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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Poland is dated 4 October 1996 (published in September 1997). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Poland took place on 8-10 September 1999. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Polish national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation and the Polish national liaison officer, whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

ECRI would also like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 10 December 1999 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Poland has in recent years taken steps to address the problem of racism and discrimination through the introduction of relevant legislation, as well as moving towards an increased recognition of the existence of national and ethnic minorities in Poland and of the necessity to introduce specific measures in this respect. Changing patterns of migration to Poland have also brought new challenges.

Nevertheless, Poland remains a society in which the issues of racism, xenophobia, antisemitism and intolerance are still relatively unacknowledged. The legislation in the field is insufficiently implemented, and the introduction of legislative provisions dealing explicitly with national and ethnic minorities is proving slow to realise. The general attitude of society seems rather closed towards difference, and feelings of antisemitism remain pervasive. There appears to be little concrete knowledge or monitoring of the extent and manifestations of racism and discrimination within society, which in turn means that specific measures to combat these phenomenon are often lacking in various fields.

In the following report, ECRI recommends to the Polish authorities that further action be taken to combat racism, xenophobia, antisemitism and intolerance in a number of areas. These recommendations cover, *inter alia*, the need to ensure that the relevant legislative provisions are implemented in practice, the need for training and awareness-raising of officials in various key sectors, the need to establish a system of monitoring and evaluation of the situation of minority groups as regards possible discrimination and of the levels and manifestations of racism and discrimination in society, especially concerning the Roma/Gypsy community, and the need to raise awareness of and take action among the general public and opinion leaders concerning the problems of racism and intolerance, particularly as regards the issue of antisemitism.

SECTION I: OVERVIEW OF THE SITUATION

A. International legal instruments

1. ECRI notes that Poland has ratified several of the international legal instruments of relevance to combating racism and intolerance. It welcomes Poland's ratification of the European Social Charter and encourages Poland to now sign and ratify the Revised Social Charter. ECRI also welcomes the declaration made by Poland under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, whereby the competence of the Committee on the Elimination of Racial Discrimination to examine individual complaints is recognised.
2. ECRI urges the Polish authorities to ratify the Framework Convention for the Protection of National Minorities, which it has signed, and to sign and ratify the European Charter for Regional or Minority Languages. It encourages Poland to sign and ratify the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.

B. Constitutional provisions and other basic provisions

3. The Constitution, adopted in 1997, establishes in its Article 32 the principle of equality and non-discrimination. The article reads: "All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever." ECRI notes that the possible grounds for discrimination are not enumerated: this is considered by the authorities to provide a wider scope of application for the provision. However, ECRI suggests that possible grounds of discrimination, including those related to race and ethnic origin, might be included as examples in a non-exhaustive list.
4. Article 13 forbids political parties and other organisations whose programmes are based upon totalitarian methods and the modes of activity of nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred.
5. Article 35 deals with the identity of national and ethnic minorities, securing to Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions and to develop their own culture. National and ethnic minorities have the right to establish educational and cultural institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity. Article 8, paragraph 2 stipulates that the provisions of the Constitution are directly applicable except in cases where the Constitution stipulates otherwise.

6. Article 53 guarantees the freedom of faith and religion to everyone. Paragraph 4 of the same article states that the religion of a church or other legally recognised religious organisation may be taught in schools, but other people's freedom of religion and conscience should not be infringed thereby.

- *Draft law on national and ethnic minorities*

7. The Sejm (Lower Chamber of Parliament) Commission on National and Ethnic Minorities has spent several years working on a draft law on national and ethnic minorities. This draft law is closely linked to work on the future ratification of the Framework Convention for the Protection of National Minorities. The draft law is now under consideration by the Parliament: it appears that it is the subject of some controversy and the timetable for its adoption is not yet fixed. It covers areas such as education and culture, and also deals with the right to use minority languages in dealings with the administration etc as well as the setting up of an office for national and ethnic minorities. ECRI encourages the rapid finalisation and adoption of the draft law on national and ethnic minorities.
8. The Parliamentary Election Law of 28 May 1993 gave minority candidates preferential treatment whereby the election committees of registered minority organisations are not bound by thresholds based on the nation-wide number of votes cast. At present, only the German minority, due to its dense settlement in one region, holds seats in Parliament.

