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REGULAR REPORT

ON

POLAND'S

PROGRESS TOWARDS ACCESSION

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REGULAR REPORT

ON

Poland's

PROGRESS TOWARDS ACCESSION

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## **Introduction**

### *Preface*

In Agenda 2000, the Commission said it would report regularly to the European Council on progress made by each of the candidate countries of Central and Eastern Europe with preparations for membership, and that it would submit its first Report at the end of 1998.

The Luxembourg European Council decided that:

"From the end of 1998, the Commission will make Regular Reports to the Council, together with any necessary recommendations for opening bilateral intergovernmental conferences, reviewing the progress of each Central and Eastern European applicant State towards accession in the light of the Copenhagen criteria, in particular the rate at which it is adopting the Union *acquis*" [...] "The Commission's reports will serve as the basis for taking, in the Council necessary decisions on the conduct of the accession negotiations or their extension to other applicants. In that context, the Commission will continue to follow the method adopted by Agenda 2000 in evaluating applicant States' ability to meet the economic criteria and fulfil the obligations deriving from accession."

On this basis, the Commission presented a first series of Regular Reports in October 1998, a second in October 1999, a third in November 2000, and a fourth in November 2001.

In its 2001 Enlargement Strategy Paper, which accompanied the 2001 Regular Reports, the Commission indicated that, given the pace of negotiations and the progress made so far, the Commission should be able to make recommendations on those candidate countries ready for accession on the basis of its 2002 Regular Reports. At its meeting in Seville in June 2001, the European Council concluded that "in order to enable the European Council to be held in the coming autumn to decide which will be the candidate countries with which negotiations can be concluded at the end of 2002, [...] the Commission will have to draft appropriate recommendations in the light of the Regular Reports." The Commission has prepared this fifth series of Regular Reports with a view to the Brussels European Council in autumn 2002.

. At its meeting in Seville in June 2001, the European Council concluded that "in order to enable the European Council to be held in the coming autumn to decide which will

The structure followed for this Regular Report is largely the same as that used for the 2000 and 2001 Regular Reports. In line with previous Regular Reports, the present Report:

- describes the relations between Poland and the Union, in particular in the framework of the Association Agreement;
- analyses the situation in respect of the political criteria set by the 1993 Copenhagen European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Poland's situation and prospects in respect of the economic criteria defined by the Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);

addresses the question of Poland's capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently at Seville in June 2002. At Madrid, the European Council stressed that the candidate countries must adjust their administrative structures, so as to create the conditions for the harmonious integration of these States. The Seville European Council also stressed how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level.

This Report takes into consideration progress since the 2001 Regular Report. It covers the period until 15 September 2002. In some particular cases, however, measures taken after that date are mentioned. It looks at whether planned reforms referred to in the 2001 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides an overall assessment of the overall situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Poland in preparing for accession.

Furthermore, in view of the fact that the 2002 Regular Reports will provide the basis on which the Commission will formulate its recommendations as to which countries are ready to conclude negotiations, this Report includes an evaluation of Poland's track record since the 1997 Opinion. As regards the economic criteria, the report also provides a dynamic, forward-looking evaluation of Poland's economic performance.

For each of the negotiating chapters, this report provides a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted. The commitments made by each country reflect the result of the accession negotiations, and, in accordance with the principle of differentiation underlying the negotiation process, may differ between countries. Where negotiating countries have committed themselves to completing specific measures by the time of accession, the Commission assesses the relevant preparatory processes. For chapters on which the accession negotiations continue, and final commitments remain to be defined, an indicative assessment is given of the state of implementation of the commitments that have been made to date.

The Report further includes a separate section examining the extent to which Poland has addressed the Accession Partnership priorities. This section also assesses the progress Poland has made in implementing the measures set out in the Action plan for strengthening administrative and judicial capacity that the Commission developed with each negotiating country in the spring of 2002.

As has been the case in previous Reports, "progress" has been measured on the basis of decisions actually taken, legislation actually adopted, international conventions actually ratified (with due attention being given to implementation), and measures actually implemented. As a matter of principle, legislation or measures which are in various stages of either preparation or Parliamentary approval have not been taken into account. This approach ensures equal treatment for all the candidate countries and permits an objective assessment of each country in terms of their concrete progress in preparing for accession.

The Report draws on numerous sources of information. The candidate countries have been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The information each of the candidate countries has provided within the framework of the Association Agreement and the negotiations, the National Programmes for the Adoption of the *Acquis* where they are available, as well as the process of developing the Action Plans, and various peer reviews that have taken place to assess candidate countries' administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament reports and resolutions have been taken into account in the preparations. The Commission has also drawn on assessments made by various international organisations, and in particular the contributions of the Council of Europe, the OSCE and the international financial institutions, as well as those of non-governmental organisations.

## *Relations between the European Union and Poland*

### *Recent developments under the Europe Agreement, including bilateral trade*

Poland has continued to implement the Europe Agreement and contributed to the smooth functioning of the various joint institutions.

The Association Council met in November 2001 in Brussels. An Association Committee meeting was held in Brussels in May 2002. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of the Polish and European Parliaments met in November 2001 in Brussels and April 2002 in Warsaw. The Joint Consultative Committee of the Economic and Social Committee met in Brussels, in November 2001 and in May 2002 in Warsaw. The newly constituted Joint Consultative Committee of the Regions met in November 2001 in Warsaw and in June 2002 in Brussels.

Bilateral trade continues to grow. In 2001 EC exports to Poland stood at €35.4 billion (€ 61.4% of Polish imports), with EC imports from Poland amounting to €26.5 billion (€ 69.2% of Polish exports). The EC trade surplus of €8.9 billion showed a further decline from the 2000 surplus (€10.5 billion) and represents the smallest surplus since 1996. Poland's share in total EC exports remained constant at 3.6% while Poland's share in imports continued the trend established since 1997 growing faster than EC exports; thus the trade gap -(expressed as the ratio of exports to imports) continued to decrease, reaching its lowest level since 1995. Concerning trade by product, machinery and electrical goods represent the largest sector for both EC exports to, and imports from, Poland. On the import side, machinery and electrical goods was by far the best performing sector, with 23% growth.

As a consequence of the agreement resulting from the first round of trade negotiations in the agriculture sector (adopted on an autonomous basis, pending the conclusion of an Additional Protocol to the Europe Agreement), approximately 96% of EC agricultural imports from Poland and 70% of EC agricultural exports to Poland are duty free or benefit from preferential reduced duty rates (average trade figures 1998-2000).

Negotiations on a further round of liberalisation, covering more sensitive sectors where current trade is rather low, in particular due to a high border protection, began at the end of 2001 and are still underway.

In the fisheries sector, the Additional Protocol to the Europe Agreement enacting the reciprocal concessions negotiated in December 2001 was adopted in July 2002 and the concessions came into effect in August 2002. Negotiations concerning processed agricultural products remain ongoing.

A number of issues are still outstanding with regard to the implementation of the Europe Agreement, ranging from complex long-standing issues such as steel restructuring and Special Economic Zones, to product-specific trade issues. There is a general willingness to seek solutions through the functioning of the various joint institutions, although in some instances satisfactory solutions have been a long time coming.

