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**THE PROTECTION OF NATIONAL MINORITIES IN POLAND**

September 1999

**PART I OF THE REPORT**

**General remarks.** After 1989, it appeared that Poland is the country of citizens of other than Polish ethnicity/ nationality whose problems require special legal and political solutions. After years of political non-existence national and ethnic differences became the issue of political and legal importance to Poland.

Political, social and, to a certain extent, legal situation of national minorities in Poland improved in recent ten years, however, is far from ideal. The 1990s, are the period when certain minorities gained better position like Germans in Opole Silesia, and on the other hand, this is the period when such minorities as Ukrainians, Slovaks or Roma (Gypsy) suffered. In general, political context minority issues has been eliminated. Poland treats minorities as equal part of its society and respects their rights to preserve their own national and cultural identity, as well as their social and political aspirations. Change in the state policy toward minorities was accompanied by appropriate changes in attitudes of the minorities themselves, which nowadays feel more secure and actively defend their interests. Contacts with authorities have also changed their nature. At present, they refer to concrete problems and are not perceived by both sides as a threat or insecurity.

Polish legal system in its specific regulations guarantees protection of rights of persons belonging to national minorities. The regulations are - to a large extent - consistent to European standards. Regulations dealing with the use of the minority language in relations with public authorities and bilingual topographic names are the exceptions. Nevertheless, resolving of these questions is among the most difficult problems in Europe which is manifested in a very careful approach to them in various international documents. The Constitution (1997) sanctioned legal protection of national and ethnic minorities and the state commitments in this field.

Regulation of the status of national minorities in the Polish legal system was the result of two trends. On one hand, it was the result of political striving for establishing good neighbourly relations with all its neighbours and, in consequence, stabilization of its geopolitical position in Central Europe. This process was started by signing the Treaty with Germany in 1991 and was completed by signing the Treaty with Lithuania in 1994.

On the other hand, it was the result of striving for establishing efficient system of protection of human and citizens rights, part of which was to be the protection of persons belonging to national and ethnic minorities. Although introduction of constitutional protection of national minorities and provisions of special acts on education, radio and television, elections to the Sejm etc. has not raised anyone's doubts, disputes aroused over the separate legal acts on the protection of minorities.

Legal provisions existing in Poland governing protection of national minorities, included both in bilateral treaties and municipal law have a common methodological approach. It may be defined as combination of the principle of non-discrimination (equality before the law) with principles of positive support and protection of individual rights of persons belonging to minorities (positive individual approach). Such approach is also maintained by the provisions of the Constitution and draft Minority Act. This methodology is based on OSCE and the Council of Europe standards.

**The status of international law in the domestic legal order.** Status of international law in the Polish legal system was not regulated in the old (communist) Constitution of 1952. This situation was changed in 1989, and found final regulation in the Constitution of 1997. As a result of system transformation begun in 1989, particularly pursuant to the provisions of the Constitutional Act of 17th October 1992 (the so-called “Small Constitution”), a rule was set forth to grant the President of the Republic the competence to ratify treaties (accompanied by the duty to notify the Sejm and the Senate about that). However, ratification of certain treaties required parliamentary authorization granted by statute.

After 1989, the issue concerned has been dealt with by the Supreme Court, the Chief Administrative Court and the Constitutional Tribunal. There was a trend in their decisions to regard international-law norms as a source of law to be applied by the courts and administrative bodies. However, no clear and uniform concept has been developed in this respect. In some cases, the courts applied, after 1989, international-law norms when hearing cases concerning national minorities.

The Constitution (1997) is a positive step on the way to establish transparent relations between international law and the municipal law system. According to its article 87, „the sources of universally binding law of the Republic of Poland shall be: the Constitution, statutes, ratified international agreements, and regulations”.

Article 91 provides that: „1. After promulgation thereof in the Journal of Laws of the Republic of Poland (*Dziennik Ustaw*), a ratified international agreement shall constitute part of the domestic legal order. Due to the fact that all treaties binding upon Poland, which relate to the protection of national minorities has been ratified, the citizens may refer to norms contained therein, and the courts are obliged to apply them, and in case of a conflict of norms, giving precedence to an international norm over a statutory norm.

**History.** During its history, Poland has been a country of many nationalities and religions. After the restoration of independence in 1918, Poland remained a multinational country in which members of national minorities accounted for more than one-third of the number of its citizens. It was a high proportion, even in the circumstances of Central Europe. In the inter-war period, protection of rights of national minorities posed a serious political problem to Poland which to a large extent had not been resolved then.

After 1945, Poland in its new territorial shape became almost a nationally uniform country. Changes in the ethnic structure and populations of ethnic groups resulted from many factors. These included territorial changes, extermination of the entire groups of population (particularly Jewish and Gypsy) by the Nazis, relocations of the population and migration processes during the war and after its conclusion (including repatriation of around 4.5 million Poles from the territory of the USSR in 1945-1958, displacement of the Germans, which lasted until the end of 1949 and affected over 3 million persons, as well as deportation of around 0.5 million of Ukrainians to the USSR). 160 thousand Ukrainians remaining in Poland were deported from its south-eastern part to north-western areas during the so-called “Vistula Action” in 1947. As regards persons belonging to other minorities the principle of their voluntary decision was respected and their emigration (displacement) to mother countries was not so numerous.

The Polish state authorities claimed that, following the shift of the frontiers and after mass migrations of its population, Poland has become a nationally homogeneous state. National homogeneity was considered as one of the fundamental achievements of the new state, manifested above all in relation to respective problems faced in the inter-war period. Such approach was sanctioned by the provisions of the Constitution of the People’s Republic of Poland, adopted in 1952, which had no reference to the issue of protection of national minorities. Instead, the Constitution guaranteed equal rights to the citizens (article 67) and introduced the principle against discrimination for national, racial or religious reasons, as well as the prohibition against inciting to hatred on account of the above mentioned criteria (article 81). This meant acceptance

of a general principle of non-discrimination as a basis of the protection of citizens, including persons belonging to national minorities.

The communist authorities have treated national minorities as “necessary evil” which should not be given prominence to. There was no uniform policy in this respect in 1945-1989, and attitudes to particular minorities were also different. Until the end of the 1940s, such policy was aimed at assimilation, in the 1950s and 1960s it underwent gradual liberalization. The minorities gained new opportunities to teach and learn their native languages as well as to create their own organizations in the form of socio-cultural societies. Since the end of the 1960s, such policy has been further changed, with considerable reduction of the possibility of participating in public and cultural activities by minorities, and the authorities began to force the idea of a nationally uniform character of the Polish state. After the period of social revival at the beginning of the 1980s and during the martial law, the state policy towards national minorities until 1989 was characterized by lifting of certain restrictions imposed on these societies and by increasing the amount of subsidies for their cultural activities.

Actually at the beginning of the 1950s, all important and more numerous national minorities in Poland, except for Roma (Gypsy) who were not treated as the national minority, gained opportunity to create their own organizations controlled and financed by the Ministry of Internal Affairs. The principle "one minority - one organization" has been adopted and all minorities rank-and-file attempts to create their own and independent organizations were discouraged. These organizations were officially aimed at cultivating cultural traditions of national minorities, however in reality, they were treated as instrument of control of the minority societies by the state administration. Authorities have not treated such organizations as partners in shaping its policy towards national minorities. Such arrangement remained intact until the end of the 1980s, and any change in its shape was actually impossible without a prior democratization process in the state.

Beside the organizations, also minority representatives had limited access to rationed publishing activities of socio-cultural character which were in line with official policy of the authorities. At that time the principle "one minority - one magazine in its own language" was in force. Minority representatives had also access to public educational system which provided study and instruction in minority languages. It was not possible for such representatives to lead their own political activities and participate in the process of execution of power. Certainly representatives of national minorities were present in both administrative and party structures (local and central) as well as in the Sejm, however, not as the representatives of their own national societies but as members of the then political parties.

General processes of social and economic transformations that took place in Poland at that time, mainly industrialization, migration from countryside to cities as well as development of mass culture in the Polish language (radio and television broadcasts), were conducive to the policy of assimilation of national minorities. Education in national languages and cultural activities of local character, mainly in the form of ‘rural’ folklore, were the only possibilities for national minorities of preserving their national identity.

Protection of persons belonging to national minorities became crucial at the beginning of the 1990s. This resulted from several factors. Firstly, democratic changes in Poland’s political system after 1989 also meant that national minorities were given an opportunity to involve themselves in public life as subjects of local and national policy. Political activity of minorities has rapidly increased as they demanded the fulfillment of their postulates by the authorities and defended interests of their members. Initially, this was a great surprise to the authorities and the major part of the public which previously regarded minorities as reminiscence of Poland’s multinational history or a monument of „rural” folklore.