C. Criminal Law Provisions

9. The new Criminal Code entered into force in September 1998.
10. Chapter XVI of the Criminal Code, dealing with offences against peace and humanity, and with war crimes, foresees particular penalties in its Article 118 for the murder or physical injury of a person belonging to any ethnic, racial, political or religious group with an intent to destroy in full or in part that group. Article 119 punishes the use of violence or threats towards a group of persons or an individual because of their national, ethnic, political or religious affiliation.
11. Article 256 punishes the public propagation of fascist or totalitarian systems of state and the incitation to hatred based on national, ethnic, racial or religious differences, while Article 257 punishes the public insult of a group or person because of their national, ethnic, racial, or religious affiliation.
12. Cases of racial hatred and contempt are relatively rarely brought before the courts. From September 1998 to September 1999, 6 out of a total of 36 cases reported to the authorities reached the courts. ECRI considers that the implementation of legislation in this field should be improved and encourages Poland to examine the current implementation of legislation more closely, for example by monitoring the number of cases reported, action taken by the authorities and the outcome. Since many cases of racist attacks and violence

may not be considered as such by the authorities, ECRI also encourages the setting-up of a system of data collection by which the ethnic origin of victims of crimes may be voluntarily given and recorded: this may allow the scope of any problems to be more clearly identified.

13. In the field of awareness-raising and training of relevant officials, ECRI recommends that Poland take all possible measures to ensure that police, prosecuting authorities and judges are made fully aware of the importance of the fight against racial hatred, and instructed to take the necessary measures to ensure the full implementation of the legislation in force. In this respect, ECRI notes that the Ministry of Justice organises a number of training sessions devoted to human rights for judges and prosecutors, and that the Supreme Court organises seminars on this subject.
14. Although violent manifestations of racism appear to be relatively rare in Poland, ECRI is concerned at the existence of a certain level of extreme right-wing activity, which finds its expression in so-called "white-power music" as well as in the publication of racist and antisemitic material which apparently can be widely obtained in press outlets. Despite the existence of relevant legislative provisions to combat such material, prosecutions are rare: the only case cited is that of the prosecution of a historian who published a work denying the Holocaust. Recalling its general policy recommendation N° 1, in which it called on member States to use legislative measures to combat written and other expressions inciting to racial hatred, including the production, distribution and storage of such material, ECRI strongly urges the Polish authorities to take firm measures against the publication and dissemination of such racist material. ECRI also called on member States to "take measures, including where necessary legal measures, to combat racist organisations", and considers that Poland should strengthen its efforts in this respect.

D. Civil and Administrative Law Provisions

15. Article 11 paragraph 3 of the Labour Code of 1996 states that "Any form of ethnic discrimination in labour relations, particularly on the grounds of sex, age, disablement, race, nationality, beliefs, especially political or religious beliefs, or trade union membership "cannot be admitted". ECRI is of the opinion that the term "cannot be admitted" is somewhat vague, although the authorities state that in practice a discriminated person can request redress of the discrimination, material or moral damages. Few decisions have as yet been passed by the courts relating to Article 11.3 of the Labour Code; it is therefore difficult to evaluate its efficacy or scope.
16. ECRI encourages the Polish authorities to introduce a comprehensive body of criminal, civil and administrative legislation prohibiting racism and discrimination in all fields of life (housing, contractual relations between individuals, employment, access to benefits, access to public places, access to bars, restaurants, etc.).

17. In terms of judicial remedy for victims of discrimination concerning civil and administrative cases, it has been noted that court decisions frequently are not implemented, and even simple civil cases can take as long as 2 or 3 years. ECRI encourages the Polish authorities to take appropriate measures to ensure that court decisions are rendered and fully implemented within a reasonable timeframe.