Although the Europe Agreement provides for entry into its second stage as of February 1999, a number of legal requirements for this transition have yet to be fulfilled. These requirements were covered in the 1999 Regular Report. The issue of transition is of increasing importance as it is only in the second stage of the Europe Agreement that capital movements from the EC to Poland will benefit from national treatment. During the reporting period there have been a number of high-profile disputes between the Polish administration and investors in Poland, as was also the case in 2001. While difficult to quantify, it is clear that, irrespective of the individual circumstances, such cases have had a negative impact on perceptions of Poland as a location for investment. Transition to the second stage of the Europe Agreement would be an important indicator that efforts are being made to rectify this perception.

Efforts have continued with a view to solving outstanding trade issues. The general level of co-operation is good, but some issues have proved to be more difficult to resolve than others, and problems persist with ensuring that solutions to both specific and general problems are fully implemented. Moreover, there has been a recent tendency to use trade measures as a palliative for difficulties whose root causes lie elsewhere, the increase in excise duty on second hand vehicles being the prime example. Progress has been made on the implementation of the customs code but some difficulties persist and the situation regarding the Polish safeguard measure on yoghurts remains unchanged.

There has been further progress in the area of certification with another amendment to the list of products requiring mandatory certification reducing the coverage of the list. The Polish administration has undertaken to further amend the list as appropriate. The administration has also taken steps to ensure that the process leading to the automatic issuing of certificates for products requiring either mandatory certification or producer certification functions smoothly and rectify the difficulties which had arisen as a result of some of the certifying bodies not implementing the new procedures. More broadly, some difficulties persist with regard to the issuing of certificates for products which fall outside the scope of the automatic procedure.

The Polish authorities asked to negotiate a PECA in February 2002. A mandate for negotiations has been agreed and these are now underway.

Concerning wooden pallets, the Regulation imposing definitive anti-dumping duties published in 1997 was further amended in August 2001, following what is termed a "newcomer" review of the anti-dumping measures. Undertakings were accepted from certain companies in May 2002 and withdrawn from others. A new anti-dumping investigation was initiated in May 2002 on imports of grain oriented electrical sheets and strips. Provisional duties were imposed in May 2002 on imports of welded tubes and pipes (iron and non-alloy steel).

In March 2002, in response to the protectionist measures taken by the US, which greatly restricted access to their market and created the risk massive trade diversion, the EU initiated provisional safeguard measures, with erga omnes effect, on imports of certain steel products. The measures were partly confirmed in September 2002.

## *Accession Partnership*

A revised Accession Partnership was adopted in January 2002. Its implementation is reviewed in chapter D of this Report.

### *Action Plan for reinforcing administrative and judicial capacity*

As announced in the Commission's 2001 Enlargement Strategy, in spring 2002 the Commission and Poland jointly developed an Action Plan to strengthen Poland's administrative and judicial capacity, on which a common understanding was reached in April 2002. The revised Accession Partnership adopted in January has served as the point of departure for this exercise.

The purpose of this Action Plan is to identify jointly the next steps required for Poland to achieve an adequate level of administrative and judicial capacity by the time of accession, and ensure that all necessary measures in this regard are taken, providing Poland with targeted assistance in areas that are essential for the functioning of an enlarged Union. As such, the Action Plan is a key tool for meeting the common objective of the EU and Poland, i.e. to ensure that Poland's preparations for accession take place as effectively as possible within the planned timeframe.

The implementation of the Action Plan is reviewed in Part D of this Report.

### *National Programme for the Adoption of the Acquis*

No update of the Polish National Programme for the Adoption of the *Acquis* (NPAA) has been submitted to the Commission during the reporting period.

### *Community Assistance*

Three **pre-accession instruments** have been financed by the European Community to assist the applicant countries of Central and Eastern Europe with their pre-accession preparations: the **Phare** programme; **SAPARD**, which provides aid for agricultural and rural development; and **ISPA**, which finances infrastructure projects in the fields of environment and transport. The support provided by these programmes is focused on the Accession Partnership priorities that help the candidate countries to meet the criteria for membership.

For the years 2000-2002 total financial assistance to Poland amounts to €398 million annually from Phare, 168.6 million from SAPARD (at 1999 prices), and between €312 and €385 million from ISPA.

The **Phare** programme has been providing support to the countries of Central and Eastern Europe since 1989, helping them through a period of fundamental economic and social transition and political change. Its current "pre-accession" focus was established in 1997, in response to the Luxembourg European Council's launching of the present enlargement process.

Phare provides the applicant countries of Central and Eastern Europe with support for institution building (around one third of the Phare allocation), investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis* (also around one third of the allocation), and investment in economic and social cohesion (the remaining one-third of the Phare allocation). This support comprises co-financing for technical assistance, "twinning" and investment-support projects, to help these countries with their efforts to adopt the *acquis* and strengthen the institutions necessary for implementing and enforcing the *acquis*. Phare also helps the candidate countries develop the mechanisms and institutions that will be needed to implement Structural Funds after accession and is supported by a limited number of measures (investment and grant schemes) with a regional or thematic focus. In the context of the Action Plans for strengthening administrative and judicial capacity, particular emphasis is placed on the issue of institution building and associated investment intended to ensure compliance with the *acquis*. For 2002, the Commission has mobilised special financial assistance of up to €250 million to accompany negotiating countries' efforts, over and above the indicative annual allocations for each of the Phare countries, bringing total Community assistance for strengthening the administrative and judicial capacity of the negotiating count to around €1 billion.

The Phare programme allocated commitments of € 2 534 million to Poland during the 1992-1999 period, € 484 million in 2000, and € 467 million in 2001. The **2002 Phare Programme** for Poland consists of an allocation of € 342.2 million for the National Programme, complemented by € 51.8 million under the Phare 2002 supplementary institution building facility. The 2002 Phare programme focuses on the following priorities:

- the reinforcement of institutional and administrative capacity in the fields of transport, employment policy, taxation, financial control, public finance, regional policy and preparation for Structural Funds, and statistics (€61 million);
- internal market (customs, market surveillance, medicines and medical devices, food safety, public procurement, chemicals, co-ordination of social security) (€25 million);
- the strengthening of co-operation in the field of Justice and Home Affairs (border management, fight against organised crime, visa and migration policies, justice co-operation, police co-operation, border infrastructure) (€65 million);
- institution building in agriculture and fisheries (TSE control, reference laboratory, veterinary administration and preparation for EAGGF and FIFG) (€35 million);
- institution building in the field of environment (implementation of the water framework directive, monitoring drinking water quality, control of waste shipments, EMAS, and training for environmental protection) (€14 million);
- economic and social cohesion (human resources development and sectoral SME development programmes in all regions and business-related infrastructure in 13 target regions (€170 million);
- participation of Poland in Community programmes (€24 million).

An additional € 56 million has been allocated for a cross-border co-operation (CBC) programme with Germany, the Czech Republic and Slovakia, and for a special action within the Baltic Sea region.

Poland also participates in and benefits from Phare-funded multi-country and horizontal programmes, such as TAIEX, the Small and Medium-sized Enterprises Facility, a steel restructuring technical assistance facility, SIGMA and the nuclear safety programme. Furthermore, Poland participates in the following Community programmes and Agencies: the Fifth Framework programme on Research and Technological Development, Media Plus, Leonardo, Socrates, Youth for Europe, SAVE II, the Multi-annual Programme for Enterprises and Entrepreneurship, Altener, IDA, CULTURE 2000, European Environment Agency, EMCDDA, Gender Equality, Incentive Measures in Employment, Combating Discrimination, Health Programmes, eContent.

In order to streamline Community legal procedures and thereby facilitate future participation of Poland in Community programmes, a Decision has been adopted by the Association Council establishing the general principles for such participation.

