

Minority Protection in Poland

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Minority Protection in Poland

I. Executive Summary

The situation of the Roma minority has not been a focal point in Poland's EU accession negotiations. However, the European Commission has noted the incidence of discrimination and violence against Polish Roma.¹ The government has recently taken much-needed steps to help Polish Roma gain improved access to their rights and benefits, but official reluctance to acknowledge the extent of racial discrimination and strong popular resistance to actions on behalf of Roma could hamper the effectiveness of these efforts.

Polish Roma suffer racially motivated violence by skinheads and other private individuals,² and also allegedly by members of the police, as detailed by international monitors.³ The government acknowledges that "Roma are the national minority which is most exposed to racist attacks. They are sometimes attacked by skinheads because of their different skin shade or lifestyle."⁴ Violent attacks against Roma continued in 2000.

Violence is only the most graphic manifestation of the widespread antipathy Roma experience in Poland; anti-Roma attitudes also lead to discrimination against Roma in everyday life, including by local government officials in the provision of basic public goods and services.⁵ Unemployment among Roma is disproportionately high; health and educational levels are low. A substantial number of Roma students are segregated into low quality classes in upwards of 30 schools throughout the country.

¹ See *Commission Opinion on Poland's Application for Membership of the European Union*, 15 July 1997; See also, European Commission, *2000 Regular Report by the Commission on Poland's Progress Towards Accession*, 8 November 2000 (hereafter "2000 Regular Report").

² *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Poland*, 18/08/97. CERD/C/304/Add.36. CERD, 1997, p. 4.

³ Council of Europe, European Commission Against Racism and Intolerance (ECRI) *Second Report on Poland*, adopted 10 December 1999, CRI (2000) 34, para. 50.

⁴ Ministry of Internal Affairs and Administration, *Pilot Government Programme for the Roma Community in the Malopolska Province for the years 2001–2003*, February 2001, p. 15 (hereafter "Malopolska Programme"). See also CRI (2000) 34, para. 49.

⁵ CRI (2000) 34, para. 59.

Notwithstanding these problems, protection of minorities does not appear to have been addressed in the Commission's negotiations with Poland or in the 1999 Accession Partnership. As yet, no PHARE funding has been allocated specifically in support of efforts to improve the situation for Polish Roma. The government suggests that: "the European Union's interest and its readiness to provide measurable and tangible assistance in solving problems in Poland is relatively low."⁶ Unsurprisingly there is little public awareness of the importance of minority protection to EU accession.

International attention to the situation of Roma in Poland heightened in 1998, following the exodus of a number of asylum-seekers to EU member States, particularly the United Kingdom. Since then, the government has intensified efforts to address the vulnerability of the Roma minority. Poland ratified the Framework Convention for the Protection of National Minorities (FCNM) in December 2000, and in March 2001 the government adopted the "Pilot Government Programme for the Roma Community in the Malopolska Province for the years 2001–2003" (the "Malopolska Programme"). Focusing on a region where Roma face particularly severe hardship, the Program offers government funding for the joint initiatives of local governments and Roma groups in various spheres, particularly education and employment.

While a welcome initiative, the Malopolska Programme has two principal shortcomings. First, it does not incorporate legislative or other steps to address racial discrimination against Roma; without such measures, the effectiveness of policies to improve the situation for Roma in other areas may be compromised. A second, related problem is that implementation of the Malopolska Programme is dependent upon applications from local authorities. However, confronted with strong anti-Roma sentiment on the part of many non-Roma, local officials may be reluctant to present project proposals for fear of losing popular support.

Indeed public recognition of – and protection from – racial discrimination and violence are inadequate in Poland. Anti-discrimination legal provisions fall far below the requirements of the EU Race Equality Directive.⁷ In the government's view, "the Roma problem in Poland, though acute, is of much less intensity than in some other countries [...]"⁸ However, there is no systematic government monitoring of discrimination against Roma

⁶ Malopolska Programme, p. 6.

⁷ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. The directive is part of the *acquis communautaire*.

⁸ Malopolska Programme, p. 6. The program goes on to note that: "the extent to which Polish Roma benefit from assistance offered by the European Union will largely be determined by the level of activity on the Polish side."

or other minorities and few official measures to encourage awareness of racism in the general public or among law enforcement officials. The Ombudsman's Office has limited competence and authority to enforce and promote anti-discrimination norms. The establishment of an independent body capable of providing legal assistance to victims of discrimination, in line with the requirements of the Race Directive, is necessary.

To compound these problems, Roma have little or no political representation of their own in Poland. There are no Roma in elected positions among representative bodies at local, municipal or national levels. Non-governmental Roma associations struggle with few resources. The government is reportedly considering the establishment of an official consultative body for decisions affecting Roma.

II. Background

Minority groups constitute a modest proportion of Poland's total population of 38 million.⁹ The next census in 2002 will be the first since World War II to collect information on ethnicity and spoken language, which may clarify the numbers of Roma in Poland, currently subject to widespread disagreement.¹⁰

According to the European Commission Against Racism and Intolerance (ECRI), the Roma community is "generally excluded from the Polish communities alongside which it lives."¹¹ Recent research shows that this exclusion extends to the media: news reports devoted to Roma in Poland during the first half of 2000 reproduced a dual image of Roma, framed by the categories of crime and entertainment.¹² Of all reports on Roma in the surveyed papers, 10 percent portrayed them primarily as criminals, while 35 percent presented the Roma in the roles of dancers, artists, and poets.¹³ Reporting on the ethnicity of alleged criminals is not uncommon.¹⁴

One national newspaper, *Rzeczpospolita*, distributes a professional code of conduct among its journalists, which includes the guideline: "[j]ournalists should report age, race, colour of skin, disability, sexual orientation only when relevant."¹⁵ This example has yet to be replicated elsewhere. In its Mission statement, Polish State Television also issues guidelines outlining the responsibility to "foster national minorities in Poland".¹⁶

The ubiquity of negative stereotypes regarding Roma is acknowledged by the government: "Dishonesty, reluctance to work, the lack of hygiene and high levels of criminality

⁹ The Roma minority numbers up to 50,000. See Appendix A for more demographic information.

¹⁰ See Appendix A. There are as yet no plans for the Census Commission to establish working relations with Roma organisations and encourage Roma participation.

¹¹ CRI (2000) 34, para. 59.

¹² A. Bartosz, *Gazetowy wizerunek Roma* ("Press images of the Roma"), 2000 (Unpublished paper, on file with the EU Accession Monitoring Programme).

¹³ A. Bartosz, 2000.

¹⁴ The phenomenon was illustrated in April 2000, when the beating of a journalist, allegedly by Roma, provoked a furore in the Polish press. See Zycie, *Napasc na reporterke* ("Attack on a reporter"), 10 April 2000, p. 4.

¹⁵ *Zawodowe zasady etyczne dziennikarzy Rzeczpospolitej*, ("The professional principles of the journalists of Rzeczpospolita"), p. 1.

¹⁶ *Misja Telewizji Polskiej jako nadawcy publicznego* ("The Mission of the Polish Television as a Public Broadcaster"), *załącznik do uchwały* ("amendment to the resolution") No. 18/94, p. 4.

are some of the elements in the image of Roma which still prevails in Polish public opinion.”¹⁷ At the extreme, such stereotypes spill over into racism; according to the ECRI “racist and antisemitic material [...] can be widely obtained in press outlets.” However, “despite the existence of relevant legislative provisions to combat such material, prosecutions are rare.”¹⁸

Strong anti-Roma prejudice complicates the implementation of programmes to assist Roma at the local level. Local officials willing to act to improve the situation for Roma in their communities have met with resistance from their non-Roma constituencies. Ethnic Polish parents have opposed the integration of Roma children into regular classrooms; town residents have sent letters to local governments protesting proposed measures to improve housing conditions for Roma communities.¹⁹

Although a number of civil society organisations have undertaken efforts to promote human rights and inter-ethnic tolerance, a larger-scale campaign is likely to be necessary before measures to improve the extremely difficult situation facing many Roma communities will be accepted and supported by the majority Polish population.

¹⁷ Malopolska Programme, p. 18.

¹⁸ CRI (2000) 34, para. 14, para. 46. Penal Code Art. 257: “Whoever in public insults a group of people or a person on the basis of national, ethnic, racial, religious belonging or on grounds of atheism, or on these grounds, violates the physical integrity of the person, and shall be subject to a penalty of deprivation of liberty to 3 years.” *Dziennik Ustaw* (“Official Gazette”) of 1997, No. 88, item 553.

¹⁹ OSI Roundtable, Warsaw, April 2001. *Explanatory Note: OSI held a roundtable meeting in Warsaw in April 2001 to invite critique of the present report in draft form. Experts present included representatives of the government, Roma representatives, and civil organisations.*

III. Minority Protection: Law and Practice

Poland is party to the major international documents outlining minority rights and prohibiting racial and ethnic discrimination,²⁰ including the Framework Convention for the Protection of National Minorities (FCNM), which entered into force in April 2001.²¹ According to the Constitution, ratified international human rights treaties are binding in Poland and take precedence over domestic law,²² although there are no known instances in which international treaty provisions have been successfully invoked in courts.

A. Protection from Discrimination

Domestic legislation addressing racial discrimination is minimal. The Constitution includes a general equality clause and prohibits discrimination “in political, social or economic life for any reason whatever,”²³ without defining possible grounds for discrimination.²⁴ Other than in the Labour Code (Art. 11(3)),²⁵ which does not carry directly applicable sanctions, there are no provisions explicitly addressing non-violent racial or ethnic discrimination in Polish law.

Numerous provisions of the EU Race Equality Directive are not yet incorporated in Polish law, as noted in the 2000 Regular Report.²⁶ ECRI has recently encouraged “the Polish authorities to introduce a comprehensive body of criminal, civil and administrative legislation prohibiting racism and discrimination in all fields of life (housing, contractual

²⁰ See Appendix A to the Overview Report. Poland also ratified the UNESCO Convention against Discrimination in Education on 15 September 1964 and the UN Convention on the Rights of the Child on 7 June 1991.

²¹ Poland has not yet signed either Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms or the European Charter for Regional and Minority Languages.

²² The Constitution of the Republic of Poland, 2 April 1997, Art. 87, 91 (hereafter “Constitution”). See S. Lodzinski, *The protection of national minorities in Poland: Law and Practice after 1989*, 1998, p. 148.

²³ Constitution, Art 32(1): “All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities; (2) No one shall be discriminated against in political, social or economic life for any reason whatsoever.” Other anti-discrimination aspirations embodied in the Constitution are brief, and do not mention ethnicity as grounds. Thus Art. 60: “Polish citizens enjoying full public rights shall have a right of access to public services based on the principle of equality.”

²⁴ CRI (2000) 34, para. 3: “ECRI suggests that possible grounds of discrimination, including those related to race and ethnic origin, might be included as examples in a non-exhaustive list.”

