agencies, who are not captured by the statistics. Police estimated that there are 770 agencies in operation, with an estimated 4,300 women working in them as prostitutes.

Trafficking in women for the purpose of sexual exploitation was a problem (see Sections 6.c. and 6.f.).

While there are no laws specifically addressing sexual harassment, social awareness of the problem continued to increase, and there are mechanisms to deal with the problem. For example, the Criminal Code states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to 3 years in prison. 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 be invoked only when alleged sexual harassment occurs between a supervisor and an individual in a subordinate position. Abuse of power cannot be claimed when harassment occurs between persons of equal rank. In August 2000, a prosecutor charged a former director of a hospital emergency ward of sexually harassing six nurses; the case continued at year's end.

The Constitution provides for equal rights regardless of gender and grants women equal rights with men in all areas 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. According to the 1999 government statistical bulletin, men have a higher employment rate (54 percent) than women (45.9 percent), and women have a higher unemployment rate (13.5 percent) than men (11.7 percent). Despite a generally higher level of education, women earn on average 30 percent less than men. 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. Apart from the Constitution, there is no other legal provision for equal rights for women. In 1999 the U.N. Human Rights Commission expressed its concern about the situation and agreed that women were discriminated against in the labor market.

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. Both men and women have the right to claim child sick care. The pension law requires mandatory earlier retirement for women at age 60 (age 65 for men), and as a result women get approximately 60 percent of the average pension that men receive. However, 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 labor court if employers insist that they retire at 60.

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. There are several women's rights NGO's. 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. There are several church-sponsored women's advocacy organizations, but their cooperation with other women's NGO's is limited.

Children

The Constitution extends some state protection to the family and children, and the Sejm appointed an Ombudsman for Children's Rights in June 2000, although he resigned in August 2000. During the year, Parliament appointed a new Ombudsman. Education is universal and mandatory until age 18, and public schools are free. The Government sponsors some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools; however, budget shortfalls prevent complete implementation of these programs. Although it occurs, there is no societal pattern of child abuse. The law prohibits violence against children. A provision of the Criminal Code provides that those who physically or psychologically abuse a juvenile may receive a prison sentence of 3 months to 5 years. If the victim attempts suicide the sentence is increased, as it is if the perpetrator is found to have acted with extreme cruelty. However, abuse rarely is reported, and convictions for child abuse also are rare. In addition there are no procedures in schools to protect children from abuse by teachers; the teachers' work code provides legal immunity from prosecution for the use of corporal punishment in classrooms.

Trafficking in children was a problem (see Sections 6.c. and 6.f.).

The law prohibits child prostitution; however, child prostitution was a problem. The Penal Code states that anyone who, with the purpose of obtaining a material benefit, incites a minor to prostitution or facilitates such prostitution is subject to a sentence from 1 to 10 year's imprisonment.

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.

Persons with Disabilities

There is no discrimination against persons with disabilities in employment, education, or in the provision of other state services. There were approximately 5.5 million persons with disabilities in the country by year's end, and the number is expected to reach 6 million by the year 2010. In 2000 the Central Bureau of Statistics (GUS) reported that 17 percent of persons with disabilities able to work are unemployed, roughly equivalent to the national unemployment rate. Advocacy groups have claimed that the percentage is much higher. The law allows individuals from certain disability groups to take up gainful employment without the risk of losing their disability benefits. Statistics show that 48.7 percent of the persons with disabilities have no more than an elementary school education, compared with 33.7 percent of those without disabilities, and that only 4.2 percent have a university education, compared with 8.2 percent of persons without disabilities.

The law creates a state fund for the rehabilitation of persons with disabilities that derives its assets from a tax on employers of over 50 persons, unless 6 percent of the employer's work force are persons with disabilities. While the fund has adequate resources--in 2000 it had more than \$400 million (1.8 billion PLN) at its disposal--its management has encountered difficulties, including frequent changes in leadership. According to press reports, the fund had 4,000 grant applications pending at year's end. In addition by law the fund cannot be used to assist children with disabilities under 16 years of age.