Secondly, realization of Poland’s attempts to integrate with the West European structures (i.e. NATO and the European Union) had to be related with such settlement of its relations with neighbours, so that it would enable Poland to avoid any possible ethnic conflict. Here, a question

arises about the way in which legal protection of minority rights could be guaranteed. Does it have to take a form of special solutions for any particular minority or adoption of a generally accepted international standard, or should it rather be based on the principle of non-discrimination and protection of fundamental human rights, etc.?

Thirdly, the geopolitical structure and nature of Poland's international relations have been changed. In that time all Poland's neighbours have been changed. GDR disappeared, replaced by the united Germany; Czechoslovakia divided itself into two states - the Czech Republic and Slovakia, and, following the collapse of the Soviet Union, Poland's new borders with Lithuania, Belarus, Ukraine and the Russian Federation have been drawn. Those countries were interested in protecting interests of those persons who were connected with them by ethnic origin and, in turn, Poland itself was also interested in the provision of protection of rights of Poles living in those countries. Hence, a radical change in geopolitical situation of Central and Eastern Europe at the beginning of the 1990s forced Poland to look at national minorities protection in a wider perspective of bilateral and regional relations.

Such problems was a challenge to a policy towards minorities, developed just after the commencement of the process of democratic transformations in Poland in 1989. Changes in minority policy implemented by the Polish state began with two significant events. First of them was the appointment by the Sejm of its Committee on National and Ethnic Minorities in August 1989. The second event was the program statement by Tadeusz Mazowiecki in which he declared to the Sejm (in September 1989) that Poland was also "a motherland of national minorities". Thus, for the first time in Poland's post-war history the question of national minorities was considered by the Sejm and the Prime Minister of the Republic of Poland as one of the major issues of the state policy.

### Demography.

**Table: Changes in population of national minorities in Poland 1931-1998**  
(in thousands)

National Minority	1931		1946		1961 estimation (Kwilecki)	1998	
	census	estimation	census	estimation		org. of nat. minorities	Estimation
<b>Belorussian, „Local People”</b>	990 707	1955- 1965		200	148	300	200-230
<b>Ukrainian and Lemko/Ruthenian</b>	3215 1227	4985 - 5025	506	520-570	162	300	200 – 250
<b>Lemko/Ruthenian (in number of Ukrainian minority)</b>	in number of Ruthenian	120 - 130		120-130		80	50-60
<b>German</b>	741	780-785	2 300	3 200- 3 500	200	600	300-350
<b>Jewish</b>	2 733	3 115- 3 135		40-120	70	10-15	15
<b>Lithuanian</b>	83.1	186-200		10	9	30	20
<b>Roma/Gypsy</b>		30-50		10-15	12	30	25
<b>Russian, in this Oldbelievers</b>	138.7	139-140 30-35			17	15	10-15 2.5-3
<b>Slovak</b>		0.8 - 0.9			19	25	20-23
<b>Czech</b>	38.1	39			2		2-3
<b>Armenian</b>		5.2				15	8
<b>Tatar</b>		5.5.				4-5	3-4
<b>Karaim</b>		1.0 - 1.5				0.2	0.2
<b>Greek and</b>					9	5	5

<b>Macedonian</b>						
<b>Total population</b>	32 100	23 400	29 800	38 640		

**Sources:** Olszewicz, B., *Obraz Polski dzisiejszej. Fakty, cyfry i tablice* [The Picture of today's Poland. Facts, numbers and tables], Warszawa 1938, p.112; Kwilecki, A., *Mniejszości narodowe w Polsce Ludowej* [National Minorities in Peoples Republic of Poland], „Kultura i Społeczeństwo” 1963, No. 4, pp. 87-88; Tomaszewski, J., *Mniejszości narodowe w Polsce XX wieku* [National Minorities in Poland in the 20th Century], Editions Spotkania, Warszawa 1991; Sakson, A., *Mniejszości narodowe w Polsce ze szczególnym uwzględnieniem mniejszości niemieckiej* [The national minorities in Poland with the particular subject to German minority], „Kultura i Społeczeństwo” 1991, No. 4; Hołuszko, M., *Mniejszości narodowe i etniczne w Polsce* [National and ethnic minorities in Poland], „Społeczeństwo Otwarte” 1993, No. 2.

## Appendix

### OUTLINE FOR PART II OF THE REPORT

#### Article 1

**The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.**

In the 1990s, Poland has undertaken numerous obligations resulting from ratified conventions dealing with protection of human rights and rights of minorities elaborated within the framework of the UNO and the Council of Europe. Poland is a party to more than half of 90 instruments of international law currently in force. Within the framework of the United Nations, Poland is a party to a substantial part of instruments, to mention only the International Covenant of Civil and Political Rights (ratified by Poland on 3rd March 1977) and its Optional Protocol (ratified on 14th October 1991) enabling an individual to file international complaint with the Human Rights Committee, and well as the UNESCO Convention against Discrimination in Education (ratified on 15th September 1964), the International Convention on the Elimination of All Forms of Racial Discrimination (ratified on 9th October 1968) and the Convention on the Rights of the Child (ratified on 7th June 1991).

Within the framework of the Council of Europe, Poland is a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ratified on 19th January 1993) which enables an individual to file international complaint with the European Commission on Human Rights and the European Court of Human Rights. Poland signed, but did not ratify yet, the Framework Convention for the Protection of National Minorities. At the end of July 1999, the Polish Government obliged the Polish President to ratify this Convention. Poland has not signed and ratified the European Charter of Regional and Minority Languages of 1992.

Poland is also active in the work of the CSCE (OSCE) whose standards of minority protection were applied in its system of bilateral treaties. It also signed (in April 1995) an Instrument of Central European Protection of Minority Rights within the framework of the Central European Initiative.

#### Article 2

**The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.**

See the answer on the article 18.

#### Article 3

**1 Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.**

**2 Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.**

**The term “national minority”.** Polish domestic law has no precise definition of the term „national minority”. It can only be said that the state policy towards members of national minorities in Poland is pursued considering principle of citizens' perspective, i.e. only persons who are Polish citizens are subject to protection of minority rights and the problem of national (ethnic) self-definition is the matter of individual decision of every citizen. But the definitions of the term "national minority" are included in certain bilateral treaties concluded by Poland in the 1990s.

At present, the full legal protection is limited to this national minorities which are groups of Polish citizens, are “old”, “native” and on non-immigrant origin. This perspective has caused that the groups of Greeks and Macedonians who have been recognized as national minorities from the 1950s, from the beginning of the 1990s are not treated as national minorities by the state. Another example is the controversial (not only from legal and political reason, but also sociological) problem of recognize the group of Silesians as a separate national group (national minority). From 1997, the state has not approved of existence of The Association of Peoples of Silesian Nation.

The draft Act on national minorities in Poland which is in the parliamentary work in the Sejm (1999), contains the definition of the term “national minority” (“ethnic minority”). It is understood as „a group of a distinct origin, traditionally residing on the territory of the Polish state and constituting [numerical] minority as compared to the rest of the citizens, and which is characterized by the objective to sustain its culture, traditions, language, national or ethnic consciousness” (article 2).

**Statistics on national minorities in Poland.** It is very difficult to define the number of members of national and ethnic minorities existing in Poland. National censuses, held by the Central Statistical Office in 1950, 1960, 1978 and 1988 did not contain any questions about nationality or native language. The coming in 2000-2001 national census has not included the question on ethnic origin, nationality or linguistic matters (mother - tongue). Therefore, in this respect we have to resort to estimates. Central Statistical Office is responsible for collecting and processing information as well as examines social and economic situation of national minorities. According to estimates based on different sources (literature, statements of minorities' representatives concerning their numbers, or the number of minority organizations, etc.), we may estimate the population of national minorities in Poland (we will present them ranging from their minimum to maximum amount.

Estimates of the German minority population range between 1.1 million and 300 thousand persons (established after considering their membership in the organizations of national minorities in Poland and according to their activities in parliamentary election in which minority members could vote for their own candidates). We may assume that the population of German minority ranges between 400 - 450 thousand persons, living mainly in the region of Opole, Katowice and Czêstochowa (south-west part of Poland).