²⁵ See Section III.A.4.

²⁶ 2000 Regular Report, pp. 56–57.

relations between individuals, employment, access to public places, access to bars, restaurants, etc.).”²⁷

Discrimination against Roma, including through race-based denial of employment or services, is not known to have been successfully prosecuted in Poland to date. The law does not provide for reversal of the burden of proof in cases where persons establish “facts from which it may be presumed that there has been direct or indirect discrimination,”²⁸ complicating proof of discrimination in many cases. There is a marked disparity between the many complaints of racial discrimination received by Roma associations, and the assessment of official bodies, including the Ombudsman’s Office, which rarely finds that discrimination has been established.

The lack of a juridical tradition addressing racism is compounded by a near absence of data on discrimination in any sphere. Poland’s Law on the Protection of Personal Data,²⁹ introduced in line with the relevant EU Directive, is interpreted zealously with regard to ethnicity, although the Directive itself clearly allows for the collection of ethnic data if “appropriate safeguards”, such as anonymity of the data source, are provided.³⁰ The few statistics that exist are collected haphazardly and unofficially and are insufficient to either establish or disprove the existence of discriminatory patterns; this lack of data impedes efforts to evaluate measures or policies to remedy discrimination, or address asymmetrical patterns of unemployment and illiteracy.³¹ Accordingly, Polish authorities have been encouraged by international bodies “to consider ways of establishing a coherent and comprehensive means of data collection to enable the situation of the various minority groups living in Poland and the extent of manifestations of racism and discrimination to be assessed.”³²

²⁷ CRI (2000) 34, para. 16.

²⁸ Council Directive 2000/43/EC, Art. 8(1).

²⁹ Law on the Protection of Personal Data, Dz.U. No. 133, poz. 833, 29 October 1997.

³⁰ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Official Journal L 281 , 23/11/1995 pp. 0031–0050), Art. 8(1).

³¹ See Project on Ethnic Relations, *Roma and Statistics*, Strasbourg, 22–23 May 2000.

³² CRI (2000) 34, para. 46: “Such a system of data collection should be based on the voluntary self-registration of the persons involved, and be designed with due respect paid to the right to privacy and to standards of data protection.”

1. Education

The Constitution guarantees “universal and equal access to education for all citizens.”³³ However, no legislation prohibits discrimination on grounds of race or ethnicity in access to education. Nevertheless Roma school attendance is well below the national average, and an increasing number of Roma primary school students are channelled into lower quality segregated classes.

In the 2000/2001 school year, according to estimates of school superintendents nationwide, there were 2,923 Roma children of school-going age, of whom 878 (30 percent) did not attend either primary or secondary school.³⁴ Recent estimates put attendance at primary school for Roma children at 75 percent in the region of Nowy Sacz and about 80 percent in the Tarnow area.³⁵ The number of persons of Roma origin with university level education in Poland is estimated at no more than 30 in total, around 0.1 percent of the Roma population.³⁶ By contrast, about 7 percent of the Polish population held a university degree in 1998/1999.³⁷

Roma leaders contend that one of the principal reasons that Roma children drop out of school at a young age is discriminatory treatment at the hands of teachers; according to one, Romani parents believe that it's better for their children to earn a living than to face pressure, tension and discrimination in school.³⁸

Segregated “Roma Classes”

For the majority of Roma children who are in school, the quality of education is severely compromised by the persistence of segregated schooling in the form of low standard

³³ Constitution, Art. 70(4).

³⁴ Ministry of National Education, “Information concerning the education of children and youths of Roma origin in Poland”, presented at the FCNM Implementation Meeting in Warsaw, 24 October 2000 (hereafter “Ministry of Education, 2000”), p. 2. The largest concentration of school students of Roma origin are present in Malopolskie (628), Slaskie (309), Mazowieckie (274) and Opolskie (240) voivodships. The greatest number of school-aged students who do not attend school are in the Mazowieckie (138), Opolskie (104), Wielkopolskie (99) and Podkarpackie (96) voivodships.

³⁵ Information from the President of the Association of the Roma in Nowy Sacz region, Laskowa Górna 1 September 2000; President of the Centre of Roma Culture in Poland, Tarnow, 7 September 2000; and M.G. Krakow, 5 September 2000.

³⁶ A. Andrasz, *Dlaczego emigracja*, (“Why emigration?”), Report of the Centre for Roma Culture in Poland, Archives of the Association (unpublished, on file with the EU Accession Monitoring Program), p. 2. OSI Roundtable, Warsaw, 12 April 2001.

³⁷ Central Statistical Office, Statistical Yearbook of the Republic of Poland 1999, Warsaw, p. 250.

³⁸ OSI Roundtable, Warsaw, April 2001.

“Roma classes”. These classes were initiated in 1991, as an experiment by a Catholic priest, in the absence of a state policy to address low literacy levels and high drop-out rates among Roma children. An “Initial Teaching Program for Roma” was developed with the help of teachers experienced in teaching Roma pupils. The Program was subsequently adopted by the Ministry of National Education in 1992,³⁹ without consulting with Roma leaders, organisations or families, and in the absence of public debate. It remains in place to this day.

The program approved by the Ministry does not specify any formal criteria for assignment to separate Roma classes. It is defined as a “minimum” program and does not offer any structure for continued schooling beyond three years.⁴⁰ An introduction to the program states that “Roma children demand special care to be able to keep pace with the conditions of life in Polish society,” and describes the “natural” features of Roma youth: “Gypsy children are naturally aggressive, they are easily discouraged” and “Roma children come to schools lazy, absent-minded, quick-tempered, aggressive, and are unable to behave properly during lessons.”⁴¹ The Ministry has explained that segregated classes are designed “to allow Romany children to more easily overcome the educational and adaptation barriers [...] and [to prepare] children to continue education from class IV in the integrated system of Polish public schools.”⁴² The Ministry has justified segregation on the basis of poor spoken Polish among Roma.⁴³

Although Roma organisations advocate “integrated classes” as the best means to improve education among Roma, in practice, with few exceptions, Romani children are enrolled into “Roma classes” irrespective of prior educational achievements. Formally, local Roma communities (and parents) must agree to the establishment of Roma classes – and agreement is frequently granted without a full appreciation of the consequences. In the 1993/94 school year there were 14 Roma classes in the country.⁴⁴ In 1997 it

³⁹ Ministry of Education, 2000, p. 3.

⁴⁰ See E. Nowicka, *Pluralizm czy izolacja. Polityka oświatowa wobec osiadłych Romów w Polsce*, in *Sytuacja Romów w Polsce. U nas dole i niedole*, (“Educational policy concerning settled Roma in Poland”, in *Situation of Roma in Poland*) E. Nowicka (ed.), Nomos, Krakow, 1999, pp. 41–53.

⁴¹ Nowicka, 1999, pp. 47–50.

⁴² Excerpt from a letter of the Ministry of National Education, signed by Deputy Director of the Bureau for European Integration and International Cooperation, to the European Roma Rights Center (ERRC), Budapest, dated 20 October 1997 (hereafter “ERRC letter, 1997”).

⁴³ ERRC letter 1997: “[integrated classes] create a series of problems. The most important is the poor command of the Polish language on the part of Romany children [...] At present [1997] the group of teachers teaching Romany children [...] wish to continue the experiment of the Romany children by expanding it into higher classes of primary schooling.”

⁴⁴ These were located in Nowy Sacz, Limanowa, Maruszyna, Maszkowice, Czarny Dunajec, Tarnow, Mielec, Lublin, Stalowa Wola, Puławy, Zabrze, Suwalki.

was decided to expand the program and currently the number of Roma classes is estimated at about 30.⁴⁵

In 1997, the Roma Cultural Centre of Tarnow conducted an evaluation of one Roma class, in the Maszkowice public school in Nowy Sacz. Forty-two Roma children between seven and 14 years of age were segregated into a single small classroom with one teacher. The majority of children did not know how to read basic letters or to perform even simple counting exercises. The Centre concluded that the Roma children faced inequality and discrimination, were entirely excluded from school life, and that the teacher's competence was questionable.⁴⁶

The Centre subsequently initiated a debate with the school authorities, the regional educational authorities and the Ministry of National Education requesting the dissolution of the Roma class, and evaluation of these classes around the country. The Centre further provided the Romani children with material assistance (school materials, shoes, clothes, etc.). However, a number of ethnic Polish parents of children in the same school requested the continuation of the "Roma class" in order to avoid contact between Roma and ethnic Polish children. As of July 2001, the situation remains unchanged: the Romani classroom continues to exist and the same teacher teaches the segregated children. Reportedly ethnic Polish residents of Maszkowice have become more hostile towards the Roma community, and would resist integrated classes.

In June 2000, following a dispute between Roma parents and a school director about the planned closure of a "Roma class" in Czarny Dunajec (Nowy Sacz province),⁴⁷ the Ombudsman proposed replacing the Roma class with an integrated class for "children with learning difficulties". The Ombudsman noted that the "learning difficulties" of the Roma pupils, unlike their ethnic Polish counterparts, were due to language.⁴⁸ The solution, which is to be reviewed after a year, has been contested by Roma leaders as discriminatory, effectively moving Roma students from one substandard class to another.

⁴⁵ "This school year 'Roma classes' – about 30 – are operational in four voivodships (Lubelskie, Lodzkie, Malopolskie and Podkarpackie)." Ministry of Education, 2000.

⁴⁶ Information in this and the following paragraph from the Chair of the Romani Advisory Council, Project on Ethnic Relations, Warsaw and Krakow, March–May 2001.

⁴⁷ Ombudsman's Office, RPO/344944/2000/TG, 3 July 2000, *Notatka z badan terenowych w dniu 19 czerwca 2000 r. dotyczacych dzialalnosci organu administracji samorzadowej Gminy Czarny Dunajec na rzecz realizacji zasady rownosci w dostepie Romow do nauki oraz swiadczen pomocy spolecznej* ("Briefing note from the research conducted on 19 June 2000, concerning the activities of local administration in Czarny Dunajec for the purpose of realisation the principle of equality in access of the Roma to education and social assistance") Warsaw, pp. 1–4 (hereafter "Ombudsman's Brief 2000").

⁴⁸ Ombudsman's Brief 2000, p. 2.