Overall, the impact of Phare has been positive. Effective transfer of know-how, equipment and financial resources has taken place in a number of important fields such as industrial restructuring and privatisation, SME development, trade and investment promotion, energy, land registration, veterinary and phytosanitary administration, environmental investments and institution building. Phare support for agriculture and SME development has succeeded in developing sector strategies and initiating essential institutional and financial mechanisms servicing enterprises in these sectors. In other sectors, such as customs, taxation, justice and home affairs, fisheries, coal and steel, and employment, Phare support has contributed to the establishment of sectoral development, institutional and restructuring strategies and plans, and has helped to alleviate the social consequences of restructuring.

For example, in Poland, Phare played a particularly important role in:

- the transport sector: construction and renovation of the A4 Motorway (Wroclaw-Katowice-Krakow project) (126 km) were financed by Phare (€105 million) together with the EIB (€375 million). In the railways sector, Phare funding (€38 million) contributed to the renovation of the E30 railway line in the south of the country, following the 1997 floods, together with funds from the EIB (€161 million) and the government (€156 million);
- privatisation: preparatory work, the vouchers for the mass privatisation programme and bad debt work-outs prior to the privatisation of commercial banks were funded by Phare (€20 million) together with the EBRD;
- a regional development programme, where SME development was funded by Phare (€50 million) which co-financed nearly 200 municipal SME infrastructure projects and co-funded over 1,000 SME investment projects through a grant scheme working with commercial banks. This created over €150 million of public and private investment and generated more than 11,000 jobs in the regions concerned;
- numerous institution building projects in the fields of veterinary administration, agriculture and fisheries, regional policy administration, justice and home affairs administration, internal market (e.g. certification and standards, telecommunications regulatory authority) and environment were funded by Phare to reform the sectors concerned and bring them closer to EC standards;
- social alleviation of restructuring of the coal and steel sectors, where Phare funding (€ 61 million) provided in particular for the counselling and retraining of the unemployed, for SME development and for re-conversion measures in Silesia.

The 2000 Phare Review confirmed the accession-driven approach and emphasised the importance of helping countries to prepare for the Structural Funds. The trends introduced in 1997 have continued, with an increased role for Commission Delegations, further streamlining of procedures and increasing emphasis on raising the verifiable and quantifiable impact of Phare projects on institution building, investment in compliance with the *acquis* and economic and social cohesion.

The Review also provided for the possibility of further decentralisation of Phare management, by waiving the requirement for *ex ante* approval by the Commission Delegations for tendering and contracting. For this to be possible, strict pre-conditions covering programme management, financial control and structures regarding public finance must be met. An extended decentralised implementation system (EDIS) should be put in place for each negotiating country at the latest by the time of accession. High-Level Working Groups are being established for each country to oversee this process, along with other key procedural steps in the run up to accession.

The Commission approved the Polish **SAPARD** programme in October 2000. The indicative allocation for SAPARD in Poland for 2002 is € 177 million, at 2002 prices (allocation 2001: € 175 million at 2001 prices).

The operational programme is based on two priorities: improvement of market efficiency in the agri-food sector; improvement of the conditions for economic activities and job creation

A major part of the funds available for the first priority is dedicated to the improvement of marketing and processing of agricultural products. The other measures under this priority concern investment in agricultural holdings. The second priority includes measures for development of rural infrastructure and diversification of economic activities in rural areas. Supplementing these priorities, the programme includes measures for vocational training and technical assistance and pilot-projects for agri-environment.

*The Multi-annual Financing Agreement (MAFA)*, signed out the rules for implementing SAPARD, signed in January 2001 and *The Annual Financing Agreement (AFA) 2000*, which sets out the Community financial commitment to Poland for the year 2000, was signed in March 2001. The AFA 2001 was signed in June 2002, and will enter into force when Poland notifies the Commission of the completion of all requisite national formalities.

The following structures are responsible for the implementation of SAPARD: the National Fund, located within the Ministry of Finance, which will administer SAPARD funds under the responsibility of the National Authorising Officer (NAO), and which is responsible for the national accreditation of SAPARD Agency; the Managing Authority located within the Ministry of Agriculture and Rural Development; the Agency for Restructuring and Modernisation of Agriculture (ARMA), which has been designated by the Polish Government as the SAPARD agency and which will operate from its headquarters in Warsaw with 16 regional offices throughout Poland.

In September 2001 Poland submitted a request to the Commission for conferral of management authority for SAPARD related to five measures, representing 87% of the amount available for Poland. There was a request for approval of additional components in October 2001. The Commission Decision on provisional conferral of management of aid, on a fully decentralised basis, for the five measures initially requested was adopted in July 2002.

A Monitoring Committee has been established by the Managing Authority and has met three times.

**ISPA** programming is governed by the national strategy papers for transport and environment, which the Polish authorities finalised in 2000. In the case of transport, the focus is on large projects on the main transport routes, with particular emphasis on an appropriate balance between road and rail projects. The environment strategy has been updated to reflect new information and recent developments. In 2001, ISPA provided funding for major projects in three of the four sectors which are eligible for support; waste water (which accounts for the largest number of projects and received the largest allocation of assistance), drinking water provision and solid waste treatment.

For the years 2000 and 2001, the mid-range allocation for Poland has been committed, i.e. €713.5 million (€307 million in 2000 and €406.6 million in 2001). The allocation for 2002 will be €357 million. This is slightly below the mid-range, so as to take into account the over-commitment in the environment sector in 2001.

Thirteen environmental projects were approved in 2001: three drinking and sewage water projects in Poznan and Suwalki with a total ISPA contribution of €70.2 million; eight sewage network treatment plant projects in Warsaw, Gliwice, Katowice, Przemysl, Lodz, Olsztyn, Bialystok, and Rybnik, for a total ISPA contribution of €245.1 million; and two solid waste projects in Lodz (€13 million). Six projects in the transport sector were approved in 2001: Three infrastructure projects, concerning modernisation of the Wegliniec-Legnica railway (€92.8 million), modernisation of the Poznan rail interchange (€50.6 million), a rail infrastructure project (€83.3 million) as well as technical assistance for preparation of the E65 railway line (€6 million); and two road projects: the construction of the Bielsko-Biala-Cieszyn expressway (€103.6 million) and the rehabilitation of the A4 (Wroclaw-Krzyzowa) (€189.5 million).

The Commission approved a technical assistance package (with ISPA financing of €1.6 million) to prepare the Polish authorities for the decentralised management (EDIS) of ISPA. Contracts have been awarded for three projects in the transport sector and six projects in the environment sector. Most of the tenders for the remaining ISPA projects approved in 2000 are currently in preparation.

## Twinning

One of the main challenges still facing the candidate countries is the need to strengthen their administrative capacity to implement and enforce the *acquis*. As of 1998, the European Commission began to mobilise significant human and financial resources to help them with this process, using the mechanism of twinning of administrations and agencies. In 2001, the Commission strengthened this emphasis on institution building further, through the launch of the Action Plans for strengthening administrative and judicial capacity.

The twinning process makes the vast body of Member States' expertise available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

A total of 503 twinning projects were funded by the Community between 1998 and 2001. Between 1998 and 2000, these projects primarily targeted the main priority sectors identified in the Accession Partnerships: agriculture, the environment, public finance, justice and home affairs and preparation for the management of Structural Funds. Since 2000, other important sectors of the *acquis* have also been addressed through twinning such as social policy, the fight against drugs, transport, and telecommunications regulation. Twinning now covers all sectors of the *acquis*.