The population of the Ukrainian minority in Poland ranges, generally, between 250 - 300 thousand persons, however, Ukrainian emigration sources and representatives of Greek Catholic Church in Poland overstate this number up to 500 thousand persons. The Ukrainians in Poland are dispersed and all the country which is the result of compulsory deportation of majority of them in 1947. At present, their most numerous concentrations are in the north-eastern part of Poland

(Olsztyn and Elbl<sup>1</sup>g), north-west (S<sup>3</sup>upsk and Koszalin) and south-west of Poland (Legnica and Wroc<sup>3</sup>aw).

Within the Ukrainian minority the group of Lemko/Ruthenians can be distinguished which population amounts up to 50-60 thousand persons. One part of them consider themselves ethnographic group within the Ukrainian minority while the other aims at separation and establishment of their own national group. This is reflected in the existence of various organizations representing both national options.

Next minority group member of which are considered members of Orthodox Church are Belarussians. They live in close concentrations on south and east area of Bia<sup>3</sup>ystok. They constitute the significant part of the population living in the cities of this area. Their population is estimated at 200 - 250 thousand persons.

Population of Lithuanian national minority accounts for 15- 25 thousand persons, members of which inhabit, in close concentrations, Suwa<sup>3</sup>ki in the north-east of Poland. They prevail on the territory of Puńsk commune where they constitute 80% of inhabitants.

Population of Slovaks is estimated at around 15 - 25 thousand persons. They inhabit two small frontier regions in the Spisz and Orawa (south of Poland, near Polish-Slovak border). Larger concentrations of Slovaks are in Kraków and Silesia region.

At present, Czech minority accounts for 2 thousand persons. Their representatives inhabit south of Poland (region of Opole and Wa<sup>3</sup>brzych) and town of Zelów (central part of Poland, at the south-west of Łódź).

As regards Jewish minority, only 7-15 thousand persons remained out of 3 million persons living in Poland before the World War II. Its representatives live mainly in large cities like Warszawa, Wroc<sup>3</sup>aw and Kraków. They avoid often to consider themselves as "national minority".

Population of Roma (Gypsy) minority accounts for 25 – 30 thousand persons however, according to the organizations of Roma in Poland population of the minority is slightly bigger and amounts over 30 thousand persons. According to sources published in foreign languages regarding Roma minority, the population is 50-60 thousand persons. Roma (Gypsy) are dispersed and live on the area of the whole country although their more numerous concentrations are in the south of Poland.

Russian minority has around 13-15 thousand members. It includes descendants of Polish-Russian marriages and Russians who came to Poland from Russia after the Civil War 1917 - 1921. This society includes also Old Believers who are members of the Eastern Old Believers' Church and account for 2-3 thousand persons living in south-east of Poland.

Polish Tatars (4-5 thousand persons), Ormians (8-15 thousand persons) and Karaims (200 persons) constitute small autochton, ethnic and religious societies inhabiting Poland. These societies, together with Old Believers, are the evidence of multi-ethnic and multi-religious history of Poland. It is difficult to consider these societies as national minorities because their autonomy results rather from religious and cultural tradition than their sense of national autonomy.

National minorities of migration nature are typical of Greeks and Macedonians who were given political asylum in Poland in 1949 - 1951 (15 thousand persons). In the mid-1970s and the beginning of the 1980s, after democratic changes in Greece their re-emigration began. At present, around 4-5 thousand persons of Greek and Macedonian origin live in Poland, majority of whom remain in ethnically mixed marriages and have Polish citizenship. Beside these two minority societies, there are also very small groups of Hungarians, French, Serbs, Bulgarians, Georgians, Palestinians, Kurds and Vietnamese who constitute small societies of hundreds up to over 2 thousand persons.

The population of national minorities in Poland according to the above mentioned data ranges between 1 - 1,2 million persons which means that representatives of minorities do not constitute

more than 2-3% of the total number of Polish citizens. Thus, Poland is a nationally homogeneous country and in this respect differs substantially from other states of Central and Eastern Europe.

Polish society is well aware of its national homogeneity. Only one-fifth of Poles (19%) asked in 1994 by CBOS (Social Opinion Research Center) estimated the population of national minorities in Poland in figures similar to the above mentioned data (i.e. 1 million persons). The majority of persons asked (81%) estimated minority population at lower level than it is in reality (2% of persons asked estimated minorities population at around 100 thousand persons, 17% - between 100 - 220 thousand persons, 11% - between 200 -300 thousand persons and 21% between 300 - 700 thousand persons). This is the result of both lack of information about national minorities living in Poland (at schools, in mass media etc.) and small interest in these problems.

#### Article 4

**1 The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.**

**2 The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.**

**3 The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.**

**The Constitution (1997).** Article 35 of the Constitution (2 April 1997) provides that:

"1. The Republic of Poland ensures Polish citizens belonging to national and ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture.

2. National and ethnic minorities have the right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity."

The protection of minority rights prescribed by this article goes beyond general principles of equality and non-discrimination of citizens as embodied in the old (communist) Constitution of 1952. The said article contains a positive commitment of the state to ensure minority members the right to maintain and develop their own culture (language, traditions, customs) and grants to them the right to establish organizations and participate in taking decisions aimed at maintaining their own culture and religion. The Constitution restricts the protection of minority rights to persons possessing Polish citizenship, at the same time providing separate protection of the rights of foreigners (article 56). Such „citizen's clause" is in conformity with the standards of minority protection established within the European framework (OSCE, the Council of Europe). The notion of „national minority" used in the text of the Constitution refers, as we should suppose, to those minorities which identify themselves with the nations organized in their own state, whereas the notion of „ethnic minority" refers to the so-called stateless minorities. The provisions of that article uphold also an individualized approach to the protection of minorities by using a phrase „Polish citizens belonging to national or ethnic minorities", which is consistent with the currently existing international standards.

Other provisions of the new Constitution also relate, directly or indirectly, to the protection of minority rights and, in particular:

- Article 27 provides that Polish is the official language in Poland, however „this provision does not infringe upon national minority rights resulting from ratified international agreements”;
- Article 13 forbids political organizations aiming at incitement of racial or national hatred;
- Article 25 introduces equality of rights of churches and other religious organizations;
- Article 53 ensures freedom of faith and religion;
- Article 54 ensures the freedom to express opinions, to acquire and to disseminate information;
- Article 57 provides an opportunity of peaceful assembly and Article 58 - the freedom of association;
- Article 60 provides that Polish citizens have the right of access to the public service based on the principle of equality;
- Article 32 confirms everyone’s equality before the law and prohibition against discrimination;
- Article 9 deals with Poland’s commitment to respect international law binding upon it;
- Article 87 (1) provides that the sources of universally binding law of Poland include, *inter alia*, ratified international agreements (this relates to unilateral and bilateral treaties ratified by Poland and concerning the protection of human rights, including the protection of minorities).

The constitutional provisions relating to minorities (above all articles 35 and 27) might be considered a novelty to Poland’s post-war legislation since they satisfy persistent demands expressed by national minorities and also refer to the Polish constitutional tradition.

**The Draft Law on National and Ethnic Minorities** (1998) is under parliamentary work in the Sejm (after first reading in March 1999). This act contains the following parts: I. *General provisions* (articles 1-7); II. *Use of minority languages* (articles 8-12); III. *Education and culture* (articles 13-19); IV. *The Charmain and the Council for National Minorities* (articles 20-25); V. *Amendments to the provisions in force, final provisions* (articles 26-30).

The draft introduces definition of national and ethnic minority understood as „a group of a distinct origin, traditionally residing on the territory of the Polish state and constituting [numerical] minority as compared to the rest of the citizens, and which is characterized by the objective to sustain its culture, traditions, language, national or ethnic consciousness (article 2). The draft confirm the principle that affiliation to a certain minority is the matter of individual and free choice of every person (article 3), ensures all citizens belonging to minorities equality before the law as well as the right to (article 4):

- the right to sustain and develop their culture and national or ethnic identity;
- the right to association for peaceful purposes;
- freedom of conscience, the right to profess and practice their own religion;
- freedom of access to the means of mass communication;
- the right to freely use their own native language in private and public affairs;
- the right to use one’s own name [as it is spelled and pronounced] in a minority language;
- the right to display in his/her minority language information of private nature visible to the public;
- the right to study one’s native language and to be instructed in it;
- the right to maintain transfrontier contacts with persons of the same national or ethnic affiliation;
- the right to freely participate in cultural, social and economic life and in public affairs, in particular in relation to minority issues.

Pursuant to article 5, the bodies of public authority are obliged to support any effort aimed at ensuring equal opportunities in the field of public affairs and preservation of minorities identity. Articles 6 and 7 introduce a prohibition against any action aimed at forced assimilation, administrative change in national or ethnic relations and against any obstruction of the enjoyment of their legitimate rights by persons belonging to the minority.