The Roma School in Suwalki

One exceptional case of special education for Roma children, considered successful by participants and observers alike, is the Parish Primary School in Suwalki, a private initiative offering education for Roma children on a non-fee paying basis.⁴⁹ The staff is mainly voluntary, and Roma children reportedly participate enthusiastically and successfully continue to regular schools afterwards. The idea behind the school, according to its founder, is not to create a separate educational system for Roma, but rather to provide them with the necessary prerequisites to attend regular schools.⁵⁰

Government Measures

Few programs exist to assist the integration of Roma pupils at primary or secondary level or to equalise their chances for further educational development. There is no government program to reduce disparate access to higher education, nor are government scholarships offered to encourage Roma youth to apply to universities. Those programs that exist are generally initiatives of the Roma associations.⁵¹

The Malopolska Program makes education a main priority; the Ministry of National Education plans to set up a co-ordinating team for implementation of program tasks, which include increasing teacher and assistant ratios and providing financial support for pre-schooling, which few Roma parents can afford. However, although the program mentions the “shortcomings” of “Roma classes”, it does not include concrete steps for their elimination. Polish Roma leaders believe the Ministry should consider dissolving the “Initial Teaching Program for Roma” and abolishing Roma classes as inconsistent with the principle of equal opportunity in education.⁵²

2. Health Care

No provisions in Polish law explicitly address discrimination in access to health care on grounds of race/ethnicity. The Constitution ensures “equal access to health care

⁴⁹ Ministry of Education, 2000, p. 3. Other experimental programs include: the alternative school in Opole “TAK” (Yes) with a program entitled “Inni to takze my” (“Others are also us”); the Youth Culture Centre in Pulawy runs a cultural education program for Roma children and youth; the Culture Centre in Lodz holds extramural classes for Roma children in primary school; and the Roma Association in Krakow-Nowa Huta organises an orientation program for Roma children of pre-school age.

⁵⁰ European Roma Rights Center report on Poland, unpublished document, 1997, pp. 17–18 (on file with EU Accession Monitoring Program, hereafter “ERRC report”).

⁵¹ Report of the Association of the Roma in Krakow/Nowa Huta, 2000. Archives of the Association.

⁵² Information from the Chair of the Romani Advisory Council, Project on Ethnic Relations, Warsaw and Krakow, March–May 2001.

services, financed from public funds...by public authorities to citizens, irrespective of their material situation” (Art. 68(2)). The Universal Health Insurance Act guarantees equal access to health care, but does not specifically prohibit discrimination on the grounds of race or ethnicity.⁵³

Health Conditions Among Roma

In practice Roma suffer from inadequate access to health care providers, services and insurance. As a result, Roma are vulnerable to diseases and illnesses that are rare among the majority population. A 1999 report concluded that “the health conditions of Roma living in foothill areas of the Malopolska province are extremely poor. They suffer from diseases such as viral hepatitis B, asthma, pneumonia, bronchitis, tuberculosis, anaemia, mental handicaps and hyperthyroidism. Because of disastrous sanitary conditions personal hygiene is at a very low level. The life expectancy for Roma in this area [...] is 55 years.”⁵⁴ Reportedly, many Roma children are not vaccinated.

The absence of basic amenities in some areas inhabited by Roma in Southern Poland is a cause of ill health. One report describes how in the southern Polish town of Nowy Sacz, approximately one hundred Roma live in a run-down district, dependent on water supply from a single tap situated outside one of the houses. “[T]he water pipe was installed only after the Roma were able to prove with medical certificates that several children in the neighbourhood had contracted hepatitis after having drunk polluted water from an impromptu well.”⁵⁵

The government acknowledges the risk, reporting that serious health problems result from low levels of hygiene in “disastrous living conditions: no water supply and sewage system, no heat insulation in buildings and their appalling technical condition.” Other factors mentioned are, “lack of money for fuel, poor diet [and] limited access to health care services.”⁵⁶ In 1999, a thorough reform was introduced to the health services, requiring, *inter alia*, registration by patients at the appropriate regional health centres, and significant price increases on many medications. Information on the reforms was not provided in the Romani language, was not systematically delivered in deprived

⁵³ *Ustawa o Powszechnym Ubezpieczeniu Zdrowotnym* (“Universal Health Insurance Act”), 1 January 1999, Art.1.

⁵⁴ J. Beesely, *Westminster for Democracy*, 1999, cited in *Malopolska Programme*, p. 13.

⁵⁵ ERRC report, 1997. The report notes: “The Nowy Sacz Roma told the ERRC that they came to the area around thirty-five years ago, and that to date, the authorities have not provided them with any infrastructure whatsoever.”

⁵⁶ *Malopolska Programme*, p. 13

areas nor made available to unemployed and illiterate persons. As a result there are fears that many Roma are not aware of the current procedure.⁵⁷

Government Measures

The Malopolska Program includes the objective of “ensuring easier access to health care services for Roma,” but sets forth few specific steps to achieve this objective; program activities are mainly hygiene related. The Program suggests, *inter alia*, subsidising medicines, promoting vaccination and increased monitoring of pregnancy among Roma women to catch “congenital defects of children at an early stage.”⁵⁸

3. Housing and Other Goods and Services

Housing

Discrimination in access to housing on grounds of race is not specifically addressed in Polish law. In addition to the constitutionally guaranteed right to social security, public authorities are obliged to “pursue policies conducive to satisfying the housing needs of citizens, in particular combating homelessness, promoting the development of low-income housing, and supporting activities aimed at acquisition of a home by each citizen.”⁵⁹ At the same time, racial discrimination in housing is reportedly one of the biggest problems faced by Polish Roma.

Evictions and Popular Prejudice

Various discriminatory practices against Roma families have been reported, including deliberately raised rents on city owned flats⁶⁰ or eviction from certain locations (such as city and town centres), as documented in Tarnow and Nowy Sacz.⁶¹ In early 1999, in a move disproportionately affecting Roma, the Tarnow housing authorities demanded the eviction of around thirty families on the grounds of irregular rent payments,

⁵⁷ OSI Roundtable, Warsaw, 12 April 2001.

⁵⁸ Malopolska Programme, p. 13.

⁵⁹ Constitution, Art. 75(1).

⁶⁰ For example, a Roma resident from Krzyska street in Tarnow was asked to pay 540.42 PLN rent (€ 148) for a flat of 60.69 square meters, more than affluent Krakow residents pay for flats with better conditions. (Source: Receipt of the City Board of Housing, 2 February 1999 for Ms S.Z). Allegedly in Tarnow the rent for the substandard city flats in which many Roma live is almost as high as for private apartments with comfortable conditions. Information from Roma leader, Tarnow, 7 September 2000.

⁶¹ Association of Roma in Nowy Sacz region, *Raport o sytuacji Romow*, 1999, (“The Report on the situation of Roma”), and documents of the Centre of Roma Culture in Tarnow.

regardless of their condition.⁶² On 16 February 1999, Tarnow municipal officials unsuccessfully attempted the forced eviction of a pregnant Roma woman along with her two children.⁶³

There are documented cases of demands from the local non-Roma population for the removal of Roma families from neighbourhoods on explicitly racist grounds. For example, in March 2001, in response to public discussion of proposals to provide public housing for Roma, the residents of three villages sent a joint letter to the mayor of Lacko, stating: "We the undersigned residents, do not agree to build a Roma community on municipal plots, owing to the lack of guarantee that new arrivals from other places will not settle [...]. Roma do not want to help themselves, are onerous neighbours, are degenerate [...] and are riddled with diseases such as jaundice and tuberculosis which can spread to other members of our municipality."⁶⁴

These attitudes are not new. In November 1999, the Deputy Mayor of Limanowa met a group of thirty non-Roma residents, who demanded the removal of the local Roma community. They requested that Roma not be allowed settle legally in a particular street, and that a hedge be built to surround properties inhabited by Roma.⁶⁵ In April 1998, the residents of the Krzycz area in Tarnow wrote a letter to the city council, protesting against the settlement of an eleven-member Roma family. The Deputy Mayor in this instance told the press that the city council would treat the Roma the same as other citizens of the town.⁶⁶

Substandard Living Conditions

Many Roma families live separated from the rest of population in sub-standard housing conditions; in many cases, access to public utilities and other amenities must be shared among large numbers of residents. In cities such as Nowy Sacz and Limanowa, Roma families often live in communal flats of the lowest standard. A report on the situation of the Roma in the region of Nowy Sacz states that Roma living conditions are

⁶² Letter of Marek Ciesielczyk (a member of city council in Tarnow) to Antoni Zieba (Chair of City Council in Tarnow) and Jozef Rojek (the Mayor of Tarnow), 12 February 1999; *Gazeta Wyborcza* *Gazeta w Krakowie, Gdy graja, to ich lubia*, ("When they play, they are delighted"), 13–14 February 1999.

⁶³ *Gazeta Krakowska, Romowie jada na odsiecz*, ("The Roma go for succour"), 17 February 1999; *Gazeta Wyborcza, Gdy graja, to ich lubia*, ("When they play, they are delighted"), 13–14 February 1999. The incident was witnessed by representatives of the Roma community and broadcast on local TV.

⁶⁴ Letter to the Mayor of Lacko commune, dated 15 March 2001, reference 211/01, signed by residents of Legow, Jazowsko and Szczereza villages.

⁶⁵ Protest of Association of the Roma in Nowy Sacz region, Archives of the Association.

⁶⁶ *Gazeta Krakowska, To jawny rasizm*, 25 April 1998.

worsening.⁶⁷ According to the government “premises occupied by Roma require repairs immediately; some of them do not meet the requirements of housing regulations [...] If repairs are not undertaken very soon, some buildings will be only due for demolition.”⁶⁸

An unpublished report by the European Roma Rights Center detailed conditions for the 120 or so Roma living in a settlement near Maszkowicze in July 1997: “houses consist of huts which they themselves constructed and old vans which are now immobile. There is one water-tap in the village, installed in the fall of 1996 by the Maszkowicze Mayor’s Office but, as one of the Romani inhabitants put it, ‘only after many years of begging.’ The mayor’s office also recently provided the Maszkowicze Roma with three chemical toilets, which are placed in a row at the entrance of the neighbourhood. ‘We are happy that we got them,’ the Roma told us, ‘but we cannot pay for the toilet-emptying service.’”⁶⁹

Government Measures

There are no government measures to address non-Roma resistance to Roma settlements or discriminatory practices by municipalities, and no housing programs for Roma. The Malopolska Programme sets aside funding for a number of tasks, including the repair and construction of buildings, and the provision of electricity and water supplies to Roma neighbourhoods. However, local governments must apply for such funding, and non-Roma opposition, as noted above, can be strong.

Other Goods and Services

The Constitution provides that “Polish citizens enjoying full public rights shall have a right of access to public services based on the principle of equality.”⁷⁰ However evidence suggests that Roma are frequently denied access to public accommodations. Certain service providers have been known to refuse access to Roma, sometimes openly and publicly. One hotel next to the railway station at Piotrków Trybunalski, publicly advertised that “Romanian citizens” – a common reference to Roma migrants from Romania – would not be accepted.⁷¹ The announcement was removed after the

⁶⁷ T. Gabor, *Raport o sytuacji Romów – 1999*. (“Report on the Roma situation”, 1999), Archives of the Association of the Roma in Nowy Sacz region.