Thanks to the strong support of the EU Member States, 103 twinning partnerships were funded by Phare 1998, involving all the candidate countries and almost all the Member States. These first-generation projects have already come to an end. Under Phare 1999 a further 123 projects are currently being implemented and the programming exercise for Phare 2000 included a further 146 twinning projects. The 2001 programming exercise includes 131 twinning projects embracing all the Phare beneficiary countries, as well as Cyprus and Malta. Under the 2002 programming exercise, 119 twinning projects have already been planned and approved for implementation. A substantial number of additional twinning projects are planned, and these should be approved and implementation launched before the end of 2002. They include twinning projects identified in the Action Plans for strengthening administrative and judicial capacity in the negotiating countries. It is estimated that around 300 twinning projects are operational throughout the candidate countries at any one time. Furthermore, the candidate countries are being offered a further way of drawing on Member States' expertise through Twinning Light, a mechanism to address carefully-circumscribed projects of limited scope which emerge during the negotiation process as requiring adaptation.

For Poland, the eight 1998 twinning projects have been completed and 17 twinning projects under Phare 1999 are on-going and/or nearing completion. New areas covered are *inter alia*, financial control, tax and customs, civil service development, and road transport. Under Phare 2000, there are 44 twinning projects with Poland, all of which are currently on-going, including twinning between regional administrations in order to prepare Poland for regional policy and the management of future structural funds. Under Phare 2001, there are 39 twinning projects, of which 5 are "twinning light" projects, some of which have started. For Phare 2002, there will be 34 twinning projects, of which 4 are "twinning light" Almost all Member States are involved in Poland and a wide range of policy sectors are covered by twinning in Poland.

## Negotiations

Since the opening of the accession negotiations, substantial discussions on the individual chapters of the *acquis* started, and by April 2002, negotiations on all chapters (with the exception of chapter 31 – Other) had been opened.

By end September 2002, the following 27 chapters had been provisionally closed: free movement of goods, free movement of persons, free to provide services, free movement of capital, company law, fisheries, transport, taxation, economic and monetary union, statistics, social policy and employment, energy, industry, small and medium sized enterprises, science and research, education and training, telecommunications and information technologies, culture and audio-visual policy, justice and home affairs, environment, consumers and health protection, regional policy, customs union, external relations, common foreign and security policy, financial control and institutions. Negotiations continue for the remaining chapters.

## Criteria for membership

### Political criteria

#### Introduction

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities."

In its 1997 Opinion on Poland's application for EU membership, the Commission concluded:

*"Poland's political institutions function properly and in conditions of stability. They respect the limits on their competences and co-operate with each other. Legislative elections in 1991 and 1993, and presidential elections in 1995, were free and fair. In 1993 and 1995, when they led to alternation of power, this was properly achieved. The Opposition plays a normal part in the operation of the institutions. Efforts to improve the operation of the judicial system and to in y the fight against corruption will need to be sustained.*

*There are no major problems over respect for fundamental rights. There are, however, certain limitations to the freedom of the press. Particular attention will be needed to how a new law limiting access to public service for certain categories of persons is implemented. Poland needs to complete procedures for compensating those whose property was seized by the Nazis or Communists.*

*Poland presents the characteristics of a democracy, with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities."*

In its 2001 Regular Report, the Commission found that:

*"In its 1997 Opinion, the Commission concluded that Poland fulfilled the political criteria. Since that time, the country has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Over the past year, further efforts have been made in this direction. Poland continues to fulfil the Copenhagen political criteria.*

*In the area of public administration progress in the implementation of the 1999 Civil Service Law continues. Further efforts are required to speed up the pace of implementation and ensure that an independent, well trained and motivated civil service is in place by the time of accession.*

*Poland has continued to make progress in reforming the judiciary and in reducing the most pressing bottlenecks. The pace of reform needs to be accelerated and issues relating to judicial immunity further addressed.*

*Additional steps have been taken, including the adoption of much needed legislation, in the fight against corruption, which remains a source of serious concern. The focus must now be on ensuring a coherent approach to corruption, implementing the legislation and above all on developing an administrative and business culture which can resist corruption.*

*There has been some progress in establishing the legal framework for equal opportunities and further work needs to be undertaken in this regard.*



*A new element which has come to light has been the abuse of custody, which has been reported in certain cases. This needs to be addressed and the first steps have already been taken in this respect.*

*The reinforcement of administrative and judicial capacity, improving the operation of the judiciary and its training in EC law were Accession Partnership priorities. Work is under way but further efforts are needed."*

The section below aims to provide an assessment of developments in Poland, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country's executive and judicial system. Such developments are in many ways closely linked to developments regarding Poland's ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Poland's ability to *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 – Co-operation in the field of justice and home affairs*) of part B.3.1. of this report.

## *Recent developments*

As reported in the 2001 Regular Report the current government is formed by the electoral grouping led by the Social Democratic Alliance in coalition with the Polish Peasants Party (PSL).

Poland's political institutions have continued to function properly and in a stable manner. The 1997 Constitution has proved and continues to be a stabilising factor since its introduction.

The government continues to support EU membership as a top political priority and a broad consensus on this issue exists among a majority in the parliament.

## *Democracy and the rule of law*

Poland has achieved stability of institutions guaranteeing democracy and the rule of law. This was the conclusion of the 1997 Opinion and the subsequent Regular Reports, and has been confirmed by developments over the past year. This section focuses on the most significant developments since the last Regular Report.

## *The parliament*

At a time when the probity of the political class is under close public scrutiny and following a parliamentary election campaign in which the comportment of elected representatives played an important role, developments over the past year have focused on measures to provide reassurance as to the nature of the political process.

Following the last parliamentary elections, all political parties submitted campaign finance statements to the State Election Commission (PKW). Some 93 reports were submitted and the PKW, upon scrutiny of the statements, rejected a number of the reports. The most common infringement was irregularities in making payments (cash payments or payments by post) or exceeding the limit on contributions from individuals, set at PLN 11 400 (€3 100). Another common problem was that parties did not establish a separate election fund for the purpose of collecting money for the election campaign. The PKW's decisions have been upheld on appeal and the refund of parties' expenditure has been reduced as a result. It should be noted that this infringement rate compares favourably with that reported after the last presidential election (*see below under The executive*). While the rules for parliamentary and presidential elections are not identical, the fact that the majority ties participating in the elections did respect the new standards is encouraging.

Once elected, deputies must submit asset declarations. The declarations must contain a range of financial information, are published on the Internet and are assessed by the relevant Sejm and Senate Committees, which present the results to the Presidia of the Sejm and of the Senate respectively. A similar analysis is conducted by the tax offices, which, unlike the parliamentary committees, have at their disposal legal instruments that can be used to check the truthfulness of data included in the statements and tax declarations. The conclusions of this verification are also presented to the Sejm and Senate Presidia.

At the time of writing, all deputies had submitted their declarations although around 50 deputies missed the deadline of 30 April. The sanction for non-submission of the declaration is immediate loss of the annual bonus and the suspension of their parliamentary salary until the declaration is submitted. The Sejm's Ethics Committee may further punish a deputy with an admonition or reprimand. Providing false information or concealing the truth may be punished by up to three years' imprisonment.