Next part of the Draft Act is devoted to linguistic rights. Pursuant to article 8 minority languages may be used as auxiliary languages. Minority members have the right to register their names and surnames according to spelling principles of their native language (article 9). Pursuant to article 10, minority languages are used in speech and in writing on the motion of a citizen and costs of essential translations of proceedings and correspondence are borne by the State Treasury; persons who use minority language shall be employed in administration and justice organs in places where the number of inhabitants using minority language justifies that and the list of places where the minority language will be used as the auxiliary language shall be specified by the Council of Ministers by means of a decree. The list of places which names as well as names of streets and seats of public authority organs may be used in a certain minority language shall be specified by means of a decree (article 11).

Provisions of chapter III of the draft focus on education and culture, and:

- Article 13 – 17 which guarantee the opportunity to learn and to be instructed in the minority language in public educational institutions (organized on the basis of voluntariness), introduce themes of history and geography of minorities in Poland to curricula in these schools;

- Article 18 which ensures support from the sources of the state budget for actions in the sphere of culture, aiming at preservation and development of a minority identity, including the organization of festivals, contests etc., publications and artistic activities, running of libraries, cultural education as well as support for cultural institutions of national and ethnic minorities;

- Article 19 which provides that public duties of radio and television companies should include the promotion of knowledge about minorities and broadcasting in languages of the minorities residing in Poland.

Articles 20 - 25 of the draft Act provides for establishing of the Chairman and the Council of National Minority acting as the advisory organ to the Prime Minister. Minority Council composed of representatives of minorities chosen under the agreement between societies shall be established at the Chairman of the Group. Representation of cultural, educational, social and economic interests of minorities, expression of their opinions on government action programs for national and ethnic minorities and on legal acts within the scope regarding minorities issues as well as initiation of activities aimed at minorities benefit shall fall within the competence of the Council.

The draft develops and specifies provisions of the article 35 of the Constitution regarding minorities. It focuses mainly on the issues of protection of cultural identity of minorities without discussing the issue of political representation and administrative autonomy of minorities. The minority rights guaranteed by the provisions of the draft are, generally, in conformity with provisions of bilateral agreements concluded by Poland regarding protection of minorities rights.

## Article 5

**1 The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.**

**2 Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.**

See answer on the article 4 (legal background).

**Religion.** From the point of view of a confession in Poland majority of Germans, Lithuanians, Slovaks and Roma (Gypsy) in Poland are the members of Roman Catholic Church. Majority of Belarussians belong to the Ortodox Church, however, this does not mean "national" character of Ortodox as many Ukrainians, Russians, Greeks and Poles are also its members. It is difficult to consider Ormian order within the Catholic Church and islam (Tatars) as national religions as majority of their believers consider themselves as Poles. At present, only Greek Catholic Church has national ("ethnic") character (for Ukrainians), Old Believers' Church (for Russians) and Judaism (for Jews).

The Act of 17th May 1989 (amendments in 1998) on guarantees of freedom of conscience, ensures freedom of choice of religion or conscience, as well as their individual and collective expression, privately and publicly. Citizens' of any confession and those who do not believe in God have equal rights in public, political, economic, social and cultural life (Article 1).

Situation of minority churches has been regulated in several statutes on the relations between the state and certain religious groups (churches) adopted by the Sejm in recent 10 years. The statutes specified the state attitude to certain religious groups (important for the national minorities), in particular:

- the Catholic Church (Act of 1989) amended in October 1991; it includes provision that all confessions of the Catholic Church may be exercised in Poland, including the Greek Catholic one;

- the Polish Independent Orthodox Church (Act of 1991);
- the Jewish Religious Community (Act of 1997).

The possibility of celebrating religious holidays is of a particular importance to the members of national minorities. Such right was guaranteed in the Resolution of 12th November 1990 of the Minister of Labor and Social Policy and Minister of National Education on the release from work and education of persons belonging to the churches and other religious organizations in order to celebrate religious holidays which are not statutorily established days free from work. According to the provisions of this resolution any worker, pupil or student may take a leave from work or school in days which are religious holidays in their confession provided he/she expresses such will at least 7 days before the leave. The working establishments or schools specifies conditions of making up for free days.

In the light of these provisions there are no obstacles to the participation of minority members in the religious practices in their own native language and churches enjoy the freedom to provide religious education. The right to religious service for minority members performing military service is respected by means of military ordinaryships (among others Orthodox and Greek Catholic ordinaryships)

**Linguistic matters.** According to the provisions of the Decree of 1945 „Polish shall be the official language of the Republic of Poland. All government and self-government authorities and administrative bodies shall use Polish in performance of their official duties”. At present (22 July 1999), the Act on the use of Polish language has been approved by the Sejm. At present, it is in elaboration in the Senat (upper chamber of the parliament) and next, it should be direct to the President. This bill has acknowledged that the official language in Poland is Polish. This act has sent the regulation of linguistic matters connected with minority (possibility of public use of minority languages in public and in contacts with authorities as well as the use of bilingual tables and names on public buildings in communes inhabited by minority groups) the draft Act on national minority in Poland, which is in the Sejm.

**Culture.** Organizations of national minorities lead activities aimed at organizing artistic events, running amateurs' artistic groups and publishing their own newspapers, magazines and books in their native languages. As majority of national minority members live in the countryside, cultural

activities have usually character of local folklore events (galas, open air events which often last for a few days). These activities are financed mainly from the State subsidies allocated by the Ministry of Culture and Arts. They cover almost 80% of expenses of minority organizations. The remaining funds are obtained from membership fees, running own economic activities and foreign aid. State subsidies are of subject nature which means that they are earmarked for financing specific cultural events not for covering permanent costs connected with functioning of an organization (like salaries of full time workers or rents). Subsidies granted for financing activities of minority organizations and cultural initiatives are the only resources available to these organizations. Majority of minority organizations do not have sufficient financial means received from their economic activity and financial assistance received from emigration circles abroad or governments of countries to which minority representatives are linked by feeling of common national membership does not play an important role. The German minority is the exception here as the financial aid of the German government is significant.

The problem of finances in the activities of an organization constitute a very important problem for minority representatives. At the end of 1989, the State ceased to cover, from the State Budget, permanent costs connected with activities of all associations and social organizations (among them minority organizations) and maintained only subject financing earmarked for specific cultural events. It put many minority organizations and their activities in a difficult financial situation which remains until today. Return to the so-called subject financing by the State of the activities of national minority organizations remain one of most important postulates of these minorities submitted regularly to authorities since the beginning of the 1990s.

Beside subsidizing of cultural activities of national minority organizations from the State or commune budgets, the activities of the following cultural organizations are financed: State Jewish Theater in Warsaw, Jewish Historical Institute in Warsaw, Museum of Lemko Culture in Zydranowa (south of Poland), Nikifor Museum in Krynica (primitivist - painter of Lemko origin), Lithuanian Community Center in Puńsk (near the border with Lithuania), Museum in Tarnów (south of Poland) where is exhibition devoted to Roma.

The most important cultural minority institutions financed from non-government sources are: Foundation of St. Wladimir the Baptist of Kiev Russia in Cracow (dealing with popularization of the Ukrainian culture), Judaica Foundation in Cracow (popularization of the Jewish culture), National Minorities Information Centre in Gdańsk (affiliated to the Ukrainian Independent Youth Society). Some minority organizations run their own cultural centers and kindergartens that play important cultural, educational and integration role.

Practical regulation of cultural activities of national minorities is realized by the Office for Culture of National Minorities at the Ministry of Culture and Arts. At the beginning it was the Group for National Minorities and from 2nd April 1992, it works as the Office for National Minorities. The Office is, at present the only central institution dealing on regular basis with problems of minorities. Allocation of public funds earmarked for cultural activities of minorities and providing information about minorities fall within its competence. Until 1994, the Office gained better position that it might have resulted from its statutes due to lack of other institutions dealing with minority problems and thanks to effective work of its employees.

In 1988, the amount of subsidies allocated for minority activities and cultural events reached 119 mln zloty and in 1989, 160 mln zloty. Organizations own revenues did not exceed 20% of these sums (they came from membership fees, statutory activity etc.). In 1990, the amount of subsidies allocated for minorities by the Ministry of Culture and Arts reached 16,508 mln zloty. Such significant financial support was possible due to the fact that the Sejm appropriated additional 100 mld zloty for the activities of nationwide scientific and cultural societies and part of which (i.e. 16 bn) was allocated to minority organizations. Financial assistance considerably decreased in the subsequent years and amounted to: in 1991 - 5,995 mln zloty, 1992 - 5,710 mln zloty, 1993 - 8.5 mln zloty. It raised slowly in 1994 to 13,500 mln zloty and continued its growth

in 1995 to 17,380 mln, in 1996 to 27,660 mln zloty and in 1997 to 32,100 mln zloty (all figures are in old zloty<sup>1</sup>).