There were reports of some societal discrimination against persons with disabilities.

The law mandates access to buildings for persons with disabilities; however, public buildings and transportation generally are not accessible to persons with disabilities. Implementation falls short of rights set forth in the legislation since the law provides only that buildings "should be accessible."

Religious Minorities

Relations between the various religious communities are generally amicable; sporadic incidents of harassment and violence against Jews and occasional desecration of Jewish, and more often, Catholic cemeteries continued, mostly generated by skinheads and other marginal elements of society.

Although surveys have shown a continuing decline in anti-Semitic sentiment, anti-Semitic feelings persisted among certain sectors of the population, occasionally manifesting themselves in acts of vandalism and physical or verbal abuse. Sporadic and isolated incidents of harassment and violence against Jews continued to occur, often generated by skinheads and other marginal societal groups.

In October a group of youths beat some members of the Buddhist Center of Krakow and threw stones at the building. The police arrived quickly; however, the attackers escaped, and no arrests were made. This was similar to the attack on the same center in 2000, which is reportedly located in an unsafe neighborhood; a second center in Krakow has not been the target of such attacks. The legal proceedings against two persons who were arrested in connection with the attack on the Center in 2000 were ongoing at year's end.

During the year, a Lublin resident verbally attacked a group of tourists visiting the Majdanek death camp museum.

In April a controversial Gdansk priest, Henryk Jankowski, created in his church a replica of the barn in Jedwabne in which members of that town's Jewish community were burned to death in 1941. A sign near the display accused Jews of killing Christ and persecuting Poles. The local archbishop ordered the tableau removed. Religious and political leaders strongly criticized Jankowski for his action.

On November 11, during Polish Independence Day, approximately 400 Polish ultra nationalists who chanted anti-Semitic and anti-EU slogans marched through the heavily industrialized city of Katowice. The march culminated in a rally at which demonstrators burned the Israeli and EU flags. Local authorities initiated an official investigation to determine whether identifiable demonstrators should be charged with violating laws that prohibit displays of Fascist symbols and public insults to persons on the basis of national, ethnic or racial identity. The investigation was pending at year's end.

Occasional cases of cemetery desecration, including of both Jewish and Catholic shrines, also occurred during the year. In February 16 tombstones were knocked down in the Jewish cemetery in Wroclaw.

In May unknown perpetrators overturned 39 tombstones in a Jewish cemetery in Auschwitz. In May the March of the Living organizers organized a sister event, the March of Remembrance and Hope, that brought international youth groups of all religions to the country in promotion of religious tolerance. During the march, several hundred participants organized a clean-up of the cemetery in Auschwitz and restored the tombstones. In April 49 graves were damaged in Bytow, more than 120 tombstones were damaged in Catholic cemeteries in Bartoszyce, Markowice, and Siepc, and hundreds of crosses and crucifixes were stolen from a Catholic cemetery in Olawa. Government authorities consistently criticized such actions and made efforts to prevent similar acts from occurring in the future, for example, by increasing police patrols around Jewish sites. No arrests or prosecutions took place after any of these events.

In April during the 13th March of the Living from Auschwitz to Birkenau to honor victims of the Holocaust, several hundred citizens joined 2,000 marchers from Israel and other countries. In July the President presided over a ceremony commemorating the 1941 killing of several hundred Jews in the town of Jedwabne. President Kwasniewski acknowledged Polish participation and apologized in the name of the country and unveiled a new memorial. It replaced a plaque that stated Germans alone were responsible, which was removed several months earlier.

In April 2000, Opole University fired professor Dariusz Ratajczak for publishing a book denying the Holocaust. The firing followed the unsuccessful prosecution of Ratajczak in December 1999 for violating the law on the preservation of national remembrance, a provision of which criminalizes public denials of Nazi and Communist-era crimes. The University announced that Ratajczak had violated ethical standards and would be barred from teaching at other universities for 3 years.