⁶⁸ Malopolska Programme, p. 14.

⁶⁹ ERRC Report, 1997, p. 10.

⁷⁰ Constitution, Art. 60.

⁷¹ ECRI notes that “Roma/Gypsies coming to Poland from Romania are in a particularly vulnerable position.” CRI (2000) 34, para. 50.

intervention of local authorities. In a press release, the municipal council condemned the incident, not for its racist connotations, but for the bad reputation it would give the town, commenting that a simple note posted in the hotel rather than at the railway station would have been more effective.⁷²

Some businesses have expressly refused credit to Roma customers as a matter of policy. In July 1999, a Roma customer at the “Alwis” store in Limanova was informed of an internal memo signed by the director, stating: “with regards to the insolvency of credits assigned to credit receivers of Gypsy nationality (the Roma) we stop granting credits to persons of this origin as of and from 5 December 1997.”⁷³ In response to a request by the Ombudsman, Alwis declared that this discriminatory practice had been abandoned.⁷⁴

In neither of the above cases were the perpetrators sanctioned, nor was compensation awarded to the victims.

4. *Employment*

The sole legal instrument directly addressing non-violent ethnic discrimination in Polish law is Article 11(3) of the Labour Code, which states that “any form of discrimination in labour relations, in particular on the grounds of [...] race, nationality, beliefs [...] cannot be admitted.” ECRI is of the opinion that the term “cannot be admitted” is somewhat vague. The law does not offer explicit sanctions and has rarely been invoked in the courts.⁷⁵

Unemployment Among Roma

Despite a lack of ethnic data on employment, numerous sources acknowledge high rates of unemployment among the Roma. A report prepared by the National Labour Office states that no more than 43 percent of surveyed Roma indicated employment

⁷² Never Again, *Przypadki dyskryminacji i rasistowskiej przemocy wobec Romow w Polsce: Raport Stowarzyszenia, “Nigdy Wiecej”* (“Cases of discrimination and racist violence against the Roma in Poland: A report of the ‘Never Again’ Association”), 21 March 2000, p. 3.

⁷³ Internal memo from director M.G. to all companies affiliated with Alwis on 25 November 1997.

⁷⁴ The Office of the Ombudsman, *Ochrona praw mniejszosci narodowych i etnicznych* (“The protection of rights of national and ethnic minorities”), 2000 pp. 7–8.

⁷⁵ CRI (2000) 34, para. 15. According to ECRI, “the authorities state that in practice a discriminated person can request redress of the discrimination, material or moral damages. Few decisions have as yet been passed by the courts relating to Art. 11.3 of the Labour Code; it is therefore difficult to evaluate its efficacy [sic] or scope.”

as a source of income to their families in 1999.⁷⁶ The government notes that “53.9 percent of the unemployed in the Malopolska province live in the rural areas where the Roma [...] are in the majority and nearly all the Roma population there is unemployed.” Estimates by Roma leaders put rates of unemployment at 90 percent in both Krakow and Tarnow, rising as high as 99 percent in Nowy Sacz.⁷⁷ According to an Ombudsman’s report, the level of Roma unemployment in the area of Czarny Dunajec reaches 100 percent.⁷⁸

The Polish authorities do not recognise discrimination as a factor in Roma unemployment levels. One briefing paper from the Ombudsman’s Office suggests that high unemployment stems from the “civilisational backwardness” of the Roma.⁷⁹ Similarly, the Malopolska Programme reports that: “[u]nemployment among Roma is directly related to their low level of education, the lack of professional qualifications and their insufficient knowledge of the Polish language. [...] Roma are unable to compete with Poles on the labour market, mainly because they have no formal qualifications.”⁸⁰

To the contrary, ECRI has noted that “disadvantage on the labour market is also frequently attributable to direct discrimination and prejudice as well as to previous discrimination in access to education and social equality.”⁸¹ This caution is substantiated by the leaders of several Roma organisations, who report various and frequent instances of indirect discrimination in employment procedures.⁸²

Government Measures

The objectives of the Malopolska Programme in the sphere of employment do not address discriminatory attitudes on the parts of employers. Instead, the Programme focuses on “motivating” Roma, stating that “[t]raining for Roma should be designed to stimulate their psychological activity: developing their motivation to acquire, upgrade

⁷⁶ National Labour Office, *Romowie – bezrobocie. Elementy opisu położenia społecznego Romów w Polsce w 1999 r.* (“Roma – Unemployment. Selected elements describing the social position of Roma in Poland in 1999”), cited in the Malopolska Programme, p. 12.

⁷⁷ Information from Roma leaders/NGO activists from Laskowa Górna 1 September 2000; Tarnow, 7 September 2000; and Krakow, 5 September 2000.

⁷⁸ Ombudsman’s Brief 2000, p. 3.

⁷⁹ Ombudsman’s Brief 2000, p. 3.

⁸⁰ Malopolska Programme, p. 11.

⁸¹ CRI (2000) 34, para. 38.

⁸² Information from Roma leaders/NGO activists from Laskowa Górna 1 September 2000; Tarnow, 7 September 2000; and Krakow, 5 September 2000.

and change professional skills, encouraging them to seek jobs actively, strengthening their self-esteem.”⁸³

B. Protection from Racially-Motivated Violence

The Penal Code of 1997 specifies punishment for violence committed against a group of people or a person on the basis of, *inter alia*, “nation, ethnicity, race”.⁸⁴ There are no disciplinary regulations specifically concerning misconduct by law enforcement personnel in cases of racially motivated abuse.

Violence Targeting Roma

Racially motivated violence continues to be one of the biggest problems faced by the Roma community in Poland. Fifteen such incidents were reported by NGOs and Roma Associations during 1999 and 2000,⁸⁵ and the actual figure may be considerably higher, given the reluctance of many Roma to report violence, which is rarely sanctioned. A number of attacks exhibit the hallmarks of deeply racist ideology on the part of the perpetrators. In several cases the relevant authorities have failed to carry out effective investigations.

The rise of white supremacist ideology in Poland over the past several years has been documented by a number of observers. In certain cities, it is reported that organised groups of skinheads actively seek out Romani families and individuals for harassment, intimidation and violent assault. One such is the Związek Białego Orła (ZBO, White Eagle Union), which is based in several cities. Shortly after a ZBO Chapter opened in Opole, anti-Romani graffiti began to appear in the nearby town of Brzeg: “Gypsies: they don’t want you in England, or in Brzeg either.” In early December 2000, Roma families in three different streets in Brzeg were subjected to repeated harassment by skinhead gangs who broke their windows and sprayed racist graffiti on their houses. According to the anti-racism monitoring NGO “Never Again”, non-Roma neighbours not only did not intervene, but reportedly expressed their approval to a journalist. Local police dismissed

⁸³ Malopolska Programme, p. 12. The three main elements of the strategy are: “developing motivation for retraining and raising the level of general knowledge; involving the unemployed in activities which encourage them to take an active approach; training for occupations which are on demand in the labour market.”

⁸⁴ Official Gazette of 1997, No. 88, item 553. Penal Code of 6 June 1997, Art. 119 (unofficial translation).

⁸⁵ Information from “Never Again”, cited in ERRC, “Anti-Romani action in Poland”, *Roma Rights*, No. 2/2000. Association of the Roma in Nowy Sacz, *Raport o sytuacji Romów* (“Report on the Situation of the Roma”), 1999.

the attacks as bogus, claiming that the racist graffiti was painted by the families themselves, in order to be able to support their claims for asylum elsewhere on grounds of persecution.⁸⁶

Examples of egregious racial violence against Roma are not uncommon in Poland. On June 2000, a 33 year-old Roma mother and her seven children were forcibly removed from their flat in Tarnow to a small suburban location. In early August 2000, around 20 Polish youths gathered on the street shouting anti-Romani insults and threatening to kill the family. When one of the children attempted to call the police from a public phone, he was beaten by four non-Roma youths. Local policemen reportedly ignored appeals to provide protection to the family.⁸⁷ On 27 August 2000 at two a.m., two masked men armed with an axe broke into the flat and severely wounded a number of family members, leading to the hospitalisation of the mother. Four suspects were arrested, then freed two days later, allegedly due to a good alibi and insufficient evidence. In a short statement reported in the newspaper *Gazeta Krakowska*, a police spokesperson remarked that: “[t]he reason for the crime is unknown to us, but we exclude robbery. The assailants did not ask for money or valuable goods.”⁸⁸

In another case, on 13 November 1999, skinheads allegedly burned three houses belonging to Roma in Krosnica, leaving 19 individuals without shelter or belongings. Three youths under suspicion for the attacks reportedly told journalists, “the only good Gypsy is a dead Gypsy.” One year later, according to the Association, the families were still homeless.⁸⁹ Police reportedly have not charged anyone in connection with these crimes.⁹⁰

A group of male youths set fire to the car of a Roma boy on 30 October 1999 while insulting him with racist slogans. When his brother attempted to investigate the case the following day, he was beaten up. On 21–22 July 1999 a group of skinheads attacked an apartment inhabited by a Romani man in Osiedle Stalowe (Krakow-Nowa Huta), breaking windows and painting the door with swastikas.⁹¹

Despite the frequency of anti-Roma violence, the police repeatedly deny that racial motivation plays a role in such incidents, and a majority of prosecutions collapse due

⁸⁶ Information from “Never Again”, cited in ERRC, Roma Rights, No. 1/2001, <http://errc.org/rr_nr1_2001/snap11.shtml> (accessed 21 June 2001).

⁸⁷ Information from Roma leader, Tarnow, 7 September 2000.

⁸⁸ *Gazeta Krakowska, Pobita Cyganka* (“Beaten Gypsy Woman”), 29 August 2000.

⁸⁹ Information from Roma leader, Laskowa Górna, 1 September 2000.

⁹⁰ Information from “Never Again”. See ERRC, Roma Rights, No. 2/2000, <http://errc.org/rr_nr2_2000/snap19.shtml> (accessed 21 June 2001).