E. Specialised bodies and other institutions

18. The Office of the Ombudsman has dealt with a number of issues relating to the problems of racism and intolerance, both as regards non-citizens and as regards national minorities. For example, the Ombudsman has made recommendations to the authorities concerning the situation of non-citizens, some of which have been incorporated into the new law on foreigners. Some of the complaints received by the Ombudsman concern national and ethnic intolerance. In June 1995 the Ombudsman issued a statement in which he pointed to the disturbing phenomenon in some communities of the spread of racial and religious hatred. He has held discussions with members of the Roma community concerning acts of violence perpetrated against them and has requested that the police protection of this group be improved.
19. ECRI encourages the Ombudsman to continue to give a high priority to issues of racism and intolerance, and welcomes the creation of a specific section of the Ombudsman's office to this end. ECRI reiterates its encouragement for the development of an independent specialised body to combat racism and intolerance, along the lines set down in ECRI's general policy recommendation N° 2 on specialised bodies.
20. The Bureau for National Minority Affairs within the Ministry of Culture and Arts gives supplementary financing to the socio-cultural projects of minority organisations, co-ordinates the efforts involving national minorities with central government and local administration, and co-operates with local councils.
21. The Parliamentary Commission for National and Ethnic Minorities includes representatives of national minorities. It contributed to the preparation of the new Constitution with articles concerning minority issues and has been responsible for the preparation of the draft law on national and ethnic minorities.

F. Reception and status of non-citizens

- *Asylum seekers and refugees*

22. The Polish parliament enacted a new Aliens' Act in June 1997 which, *inter alia*, includes guidelines to regulate the asylum procedure with an emphasis on conformity with European Union guidelines.

23. Decisions concerning refugee status and asylum are dealt with by the Department of Migration and Refugee Affairs (DMRA) of the Ministry of Interior and Administration. Prospective refugees can appeal against negative status decisions by the Ministry of Interior and Administration to the newly established Council for Refugees. After exhausting these remedies, they can lodge a complaint before the High Administrative Court.
24. UNHCR has stated its opinion that the requirement that applicants apply for asylum at the border and a clause in the Aliens' Law that imposes penalties on asylum seekers entering illegally may prevent asylum seekers from gaining access to the refugee status determination procedure. In April 1998, the Warsaw High Administrative Court ruled in favour of a complainant who had been denied refugee status on the grounds that he had not submitted an application "upon" crossing the border.
25. In June 1997, UNHCR expressed concern that language barriers kept some asylum seekers from requesting information about or applying for asylum. It appears that some persons held in custody pending deportation had signed deportation papers believing that they were signing asylum applications. The new Aliens' Law states that all persons seeking refugee status have to be informed of their rights in their own language: ECRI encourages the Polish authorities to ensure that such provision is available in practice throughout the asylum procedure.
26. Some observers have criticised the long delays in the initial review of refugee status applications as well as the use of deportation centres instead of refugee centres. The authorities have cited a lack of resources as a major cause of the problems, but claim that decisions have now been speeded up and are taken on average within eight months.
27. Persons who have received deportation orders and who are considered to be likely to abscond, as well as persons who have violated the provisions of the Aliens' Law, may be kept in "closed" detention centres for up to 90 days: an application to place persons in such centres has to be submitted by the voivod authorities to the court.
28. ECRI encourages the Polish authorities to ensure that border guards and persons responsible for dealing with asylum requests receive comprehensive and on-going training and awareness-raising concerning the problems of racism and discrimination and how such issues are of relevance to their work. It encourages the authorities to continue to co-operate with the UNHCR and other international bodies and national non-governmental organisations in the monitoring of asylum procedures and the improvement in the situation in areas of concern such as those mentioned above.

- ***Illegal migration***

29. Although it is hard to evaluate, the phenomenon of illegal migration does not seem to be a very serious problem in Poland at the present time. However, trafficking of immigrants - largely from the Asian sub-continent - exists. The new Criminal Code has introduced penalties for trafficking and several of the main ringleaders have now been arrested. ECRI stresses that the illegal immigrants who are the victims of such trafficking should be treated with due respect to fundamental human rights and provided with adequate access to the necessary services.