Public concern persisted regarding the growth of groups perceived to be sects and the influence of nonmainstream religious groups.

National/Racial/Ethnic Minorities

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. There are an estimated 50,000 Lithuanians in the country, and the issue of Lithuanian minority rights including language instruction, is addressed routinely during governmental talks at the highest levels. There were 5 Lithuanian-language textbooks in use during the year. The Ministry of Education fully finances their publication and uses Lithuanian minority representation in the development of the texts.

The Romani community, numbering around 30,000, faced disproportionately high unemployment and was hit harder by economic changes and restructuring than were ethnic Poles, according to its leaders. Societal discrimination against Roma is commonplace, and some local officials discriminate against Roma in the provision of social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education. The central Government is cooperating with local governments to develop and finance programs to assist the poorest Roma. Some local governments are becoming more active in dealing with the problems of local Romani communities. In February the Government began a pilot project to help the Roma community in the Province of Malopolska. The goals of the program are to increase the number of Roma completing high school, help fight unemployment, and improve health care and safety for Roma. However, implementation of the program was hampered by inadequate budgetary resources.

There have been occasional incidents of skinheads clashing with Roma and racially motivated violence directed at Roma. In August a group of Polish teenagers vandalized automobiles and other Romani vehicles at a resort camp where a Romani family was vacationing. Police arrested three suspects, and the case was pending at year's end.

In March several thousand students, journalists, and politicians removed vulgar and racist slogans from walls in the city of Lodz, a repeat of their efforts in 2000.

The small Ukrainian and Belarussian minorities occasionally experienced petty harassment and discrimination. Individuals of African, Asian, or Arab descent also reported isolated incidents of verbal, physical and other types of abuse. In June the Philadanco dance troupe, which was touring the country as part of the Eighth Annual International Dance Conference and Festival in Warsaw, Poznan, and Bytom, reported that in Bytom, some of the dancers were called "monkeys" and "animal" in English and had objects thrown at them. In Poznan the theater founder was refused service in a restaurant in what she perceived to be a racially motivated incident. In October 2000, African-American medical students in Poznan complained of sporadic verbal and, in at least one incident, physical harassment.

According to an August poll, attitudes toward other nationalities showed increase tolerance during the year: 56 percent viewed Romanians and Roma negatively (compared with 63 percent in 2000); 47 percent viewed Russians and Israelis negatively (compared with 57 and 47 percent in 2000); and 49 percent viewed Belarussians negatively (compared to 50 percent in 2000).

The German minority in Opole Province makes up one-third of the 1 million inhabitants of this area of the country that was part of Germany prior to World War II. Some members of the community continued to complain that not enough German is used in the province's schools.

Section 6 Worker Rights

a. The Right of Association

The law provides that all workers, including civilian employees of the Armed Forces, police, and frontier guards have the right to establish and join trade unions of their own choosing, and workers exercised these rights. 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. The existing law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union. In state-owned enterprises, such as the health sector, water, and forestry, there have been cases in which workers have had their normal employment contract terminated and replaced by an individual contract that takes away the rights they used to enjoy as permanent employees.

In 2000 the number of officially registered national-level unions remained at approximately 360, about the same as in 1999. No precise data exists on work force unionization, although according to press reports, 7 percent of the total workforce are members of trade unions.

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. In September Solidarity, the largest union in the country, established a local chapter in the Geant supermarket in Warsaw. The Independent Selfgoverning Trade Union (NSZZ) Solidarity has a verified regular dues-paying membership of approximately 1 million. Small spin-offs from mainstream Solidarity include the rival factions Solidarity '80 (250,000 members), August '80, and the Christian Trade Union Solidarity (Popieluszko). There are no reliable estimates of membership in the latter two unions.