After the collapse of financing of minority cultural activities in the mid-1990s, a steady however slow increase in the amounts of money allocated to these activities has been observed since 1994. Financial means are mostly earmarked for covering costs of publishing activities in the minority native languages, as well as for activities of minority cultural centers. Subsidizing of publishing of magazines was considered as the most important issue as this is the most efficient means of contact with everyday language and preservation of national identity. Priorities given to publishing of minority magazines resulted that no magazine bankrupted and some of them increased their edition.

The Office cooperates at present with 47 minority organizations (e.g. associations, publishing houses, foundations and groups), subsidizes 24 minority magazines (e.g. weeklies, monthlies and quarterlies) and 4 almanacs. In 1997, the Office shall subsidize 77 cultural events organized by national minorities. It subsidizes also programmes aimed at tolerance, joint Polish-minority cultural events, publications popularizing knowledge about minority issues etc. The Belarussian and Ukrainian minorities receive the highest subsidies while the amount of subsidies granted to the German minority is significantly lower than this granted to Lithuanians, Slovaks and Jews.

Subsidies allocated for socio-cultural organizations do not exclude other financial assistance for minorities from the State. Resources granted to them come also from other departmental funds and are earmarked for renovation of historic buildings and maintaining of public educational system for minorities which is more expensive than maintaining of educational system for Polish pupils due to the small number of children learning in classes and low edition of textbooks.

There is no legislation in Poland pertaining to a "general integration policy" (official) and there is no a governmental infrastructure for integration policy.

#### Article 6

**1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.**

**2 The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.**

The state and public opinion in Poland has generally supported inter-ethnic tolerance and cooperation. In the Polish public television the regular program called „U siebie”, devoted to the problems of minorities and addressed to both minorities and Polish viewers (majority), has been broadcast in for over 8 years in Channel 1.

The very important example of inter-ethnic cooperation is observed on the local level. It was well observed in case of Germans in the Opole Silesia where we may talk about a certain autonomy on the local level achieved by the minority. German minority became one of the most important political forces in the Opole voivodship. Its participation in the work of local authorities constituted the grounds of integration and cooperation with Poles in solving local and regional problems as well as contributed to the elimination of ethnic tensions in the region. There were

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<sup>1</sup> As a result of of the monetary reform which entered into force in 1996, these sums should be divided by 10 000 in order to obtain the amount in new zlotys (PLN). In 1998=1999 the exchange ratio of US dollar varied between 3,6 to 3,9 PLN. However, purchasing power of zloty is higher than indicated by the exchange rate.

cases of electing of a German mayor of the town by the Polish majority convinced that he would be "the best host in our commune". This is the evidence that minorities are socially accepted on the local level.

The new Criminal Code (1998), has protected the every person in Poland before the acts of genocide and acts of racial, ethnic or religious discrimination (art. 118 i 119). The Polish system has not provided a regular statistics of reported cases of discrimination.

We may say that number of these acts are relatively low, and the two groups in the 1990s were objects of prejudices: Germans (especially in the first half of the 1990s) and Roma (Gypsy).

The important role in the fight against intolerance play the Office of the Ombudsman, appointed in 1987, plays a very important role in the protection of national minorities rights in Poland. In general, nationality issues do not constitute his main interest and, generally, he has not found any big cases of discrimination against minorities in Poland on ethnic grounds. However, in his recent reports he expressed his concern over the acts of intolerance towards Roma (Gypsy) that took place recently. The Ombudsman responded in specified cases of discrimination on ethnic ground, e.g. in case of anti-Gypsy riots in M<sup>3</sup>awa in 1991 or publishing of anti-Jewish leaflets during presidential campaign in 1990. At his meetings in constituencies the Ombudsman was interested in the problems of national minorities (e.g. meetings with the German minority in Opole, the Belarussian minority in Bia<sup>3</sup>ystok, the Roma). In practice, the role of the Ombudsman is limited although intervening in cases regarding minorities fall within his competence.

The state of research regarding national minorities in Poland makes the estimation of their social status in comparison to Polish citizens impossible. It seems that we cannot state that minorities in Poland are subject to social and economic discrimination. Generally, we may say that there are no signs of deterioration of the economic situation of minorities. On the contrary, sometimes their living conditions are even better like those of the Lithuanian minority in Suwa<sup>3</sup>ki district or the German minority in Opole Silesia. The situation of the Roma (Gypsy) minority living in the south of Poland may be an exception. However, if there are apparent differences in the social status of minorities, they appear due to rather regional than ethnic reasons. It happens in case of Bia<sup>3</sup>ystok voivodship - traditionally less developed part of Poland (so-called "eastern wall") - where Belarussians live. Nevertheless, differences regarding level of education can be significant. The education level of the majority of the representatives of national minorities is generally equal to that of the whole population of Poles, however, it is substantially lower in case of Romanies. The lower percentage of persons with university degrees is typical of Germans living in Opole district where 80% of children copy occupation and social roles of their parents.

Changes in the state policy towards minorities in the 1990s, are accompanied by changes in attitudes of these communities and in their relations with "majority" of the society. Democratic transformations in 1989 resulted in opening of both parties, minority and majority. It is difficult to talk about of a very general tendency as social status of each minority is different, however, it is important that nobody denies their national status. Attitudes of Poles towards minorities became more open and "warm" although their distance to certain groups, mainly to Ukrainians and Roma, is still significant.

Roma (Gypsy) are the minority group which, according to public opinion polls, is placed at the end of the list of most liked national group by Poles. Roma in Poland are treated as aliens, in majority of proverbs Roma are in a very bad light and the word "Gypsy" means someone who is fraud or a thief. The important element of negative stereotype of a Gypsy is widely disseminated opinion about their real impunity in cases of breaching the law. Negative stereotype and cultural autonomy of Romany society contributed to anti-Roma demonstrations of Poles in M<sup>3</sup>awa in 1991, Dębica (aggressive behaviour of soccer fans towards Roma in October 1994), in Sandomierz (Spring 1995), Kielce (June 1996), Ęwiebodzin (December 1996 and January 1997), Bielsko Bia<sup>3</sup>a (August 1998). Relations between Roma and the rest of the Polish society have additionally deteriorated in the time of hardship. When the social and economic status of certain

Romany families increased which was observed through their "ostentatious consumption" they became an easy target of aggression and attacks (well-off Roma are accused of dishonest method of gaining their wealth). Prejudices towards Roma in everyday life do not take drastic forms and restriction of Roma to their own society helps to ease these prejudices.

Systematic polls confirm preserving of negative stereotype of Ukrainians in Poland. Negative opinion is maintained in books and mass media. Despite great efforts to achieve Polish-Ukrainian reconciliation (we should mention, among others, joint declaration on reconciliation signed in 1997 in Kiev by Polish and Ukrainian presidents) and slight diminishing of negative perception of Ukrainians (mainly among young and educated people), however, changes in their perception by Poles are still insignificant. "History hump", especially memory of bloody Polish-Ukrainian conflicts during World War II and post-war years remains the barrier in achieving mutual understanding.

Polish-Jewish relations are the subject which still raises many controversies. From time to time, there are spectacular discussions that accompany certain historical or artistic events connected with Polish-Jewish history (recently it was 50th anniversary of pogrom in Kielce, the problem of building of a supermarket at the vicinity of the concentration camp in Oświęcim and conflicts on the ways of commemorations in this camp). Aspirations of the Polish and Israeli (Jewish) party to establish good Polish-Jewish relations are accompanied by the memory of still non-cured wounds of both parties and the sense of extreme sensitivity to "Jewish issues". Sociology research show insignificant although steady increase in affinity to Jews. Mutual relations are not perceived as equal: every tenth person asked think that in the past Poles suffered a lot from Jews while every third person has the opinion that it were Jews that suffered from Poles. Percent of those who think that Jews suffered from Poles increased in recent years while percent of those who think that Jews were treated well by Poles decreased.