⁹¹ See ERRC, Roma Rights, No. 2/2000.

to insufficient evidence. Harassment of victims during the process of investigation has been reported in several cases documented in considerable detail by organisations such as the Centre of Roma Culture in Poland, Tarnow and the Association of the Roma in Nowy Sacz. Roma victims report that they receive unequal treatment by the police, prosecutors and other investigative authorities.⁹²

For example, on 1 October 1999, a Romani schoolboy was severely beaten by a doorman in the Stanislaw Staszic Primary School No. 7 in Tarnow. The boy was taken to hospital, where doctors found severe head injuries, symptoms of concussion, and marks of beating over his entire body. The parents brought criminal charges against the doorman, and the case was monitored by the Centre of Roma Culture in Tarnow. The prosecution collapsed due to insufficient evidence of a racial motive.⁹³ The doorman was fired, but, in a letter to the Ombudsman, the Deputy Mayor of Tarnow argued that the school had a very good reputation for taking special care of Roma children and that the Romani boy had provoked the violent reaction of the doorman.⁹⁴

ECRI has further reported allegations of police violence and abuse against Roma, particularly migrants from Romania.⁹⁵ This concurs with the evaluation of the European Roma Rights Center, that “[a]part from turning a blind eye to regularly occurring incidents of violence against Roma, often, the police [...] represent a source of violence against Roma in Poland. Roma in several places in Poland reported violence and abusive treatment by law-enforcement officials.”⁹⁶

Government Measures

The Malopolska Programme concentrates on the unwillingness of Roma to cooperate with the police, rather than addressing the racist attitudes that underlie much anti-Roma violence. The Programme aims at “changing the attitude of Roma so that they see the necessity for cooperation with the Police.”⁹⁷ It further recommends training for

⁹² Information from Roma leaders/NGO activists from Laskowa Gorna, 1 September 2000; Tarnow, 7 September 2000; and Krakow, 5 September 2000.

⁹³ OSI Roundtable, Warsaw, 12 April 2001.

⁹⁴ Letter of Deputy Mayor of Tarnow to the Ombudsman, 15 November 1999.

⁹⁵ “ECRI is also concerned by allegations of police violence and abuse directed at members of the Roma/Gypsy community. The Roma/Gypsies coming to Poland from Romania are in a particularly vulnerable position; members of this community are often moved on by the police and although no concrete details are available, some sources fear that these Roma/Gypsies are liable to abuses on the part of the police.” CRI (2000) 34, para. 50.

⁹⁶ ERRC, 1997.

⁹⁷ Malopolska Programme, pp. 16–17.

police, and “action to change the conviction that such acts [racial violence] are not socially harmful,” but makes no similar recommendations regarding prosecutors or the judiciary. In the long term, recruitment of Roma into the police force is recommended.⁹⁸ To date, however, there is little evidence that these recommendations have been implemented.

C. Minority Rights

Twelve years after Poland’s first post-Communist government sought to address the issue, the protection of minority rights rests on an uncertain legal foundation. The Sejm Committee on National and Ethnic Minorities (hereafter the “Committee”), appointed in 1989, was tasked with regulating the legal status of minorities through both constitutional provisions and separate statutes for the protection of national minorities. As of July 2001, only the first task has been accomplished. The new Constitution adopted in 1997 contains a basic provision ensuring minority citizens the right to “maintain and develop their own language, customs, traditions and culture.”⁹⁹ The Committee adopted a draft Law on National Minorities in 1998 and submitted it to the Sejm in the same year. After critical review by the government in 1999 and a first reading at the Sejm, the draft was returned to the Committee for further elaboration.

Following recent ratification of the FCNM, a debate has progressed in the Sejm as to whether the Draft Minorities Law should serve to implement the Convention, or whether FCNM provisions should be incorporated into laws regulating the relevant areas. Advocates of a comprehensive minority law argue that due to the “dispersion” of minority provisions in different general acts there is a lack of consistency among those provisions and lack of co-ordination among state organs responsible for their implementation. Demographics have played a decisive role in the Polish context: due to the numerical weakness of minorities, combined with the existence of bilateral treaties with Poland’s neighbours,¹⁰⁰ there are no strong supporters of the draft Minorities Law in the Sejm today. The prospect of adopting such a law during the current term of the Sejm is unlikely.

⁹⁸ Malopolska Programme, p. 16.

⁹⁹ Constitution, Art. 35(1). Art. 35(2) gives minorities the right to establish educational and cultural institutions.

¹⁰⁰ These treaties give significant political and legal weight to the OSCE standards of minority protection. For example, Article 20 (2) of the treaty with Germany stipulates: “The Parties shall fulfil rights and duties in accordance with international standards concerning minorities, particularly those contained in (...) the Final Act of the CSCE of January 1, 1975, the Document of Copenhagen Meeting of the CSCE Conference of June 29, 1990 on the Human Dimension, as well as the Charter of Paris for a New Europe of November 21, 1990.” The Treaty between the Republic of Poland and the Federal Republic of Germany on Good Neighbourly Relation and Friendly Co-operation, 17 June, 1991. However, they do not offer similar protection to the Roma minority.

Thus the basic provision for minority protection to date remains Article 35 of the Constitution:

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

1. *Identity*

Article 35 of the Constitution goes beyond the general principles of equality and non-discrimination embodied in the earlier 1952 Constitution, establishing a positive state commitment toward minorities.¹⁰¹ Although there is little question regarding the recognition of the Roma minority, the terms “national and ethnic minorities” are not defined in the Constitution or elsewhere.¹⁰² Consequently, minorities are recognised only by virtue of being represented by an organisation, and only then if a court agrees to register an organisation as “national/ethnic”, according to the Act on Associations of 1989. In one case, however, the courts refused to recognise the self-declaration of a Silesian organisation.¹⁰³

¹⁰¹ Other provisions of the new Constitution that directly or indirectly relate to the protection of minorities are the following: Art. 27 on Polish as state official language; Art. 13 on prohibition of political organisations aiming at incitement of racial or national hatred; Art. 25 on equality of churches and religious organisations; Art. 53 on freedom of faith and religion; Art. 54 on freedom of opinion and information; Art. 57 on right to peaceful assembly and freedom of association; Art. 60 on equality of access to public services; Art. 32 on equality before the law and prohibition of discrimination; Art. 9 on Poland’s commitment to respect binding international laws; Art. 87 on sources of universally binding law of Poland, *inter alia*, ratified international agreements and regulations and Art. 91 on the precedence of international over domestic norms.

¹⁰² The following declaration appears in Poland’s ratification of the FCNM: “Poland declares that it understands the notion of national minority as a national minority inhabiting the territory of Poland, whose members are Polish citizens.” *Deklaracja interpretacyjna*, (“Interpretative Declaration”) to the FCNM, March 2000 (unofficial translation).

¹⁰³ For instance, a June 1997 decision by the court in Katowice to register the Union of People of Silesian Nationality was reversed by the Court of appeal. The Court rejected the organisation’s registration in part because Article 30 of the Union’s statute states: “The Union is an organisation of the Silesian national minority.” The Ministry of Internal Affairs and Administration also issued a negative opinion on the case, arguing that registration of such an organisation could be considered only when the existence of the Silesian minority has been formally affirmed. See J. Dziadul, *My naród slaski* (“We, the Silesian nation”), in *Polityka*, 14 June 1997, pp. 20–21; *Gazeta Wyborcza, Nacja slaska* (“The Silesian nation”), 26 June 1997, p. 3; B. Cieszevska, *My naród* (“We, the nation”), in *Rzeczpospolita*, 28–29 June 1997, p. 3.

2. Education

Although minorities are permitted by law to establish schools and classes for maintaining their identity and culture, the Roma minority has not benefited from these provisions. Article 13 (1) of the *Polish Act of September 7, 1991, on the Educational System* states that “public schools shall enable pupils to retain their sense of national, ethnic, linguistic and religious identity, and in particular, shall make it possible for them to learn their own language, history and culture.”¹⁰⁴ Minority classes and schools are supported in Article 13(2) of the Act: “At the request of parents, the educational instruction [...] may be conducted in (1) separate groups, sections or schools.” Classes may also be held with additional lessons on the history and culture of the respective minority.¹⁰⁵

A 1992 resolution by the Minister of Education states that: “[n]ative instruction for minority pupils as well as other classes [...] will be organised on a volunteer basis. These classes shall be organised by the school (pre-school) principal at the request of the parents or legal guardians. If students above the elementary level express a desire to participate in such classes, the students themselves may submit this request” (para. 3).¹⁰⁶ The minimum number of pupils required to form classes with minority language instruction is seven in primary schools and 14 at the secondary level (para. 6). The resolution further establishes four types of minority schools: schools with non-Polish language of instruction; bilingual schools; schools with additional study of mother tongue of minorities; and inter-school groups of pupils from different schools with additional study of mother tongue.

In practice, none of these provisions has ever been applied for the Roma minority. There are no traditions of teaching Romani languages, no trained teachers, and no textbooks. In addition, Polish authorities have never encouraged developments in this area. On the contrary, the fact that Roma children speak primarily Romani languages and have a poor command of Polish when they enter school is widely regarded as a handicap, and considered a major factor in the low school performance of Roma children. The variety of Romani dialects spoken by the Roma in Poland is considered an obstacle both to the teaching of the Romani language and to integrated education

¹⁰⁴ Art. 12 of the Act permits education for religious minorities in public schools. Thus, the religion of a given denomination may be taught if the parents of at least seven pupils declare. *Dziennik Ustaw* of 1991, No. 95, item 425 (unofficial translation).

¹⁰⁵ Act of 7 September 1991, on the Educational System, *Dziennik Ustaw* of 1991, No. 95, item 425.

¹⁰⁶ Resolution of the Minister of Education of March 24, 1992, on the organisation of educational programs enabling minority pupils to retain their sense of national, ethnic and linguistic identity, Official Gazette of 1992, No. 34, item 150, Art. 13(2).

for Roma children.¹⁰⁷ The Malopolska Programme specifically mentions that it is “not possible” to provide education in Romani languages.¹⁰⁸

The opportunity to learn minority history and culture also remains unimplemented in the case of the Roma minority. There have been no attempts, either at the Ministry of Education or by school authorities, to introduce teaching about Roma culture, nor have many Roma organisations been active in raising this issue. One innovation to date was a project of the Society of Alternative Teaching in Opole, which introduced lessons on minorities, including the Roma, in the school teaching program at a private establishment, for the school year 1992/93, under the title “Let’s meet with others.” Based on that experience, in 1995, a group of teachers from that school developed a booklet containing support materials for teachers of Multicultural Education at primary schools, with a chapter on the Roma minority. In 1994, the Parliamentary Committee of National and Ethnic Minorities consulted minority organisations on the subject, but Roma history and culture have still not been included in most school textbooks.¹⁰⁹

3. *Language*

The right to use minority languages in public administration is not provided for by law, although in establishing Polish as the state language, the Constitution states that “[t]his provision shall not infringe upon national minority rights resulting from ratified international agreements” (Art. 27). The Act of 7 October 1999 on the Polish Language also notes that the law shall not infringe “the rights of national minorities and ethnic groups” (Art. 2), but goes on to state that public entities shall carry out all official activities in Polish, “unless detailed regulations provide otherwise” (Art. 5(1)).¹¹⁰ Presently there are no such regulations, nor any provisions for the use of minority languages in communication with public authorities,¹¹¹ although such provisions are contemplated in the Draft Minorities Law. In practice Roma do not enjoy the right to use minority languages in communications with public authorities.