In December 2001 the Sejm passed an amendment to the electoral law and the Act on Political Parties of April 2001. This lowered the budget subsidy to political parties for 2002 and 2003. The larger the party, the larger the cut in public finance. A party's exact subsidy entitlement will depend on the number of votes it received in the elections but also on the results of the State Election Commission's (PKW) examination of a party's financial statements. Where it is found that a party has incorrectly filed a campaign financial statement, the subsidy can be cut by up to 75% of the amount allocated for the subsidy. In addition, falsification of financial statements can lead to imprisonment.

The system of European Committees set up in the parliament to accelerate the adoption of the *acquis*, remains in place. This notwithstanding, there has been a certain loss of momentum in the process with a consequent impact on the pace of adoption of legislation.

## *The executive*

Developments in this field have been variable. The impact of most recent legislative developments vis-à-vis the civil service and with regard to the organisation of state structures is likely to be mixed, whereas the suspension of elements of the civil service law so as to allow the recruitment of high level staff without the need for an open competition clearly represents a backward step. Issues which have been identified in previous Regular Reports as problematic, notably the pace of recruitment within the civil service and the financing of regional government, have not improved over the past year. With regard to the question of stability of the civil service which was also addressed there has been a very high rate of replacement of officials notably high level ones, within the system of public administration centrally, regionally and in state run bodies over the reporting period.

As reported in the last Regular Report, the State Election Commission (PKW) rejected the campaign statements of all twenty-one presidential candidates. Thirteen appeals were lodged and PKW's decision was upheld in every case. As a result property acquired illegally by 18 committees will have to be forfeited to the state treasury. The amounts to be forfeited vary from PLN 1.7 million (€0.5 million) to PLN 358 (€100).

In March 2002 some minor changes were introduced into the administrative map of Poland with the addition of seven new *powiats*, bringing the total number to 380. In addition adjustments were made to the borders of a number of *gminas*.

In November 2001 the existing Act on the Revenues of the Self-government Units of 1998 was prolonged until the end of 2002, (*see Chapter 21- Regional Policy*). The *gminas*, *powiats* and *voivodships* (self-government units) will receive slightly over PLN 43 billion (€12 billion) from the state budget. This represents a decline in real terms of 2.7% in 2002 compared to 2001.

One innovation at the level of local government has been the introduction, through the law adopted in July 2002, of directly elected mayors for rural areas, towns and cities. After considerable debate within the parliament and the intervention of the Constitutional Court, it was decided that the elections would be via the d'Hondt method (a system of proportional representation which at the margin favours larger parties) and over two rounds.

In March 2002 the Sejm adopted the Act on Changes in the Organisation and Functioning of the State Administration and Subordinated Units and amendments to other acts. The new law abolishes 23 central administration agencies out of a total of 74 state administration bodies by the end of 2002. It also provides for amendments to nearly fifty laws, mostly related to details of the functioning of state administration bodies, in connection with the ongoing structural changes.

The functions of the abolished agencies will be taken over by relevant ministries or other agencies, either existing or newly created. Four new government bodies are being established this year: the Directorate-General for Domestic Roads and Highways; the Insurance and Pension Fund Supervisory Committee (created from a merger of the Pension Fund Supervision Office and the Insurance Supervisory Office); the Main Grain and Plant Protection Inspection Authority; and the Agency for Export Development, formed on the basis of a consolidation of the Polish Information Agency and the Polish Agency for Foreign Investment.

The changes are aimed at producing budget savings in the operation of central administrative bodies. These savings will be realised through the dismissal of half of the 7 000 staff working in the agencies. The remaining 3 500 will be transferred to the new agencies or ministries. One further proposed benefit is intended to be an improvement in financial control. In the past agencies have been criticised for a greater lack of financial rigour than that of the central administration. It is expected that the reorganisation will improve this situation. This should be balanced against the fact that the fourteen largest agencies, when measured by budget, were not included in the reorganisation.

With regard to the functioning of the executive, two amendments were adopted by the parliament in December 2001 to a number of laws relating to the functioning of the civil service.

Under the first amendment the presidents of the Supreme Chamber of Audit (NIK) and the National Bank of Poland (NBP) will now require a prior invitation to participate in Cabinet meetings. This revises the system put in place in 1989 whereby the presidents could participate without prior invitation.

The second amendment suspended until the end of 2002 certain provisions of the Civil Service Act of 1998. During this period the Prime Minister and the directors-general in state institutions are able to fill the most senior administrative posts with people from outside the Civil Service, who as candidates are no longer required to pass a competition. The Government justified the change on the basis of two factors: first, the small number of civil servants who had passed the competition for senior posts, which had resulted in numerous vacancies or *ad interim* appointments, and second, the fact that at local level the criteria necessary to be a civil servant, particularly the requirement to speak a foreign language, deterred candidates. Under the amendment new appointees can be recruited for only six months.

Civil servants can, under the terms of the Law, be recruited exclusively after an open competition or if they are graduates of the National School of Public Administration, entry to which is also by open competition. It is recognised that existing recruitment rates are insufficient to establish a fully staffed independent civil servant corps in the near future, however, there has been little acceleration in the rate of recruitment over the reporting period. In 2001 the number of civil servants increased by 276 of whom 218 people who passed the competition and 58 graduates of the National School for Public Administration (KSAP), to reach a total of about 830, or some 0.8% of the employees of the central administration. In 2002 there were 65 graduates trained by the KSAP to be independent professional career civil servants. It is apparent that recruitment of KSAP graduates of civil servants proved more difficult in 2002 than has been the case in previous years as the number of job offers made available to KSAP graduates by the government has been reduced by two-thirds.

matters related to the everyday work of employees in the central administration, which will be extended (through distance learning) to 1 000 central administration employees in 2002 and to a similar number in 2003.

A number of measures to improve recruitment and training are underway. These include developing a general human resource management strategy for the Polish civil service and putting into operation both a Civil Service Information Centre and a Recruitment Assessment Centre at the Office for the Civil Service. There will also be a pilot project to assess civil service training needs.

The civil service is under the constitutional responsibility of the Prime Minister, who appoints the Head of the Civil Service, and is assisted by the Office for the Civil Service. The current head of the civil service was appointed by the Prime Minister in July 2001 for a second five-year term. The number of staff has been increasing by four or five a year and is now almost 100.

Budget cuts imposed in 2002 have affected the Office much more severely than other parts of the public administration. The total reduction in planned spending for the public administration as a whole amounted to slightly more than 1%, while for the Office for the Civil Service it exceeded 19% (or 14% if compared to actual spending in 2001). This change will not affect the recruitment of new civil servants, as this is financed from a special reserve for the head of the civil service granted by the Council of Ministers, but it will affect other areas, notably training (not only for the Office's own staff but also for the whole of the public administration) and further development of the activities of the Office. The impact of these cuts on the proposed review of recruitment and training procedures within the Polish civil service remains to be seen.

As noted in the 2001 Regular Report, further efforts have been undertaken to publicise the work of the civil service and improve its image. While some efforts have been made to further address issues raised in previous Regular Reports, the long-standing disincentives to a civil service career, (perceived poor status, profile and rewards) remain and will need to be further addressed in the years ahead to ensure the recruitment and retention of a body of independent, experienced officials.

### *The judicial system*

Over the last year the on-going reform of the judiciary has continued and steady progress has been registered. The introduction of a new layer of courts and, the acceleration of procedures, as well as the computerisation of the judiciary and the prosecutor's office, have improved efficiency. However, efforts are still needed to improve the efficiency of the judiciary, in particular in view of accession, and enhance public access to justice, which remains limited. Concerns persist with regard to perceptions of corruption among the judiciary. The existing penal immunity of judges makes it difficult to determine the real level of corruption within the judiciary.