Nevertheless, we do not know in which way representatives of minorities living in Poland estimate their situation. It may be stated that they generally accept status of the national minority within the Polish state and society despite sense of lack of equality towards Polish majority. Research of the Lithuanian minority in Poland did not show signs of its discrimination or polonization. Majority of Lithuanians asked (near 90%) have not confirmed any signs of discrimination and only almost 5% of them perceived such signs. They positively estimate the issue of coexistence with Poles in their places of permanent living (1995). On the other hand, Ukrainians stress their persistent discrimination and presence of negative attitudes of Poles towards them. In places where Greek Catholic parishes are rebuilt usually increase of tensions between Polish and Ukrainian societies is observed. These tensions diminish after some time however do not disappear totally. After the period of ethnic tensions between Poles and Germans in the Opole Silesia, their slight ease was observed as well as more friendly arrangement of mutual inter-group relations.

In Poland, ultra nationalist parties unfriendly towards minorities and propagating anti-Semitic slogans are at the margin of our political life. During parliamentary elections in 1991, 1993 and 1997 parties propagating such slogans (electoral list "Polish National Community - Polish National Party" and "Homeland - Polish List") has gained altogether near 30 thousand of votes (near 0,20% of valid votes) and did not have their representatives in parliament. Extreme youths movements are not so popular, however, special sitting of the Sejm Committee on National and Ethnic Minorities held in December 1996, was devoted to their activities.

Changes in the state policy towards minorities in the 1990s, are accompanied by changes in attitudes of these communities and in their relations with "majority" of the society. Democratic transformations in 1989 resulted in opening of both parties, minority and majority. It is difficult to talk about of a very general tendency as social status of each minority is different, however, it is important that nobody denies their national status. Attitudes of Poles towards minorities became more open and "warm" although their distance to certain groups, mainly to Ukrainians and Roma

(Gypsy), is still significant. Changes in this respect are rather slow and do not depend only on the attitude of the state administration itself.

#### **Article 7**

**The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.**

See the answer on the article 4 (The Constitution) and the right to freedom of peaceful assembly.

The democratization process of Poland's political system, that begun in 1989, completely changed the way of functioning of public life. The state withdrew itself from the function of organizer and "censor" of public life and transformation of the state legal system resulted in lifting restrictions concerning establishing associations as well as political activities of citizens. These transformations referred also to national minorities for which abolishing of principle "one minority - one organization" was of great importance. Under the *Act of 7th April 1989 on associations*, representatives of the national minorities enjoy the freedom to establish associations and organizations. Until the end of 1998, over 150 new organizations and associations of national minorities were established and officially registered. However, their exact number is not known as there is no central register of the national minorities organizations in Poland. The highest number of organizations (over 60) was found by the German minority. At the same time, the number of the Ukrainian organizations increased from one to a dozen or so, similarly to the Belarussian or Roma minorities.

The organizations of national minorities form a mosaic in terms of forms, sizes and activities, however, a socio-cultural association is the basic form of their organization. The Belarussian minority is the only one minority in Poland which has its own political party i.e. the Belarussian Democratic Alliance. The registered minority organizations encompasses religious associations, scout and youth organizations, cultural foundations, organizations representing interests of a certain professional group within the minorities (e.g. teachers, physicians or journalists).

The significant increase in number of minority organizations results from the fact that only a few of them are nationwide. Most of the others restrict their activity to one region or to a local society. They are mostly small organizations with memberships ranging from dozens to some hundreds. The national minority organizations are financed from the state funds which are earmarked for performing of particular cultural activities as well as from funds obtained from their own economic activity. Membership fees have hardly any significance as the share of members paying them is very low (about 30%).

The adoption of the new Act on associations and departure by the state authorities from regulating their foundation was of great significance for the minorities. This Act enabled foundation of new organizations that allowed for better fulfillment of their members' needs. New associations have led to public presentation of minorities interests and gave minorities a chance to act on an open public forum. The possibility of establishing institutional structure by minorities was both symbolic and real change in the status of national minorities in Poland. Their rights were equaled with those of other groups.

#### **Article 8**

**The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.**

See the answer on the article 5 (Religion and Culture).

Some of the ethnic-religious minority associations have obtained financial support from the State: State Jewish Theater in Warsaw, Jewish Historical Institute in Warsaw, Museum of Lemko Culture in Zyndranowa (south of Poland), Nikifor Museum in Krynica (primitivist - painter of Lemko origin).

#### Article 9

**1 The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.**

**2 Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.**

**3 The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.**

**4 In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.**

See the answers on the article 4 and 18 (legal regulations).

**Radio and Television.** The issues concerning minorities are present in public mass media under the existing legal guarantees. Article 21, para. 1, subpara. 9 of the Act on Radio and Television Broadcasting (1993) states that: "duties of the public radio and television shall include in particular (...) consideration of the needs of national minorities and ethnic groups".

The access of national minorities to the radio and television improved in the 1990s, mainly to regional stations. Local station in Bia³ystok broadcasts daily a 30-minute program in Belarussian language; once a week a program in Lithuanian and once a week a 30-minute program in Ukrainian. Radio programs addressed to the Ukrainian minority include: 75-minute program broadcast twice a week from Koszalin, 30-minute program broadcast once a week from Rzeszów and 15-minute programs broadcast once a week from Olsztyn and Szczecin. Two regional broadcasting stations in Katowice and Opole transmit, once a week, one hour program in German language.

The problems of national minorities are discussed in the regional programs of the Polish Television. Gdańsk television center broadcasts programs in Belarussian and Ukrainian languages and television center in Katowice broadcasts regular programs in German language. Television centers in Lublin, Poznań, Szczecin, Warszawa, Gdańsk, Kraków and Wroc³aw broadcast regular programs in Ukrainian language called „Telenowyny”. Wroc³aw television center started to broadcast regular programs for the German minority. Bia³ystok television center, under construction, will to broadcast regular programs for the Belarussian minority.

The minorities residing in Poland have been frequently demanded that a regular program in minority native languages and discussing their problems be established in the public television, in all-country program, to this moment without any solution. Another problem is that during the election campaign to the Sejm representatives of minority electoral committees could not present their electoral programs in public television or radio broadcasts in their native languages, the fact against which they protested.

**The Printed Media.** The most important minority magazines (weeklies and monthlies) which publishing costs are covered in full from the State Budget include: Lithuanian "Auszra", Belarussian "Czasopis" and "Niwa", Ukrainian "Nad Buhom i Narwoju" and "Nasze S³owo", Lemko "Zahroda", Romany "Rom pro drom", German "Schlesisches Wochenblatt", "Masurische Storchenpost" and "Hoffnung" (is not published now), Tatar "Rocznik Tatarów Polskich" and Slovak "iwot". Publication of scientific magazines edited by minority representatives are fully financed from the State budget, these are: "Zeszyty Konwersatorium Josepha von Eihendorfa" (in German and Polish language version) and "Bia³oruskie Zeszyty Historyczne".

#### Article 10

**1 The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.**

**2 In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.**

**3 The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.**

See the answers on the article 4, 5 (Linguistic matters) and 18. In Poland, every person belonging to national minority has the right to use freely his/her minority language in private and in the public.

Polish legal system ensures possibility of translation for non-Polish speaking defendants, among others, preparation of translation of an indictment, verdict or presence of an interpreter at the hearing. The Code of Administrative Procedure provides for possibility of hearing to be in foreign language and the court may call for an interpreter in order the hear the non-Polish speaking witness. These provisions were made to help foreigners and it is an open issue whether they may be applied to persons belonging to national minorities.

During the election campaign representatives of minority electoral committees could not present their electoral programs in public television or radio broadcasts in their native languages, the fact against which they protested.

#### Article 11

**1 The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.**

**2 The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.**

**3 In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the**

**framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.**

See the answers on the article 4, 5 (linguistic matters) and 18.

It is possible to have the name and surname written in the minority language. According to the provisions of the Act of 1990 on division of duties between commune and government administration bodies, district organs of government administration are competent for issuing judgments „in cases of change of names and surnames, adjustment of spelling of names and surnames to the principles of Polish spelling according to their phonetic sound, as well as establishing of oral or written form of their names and surnames”. No charges are collected for the issue of new identity cards and passports from persons who wish to return to their former names and surnames that had to be changed after 1945.

It is not possible to display names of places and topographical signs in a minority language. Resolution of the President of the Republic of Poland of 1934 which is still in force provides that "the names of places shall be used in public relations only in their official spelling specified under provisions of this resolution". Polish authorities do not expect any possibility of introducing bilingual names of villages and places in which representatives of minorities prevail. The authorities have adopted a similar attitude towards use of minority native language as the official language in the commune and town authorities in the areas where populations of these minorities prevail.

#### **Article 12**

**1 The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.**

**2 In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.**

**3 The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.**

See the answer on the article 14.