¹⁰⁷ See e.g. *Observations provided by the Polish authorities concerning ECRI’s report on Poland*: “Unlike other minorities, the Romanies do not display a similar interest in having their children taught in dialects (in Poland six Romany dialects are in use). Another problem is enforcing school attendance by children of that minority.” CRI (2000) 34, p. 25.

¹⁰⁸ Malopolska Program, 2001, p. 10.

¹⁰⁹ Information from the Chair of the Romani Advisory Council, Project on Ethnic Relations, 20 April 2001.

¹¹⁰ Act of 7 October 1999 on the Polish Language.

¹¹¹ An exception is the Law of Civil Registry of 29 September 1986, which provides for interpreters in the case of registry of births and deaths (Art. 20). Official Gazette of 1986, No. 36, item 180.

4. *Participation in Public Life*

Political Representation

There are no reserved seats for national minorities in the Polish Parliament. However the Act of May 28, 1993 on Elections to the Sejm (the lower House of Parliament)¹¹² exempts the election committees of registered minority organisations from the requisite five percent of total votes for inclusion on the constituency lists of MP candidates. They are further exempted from the seven percent threshold for national candidate lists to the Sejm.¹¹³ There are no exemptions from the threshold requirement for the election of minority representatives to the Senate (the upper House of Parliament).

Roma are virtually absent from all levels of government in Poland. There are no Roma MPs in the Sejm, although Romani candidates stood for election in 1991 and 1993.¹¹⁴ No Roma sit in the Senate of the Polish Parliament. No Roma representatives are documented in city councils, commune councils or provincial administration. Partly as a result of a donor-funded project, the Roma are represented by an assistant to the plenipotentiary for Roma issues at the city council of Nowy Sacz, appointed by the city council of Nowy Sacz, and by a plenipotentiary of the Roma at the Association of the Roma in Nowy Sacz region.¹¹⁵ A plenipotentiary for minority issues was also appointed in Malopolska province administration in Krakow at the end of August 2000. These plenipotentiaries are meant to act as contact persons for the Roma community and to deal with a broadly defined range of issues concerning the Roma population. However, none of the appointed officers is of Roma origin.

Public Employment

There are no publicly available data on the number of Roma (or other minorities) at any level of government, the civil service, the judiciary or in other public employment. The Malopolska Programme notes that “the police do not have among their staff any officers of Roma origin.”¹¹⁶ Given the high unemployment among Roma, and a general

¹¹² Act of 28 May 1993 on Elections to the Sejm of the Republic of Poland. Official Gazette of 1993, No. 45, item 205.

¹¹³ Lodzinski, 1998, pp. 155–157.

¹¹⁴ Two deputies representing the Belarussian minority, and one representing the Ukrainian minority were elected during the last elections (September 1997).

¹¹⁵ *Europejski Instytut na rzecz Demokracji: Informacja o Projekcie Romskim* (“European Institute for Democracy: Information on the Roma project”), 2000. Information from Roma leader/NGO activist, Laskowa Gorna, 1 September 2000. The Roma Project 1999/2000 was conducted by the European Institute for Democracy and the British Know How Fund for Poland.

¹¹⁶ Malopolska Programme, p. 16.

lack of higher education, their representation elsewhere in the public sphere is likely to be equally low. To date, there have been no government policies to promote increased access for Roma to public employment, although the possibility of recruiting Roma into the police is mentioned in the Malopolska Programme.¹¹⁷

5. *Media*

The Act on Broadcasting¹¹⁸ does not guarantee airtime or length of broadcasts for minorities or funding for minority media, although it does call on public broadcasting programs to “take into consideration the needs of national minorities and ethnic groups.”¹¹⁹ Roma media have received a disproportionately low level of government funding compared to other minorities, and the level of funding has been decreasing.

The Act also states that public programs should “respect the Christian value system, considering it as the basis of universal principles of ethics,”¹²⁰ and apparently giving it preference over non-Christian cultures of minorities and others. The Act also calls upon private broadcasters to emphasise Christian values: “Broadcasts should honour the religious sensitivities of their audience, and especially respect the Christian value system.”¹²¹

The Act does not refer explicitly to minority languages in public media, and gives no rights to minorities in private media. By contrast, the Act specifies support for Polish minorities living abroad: “duties of the public broadcasting corporations should include in particular [...] producing and providing access to educational programs for Polish communities and Poles residing abroad.”¹²²

The Department of National Minorities Culture (within the Ministry of Culture, see below) has provided grants for about 30–40 minority periodicals in recent years, but the figure is set to decrease in favour of increased funding for minority cultural events

¹¹⁷ Malopolska Programme, p. 17.

¹¹⁸ Official Gazette of 1993, No. 7, item 34, (unofficial translation).

¹¹⁹ Official Gazette of 1993, No. 7, item 34. Art. 21 (2) (subpara.9), (unofficial translation). See also J. Zurawski, *Prawo Mediow* (“The Media Law”), PAT, TVP S.A., Warszawa, 1997, p. 25 (unofficial translation).

¹²⁰ Official Gazette of 1993, No. 7, item 34. Art. 21 (2) subpara. 6 (unofficial translation).

¹²¹ Official Gazette of 1993, No. 7, item 34. Art. 18 (2) (unofficial translation).

¹²² Official Gazette of 1993, No. 7, item 34. Art. 21 (1) subpara. 7 (unofficial translation).

and activities.¹²³ In 1998, the Department subsidised 33 minority periodicals, among which 20 were published in minority languages, two of them in bilingual Romani/Polish: the monthly *Rrom-po-Drom* and the quarterly *Dialog-Pheniben*.¹²⁴

Department grants for Romani press have been decreasing as a proportion of the total budget for minority periodicals:

Table 1
Distribution of funding to Roma periodicals

	1996	1997	1998
<i>Dialog Pheniben</i>	28,000 PLN € 8,255*	33,000 PLN € 9 729	38,000 PLN € 11,203
<i>Rrom-po-Drom</i>	50,000 PLN € 14,741	61,000 PLN € 17,984	70,000 PLN € 20,637
Romany periodicals together	78,000 PLN € 22,996	94,000 PLN € 27,713	108,000 PLN € 31,840
As a percentage of all minority periodicals	5.8%	5.2%	5.1%
All minority periodicals	1,353,300 PLN € 398,972	1,809,300 PLN € 533,408	2 105,200 PLN € 620,643

* exchange rate of 25 June 2001.

SOURCE: *Wykaz periodyków finansowanych z budżetu Departamentu Kultury Mniejszości Narodowych w latach 1996–1998*, Archives of the Department for National Minorities Culture.

In addition, in 1998 numerically smaller minorities received greater financial assistance for their periodicals than the Roma community. Support for Slovak periodicals was 10.6 percent of the total budget, Lithuanian periodicals received 10.9 percent, and Jewish 12.2 percent.¹²⁵

¹²³ In the long-term, 40 percent of grants for minorities are to be provided in funding for the minority press and 60 percent for cultural events and festivals, reversing the current distribution of funds. Information from the former Deputy Director of the Department for National Minorities Culture.

¹²⁴ *Rrom-po-Drom* is published both in Romani and Polish; *Dialog-Pheniben* mostly in Polish.

¹²⁵ The only minorities receiving less support than the Roma are: Ruthenians/Lemko: 0.9 percent; Tatars: 3.6 percent; Armenians: 0.11 percent and Russians who do not receive any financial support for the press from the Department. *Wykaz periodyków finansowanych z budżetu Departamentu Kultury Mniejszości Narodowych w latach 1996–1998*, ("Archives of the Department for National Minorities Culture").

IV. Institutions for Minority Protection

A. Official Bodies

There is no special body specifically devoted to the protection of minority rights in general or Roma rights in particular. As yet there are no legal provisions for the establishment of bodies promoting equal treatment with regard to ethnicity, or for monitoring discrimination based on ethnicity, as recommended by the Race Directive (Art. 13). There are no prosecutors charged specifically with investigating and/or prosecuting acts of discrimination and racially motivated crimes.

1. *The Commissioner for Citizens' Rights (Ombudsman)*

The Office of the Commissioner for Citizens' Rights – i.e. Ombudsman – was established in 1987 with a mandate to monitor the protection of civic and political rights guaranteed by the Constitution.¹²⁶ The Ombudsman is elected by the Sejm, subject to the approval of the Senate, for a five year term. The Ombudsman monitors state organs of public administration, reviews individual citizens' complaints, investigates alleged violations, mediates between parties, makes recommendations to public authorities and may appear before courts and tribunals in support of victims of violations. The Ombudsman is obliged to remain neutral during his investigations, and is prohibited from investigating criminal cases.¹²⁷

Within the general human rights framework of his work, the Ombudsman also has competence in matters pertaining to minority rights. In 1998 the Office established an independent department for the protection of minority rights, which employs a "senior specialist for the rights of aliens and national and ethnic minorities."¹²⁸ Nevertheless, over the last decade, minority rights complaints represented a relatively narrow margin of cases examined by the Ombudsman. The majority of the 30–50 minority rights cases

¹²⁶ The legal basis for the Ombudsman office is currently established by the Constitution of the Republic of Poland, 2 April 1997 (Art. 208–212) and the Act on the Commissioner for Citizens Rights of 15 of July 1987 (with subsequent amendments).

¹²⁷ S. Lodzinski, "The protection of national minorities in Poland: Law and Practice after 1989" in *Law and Practice of Central European Countries in the Field of National Minorities Protection After 1989*, ed. J. Kranz, Centre for International Relations, Warsaw, 1998, p. 168.

¹²⁸ Information from Senior Specialist in the Office for Commissioner for Civil Rights Protection, Warsaw, 16 November 2000.

received yearly reportedly originate with Roma.¹²⁹ The precise number of complaints by Roma is not recorded. In 1999, the Ombudsman organised a meeting with representatives of the Roma community in his office in Warsaw, and on 9 November 2000 he visited Roma communities in Tarnow and Maszkowice (Nowy Sacz area), as part of a series of visits to national minorities planned for 2000/2001. In his 1999 report, the Ombudsman recognised the special vulnerability of the Roma minority, noting that the Roma in Malopolska and Podkarpacie provinces live in serious poverty, in conditions detracting from human dignity, with few opportunities to improve their situation.¹³⁰

In the few investigations into allegations of discrimination of Roma conducted by the Ombudsman's Office to date, grounds for discrimination have not been proved. In 1999, reviewing a complaint of the Association of the Roma in Nowy Sacz concerning discriminatory practice against Roma families by local administrative authorities in the removal of flood damage from 1997, the Ombudsman did not find grounds for discrimination. Investigating allegations of discrimination in the distribution of social assistance and high rates of unemployment in Czarny Dunajec in 2000, the Ombudsman concluded that charges of discrimination were not confirmed.¹³¹ On occasions in which the grounds for discrimination are established, the Ombudsman can intervene through mediation and written intervention.