Implementation of the reforms begun in 2000 continued in the reporting period. In terms of legislative progress, an amendment to the Act on the National Court Register was adopted in December 2001. This has simplified the procedure for making entries in the register. It is hoped that the procedure will now be quicker and, by taking up less time, will be one further step towards reducing delays in court procedures.

As mentioned in the 2001 Regular Report, in October 2001 the Act on the Constitution of Common Courts entered into force, introducing *inter alia* a further reorganisation of the judiciary, establishing the position of judge's assistant, reorganising the inspection of the judicial services and facilitating the assignment of Polish judges to international organisations.

At administrative level further steps have been taken towards completing the reform of the judicial map. In addition secondary legislation implementing the Act on the Constitution of Common Courts has replaced the previous structure and functions of the various levels of court in Poland. Presently there are 296 district courts, 41 regional courts, 10 courts of appeal and the Supreme Court. Reforms were implemented within the structure of district courts, with the establishment of 40 labour and social security courts and the introduction of a new layer of courts – borough courts to deal with misdemeanour cases. By the end of 2001, the number of borough courts reached 314 compared to the target of 346.

The Public Prosecutor's Office has a similar organisational pattern to that of the court system: there are 323 public prosecutor's offices at district level and 41 at regional level. Ten public prosecutor's offices operate at appeal court level.

In April 2002, the position of "court director" was introduced. Court directors will assume the function of managing the court's financial matters and property in the courts of appeal and the regional courts. By September, ten directors had been appointed in the courts of appeal and thirty in regional courts.

At the end of 2001 the number of judges in common courts stood at 8 768, a significant further increase compared to 2000 (8 335), and the number of prosecutors at 5 293, representing a slight decrease compared to the previous year. The number of senior court clerks (*Referendarzy*) remained more or less stable at around 600; they are mainly employed in court record offices. 585 clerks also currently work in record offices; an increase of 85 new posts is planned for 2002. The recruitment of more administrative staff to support judges has continued and the number now stands at 20 407. Measures are planned to further increase the numbers of both judges and the necessary administrative support staff.

The reorganisation of the judiciary and the acceleration of proceedings in criminal and civil courts has had an impact on the average duration of court proceedings which have seen some further reductions. According to figures provided by the Polish Ministry of Justice, in district courts the average length of proceedings for criminal cases has fallen from 5.8 in 2000 to 5.4 months in 2001 while the duration of criminal proceedings in regional courts was shortened from 6.5 months in 2000 to 6.1 months in 2001. There has not been a similar reduction in terms of civil cases: in district courts the average length of duration of civil cases has increased by one month to 5.3 months and in regional courts it remains unchanged. The average length of court proceedings in Warsaw has remained considerably longer than average for the rest of Poland. In Warsaw it stands at 40 months.

The system for executing court decisions has also been reformed with the change in the status of bailiffs and some procedural reforms. Currently around 583 bailiffs enforce between 1 and 1.2 million court decisions a year. The average time between the court decision and its execution in civil cases rose slightly in 2001 to 12.7 months at the end of the year compared to 12.3 months in 2000.

Implementation of the 1999 computerisation strategy has continued both in the courts, where in mid-2002 there were around 8 700 computers, and in the public prosecutors' offices, where there were around 2 100. Although the situation is better in the courts than in the prosecutors' offices, the needs of both remain considerable. Work is ongoing to further meet these needs by continuing and stepping up efforts to further computerise the judicial service.

Poland is improving procedures for recruiting, assessing and promoting judges, to make these more harmonised and transparent. However, work remains to be done, especially with regard to the procedures for admittance to apprenticeships. Moreover, procedures for assessing judges' professional performance remain unclear and inefficient.

With regard to training, initial and continuous training is planned at central and regional level but, due to budget constraints facing the Ministry and the courts, has mainly been supported by external donors. At present, 36 training centres continue to operate at regional level (23 for judges and 13 for prosecutors). In addition to the burden which 36 centres place on the budget, it is difficult to ensure uniform quality and content of the training which judges undergo. One of the elements which need to be urgently addressed is the establishment of a uniform national training curriculum for judges, another being the establishment of a national training centre. Training focused on EC law is provided, mainly financed by third countries in the context of assistance programmes. The same applies for the training of Ministry of Justice staff in the area of international legal assistance.

The 2001 Regular Report drew attention to the issue of judicial independence. The entry into force of the Act on Common Courts in Poland means that the courts of appeal, and not the disciplinary tribunals which exist within each judicial district, are now responsible for lifting the immunity of judges. There has been an increase in the transparency of judicial disciplinary processes. The act stipulates that proceedings before the disciplinary courts are now public although criminal proceedings are not made public and the deliberations in a court of appeal on lifting the immunity of a judge are held in closed session.

### *Anti-corruption measures*

Independent surveys confirm that the issue of corruption remains a source of serious concern. The issue is fully in the public spotlight, featuring as it did in last year's electoral campaign but also through the publication of the Supreme Chamber of Control's report on the management of State-owned enterprises and a number of high-profile court cases.

The 2001 report highlighted the need to alter perceptions and the key role which a coherent strategy would play in this process. Such a strategy was adopted in September 2002. While there has been a steady implementation of previous measures, there have been no developments in terms of adopted legislation.

In terms of administrative capacity, the main development has been the establishment of the General Inspectorate of Financial Information (GIFI). This horizontal structure is in charge of collecting, processing and exchanging information received from financial entities on financial transactions with a view to curbing money-laundering. At this initial stage in its development the GIFI requires additional staff, IT equipment and software to digest and analyse systematically the flow of information it receives on financial transactions. To reflect this, the law has been amended to revise the date by which entities have to register and submit to the GIFI information on all cash transactions above €10 000 from 15 March 2002 to 30 June 2004 (see *Chapter 24 - Co-operation in the field of justice and home affairs*).

The impact of the new Law on public information, mentioned in the 2001 Regular Report, has been positive in that it has set out in clear and more comprehensible terms the rights to access which exist. The legislation provides for the first time a clear statutory basis for existing practices and procedures and protects the current level of access, albeit without greatly increasing it.

The concept of criminal liability of legal persons remains to be introduced into Polish legislation.

Elsewhere further efforts are required to step up the fight against corruption both by the police and the border guard service, which remain important areas of concern. Recent data suggest that in 2001 there was a marked increase in the number of cases detected: up to 2384, compared to 1899 in 2000. Convictions also increased, rising from 580 in 2000 to 652 in 2001.

In September 2002, Poland ratified the Council of Europe Civil Law Convention on corruption. Poland has ratified the 1990 Council of Europe Convention on Money Laundering and has signed the 1999 Criminal Law Convention on corruption. Poland has continued to participate in the monitoring of anti-corruption measures effected by the OECD working group on bribery in international commercial transactions and is involved in the Council of Europe Group of states against corruption (GRECO) and in the Task Force Group on the fight against organised crime in the Baltic region.

As a member of GRECO, Poland received a GRECO evaluation mission in spring 2001. According to the evaluation report that was adopted and made public in March 2002, corruption phenomenon in Poland threatens to undermine the functioning of many public spheres. The GRECO report confirmed that the Polish authorities are fully aware of the danger that corruption represents for the further

development of the country and that they have adopted a variety of measures. It was added that there are still a large number of measures which could be taken and implemented to put in place a comprehensive approach to this problem. In particular, the report called for the development of a clear and comprehensive Government programme against corruption, for some amendments to the legislation to provide the law-enforcement and judicial authorities with the full range of legal tools for combating corruption, for additional training in anti-corruption issues for several categories of officials, and for the strengthening of the role and functions of the Supreme Chamber. In conclusion, GRECO addressed seventeen specific recommendations to Poland which it is strongly encouraged to follow up.