The other principal national unions are those affiliated with the All-Poland Trade Union Alliance (OPZZ), the formerly 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 grown to approximately 1.7 million, but this figure is unverified, and independent sociological surveys suggest that its regular dues-paying membership is considerably less than Solidarity's. A survey found that Solidarity represents approximately 7.6 percent of all Polish workers, while the OPZZ represents only 3.6 percent (one estimate put OPZZ membership at approximately 700,000 to 800,000 workers). According to a 1999 study by the State Labor Inspectorate, out of some 27,000 local union organizations, Solidarity had 13,000 organizations, the OPZZ had 11,000 organizations, and Solidarity '80 had 320 organizations. Numerous smaller unions also exist.

During the year, trade unions took a lower profile in politics. In May Solidarity withdrew from the then-ruling government coalition. In the September elections, significantly fewer union leaders ran for Parliament than in the 1997 parliamentary elections. Under the 1997 Constitution, trade unions themselves may no longer conduct political campaigns, although their members may run as political party candidates may.

Unions have the right to strike except in "essential services"--uniformed services, state administration, and local government--where they only have the right to protest; 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 a vote of only one-quarter of the workforce can call a strike. As a result, a majority of strikes are technically "illegal" because one or both of the sides do 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 provided for in the Labor Code.

There were 11 strikes during the year. In December 2000, the Sejm passed a bill giving a raise to the nurses who began a hunger strike earlier that year to protest the Government's failure to pay a wage increase. The nurses' wage was only 35 percent of the average national wage; the nurses requested a 60 percent raise. The State, their monopoly employer, offered a 12 percent raise. The nurses found the offer unsatisfactory, and demonstrated in the streets, occupied the labor ministry, and blocked transportation arteries. An agreement was reached; however, the nurses claimed that most health facilities had not met the provisions of the agreement by year's end and declared a strike alert.

Unions have the right by law 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 International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labor, and the European Trade Union Confederation.

b. The Right to Organize and Bargain Collectively

The law provides for and protects enterprise-level collective bargaining over wages, and working conditions increasingly characterized the labor relations system. The Tripartite Commission (unions, employers, and the Government), chaired by Labor Minister Jerzy Hausner, is 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.

The law on collective bargaining 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.

Many disputes have arisen 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) remained 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 labor relations system. Claiming that the Government was refusing seriously to discuss labor issues with it, the OPZZ suspended participation in the commission in April 1999 and stayed away throughout the year; however, since the formation of the new Government in October, OPZZ has participated in the commission.

The 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 ordered unions to reimburse employers for activity found to be illegal. However, penalties are minimal and are not an effective deterrent.

The law prohibits antiunion discrimination; however, labor leaders report that employers discriminate 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; there were unconfirmed reports that some employers sanction employees who try to set up unions. The ICFTU alleges that the sanctions provided in the law against acts of antiunion discrimination are not sufficiently dissuasive.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, trafficking in women is a problem (see Section 6.f.).

The law prohibits forced and bonded labor by children; however, trafficking in children was a problem (see Section 6.f.).

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

The law contains strict legal prescriptions about the conditions under 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.

The State Labor Inspectorate (PIP) reported that increasing numbers of minors work, and that many employers violate labor rules in employing them (by underpaying workers, paying them late). Inspectors found violations on stud farms, in restaurants, and, in some instances, in small private sector businesses and factories. Sanctions for the illegal employment of children range from warning letters to orders to cease the work of underage employees. These orders can be enforced through the police to demand the transfer of underage employees or shut down all or part of the offending workplace, or, working through the Ministry of Labor, to impose fines ranging from \$5 to \$125 (20 to 500 PLN) per offense. Cases may also be referred to an administrative tribunal, which can levy fines of up to \$1,250 (5,000 PLN). Jail sentences may be imposed if the infractions are serious enough; such cases generally involve serious injury or death. In 1999 the last year for which figures are available, the PIP conducted 1,494 investigations involving some 12,000 possible underage employees. Fines were levied in 417 of these cases, amounting to approximately \$35,000 (140,000 PLN).