Premises of numerous schools for minorities with non-Polish language of instruction are in a very poor condition. However in recent four years, the Ministry of National Education provided financial support for construction of minority schools what in several cases resulted in local conflicts with Poles.

Beside financial problems typical of the whole Poland's educational system, the most significant difficulty the minority education encounters is the lack of textbooks and teachers with appropriate pedagogical qualifications. According to the Ministry of Education shortages of textbooks may be eliminated in the 10 years' time i.e. after 2000. Many textbooks, mainly riding primers and textbook for elementary classes of primary schools are imported from minority native countries and freely distributed. The remaining textbooks as well as educational curricula are prepared with the help of teachers and writers originating from the minority circles. There are also special, international Textbook Committees which verify the contents of school textbooks in the context of geography and history of their countries (e.g. in this way work Polish-German and Polish-Israeli Committees).

Lack of teachers with appropriate teaching qualifications and knowledge of minority language constitute another problem. Teachers of national languages in schools for Belarussian, Lithuanian, Ukrainian and Slovak minorities are well-prepared and generally meet requirements of these circles. Lack of teachers of German language in schools for German minority (in the Opole, Katowice and Czêstochowa regions) seems to be the most important problem. Despite adoption of temporary solutions (among other inviting teachers from Germany), this issue has not been solved so far. Special trips and training in different countries are organized for teachers of minority languages under the provisions of international agreements on cultural cooperation (concluded with Germany, Belarus, Slovakia, Ukraine and Lithuania) in which several persons take part every year.

#### **Article 13**

**1 Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.**

**2 The exercise of this right shall not entail any financial obligation for the Parties.**

See the answer on the article 14.

The national minority educational system in Poland has a public character, with the exception of a private primary school in Warsaw with study of Hebrew language (it may be attended by pupils who do not belong to the Jewish society), a primary school for Romanies in Suwa<sup>3</sup>ki and a private Belarussian kindergarten in Bia<sup>3</sup>ystok, financed by parents belonging to a minority (by contrast - 2 000 non-public schools exist in Poland).

#### **Article 14**

**1 The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.**

**2 In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.**

**3 Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.**

Recent legal regulations enable minorities residing in Poland to study their native languages and to be instructed in these languages. They are contained in the *Act of 7th September 1991, on the educational system*. Article 13 of the Act states that „public schools shall enable pupils to retain their sense of national, ethnic, linguistic and religious identity, and in particular, shall make possible for them to learn their own language, history and culture". Provisions of this Article were followed by *Resolution of 24th March 1992, of the Minister of the National Education on the organization of education allowing for maintaining sense of national, ethnic and language identity of pupils belonging to national minorities*.

The Resolution permits instruction in native language of a minority in kindergartens, primary and secondary schools (general and vocational) as well as vocational schools. Such instruction is provided in primary school (or in kindergarten) if the child's parents declare their interest in instruction in the minority language as the native language. The declaration is submitted to the principal of the school to which the child attends and valid for the whole period of schooling. At secondary school level students have to make themselves such declarations.

Three types of schools may be organized depending on the number of declarations made:

1) schools with "*non-Polish language of instruction*" - of extended hours of native language learning where subject instruction, except for Polish language and literature, and history classes, is provided in the native language of a minority and information about the country and culture of the minority is added to history and geography curricula. The number of hours devoted to teaching a native language should be equal with the number of hours of Polish language;

2) *bilingual* schools (kindergartens) - providing instruction in two equivalent languages i.e. Polish language and language of national minority;

3) schools with "*additional study of native language of a minority*", where that native language is obligatory for pupils who declared so and should be provided by the school. Geography and history classes include information regarding country and culture of a certain nation, however, decisions in this respect are taken by the school board of education;

4) "*inter-school groups*" composed of pupils from different schools for whom additional native language study is organized.

Provisions of Resolution of 1992 specify the minimum number of pupils who may constitute classes with minority language of instruction. These classes are composed of 7 pupils in primary schools, 14 in secondary schools and at least 3 pupils in inter-school groups. Selection of additional topics to the curricula regarding history, geography and culture of a certain minority are left at discretion of the school education board. The Resolution provides that bilingual certificates (in Polish and in minority native language) may be issued by schools with "*non-Polish language of instruction*". As compared to previous regulations, the Resolution substantially enlarged the scope of educational opportunities for minorities by extending education over children in kindergartens and vocational schools, reducing the minimum number of pupils in classes, inter-classes and inter-school groups, as well as introducing bilingual certificates.

The Act of 1991 on educational system allows for religious education in public schools (article 12). Teaching of religion of certain confession is organized if at least 7 pupils so declared. If the number of pupils interested is lower than 7, but not less than 3, then the instruction is organized in the inter-school groups or in religious teaching centers outside school.

Voivodship school superintendents play important role in organizing minority schools as they maintain general pedagogical surveillance, supervise observance of the right to education of pupils belonging to national and ethnic minorities, as well as issue permissions for the establishment of public schools by legal persons etc.

Since 1st January 1996, financing of primary schools i.e. primary schools for minorities has been taken over by communes [gmina]. Funds earmarked for their financing are transferred from the central budget to the commune budgets in the form of subventions. Subventions for minority schools increased by 20% (counting per one pupil of a primary school) as the costs of their functioning also increased. Secondary schools are still centrally financed from the budget of the Ministry of National Education.

In the school year 1996/1997, minority education in Poland was provided in 440 institutions (i.e. schools and inter-school groups) attended by 32 078 pupils instructed by 640 teachers. In the 1990s, significant increase in the number of schools for minorities was observed. In comparison, in the school year 1991/1992 minority education was provided in 127 institutions attended by 6 299 pupils. Such increase was connected mainly with rapid development of German minority education in the Opole voivodship which until school year 1992/1993 did not practically exist

there. It is worth noticing that minority education in Poland constitute small part of public educational system attended by 7 million pupils instructed by around 600 thousand teachers.

In the 1990s, the situation improved in respect of the German minority (from "zero" level up to 265 schools, 23 738 pupils and 391 teachers ,however, primary schools of additional study of German dominate there - 247 schools with 21 104 pupils) as well as in respect of Ukrainian and Lithuanian minorities. The Slovak minority preserved its level of education. Decrease is observed in respect of Belarussians who, despite existing opportunities, choose schools of additional study of their native language. Beside classes where minority native languages are taught, there are also 24 special, experimental classes with Polish language of instruction for Roma children (in the south of Poland). Those classes are of special character as they provide lower level of education and are aimed at maintaining of education among this minority group.

Legal and institutional changes in the organization of public educational system in the national languages of minorities after 1990 should be estimated as positive. Lack of textbooks and teachers remain the main problem - regardless of the financial problems of the state - which creates one of the significant barriers in preserving national identity by representatives of national minorities in Poland.

#### **Article 15**

**The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.**

See answers on the article 4, 5 and 18. The representatives of national minorities has no barriers in access to self-governing bodies (at the local level), but the serious problem is very weak representation of minorities' members in governmental structures. The Polish law has not provided the possibilities of voting for no-citizens (foreigners) at the local and country level. According to the Constitution, the voting rights have only the Polish citizens.

**Local elections.** The Act on the election to the local authorities does not ensure any preferences for minorities. During local elections held in 1990 and 1994, representatives of national minorities in Poland gained, in principle, representation proportional to their numbers in communes. In the elections to the commune councils held in May 1990, about 550 representatives of national minorities were appointed as councilors of the communes and towns self-government authorities. The highest numbers of representatives to the structures of local authorities was introduced by German minority - 380 (they prevail in 26 communes of the Opole voivodship), then the Belarussian minority - 73 (they prevail in 8 communes), the Ukrainian minority - 70 (they are dispersed nationwide) as well as the Lithuanian minority - 19 (they prevail in one commune). Minority representatives obtained similar results in the local elections held in 1994 and in 1998 (around 500 - 600 councilors).

**Parliamentary elections.** Provisions of the Acts of 1991, 1993 and 1997 on elections to the Sejm included special electoral preferences for minority organizations (election committees) which are not included in the Act on elections to the Senate (upper chamber of the Polish parliament). The Act of 28th May 1993 on elections to the Sejm (*Dziennik Ustaw No 45, 1993*) which was in force during the parliamentary elections in September 1993 and September 1997 provided, in respect of election committees of registered organizations of national minorities, for

exemption from gaining at least 5% of the total number of votes validly cast nationwide for the inclusion in the allocation of seats between constituency lists of candidates for deputies; or from gaining at least 7% of the total number of votes validly cast nationwide for the inclusion in the allocation of seats between national lists of candidates for deputies (articles 3-5).