- ***Integration of immigrants***

30. In April 1998, responsibility for the administration of the programme to assist refugees in integrating into Polish society was transferred from the DMRA to the Department of Social Assistance at the Ministry of Labour which in turn delegated responsibility to authorities at the local level (voivods). In January 1999 such responsibility was transferred to a lower local level, the powiat (district). It has been reported however that local authorities do not always possess the relevant information or personnel resources to enable them to implement the programme. ECRI encourages the Polish authorities to ensure that the administrative levels responsible for the integration measures to assist refugees are given the necessary competences and resources to allow them to fulfil their task.
31. Given the new patterns of migration which have resulted in an increase in immigration into Poland, ECRI encourages the authorities to ensure that adequate structures and policies are in place at all levels to cope with the new situation and to ensure the successful integration of immigrants into Polish society. Such measures include, inter alia, language teaching, advice and assistance in receiving social and welfare benefits, training and other measures to facilitate integration into the employment market, and relevant training for officials coming into contact with immigrants in their work.
32. ECRI also encourages the Polish authorities to take account of the implications which new patterns of migration may have on the incidence of racism and discrimination within Polish society. It encourages the authorities to allocate overall responsibility for this area to an appropriate governmental body, and to ensure furthermore that the issues of racism and discrimination are taken into consideration in the various relevant administrative bodies at all levels.

G. Access to public services

- Access to education

33. According to the Act of September 1991 on the System of Education no schools may make the admission and the teaching of a child conditional upon his/her race, religion or nationality.
34. The legal basis for the teaching of minority languages and their use as a language of instruction are the 1991 Education Act and the Education Minister's Guidelines (1992) on educational activities aimed at maintaining the national, ethnic and linguistic identity of minority pupils. National minorities in Poland manage several schools for the teaching of their languages. The Act also regulates the issue of organising, in primary and secondary schools, native language classes for children of non-Polish ethnic origin. Minority schools are allocated extra subsidies by the Ministry of Education, which also subsidises the publication of school books in minority languages and co-operates with minority groups in the elaboration of school programmes and in the preparation of school manuals.
35. The Education Act provides that schools should organise religious instruction upon the request of parents. Although representatives of the Catholic Church teach religion in most schools, parents can request religious education, which is funded by the Ministry, in any of the religions legally registered. Children also have the choice between religious instruction and ethics, although the Ombudsman's office has stated that teaching in ethics is sometimes not available due to financial restraints.
36. There seems to be no data available which would allow the situation of children from the various minority groups in the field of educational achievement to be accurately monitored: it is therefore difficult to estimate the degree of possible disadvantage and discrimination faced by the different groups. ECRI encourages the Polish authorities to identify ways of monitoring the situation in this respect, paying due attention to the respect of personal privacy and data protection and the right to self-identification.
37. Despite the lack of accurate data in this field, it has been noted that levels of higher education are generally low among national minorities. Roma/Gypsy children face particular disadvantage, and most do not even complete primary school. Some schools have introduced special preparatory classes for Roma children, stating that because of economic disadvantage, language barriers, and parental illiteracy, Roma children are behind their non-Roma counterparts when starting school. ECRI urges the Polish authorities to take measures to ensure the effective enjoyment of equal access to education for children of the Roma minority; in this respect it draws attention to the proposals set out in its general policy recommendation N° 3 on combating racism and intolerance against Roma/Gypsies.

H. Employment

38. Little information appears to be available on the possible extent of discrimination in the field of employment, be it statistical information about unemployment levels among the various minority groups, or case-law pertaining to the relevant provision against discrimination in the labour code. Certain groups, such as the Roma/Gypsy communities in some areas, are reported to face difficulties in finding employment: this is considered by the authorities to be a consequence of the changing labour market situation and a lack of qualifications among the Roma population, although ECRI stresses that disadvantage on the labour market is also frequently attributable to direct discrimination and prejudice as well as to previous discrimination in access to education and social equality.
39. ECRI encourages the Polish authorities to identify ways of monitoring the situation of the various minority groups in Poland on the labour market, in order to identify areas of possible discrimination.
40. The Act of 14 December 1994 concerning employment guarantees the right to apply for work to all foreigners with the status of political refugee or who are in possession of a permanent residence permit. It has been reported that the documentary requirements for the granting of work permits to non-citizens, particularly the requirement of proof of permanent residence, may make it difficult for non-citizens to enter the labour market.
41. Given the arrival of higher numbers of immigrants wishing to find employment, ECRI recommends that the Polish authorities adopt special measures in order to help these newcomers in entering the labour market: such measures could include for example language training, "conversion courses" to adapt experience and qualifications, and schemes to encourage non-citizens to set up their own businesses.