The Government has not ratified the International Labor Organization Convention 182 on the Worst Forms of Child Labor.

The law prohibits forced and bonded child labor; however, trafficking in children was a problem (see Section 6.f.).

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 \$180.00 (760 PLN), which constitutes a 10 percent increase over 2000 figures. The national minimum wage does not provide a decent standard of living for a worker and family. 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 Labor Code defines minimum conditions for the protection of workers' health and safety. Provisions are strict and extensive; however, enforcement is a major problem because the PIP is unable to monitor the state sector sufficiently, or the private sector, where a growing percentage of accidents take place. In the 41,011 work-related accidents reported during the first 6 months of 2000, 277 individuals were killed and 602 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. In addition there is a lack of clarity concerning which government or legislative body has responsibility for enforcing the law. The PIP may shut down workplaces in which it finds unsafe conditions. In 1999, the last year for which figures are available, there were 16 shutdowns in workplaces. 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.

The National Unemployment Office estimates that as many as 100,000 to 150,000 foreigners are working illegally in the country. Other estimates range from 250,000 to 1.5 million persons, the majority working in jobs

and for wages that are deemed unacceptable to citizens. Most of the illegal residents come from the countries of the former Soviet Union, Sri Lanka, and Afghanistan, although an increasingly larger number are coming from Southeast Asia, particularly Vietnam. The country's relatively strong economic growth and its status as an EU candidate country mainly are responsible for this phenomenon.

f. Trafficking in Persons

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 willfully 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 estimated that approximately 60 percent of foreign women who worked as prostitutes in the country are victims of trafficking.

Poland is a source, transit, and destination country for the trafficking of women and girls. Polish women and children are trafficked to western European countries such as Germany, the Netherlands, Belgium, and Switzerland for sexual exploitation. A press report from August 2000 states that each year several hundred Polish boys also are victims of trafficking.

Women and girls are trafficked into Poland from countries such as Ukraine, Bulgaria, Romania, Belarus, and Russia. Ukraine is the largest single source of foreign women trafficked in Poland. Women from Bulgaria tend to be from the Turkish and Roma minorities. Women and girls who are trafficked into Poland primarily from Eastern Europe are recruited from areas with low socioeconomic conditions, sometimes quite openly. Those women and girls from the lowest socioeconomic status are most vulnerable to trafficking and subjected to the worst conditions. For example, Roma and ethnically Turkish Bulgarians tend to be employed as prostitutes on highways. They may spend a few months in Poland before they are trafficked further west. In contrast women from other countries of Eastern Europe also are trafficked into agencies run as brothels. Educated Polish and Russian women are more likely than others to be employed voluntarily by escort services.

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. While they are en route to what they believe to be their destinations, their passports and identity papers are taken away from them. Stripped of their personal identity, the women and girls are kept under the control of the traffickers through fear and intimidation. They are required to serve a minimum number of clients each day in order to earn their keep. They are threatened with violence, and those who resist are raped or beaten. If they try to flee, their legs may be broken. There are also reports of victims being killed by their traffickers.

In the last few years, trafficking has become increasingly organized and has been associated with a rampant growth in document fraud. As many as 90 percent of the women and girls trafficked in the country have false travel documents, and the trafficking of a single woman usually involves a network of criminals. One criminal will recruit the woman; a second will provide false travel documents and traffic her across the border; and a third will supervise her work with clients, functioning as a pimp. In one example offered by police, one Bulgarian woman was detained several different times by police, each time with a new identity and passport. La Strada and police also reported large scale auctions of women held in Warsaw and other cities. Prices paid for women and girls who are trafficked reportedly start at \$1,500 (3,500 PLN). Victims usually are trafficked by nationals from the same source country; for example, Bulgarian women are trafficked by Bulgarians and Ukrainians by Ukrainians. Foreign traffickers systematically pay a percentage of their receipts to Polish traffickers operating out of the same region.