## Human rights and the protection of minorities

Poland continues to respect human rights and freedoms. This was the conclusion of the 1997 Opinion and the subsequent Regular Reports, and has been confirmed over the past year. The following section focuses on the most significant developments since the last Regular Report.

Poland has ratified most of the major Human Rights conventions (*see annex*), but has so far not ratified Protocol 7 to the European Convention on Human Rights. In May 2002 Poland signed Protocol 13 to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances. Poland has an established track record of providing appropriate international and constitutional legal safeguards for human rights and protection of minorities. Poland is the current Chair of the UN Commission on Human Rights.

Human rights and protection of minorities are among the competencies of the Polish Ombudsman (*see below under the heading Civil and political rights*).

The concept of non-discrimination is enshrined in the Constitution, but to date the transposition of this principle into legislation, including the anti-discrimination *acquis*, has been limited (*see Chapter 13 - Social policy and employment*).

The Ombudsman continues to play an important role in protecting civil, political and human rights and the rights of minorities. He is also addressed when economic, social or cultural rights are believed to have been violated.

In 2001, the Ombudsman received 55 404 requests to intervene and looked into 40 000 new requests. Action was taken and completed for over 15 000 requests, of which 26% were settled positively (i.e. as requested by the applicant). The remaining 74% did not reach a positive settlement because of "a lack of confirmation of the allegations". For most of the negative outcomes no further justification was offered.

### Civil and political rights

The last year has been one of consolidation, further progress has been made on a number of issues highlighted in the last year's Regular Report although some areas of concern remain.

There remain concerns over *degrading treatment by the police*. 5 391 complaints made against police officers in 2001, which was a slight increase in comparison with 2000, when 5 255 complaints were filed. Of these complaints, 2 884 led to police officers being punished, and 284 to expulsion from the police service. In 2001, 844 criminal proceedings against police officers were initiated, 300 were closed, and in 77 cases the judgement was against the police officer. Concerns have been expressed by human rights organisations that sentencing in such cases is rather lenient and that the existing mechanisms for redress are insufficient. This having been said, there is no evidence of systemic or systematic mistreatment in police custody.

The *abuse of custody* continues to create some concern. In total Poland has been condemned on 11 occasions. There have been 8 further cases submitted to the European Court of Human Rights (ECtHR) in the Reporting Period four relating to the length of pre-trial detention, three relating to unfounded pre-trial detention and one concerning both. The majority of complaints concern legislation which was amended in 1998. These amendments and provisions included in the amendments of 2000 to the Code of criminal procedure seek to align Polish legislation with the requirements of the European Convention on Human Rights. As noted in the last Report, legislative measures were taken in 2001 to amend the system of "sobering-up stations" and to better protect the rights of those taken to such stations. It is not yet possible to assess the effectiveness of these measures.

*Trafficking in human beings* remains an issue of concern. Poland finds itself acting as host, source and transit point for human trafficking. In legislative terms Poland has made progress over the past year, ratifying the UN 2000 Convention on combating trans-national crime in November 2001 and signing its Protocol on Trafficking in Human Beings in October 2001. On the ground, the number of people indicted declined from 119 in 2000 (which had been a steep increase compared to 24 indictments in 1999) to 71 in 2001. The number of victims involved in these indictments was below 100 for the first time since 1995: 93 in 2001, compared to 172 in 2000. The number of cases taken to court was, however, fairly stable: 35 cases in 2001, compared to 38 in 2000.

The *prison system* continues to be an area where the situation has deteriorated rather than progressed since the Opinion. Budgetary constraints have exacerbated the conditions underlined in previous reports. Although the budget of the prison service rose between 1999 and 2002 these additional resources have been used mainly to meet the daily needs of the greatly increased number of detainees, which rose from 54 367 in 1999 to 81 250 in 2002.

The Commission's opinion on Poland noted the country had a *legal aid* system. The possibility of access to free legal aid currently exists in Polish law and in the provisions for criminal and civil proceedings. A number of different channels exist for the provision of aid, thereby rendering it difficult to determine the total coverage of such aid. The main state channel is the State Treasury, which provided around PLN 54 million (€ 14.7 million) in 2001 and a further PLN lion (around € 13 million) of free legal representation via the Ministry of Justice. A third element lies within the responsibility of the courts, but no statistics are available on the number and financial value of exemptions from court costs granted by courts and of appointments of *pro bono* lawyers in civil cases. Associations, such as war veterans, also grant free legal aid to their members, and some legal clinics, located in the law faculties of several universities in Poland, also provide legal aid.

As for the cases for which legal aid may be granted, it is mainly for the judge to decide in a civil case if legal aid will be granted and then for the defendant to supply documentation to justify the granting of such aid. In criminal cases, the state covers the costs while the proceedings are under way, but, against the principles generally applied to legal aid, the aid received has to be refunded if the accused is found guilty. Exemption from this duty to bear the costs is at the discretion of the judge, as is the appointment of a *pro bono* lawyer. Such exemption is obligatory for certain categories of cases, notably those relating to labour or social security law.

Protection for *refugees* continues to be provided. Poland respects the rights of aliens seeking *asylum* in Poland under the 1951 Geneva Convention. The series of amendments made in 2001 to the 1997 aliens law has significantly improved the handling of applications, a point which had been of concern (*see Chapter 24 - Co-operation in the field of justice and home affairs*). Weak points remain, however, notably legal assistance and integration, which were highlighted in the previous Regular Report. Although measures exist in secondary legislation, budget constraints make sound implementation difficult and the situation of asylum seekers remains difficult. NGOs are still very active in providing legal assistance, especially in major urban centres.

Concerns have been expressed over cases of *racially motivated crimes*, and the alleged failure of the law-enforcement authorities to take action in a number of these.

*Freedom of expression* continues to be generally respected. However, the slander laws continue to offer politicians a higher level of protection, than that afforded to the general public. This as previously noted is in contravention of the case law of the European Court of Human rights. Freedom of the Media continues to be respected.

As regards the *right to privacy*, the vetting or *Lustracja* process, which provides for members of the government, senior officials, officers of the state and members of the judicial system to be vetted for involvement with the former communist regime, remains in place. The issue continues to be one of great sensitivity: amendments adopted by the government to limit the scope of screening procedures by excluding people associated with intelligence and counter-intelligence, as well as border guards, from the category of "collaborators" with Poland's communist secret services were rejected by the Constitutional Court. There have been no major developments with regard to the implementation of the Classified Information Law and, in contrast to 2001, no new cases have been taken to contest the law.

Article 53 of the Polish Constitution enshrines the principle of *freedom of religion*. Individual acts of religious intolerance do take place but they have no place in mainstream political discourse or society.

In 2001, new registration procedures were introduced, and all NGOs were required to re-register. As a result of stricter registration requirements and administrative difficulties with a new process, many NGOs have been denied registration. This has discouraged the establishment of new organisations and disrupts the work of many active organisations. In March 2002, the Supreme Administrative Court decided that reinvestment of donations in stocks and bonds in order to increase the revenue to be spent on statutory activities would be tax-free. The decision makes it possible for all non-governmental organisations to better manage their finances.