I. Vulnerable groups

This section covers certain minority groups which may be particularly vulnerable to problems of racism and discrimination in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

- National minorities

42. Poland has one of the lowest percentages of minorities in Europe (2.5 to 3 % of the population). Many minority groups are concentrated in particular areas, often near the borders with neighbouring countries. Some tensions have been noted in different areas concerning specific minority groups; for example, certain conflicts have focused around the issue of religious property. There has also been in the past a tendency towards hostility against certain

groups, such as the German minority and the Ukrainian minority. ECRI hopes that as national minority groups become a more recognised and active part of Polish society, any remaining tensions will decrease.

- ***Visible minorities***

43. Violent attacks on visible minorities are not common; however, incidents of verbal harassment occur. It has been reported that a significant number of visitors to Poland of African, Asian and Arab origin have experienced some type of aggression during their stay, often in the form of verbal abuse based on their skin colour. Some black students have reportedly been physically attacked as well¹. It is also reported that opinions towards certain groups of immigrants are negative: for example, an opinion poll showed that 60% of Poles were opposed to Asian immigrants.
44. Much of the evidence of harassment and attacks in this field is anecdotal in nature since the legislation in force has only infrequently been used. ECRI encourages the Polish authorities to undertake research into the extent and manifestations of such forms of harassment and violence against visible minorities, particularly focusing on the response given by the authorities to any complaints in this field. ECRI would also encourage the Polish authorities to consider ways of evaluating the experience and perception of racism and discrimination from the point of view of victims, as recommended in its general policy recommendation N°4 on surveys.

J. Monitoring the situation in the country

45. It is very difficult to determine accurately the size of any ethnic or national group in Poland, since post World War II censuses have not included questions pertaining to ethnic identity. It is foreseen that such a question may be included in the next census, due to take place in 2001, although Parliament has not as yet taken a decision on this issue.
46. ECRI encourages the Polish authorities to consider ways of establishing a coherent and comprehensive means of data collection to enable the situation of the various minority groups living in Poland and the extent of manifestations of racism and discrimination to be assessed. Such a system of data collection should be based on the voluntary self-registration of the persons involved, and be designed with due respect paid to the right to privacy and to standards of data protection.

¹ See Police

K. Media

47. Although most of the mainstream press condemn manifestations of racism, xenophobia, antisemitism and intolerance, it is reported that some newspapers publish antisemitic material, particularly in the form of letters written to the editor. ECRI encourages the media profession to consider the introduction of self-regulatory mechanisms, such as the adoption of codes of conduct, to combat such behaviour. The wide availability of extreme right-wing material is also a cause for concern: this issue is dealt with under "Criminal Law Provisions" above.
48. The Broadcasting Act of 29 December 1992 widened the access to public radio enjoyed by minority groups, and states that the needs of national minorities and ethnic groups should be taken into account (Article 21, subsection 9). Certain public radio stations broadcast programmes in minority languages.