In general the Ombudsman's Office has acknowledged that due to their social and economic situation, the Roma minority may face indirect discrimination in many areas.¹³² Nonetheless, high expectations of the Office among Roma have led to some frustration at the Ombudsman's limited competence to date in resolving cases of alleged discrimination.¹³³

2. *Sejm Committee on National and Ethnic Minorities*

The Sejm Committee was established in August 1989 in the Polish Parliament, at a time of renewed public debate on national minorities. As a legislative body, the Committee

¹²⁹ Ombudsman's Office, *RPO: Ochrona praw mniejszosci narodowych i etnicznych* ("Office of the Ombudsman: Protection of the rights of national and ethnic minorities"), report of 1999, p. 1 (hereafter "Ombudsman Minority Report 1999"). Information from Senior Specialist in the Office for Commissioner for Civil Rights Protection, Warsaw, 16 November 2000.

¹³⁰ Ombudsman Minority Report 1999, pp. 1–2.

¹³¹ Ombudsman's Brief 2000. According to the brief, since 10–15 percent of the social assistance budget is distributed to Roma families, who comprise only one percent of the total population of Czarny Dunajec, distribution cannot be considered discriminatory, p. 4.

¹³² OSI Roundtable, Warsaw, 12 April 2001.

¹³³ OSI Roundtable, Warsaw, 12 April 2001.

aimed initially at developing a legal framework for public policy regarding national and ethnic minorities in Poland, including Roma.¹³⁴ However, as there was no governmental institution competent to implement policy, the Committee took on a more active executive role, visiting areas in Poland with considerable minority populations and examining the situation on the spot. In many cases, the Committee took direct steps to resolve or mediate in local conflicts,¹³⁵ although their interventions did not generally concern conflicts involving Roma. The Committee also initiated the drafting of constitutional provisions and a Draft Minorities Law, following consultations with minority leaders.

According to a Committee representative, “The Committee is, and will remain a centre where various demands for interventions and complaints gather. [...] However, it should be the role of the government to implement policies for national minorities. [...] Unless a central office is created on the governmental level, our efforts will not be coherently co-ordinated.”¹³⁶ Despite gaining public respect as a conflict resolution institution,¹³⁷ the Committee appears to be inadequately equipped to investigate violations of minority rights and existing anti-discrimination law. The Committee has recently become more active in addressing the problems faced by Roma.

3. *Interdepartmental Group for National Minorities*

The Minister of Internal Affairs and Administration is formally responsible for coordinating government policy on national minorities, and has delegated this task to the Under-secretary of State, chair of the Interdepartmental Group for National Minorities (IGNM).¹³⁸ Established in 1997, the Group includes representatives of a great number

¹³⁴ Information from the Deputy Head of the Sejm Committee of National and Ethnic Minorities.

¹³⁵ Łódzinski 1998, p. 164.

¹³⁶ Information from the Deputy Head of the Sejm Committee of National and Ethnic Minorities.

¹³⁷ The work of the Committee has been positively evaluated by representatives of national minorities, specialists of the Ombudsman Office. Information from the Senior Specialist for the Rights of Aliens, National and Ethnic Minorities, Warsaw, 16 November 2000. See also B. Berdychowska, (ed.) *Mniejszości narodowe w Polsce, Wydawnictwo Sejmowe* (“National Minorities in Poland, the Sejm Publishing House”) Warszawa, 1998. Also, according to Jerzy Rejt, one of the leaders of Ukrainian minority in Poland “the role of the Committee is especially worth stressing as there are no organs of state administration available which would co-ordinate national policy of the State,” *Biuletyn Komisji Mniejszości Narodowych i Etnicznych* (“The Bulletin of the Sejm Committee on National Ethnic Minorities”), No. 49, Kancelaria Sejmu, 26 June 1996, p. 6, cited in Łódzinski, 1998, p. 164.

¹³⁸ IDGM, *Sprawozdanie z działalności Międzyresortowego Zespołu do Spraw Mniejszości Narodowych* (“Report on the activities of the Interdepartmental Group for National Minorities”), Warszawa, 18 September 2000 (hereafter “IDGM report 2000”).

of government ministries and departments.¹³⁹ Neither minorities nor provincial governors are represented.

The IGNM is tasked, *inter alia*, with taking action against violations of the rights of national minorities and initiating activities to raise public awareness about national minorities and cultures.¹⁴⁰ The group met seven times in total between 1997–1999, devoting one meeting to the Roma minority. However, in 2000 the Group intensified its activities – the eighth session (on March 1, 2000) was devoted to the Roma in southern Poland and the proposed Malopolska Programme. As Roma leaders are not represented on the IGNM, they were not involved in this stage of the discussions, although the IGNM did consult with Roma leaders and local government representatives during the drafting stage (see below).

Roma leaders have pointed out that there is no Roma representation on official decision-making bodies with regard to policy that will impact Roma communities. Some have called for the establishment of a mechanism for official representation of the Roma minority, attached, for example, to the IGNM. The proposal has been welcomed by some government representatives, who assert that any activities contributing to the improvement of the situation for the Roma community will be effective only if there is full and open dialogue, and if the Roma community is actively involved.¹⁴¹

¹³⁹ Formally, the Group was formed by the Prime Minister and comprised the following: under-secretary of State in the Ministry of Internal Affairs and Administration (chairman of the group); the Under-secretary of State in the Ministry of Culture and National Heritage (Deputy Chair); the Secretary General of the Council of the Protection of Memory of Struggle and Martyrdom; the Director of the Department for General Education and Supervision at the Ministry of National Education; the Director of the Department for the Polish Diaspora in the Ministry of Foreign Affairs; the Director of the Department of Demographic Research in the Central Statistical Office; the Deputy Director of the Department for Financing Security of the State in the Ministry of Finances; the Senior Officer of the Department of the Policy of Labour Market at the Ministry of Labour and Social Policy; the Chief of Division of IV Legal Department in the Ministry of Justice; and the Chief of Division of National Minorities at the Citizenship Department, Ministry of Internal Affairs and Administration (secretary of the group). Zarządzenie No. 49 Prezesa Rady Ministrów (Resolution No. 49 of the Prime Minister), 20 June 1997.

¹⁴⁰ IDGM report 2000. Other tasks are: the elaboration of projects for government activities aimed at establishing favourable conditions for national minorities; co-ordination of government administrative activities to implement policy on national minorities; the evaluation of the rights and needs of national minorities and the proposal of solutions for fulfilment; research into the conditions of national minorities.

¹⁴¹ OSI Roundtable, Warsaw, 12 April 2001.

4. Ministerial Bodies

Division of National Minorities

(Ministry of Internal Affairs and Administration)

This division, which is headed by the secretary of the IGNM, was established in January 2000 within the Department of Citizenship. According to its director, the new Division reflects the need to increase governmental activity in minority affairs, given the increasing interest in such issues on the part of both European (EU, Council of Europe and OSCE) and regional institutions (Council of Baltic States, and the Visegrad Group).¹⁴² The division is to be involved in implementation of the FCNM and the Malopolska Programme.¹⁴³

Department of National Minorities Culture

(Ministry of Culture and National Heritage)

Up until 1994, the Department of National Minorities Culture acted beyond its formal mandate in responding to minorities' demands for civic participation and supporting their political participation.¹⁴⁴ From 1994, however, it shifted firmly towards cultural assistance, although amounts granted to Roma are significantly lower than those provided to other minorities. The Department also provides financial support for selected cultural events, among them the annual festival *Romane Dyvesa*, an International Festival of Roma Musical Ensembles held in Gorzów Wielkopolski. Today, the Department co-operates with 45–50 minority organisations (associations, foundations, groups and publishers).

Department for General Education and Supervision

(Ministry of National Education)

The Department organises education in minority languages, focusing on all ethnic and national minorities, with the exception of the Roma minority.¹⁴⁵ In 1999/2000 the Ministry of Education supported several projects at the local level aimed at improving the education of Romani children. These included projects conducted by the Association

¹⁴² M. Sora, "Protection of national minorities from the perspective of governmental administration", speech given at the conference *Legal Status of National Minorities in Poland in the Light of the Framework Convention for the Protection of National Minorities*, held on 24 October 2000 in Warsaw.

¹⁴³ Sora, 2000.

¹⁴⁴ The Office for National and Ethnic Minorities was designed to assist minorities in the sphere of culture and provide finances for cultural initiatives. In fact it co-operated closely with minority organisations and provided grants for other than cultural initiatives.

¹⁴⁵ Ministry of Education, 2000.

of the Roma in Krakow/Nowa Huta, who organised activities at a Roma kindergarten,¹⁴⁶ holidays for Roma children¹⁴⁷ and funding to increase the level of education for Roma children.¹⁴⁸ Supplementary classes were provided for 41 Roma children chosen for this program by school teachers. The department also provided some funds to the Association of the Roma in the former Nowy Sacz province and Tarnow.

5. *Plenipotentiaries for National Minorities*

In 2000, advisors and plenipotentiaries for national minority affairs were appointed in Podkarpacie, Malopolska, Pomorze and Lubelszczyzna provinces. The task of plenipotentiaries is to monitor the implementation of the state's obligations in relation to minorities and to support minorities' initiatives.

Plenipotentiaries may work at either the provincial or the local government level. At the provincial level, the plenipotentiary for national minority affairs is a representative of the central government, whereas local plenipotentiaries are not: reportedly this has led to some difficulties in monitoring their effectiveness. In other cases local governments have "no interest" in appointing plenipotentiaries and do not do so.¹⁴⁹ In the Nowy Sacz province, a representative of the Roma community represents Roma throughout the province.

The operation of regional representatives is financed out of the budget of the provincial governors; local government plenipotentiaries are covered by local government budgets; and funds of Interior Ministry cover salaries of Roma.

6. *Pilot Government Programme for the Roma Community in Malopolska Province for the years 2001–2003*

The appearance of Polish Roma migrants in EU member states in 1998–1999 provoked strong reactions, especially from the British Government, which prompted the Polish

¹⁴⁶ Grants DKW-075-75/CP(1), DKW-075-190/CP of the Ministry of National Education and 138/99/P/MOPS of the city of Krakow. Documentation of the Association of the Roma in Krakow/Nowa Huta.

¹⁴⁷ Grants DKW-075-185/2000, DKW-075-73/2000 of the Ministry of National Education. Documentation of the Association of the Roma in Krakow/Nowa Huta.

¹⁴⁸ Grant DKW-075-99/CP(2) of the Ministry of National Education and PH/6252/1999 of the Batory Foundation. Documentation of the Association of the Roma in Krakow/Nowa Huta.

¹⁴⁹ OSI Roundtable, Warsaw, 12 April 2001.

authorities to undertake serious action as regards the Romani community.¹⁵⁰ The result was the “Pilot Government Program for the Roma Community in Malopolska Province for the Years 2001–2003”, adopted by the Council of Ministers on 13 March 2001.