With regard to *property rights*, there has been little change since the last reporting period, particularly with regard to the restitution of property. In the absence of specific legislation (a previous law was vetoed by the President), individual claims must be brought before a court. As the number of cases increases, the relevant case law seems on balance to be favourable to claimants. The process remains, however, long and complex.

### Economic, social and cultural rights

In the area of *equal opportunities* there has been no legislative progress since the last reporting period (*see Chapter 13 - Social policy and employment*). Within the political arena the last parliament elections saw a notable increase in the number of women representatives in both chambers. In the Sejm 20% of those elected were women (previously 13.5%) and in the Senate 23% (previously 12%). There is one female minister, along with seven female secretaries of state and nine under secretaries of state. At the local level there is one female voivod and no marshals.

A government Plenipotentiary for Equal Status of Women and Men was appointed in October 2001. The office has 11 staff and its main functions are: analysing and evaluating equal treatment; initiating and co-ordinating activities aimed at securing equal opportunities for men and women; issuing opinions, and co-operating with relevant state administration bodies, NGOs and educational institutions to promote equal opportunities in educational programmes. There is no indication as to whether the office will cover traditionally sensitive issues such as spousal violence, which have been raised in earlier Regular Reports.

2001 was the first year of operation of the Ombudsman for Children's Rights. During this period, the Office received 960 requests to intervene. During the first two months of 2002, a further 117 requests were received. The Ombudsman for Children's Rights co-operates closely with the general Ombudsman, which is particularly important as the Ombudsman for Children can only seek to persuade, while the general Ombudsman can initiate in his own right cases related to children.

There have been no major changes with regard to the treatment of *disabled persons* over the reporting period.

The trade union movement has played a central role in Poland's recent history and continues to be an influential player politically and socially. Over the reporting period there has been no legislative changes with regard to trade unions and the right of association. However, at a practical level union membership is falling and there are increasing concerns that implementation is not duly enforced in all cases.

There have been no developments in the reporting period in relation to the *European Social Charter*, to which Poland is a party. Poland has not signed the revised European Social Charter.

### Minority rights and the protection of minorities

In Poland *minorities* continue to be protected and their rights respected, and Poland has previously ratified the Council of Europe Framework Convention for the Protection of National Minorities. In July 2002 Poland submitted its first State report on the implementation of the Convention.

A unit in the Ombudsman's Office monitors the protection of foreigners and the rights of national minorities. The number of complaints in this area continues to be very small, although it is not clear whether this is because the unit is new or it is perceived that there is little to be gained by complaining.

The 2001 Regular Report noted the encouraging signs with respect to measures to alleviate the difficult social situation of the *Roma* community, which is estimated to consist of between 50 000 and 60 000 persons. These good intentions have not, however, fully survived the transition into practice. The pilot project has been launched, but budgetary difficulties have placed severe limitations on the elements of the project which have been undertaken to date.

### General evaluation

In its 1997 Opinion, the Commission concluded that Poland fulfilled the political criteria. Since that time, the country has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This has been confirmed over the past year. Poland continues to fulfil the Copenhagen political criteria.

The reinforcement of administrative capacity across the civil service is an important issue, recent developments have been mixed and further efforts are needed. In the area of public administration progress in the implementation of the 1999 Civil Service Law has been limited by the temporary suspension of the system of recruitment by open competition. It is essential that the pace of implementation, most notably with respect to recruitment, is accelerated so as to ensure that an independent, well trained and motivated civil service is in place by the time of accession.

Poland has made further progress in reforming the judiciary and in creating conditions to allow for a reduction in the most pressing bottlenecks. Efforts should now focus on ensuring that the progress to date delivers the desired result in terms of improved efficacy of the judiciary. Issues relating to judicial immunity are being addressed and should be followed up. Similar priority needs to be given to the training of judges, in particular in EC Law. While there have been ongoing efforts a sustainable structured programme of training needs to be put in place.

Corruption remains a cause for serious concern, a comprehensive strategy has been adopted to combat the problem. Substantial efforts are required to ensure concrete results, which to date have been limited, and in particular to develop a political, administrative and business culture which can resist corruption.

Poland continues to respect human rights and freedoms.

### Economic criteria

#### Introduction

In its 1997 Opinion on Poland's application for EU membership, the Commission concluded:

"Poland can be regarded as a functioning market economy; it should be well able to cope with competitive pressure and market forces within the Union in the medium term."

In its 2001 Regular Report, the Commission found that:

"Poland is a functioning market economy. Provided that it continues and intensifies its present reform efforts in a consistent policy environment, it should be able to cope with the competitive pressure and market forces within the Union, in the near term."

In examining economic developments in Poland since the Opinion, the Commission's approach was guided by the June 1993 conclusions of the Copenhagen European Council, which stated that membership of the Union requires:

- the existence of a functioning market economy;
- the capacity to cope with competitive pressure and market forces within the Union.

In the analysis below, the Commission has followed the methodology applied in the Opinion and the previous annual Regular Reports. The analysis in this year's Regular Report takes stock of developments since the Opinion was drafted.

#### Summary of economic developments since 1997

Poland's impressive track record of economic growth since the mid-1990s has been interrupted by the sharp slowdown in activity experienced since 2001. The average real GDP growth since the 1997 opinion has been solid at 4.2%, but masks a marked slowdown, primarily attributable to domestic factors, since the second half of 2000. The positive side-effect of the slowdown has been the correction of a number of macroeconomic imbalances that had arisen as a result of strong domestic demand. The current account deficit, after peaking at more than 8% of GDP in early 2000, has now reverted to a level equivalent to the one that prevailed in 1997. Annual average inflation reached a new low of 5.3% last year, resuming a rapid process of inflation reduction that had been interrupted in 1999-2000, in a context combining unexpected supply shocks and an strong easing of policy rates by the central bank after the Russian crisis. The general government deficit has averaged 2.8% of GDP over the period since the Opinion, but has widened significantly in the past year, primarily due to a combination of rapid rise in expenditure and the slowdown in growth and fall in inflation and their combined impact on revenues. With the downturn, high unemployment and inactivity have become the main imbalances in the Polish economy.

Main Economic Trends								
Poland		1997	1998	1999	2000	2001	Average	2002 latest
Real GDP growth rate	per cent	6.8	4.8	4.1	4.0	1.1	4.2	0.5 Q1
Inflation rate - annual average	per cent	15.0	11.8	7.2	10.1	5.3	9.9	3.1 July <sup>b</sup>
- December-on-December	per cent	13.2	8.6	9.8	8.4	3.5	11.3	1.3 July
Unemployment rate - IFS definition	per cent	11.0	9.9	12.3	16.3	18.4	13.6	19.9 Q2
General government budget balance	per cent of GDP	-4.3	-2.3	-1.5	-1.8	-3.9p	-2.8p	
Current account balance	per cent of GDP	-4.0	-4.4	-8.1	-6.3	-4.1	-5.4	
	Million ECU/€	-5,065	-6,156	-11,716	-10,824	-8,001 <sup>c</sup>	-8,352	-4,418 Jan.-July <sup>c</sup>
Gross foreign debt of the whole economy - debt export ratio	per cent of exports of goods and services	110.7	84.1	102.1	79.2	:	:	
	Million ECU/€	35,884	33,477 <sup>a</sup>	38,848	39,838	:	:	
Foreign direct investment in flow - balance of payments data	per cent of GDP	3.4	4.0	4.7	5.9	3.2	4.2	
		4,328	5,678	6,821	10,115	6,377 p	6,664 p	2,486 Jan.-July <sup>c</sup>





