It is particularly difficult to estimate the extent to which children are victims of trafficking. Legal authorities deal with child traffickers more severely, in part because laws on statutory rape are easier to prosecute. As a result, the activity has been driven completely underground. Child prostitution is a crime, while prostitution of adults is neither banned nor regulated by law, making it more difficult for the police to pursue. The authorities do not always recognize trafficking in children since minors can be trafficked on false documents identifying them as adults. Of the 198 cases in 2000 initiated by prosecutors, 22 involved victims who were minors. In the first half of the year, prosecutors instituted proceedings in 4 cases involving minors. During the summer at a hotel outside of Warsaw, police raided an auction where women and children were being sold to a human trafficking ring for use in brothels and pornography production.

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 offense are also up to 10 years. The most severe sentences are reserved for individuals trafficking in children and those luring women into prostitution abroad. In 1998 statutes on trafficking were revised.

The scope of trafficking in the country is most likely much larger than the numbers reflected in prosecutions and arrests for specific violations of the criminal code. In 2000 the Government prosecuted 198 cases under Article 204, which prohibits luring persons into prostitution, and 13 cases under Article 253, which pertains to trafficking in persons and organizing adoptions for material benefit. In the first half of the year, the Government prosecuted 345 cases of luring persons into prostitution and 11 trafficking cases. As of August, the Government had prosecuted 345 cases for luring persons into prostitution and 11 trafficking cases. It is not clear whether this increase is due to a growth in the number of women trafficked or to greater activity by the authorities.

Since the border guards and police may regard trafficking victims as criminals who have violated passport laws, victims are afraid to turn to officials for help. Victims have no legal status, and there are no public resources available to assist them. Victims usually are deported as soon as possible in order to avoid any expenses connected with keeping them in detention.

Victims are not informed about their legal status or rights. Many are unaware and are not told that under Polish law prostitution is not a crime. When detained by the police, they may be deported to the border, where they are met by traffickers who quickly provide them with new travel documents and return them to the country. There is no provision to allow victims to remain in the country long enough to pursue legal action against their traffickers.

The Government provides small grants to NGO's for victim assistance programs. For example, in 2000, the NGO, La Strada received a grant from the Ministry of Internal Affairs Office of Victims' Rights of approximately \$3,850 (15,000 PLN) in order to provide a mobile phone hot line for victims, food, and a social worker to assist victims, for 4 months. La Strada is the only NGO in the country dealing specifically with trafficking but cooperates with shelters such as Caritas and other Catholic organizations, as well as the Center for Women's Rights shelter. La Strada provides several types of victim assistance. It operates a telephone hot line which victims can call, and it distributes stickers advertising its services in Polish, Russian, and Bulgarian. Once victims have contacted La Strada, the NGO puts them in touch with appropriate welfare offices. For instance, La Strada tries to help victims obtain safe accommodation, as well as therapy and psychological support. It also helps in contacts with police, prosecutors, and the courts. At times La Strada is able to put victims in touch with lawyers who are willing to provide free services. In other cases, La Strada may assist the victim in seeking employment or help the victim enroll in computer classes. In cases of underage victims, La Strada tries to facilitate the victim's return to school and tries to arrange for boarding school for victims who are afraid or unable to return to their families. La Strada also provides victims with information about how to contact their consulates in order to get new travel documents.

La Strada also provides training on prevention and victim support to professionals such as police, boarder guards, prosecutors, judges, social workers, teachers, and journalists. Its "Guardian Angel" program, developed in conjunction with the Helsinki Foundation, is aimed at training social workers to help victims with legal issues, so they can be advocates for the victims before the courts, police, and prosecutors. Various types of training sessions have been conducted by La Strada in Katowice, Bialystok, other areas near the border, Szczecin, Kielce, Zielona Gora, Przemysl, and Wroclaw, as well as Warsaw and Lodz.