The Malopolska Programme originated with a project initiated and conducted by the European Institute for Democracy, with the cooperation of the British Embassy, and financed by the British Know How Fund in 1999/2000.¹⁵¹ As a follow-up to the project’s concluding conference in February 2000, the Interdepartmental Group for National Minorities held a series of consultations with Roma leaders, local authorities and self-governments. The National Minorities Division conducted a study visit to Malopolska province in June 2000, and a draft program was completed by September 2000.

The Malopolska Programme places the current situation of the Roma in the context of European Union accession, noting its importance to the Commission in other accession countries. The global objective is to “achieve full participation of Roma who live in Malopolska [...] in the life of a civil society and to mitigate the disparities between this group and the rest of society.”¹⁵² The Programme notes that “[t]he Roma community is treated in Poland as a national and ethnic minority, and as such is entitled to receive full protection and assistance from the State in accordance with international agreements signed by Poland and its national legislation.”¹⁵³ The Programme outlines the priority areas as: education, unemployment, housing, health, security, culture and “knowledge in and about the Roma community.” It includes a detailed schedule of action and financing for the pilot years 2001–2003, noting that to achieve its objectives the “minimum duration

¹⁵⁰ The Programme notes: “The situation of Roma in Central and Eastern Europe is a matter of special interest to European institutions and the European member states, which results mainly from fears of migration. This was clearly demonstrated in bilateral contacts with, *inter alia*, British, Finnish and Irish authorities during the last two years.” Malopolska Programme, p. 5.

¹⁵¹ This project consisted of a one-year study of the living conditions in Roma communities, followed by a conference at which guidelines were formulated for developing a new policy towards the Roma in the Malopolska region. Participants included leaders of Polish Roma communities in Poland, the UK Ambassador, the Deputy Head of the Sejm Committee the Governor of the Malopolska Province, the Mayor of Nowy Sacz and the Chair of the European Institute for Democracy. Identified policies included: Polish classes in kindergarten specifically for Romani children; housing improvements (installation of facilities such as coal-heating, water-meters); employment opportunities for Roma, in professions such as waiters, cooks and builders. See EID, *Informacja o projekcie romskim* (“Information about the Roma project”), 1999/2000.

¹⁵² Malopolska Programme, p. 7.

¹⁵³ Malopolska Programme, p. 4.

should range between one and two decades.”¹⁵⁴ It enumerates localities where the Programme will be implemented, detailed tasks, costs and responsible institutions, and sources of financing. The Programme is directed both to local self-governments and Romani communities, and envisions funding local initiatives carried out in partnership relations.

In principle, the Malopolska Programme responds to some of the basic needs of Polish Romani communities, and has the advantage of having earmarked budgetary funds for its implementation. However, while the Programme indirectly acknowledges the presence of discrimination against Roma in Poland, this problem is not addressed explicitly in any of its focal areas; the Programme contains no measures to legislate against, monitor or otherwise combat discrimination against Roma.¹⁵⁵

Another potential weakness is the requirement that local governments come forward with proposals for activities. There is little evidence that local governments are motivated to take such steps, especially if this may also involve commitments from their own budgetary resources. On the other hand, some local governments may be reluctant to apply for funding to support programmes for Roma, given the pervasive resistance of local non-Roma populations to such programmes.¹⁵⁶

¹⁵⁴ Malopolska Programme Budget:

Year	2001	2002	2003
1. Education	2,093,659 PLN € 617,241*	2,332,144 PLN € 687,549	2,301,972 PLN € 678,654
2. Combating unemployment	530,689 PLN € 156,455	893,749 PLN € 263,490	771,760 PLN € 227,562
3. Health	232,340 PLN € 68,497	128,693 PLN € 37,940	107,621 PLN € 31,728
4. Living conditions	3,397,953 PLN € 1,001,765	4,853,590 PLN € 1,430,908	4,258,661 PLN € 1,255,514
5. Security	252,942 PLN € 74,571	249,074 PLN € 73,431	255,212 PLN € 75,240
6. Culture	326,800 PLN € 96,345	365,124 PLN € 107,124	318,663 PLN € 93,946
7. Knowledge in and about the Roma community	200,220 PLN € 59,028	232,820 PLN € 68,639	170,220 PLN € 50,183

* exchange rate of 25 June 2001.

¹⁵⁵ The Programme cites the ECRI report, CRI (2000) 34. Malopolska Programme, p. 5.

¹⁵⁶ OSI Roundtable, Warsaw, April 2001.

B. Civil Society

NGOs play a relatively active role in Polish society. Particularly in those areas in which the government has been less active, such as in raising public awareness and initiating debate on racism and intolerance nation-wide, NGOs can make a significant contribution. Organisations whose work touches on Roma issues include the Helsinki Foundation for Human Rights, the Batory Foundation, and the Never Again Association.

Among the Roma organisations involved in monitoring and legal work are the Centre of Roma Culture, the Tarnow Association of Roma in Poland¹⁵⁷ and the Association of the Roma in Krakow/Nowa Huta. Other active organisations include the Association of Roma in the Nowy Sacz region, the Association of Artists and Friends of Gypsy Culture in Gorzów Wielkopolski and the Central Council of Roma in Poland.

Several Roma NGOs document alleged cases of discrimination against Roma and offer legal advice. However, these organisations are poorly funded and relatively weak in terms of organisational infrastructure and trained personnel. In the almost total absence of Roma university graduates in the country, non-Roma are relied upon to provide legal and other kinds of expertise. The state authorities should create – and the European Commission should encourage – opportunities for Polish Roma leaders to take part in decision-making processes and contribute to consultative bodies. As government representatives have emphasised, the success of government initiatives to assist Polish Roma communities is dependent upon the participation of a strong Roma civil society.¹⁵⁸

¹⁵⁷ This association was founded as a response to the attack on Roma in Mława, which started on 26 June 1991 and lasted five days. Up to 200 locals attacked the Roma in Mława, three days after a car accident for which a young Roma boy was held responsible. Even though many Romani families escaped, some were seriously injured, and more than 20 houses were destroyed. For more details see A. Mirga, *Romowie w historii najnowszej Polski* in *Mniejszości narodowe w Polsce*, Zbigniew Kurcz (ed.), Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław, 1997.

¹⁵⁸ OSI Roundtable, Warsaw, April 2001.

V. Recommendations to the Government

In addition to the recommendations elaborated in the Overview Report, the following measures would contribute to enhanced minority protection in Poland:

1. Establish a national consultative body for Roma at the level of the Interdepartmental Group for National Minorities.
2. Increase Roma representation within ministerial and other policy making bodies with a mandate to address all issues affecting the Roma minority.
3. Conduct a comprehensive review, with Roma participation, of the current policy of establishing “Roma schools”, to assess the quality of education and its overall impact on the Polish Roma community.
4. Establish effective implementing and monitoring mechanisms, in consultation with Roma organisations, for the Malopolska Programme, to ensure that objectives are fulfilled and sustainable in the long term. Provide incentives to encourage proposals from local governments, ensuring that these reflect the genuine interests of the Roma communities involved.

Appendix A

Demography

Nationality/ethnicity has not appeared as a demographic category in any census since before World War II.¹⁵⁹ Minority figures in Poland are therefore based entirely on the estimates of various researchers and minority organisations.

In 1998, the Central Statistical Office estimated Poland's population at 38,667,000.¹⁶⁰ Experts as well as the parliamentary Commission of National and Ethnic Minorities estimate that three to four percent of the total population belongs to a national or ethnic minority.¹⁶¹ Estimates regarding the size of the Roma minority range from 15,000–20,000¹⁶² to as many as 50,000.¹⁶³

The figures given for minorities in Table 1 below are taken from a variety of sources.¹⁶⁴

¹⁵⁹ GUS, *Rocznik statystyczny 1997* ("Statistical Yearbook"), Warszawa 1998.

¹⁶⁰ Census data from December 1988 put the population at 37,879,000. Other sources are provided by the results of national censuses from 1946 to 1988, the Summary Population Census of 1946, the population and housing sample survey of May 17, 1995 and the Agricultural Census conducted on 12 June 1996. GUS 2000.

¹⁶¹ Information from the Deputy Chair of the Sejm Committee of National and Ethnic Minorities. See also A. Rochowicz, "National Minorities in Poland", in: *The protection of ethnic and linguistic minorities in Europe*, J. Packer and K. Myntti (eds.), Institute for Human Rights, Åbo Akademi University, Åbo/Turku, 1993, p. 105.

¹⁶² Rochowicz, 1993, p. 111.

¹⁶³ Information from Roma leaders/NGO activists in Laskowa Gorna, 1 September 2000; Tarnow, 7 September 2000; and Krakow, 5 September 2000.

¹⁶⁴ See e.g. J. Bugajski, *Ethnic Politics in Eastern Europe: A Guide to National Policies, Organisations and Parties*, Centre for Strategies and International Studies, 1994, p. 360; Z. Kurcz, *Mniejszość niemiecka w Polsce: Geneza, struktury, oczekiwania*, in *Mniejszości narodowe w Polsce*, Zbigniew Kurcz (ed.), 1997, pp. 88–89; G. Simoncini, "National Minorities in Poland at the End of the Twentieth Century", in *The Polish Review*, 1998, pp. 173–193; A. Rochowicz, "National Minorities in Poland", in *The protection of ethnic and linguistic minorities in Europe*, J. Packer and K. Myntti (eds), 1993, p. 105; Helsinki Foundation for Human Rights, *The Protection of National Minorities in Poland*, 1999.

Table A1
Minorities in Poland

Minority	Number
Germans	350,000–450,000
Ukrainians	300,000
Belarussians	200,000–250,000
Ruthenians/Lemko ¹⁶⁵	50,000–60,000
Roma	15,000–50,000
Lithuanians	25,000
Slovaks	20,000–25,000
Jews	15,000
Russians	15,000
Armenians	10,000
Tatars	3,500
“Old Believers”	3,000
Czechs	3,000
Greeks and Macedonians	5,000

The next census will include a single question on “nationality”, as distinct from citizenship, without giving a choice of specific “nationalities”.¹⁶⁶ Another question will ask about the language spoken “most frequently at home”.¹⁶⁷ Originally set for 22 May 2001, the census has now been postponed to 20 May 2002.¹⁶⁸ As yet, the Roma community has not been consulted on the Census question and methodology.

¹⁶⁵ Including both those who do and do not consider themselves to be a part of Ukrainian minority.

¹⁶⁶ “Act of National Census of Population and Housing in 2001”, 2 December 1999, Art. 5, Official Gazette of 14 January 2000.

¹⁶⁷ *Narodowy spis powszechny ludności i mieszkań, kwestionariusz* (“National Census on People and Housing, the questionnaire”), No. p. 6.

¹⁶⁸ Information from the Division of Religion and Nationality, Central Statistical Office, 9 November 2000.