L. Conduct of certain institutions

- Police

49. ECRI is concerned by some reports that police do not react appropriately to racially motivated crime. Members of the Roma/Gypsy community, as well as some black students, have reportedly been the victims of attacks, often carried out by skinheads. Sources complain of a slow police response to such acts and inadequate investigations. Offences of a racist or xenophobic nature need to be actively prosecuted, properly classified and followed-up. ECRI recalls its general policy recommendation No. 1 in which it calls on governments to "ensure that criminal prosecution of offences of a racist or xenophobic nature is given a high priority and is actively and consistently undertaken." To this end, ECRI also stresses the importance of training police officers in issues of racism and discrimination. Officers need to be made aware of problems of racism and intolerance, and given focused instruction in identifying and dealing effectively with racially-motivated crime. At present, it is not clear that the police receive any such training.
50. ECRI is also concerned by allegations of police violence and abuse directed at members of the Roma/Gypsy community. The Roma/Gypsies coming to Poland from Romania are in a particularly vulnerable position; members of this community are often moved on by the police and although no concrete details are available, some sources fear that these Roma/Gypsies are liable to abuses on the part of the police. ECRI stresses that the authorities should not tolerate any police brutality, and that this should be made clear by a firm and public condemnation by politicians and police leaders. Steps should be taken to investigate all alleged malpractice and to punish offenders: such investigations should be carried out by an independent investigatory body. Measures should also be taken to encourage and assist victims to come forward with complaints. Such measures might include the appointment of mediators from minority groups and the increased recruitment of police

officers from these groups, accompanied, as necessary, by assistance to members of such groups to enable them to fulfil the entry requirements for employment.

SECTION II: ISSUES OF PARTICULAR CONCERN

51. In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Poland, ECRI would like to draw attention to the question of the need for awareness-raising among the general population in connection with the problems of racism and discrimination, particularly as regards the issue of antisemitism, and to the situation of the Roma/Gypsy community.

M. Climate of opinion

52. In ECRI's first report on Poland, it noted a certain lack of public awareness of the problems faced by minority groups, and a marked lack of interest in "foreign" cultures and societies, as well as the persistence of antisemitic feelings. There are mixed opinions as to whether feelings of racism, xenophobia, antisemitism and intolerance have increased in Poland since the collapse of the communist system, or whether there is just more freedom to express the negative feelings which already existed in public opinion. Whatever the case, ECRI notes that signs of generally negative attitudes towards certain minority groups remain an area of concern, and that in particular antisemitism continues to be an issue in Polish society.
53. ECRI considers that the current moves towards setting up a legislative and policy framework acknowledging the existence and needs of Poland's national minorities are an encouraging sign in a society where before the changes of 1989 any acknowledgement of the existence of national minority groups was suppressed. Nevertheless, ECRI feels that a priority in Poland remains the need to acknowledge, and raise awareness of, issues of racism and discrimination and their manifestations in Polish society. Such issues do not at present appear to arouse great public interest, and support for antiracist activities on the part of society has been rather limited, although ECRI notes that the non-governmental sector has recently started to focus more on such issues.
54. ECRI stresses the important role played by both formal and informal education in promoting awareness of the issues of racism and intolerance and encourages the Polish authorities to concentrate its efforts in this area. It notes that many schools have initiated programmes which provide information about the cultural heritage of the various national minority groups in Poland and that a general revision of school text books after the fall of Communism provided the opportunity to remove various stereotypes, particularly through the setting up of bilateral commissions to discuss the treatment of certain

issues. However, ECRI is concerned to learn that a controversial history book containing antisemitic references appeared on the 1998 list of manuals recommended by the Ministry of Education: this inclusion was heavily criticised by some segments of civil society and it appears that the book will no longer be recommended by the Ministry. In this respect, ECRI recalls that it specifically recommended in its general policy recommendation N° 1 that governments should “ensure that school curricula, for example in the field of history teaching, are set up in such a way to enhance the appreciation of cultural diversity” and urges the Polish authorities to ensure that this recommendation is implemented in their country. ECRI also recommends that school curricula explicitly cover issues of racism and discrimination at all levels of education and that teachers receive special training in how to deal with this subject.