In the elections held in 1993, six lists with national minority candidates were submitted i.e. five lists of candidates from the German minority and one list of candidates from the Belarussian minority. 120,618 votes were cast altogether for these lists which constituted 5.86% of votes validly cast in electoral districts with national minority candidates minorities and 0.874% of votes validly cast in nationwide elections. 4 deputies and 1 senator from the German minority and 1 deputy from the Ukrainian minority took their seats in parliament, however, he was on the national list registered by the Democratic Union. In comparison with elections of 1991, no joint electoral coalition of minorities was established and minorities were given substantially lower number of votes.

In the elections held in 1997, seven lists with national minority candidates were submitted i.e. six lists of candidates from the German minority and one list of candidates from the Belarussian minority. 93 595 votes were cast altogether for these lists. Two deputies from the German minority, 1 deputy from the Ukrainian, took their seats in parliament, however, he was on the national list registered by the Democratic Union and 1 deputy from Belarussian minority, from the national list by the Leftist Democratice Alliance. In comparison with elections of 1991 and 1993, minorities were given still substantially lower number of votes.

National minorities in Poland are distracted and this does not help them in gaining seats in the parliament. Generally speaking, only organizations of the German minority in Silesia may win such seats provided procedural preferences are maintained. Election success may be achieved by the Belarussian minority only under condition it activates its "ethnic" electorate. Beside these two minorities, the remaining minorities have in practice no chance to obtain any seats in the parliament on their own. That is why their representatives are placed on the election lists of other parties. Such situation causes that minorities are interested in their steady representation in the Sejm. They often postulate introduction of "curiae" system which would require significant legal changes and, among others, introduction of registrar (cadastre) of national minorities. The postulate is rejected by the authorities which stress legal and political implications of such activities (there were attempts to abolish electoral privileges for minority organizations in the Sejm of the recent term). In addition, authorities state that Poland is one of few countries of Central Europe where provisions of the act on elections in force provide for special electoral privileges for national minorities. This problem is treated very seriously by the minorities although legal regulations and financial sources earmarked for activities aimed at preserving national identity of minorities seems to be more important issue.

#### **Article 16**

**The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.**

From the beginning of 1999 has been implemented the reform of local and regional authorities in Poland. These reforms have given more power the local and regional societies (in this also national minorities). The area inhabited by national minorities has been protected (as Opole Silesia) during these reforms.

#### **Article 17**

**1 The Parties undertake not to interfere with the right of persons**

**belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.**

**2 The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.**

See the answers on the article 4, 5, 7 and 18.

Various non-governmental organizations have been highly interested in the minority issue. However, their activities were of rather local character. The Helsinki Foundation for Human Rights and Helsinki Committee played a significant role in the protection of national minorities rights in Poland, as well as in the integration of minority populations in the mid-1990's. The Helsinki Foundation organized many meetings with national minorities leaders from Poland devoted to evaluation of legal status of these minorities as well as consideration of cases and situations in which rights of persons belonging to minorities had been violated. Such meetings resulted in preparation of substantial studies and reports on the situation of national minorities in Poland. The Foundation is very active in the field of dissemination of knowledge of the law regarding minorities, as well as it has prepared the aforementioned draft Minority Act.

#### **Article 18**

**1 The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.**

**2 Where relevant, the Parties shall take measures to encourage transfrontier co-operation.**

Poland's obligations to ensure protection of persons belonging to national minorities within its territory have been guaranteed in bilateral treaties concluded by Poland with all its neighbors and other Central and East European countries in 1990-1994. These include bilateral treaties between the Republic of Poland and:

- Federal Republic of Germany (signed on 17th June 1991, considered as a model solution of the issue of minority protection);
- Czech and Slovak Federal Republic (signed on 6th October 1991; the Czech Republic and Slovakia are successors to this treaty);
- Russian Federation (signed on 22nd May 1992)
- Republic of Belarus (signed on 23rd June 1992); and
- Republic of Lithuania (signed on 26th April 1994).

Signing of some of these treaties was preceded by the adoption of special declarations on good neighborly relations with Germany (14th November 1989), Ukraine (13th October 1990), Belarus (10th October 1991) and Lithuania (13th January 1992) which also contained obligations toward minorities.

By inclusion of appropriate minority clauses in the above listed treaties, Poland has played a significant role in establishing principles of protection of minority rights in Central Europe. According to some authors, it has thereby contributed to the development of the model solutions for minority problems. The Treaty between Poland and Germany on good neighbourly relations and friendly cooperation, signed on 16th January 1991, is a particularly good pattern in this

respect. Signing of the Treaty was preceded by the conclusion of agreements concerning a definite recognition of the Polish-German frontier ( The „2+4 Treaty” of 12th September 1990 and the Treaty between Poland and Germany of 14th November 1990 on confirmation of their existing frontier). The Polish-German Treaty, like subsequent minority treaties, refer - to a large extent - to the provisions of the Copenhagen Document of CSCE (June, 1990).

Reference to the international standards in formulating bilateral treaties was, to a certain degree, an innovation. Instead of attempts to find special way of protection of particular minorities and ensure their more favorable position, the applied solutions were based on the document adopted within the framework of CSCE, which - in general - had caused no controversies. However, the protection of minorities provided by those treaties has never gone beyond those standards.

In their provisions dealing with minorities, the treaties apply the assumption that affiliation to a minority is a matter of individual choice (an individual option) and is connected with nationality of the state providing protection of a minority. In some treaties attempts have been made to precisely specify the concept of a protected minority, e.g. in treaties with Germany and Lithuania<sup>2</sup>. In case of the former, the definition of a subject of protection aroused controversies due to lack of consistency in terminology. This resulted mostly from the fact that Poles were not recognized as a national minority in Germany (although they enjoyed the same rights as Germans in Poland). Treaties with the states whose relations with Poland are not tense or pose no threat of conflict, do not contain any detailed definition of a protected minority but rather restrict themselves to ascertain the fact of their existence.

These treaties guarantee persons belonging to minorities the following rights:

- the right to equality and non-discrimination;
- the right to apply, on a footing of equality, any effective measure in accordance with the law of a country to enforce their rights;
- the right to learn and to be educated in one's native language and to use it in private and public life;
- the right to have one's name spelled and pronounced as in the native language;
- the right to profess and practice their own religion, including the right to religious practice in their native language;
- the right to establish and maintain their own organizations and associations;
- the right to maintain unobstructed contacts with members of the minority [in their own country] and with citizens of other countries.

In addition to the above mentioned guarantees, the treaty with Lithuania contains article 14 which provides that persons belonging to a minority have the right to „participate in public life either directly or through freely elected representatives of state or local authorities, as well as the right of access to the public service equal to that enjoyed by other citizens”.

All the treaties contain a general commitment of the states to protect identity of persons belonging to minorities and to create conditions for its development. They also prohibit from any attempts to assimilate them against their will. Beside guaranteeing rights of persons belonging to minorities and specifying State actions in this respect, the treaties impose on members of national minorities a duty of loyalty to their country of residence and also confirm that the exercise of their legitimate rights will be in conformity to the norm of international law. All the treaties between Poland and its neighbours also confirm inviolability of frontiers, state territorial integrity and sovereignty of the signatory states.

The issue of protection of minorities rights in bilateral treaties concluded by Poland in the 1990s was discussed in broad context. The treaties confirmed, on one hand, inviolability of frontiers and state territorial integrity while, on the other, put this protection into the framework

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of bilateral political relations maintained on the basis of "cooperative reciprocity" and compromise. The treaties not only protected minority rights in Poland but also those of Polish minorities living in states their signatories. For the first time after the World War II, these treaties made possible for Poland to shape its frontiers with neighbouring states considering common values like democracy and human rights.

#### **Article 19**

**The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.**

Information under this article need only be provided by Parties that have made limitations, restrictions or derogations. Where limitations, restrictions or derogations have been made information should, where applicable, also be provided under the relevant articles mentioned above.

#### **Article 20**

**In the exercise of the rights and freedoms flowing from the principles enshrined in the present framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities.**

Parties are invited to provide any information they consider relevant.

#### **Article 21**

**Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.**

Parties are invited to provide any information they consider relevant.

#### **Article 22**

**Nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.**

Parties are invited to provide any information they consider relevant.

#### **Article 23**

**The rights and freedoms flowing from the principles enshrined in the present framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms or in the Protocols thereto, shall be understood so as to conform to the latter provisions.**

Parties are invited to provide any information they consider relevant.

#### **Article 30**

**1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply.**

**2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this framework Convention to any other territory specified in the declaration. In respect of such territory the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.**

**3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month**

**following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.**

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