55. ECRI moreover considers that awareness-raising is necessary at the level of the wider society. Politicians and opinion leaders have a crucial role to play in this respect. While aggressive xenophobic and antisemitic attitudes are confined to a handful of marginal political parties and groups such as skinheads, a few mainstream political parties have also employed a certain amount of nationalist rhetoric and have in some cases absorbed some extreme right-wing activists into their ranks. It has been reported that some politicians have resorted to antisemitic undertones in their discourse, for example by “accusing” their opponents of being of Jewish origin, although overt displays of virulent antisemitism in politics have generally been rejected by the electorate. More generally, there seems to be a lack of interest on the part of politicians in addressing issues of racism and discrimination. ECRI stresses the responsibility that politicians bear in both speaking out against manifestations of racism, antisemitism, xenophobia and intolerance, and in taking positive steps to combat such phenomena.
56. The issue of antisemitism remains a sensitive one in Poland, which is sometimes brought to the forefront by well-publicised conflicts such as the recent controversy over the placing of crosses near Auschwitz. Given the tiny Jewish population in Poland compared to pre-World War II years (the Jewish community numbered around 3.3 million before World War II compared to around 15-20 000 today), various manifestations of antisemitic sentiments among the population have led some observers to speak about the phenomenon of “Polish antisemitism without Jews”. Although violent manifestations of such antisemitism, such as attacks on Jewish cemeteries, seem to have become rarer over the last few years, it is reported that a general atmosphere of antisemitic sentiments still pervades Polish society, finding its expression for example in published letters to the editors of newspapers or in the antisemitic concepts which are still sometimes employed in everyday language.
57. To combat the specific issue of antisemitism in Poland, ECRI stresses the role to be played by the various opinion leaders in society, be they politicians, the Catholic Church, the media or civil society, in consistently speaking out against any manifestations and in taking action to ensure that their own bodies present an unambiguous and consistent stand against this

phenomena. In particular, attempts to sensationalise or capitalise on issues which tend to raise public expressions of antisemitism, such as the reaction to recent legal claims for restitution brought by American Jewish organisations or to the above-mentioned "Auschwitz cross" controversy, should be resisted.

58. ECRI is aware that the issue of antisemitism is often perceived as an area in which Poland is much criticised by the outside world, but encourages Polish society as a whole to acknowledge and combat this phenomenon from within. In this context, ECRI encourages initiatives which disseminate knowledge about the Jewish culture and the contribution made by the Jewish community to Polish society, particularly initiatives which provide information about the history of the Jewish community in Poland: in this respect it notes that some interesting initiatives have been funded by the Ministry of Culture. It also welcomes signs that Polish civil society is beginning to mobilise and organise activities to combat antisemitism and encourages the further development of societal action in this respect.

N. Roma/Gypsy community

59. Prejudices against the Roma/Gypsy community persist in society and certainly lead to discriminations in everyday life: one example which has been cited is that of a bank which issued instructions to its branches not to provide credit to Roma/Gypsy customers. It is reported that the Roma community is generally excluded from the Polish communities alongside which it lives and that conflicts on the local level do occur, although they are seldom acknowledged to be on ethnic grounds. A clear example is the physical assault (as addressed above²) – often by skinheads - of members of the Roma/Gypsy community. Some sources have also indicated that Roma/Gypsy communities face discrimination on the part of local authorities in the provision of services. ECRI draws the attention of the Polish authorities to its general policy recommendation N° 3 on combating racism and intolerance against Roma/Gypsies, and recalls in particular its recommendation that governments take the appropriate measures to ensure that justice is fully and promptly done in cases concerning violations of the fundamental rights of Roma/Gypsies and ensure in particular that no degree of impunity is tolerated as regards crimes committed against Roma/Gypsies. ECRI also stresses that it is particularly important to render illegal any discrimination on the part of public authorities in the exercise of their duties. ECRI urges the Polish authorities to devote immediate attention to these problems.

² See *Police*

BIBLIOGRAPHY

This bibliography lists the main sources consulted during the examination of the situation in Poland: it does not cover all the various sources of information (media, contacts within the country, national NGOs etc.) which were utilised.

1. CRI (97) 59: Report on Poland, European Commission against Racism and Intolerance, Council of Europe, September 1997
2. CRI (96) 43: ECRI general policy recommendation n°1: Combating racism, xenophobia, antisemitism and intolerance, European Commission against Racism and Intolerance, Council of Europe, October 1996
3. CRI (97) 36: ECRI general policy recommendation n°2: Specialised bodies to combating racism, xenophobia, antisemitism and intolerance at national level, European Commission against Racism and Intolerance, Council of Europe, June 1997
4. CRI (98) 29: ECRI general policy recommendation n° 3: Combating racism and intolerance against Roma/Gypsies, European Commission against Racism and Intolerance, Council of Europe, March 1998
5. CRI (98) 30: ECRI general policy recommendation n°4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims, European Commission against Racism and Intolerance, Council of Europe, March 1998
6. CRI (98) 80 : Legal measures to combat racism and intolerance in the member States of the Council of Europe, Swiss Institute of Comparative Law, (Council of Europe publication), 1998
7. CDMG(98)11 : Security of Residence of Long-Term Migrants – A comparative Study of Law and practice in European countries, (Council of Europe document), February 1998
8. The condition of foreigners (Council of Europe publication)
9. CAHAR (98) 1 Ad hoc Committee of expert on the legal aspects of territorial asylum, refugees and stateless persons, compilation of summary descriptions of asylum procedures in selected member States, Council of Europe document March 1998
10. Col. Etudes et Travaux n° 53 : Migrants et minorités dans la Communauté, un défi pour les collectivités territoriales et les institutions de formation (Council of Europe publication), Novembre 1996
11. SEM/IST(94)15 : Seminar on Racism and Anti-Semitism – Polish anti-Semitism or anti-Semitism in Poland, Mr Stanislaw KRAJEWSKI (Council of Europe publication), December 1994
12. DECS/Rech(94)58 : Educational Opportunities for representatives of national minorities in Poland (Council of Europe publication), July 1994
13. Reply supplied to the ECRI questionnaire by the Polish authorities
14. The Constitution of the Republic of Poland, adopted by the National Assembly Government of Poland, April 1997

15. Annual Report 1996/1997, Commissioner for Civil Rights Protection, Republic of Poland
16. Formal and legal conditions of organising education for children and young people of national minorities in Republic of Poland, Ministry of National Education of Republic of Poland, August 1999
17. Act on Foreigners (draft), Ministry of Internal Affairs, August 1995
18. Cultural Heritage at the regional level, program guidelines, Ministry of National Education, October 1995
19. Act of 6 June 1997, Penal Code, Republic of Poland
20. Statistical data on migration 1990 – 1996, Series : Statistics, Vol. 1, Office for Migration and Refugee Affairs, Ministry of the Interior, May 1996
21. State Border Protection, Border Traffic Control, Basis statistical data, Polish Border Guards Headquarters, 1999
22. Polish Border Guards, Polish Border Guards Headquarters, 1999
23. The Border Guards of the Republic of Poland, Polish Border Guards Headquarters, 1999
24. CERD/C/SR.1222 : Summary Record of the 1222nd meeting, on the International Convention on the Elimination of all Forms of Racial Discrimination (United Nations), December 1997
25. A/48/18 : Report of the Committee on the Elimination of Racial Discrimination, United Nations, March 1994
26. CERD/C/226/Add.2 : Twelfth periodic reports of States parties due in 1992, on the Committee on the Elimination of Racial Discrimination (United Nations), September 1992
27. CERD/C/299/Add.10 : Fourteenth periodic reports of States parties due in 1996, on the Committee on the Elimination of Racial Discrimination (United Nations), February 1997
28. CERD/C/304/Add.36 : Concluding observations of the Committee on the Elimination of Racial Discrimination (United Nations), October 1997
29. E/1994/104/Add.13 : Third periodic report, Economic and Social Council (United Nations), January 1997
30. CCPR/C/95/Add.8 : Fourth periodic report on the International Covenant on Civil and Political Rights (United Nations), March 1997
31. Country Reports on Human Rights Practices for 1997, US Department of State, January 1998
32. Country Reports on Human Rights Practices for 1998, US Department of State, February 1999
33. Annual Report 1997, International Helsinki Federation for Human Rights, 1997
34. Extremism in Europe, CERA, 1997

35. Vers une politique migratoire européenne, Dariusz Stola, Hommes & Migrations, n° 1216, Novembre-Décembre 1998
36. Conflict or collaboration, the media and minority issues, Fundacja Kultury Chrzescijanskiej, Znack
37. New Xenophobia in Europe, Bernd Baumgartl - Adrian Favell Editors
38. Democracy in Poland by Marcin Krol, Sussex European Institute – European Commission – Council of Europe, August 1996

