HELSINKI COMMITTEE
IN POLAND FUNDA



HUMAN RIGHTS

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1990
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I. Referring to Romania HELSINKI COMMITTEE IN POLAND

Warsaw, 20 May 1989 To the Governments of the Signatory States to Vienna Document CSCE

Human rights, both civil and political, as well as social ones, are being violated in Romania on a scale unseen in the present Europe. Nicolae Ceausescu keeps the citizens of this country in submission, ruling by terror. The citizens'life, in all its aspects, is controlled by the secret political police, Securitate. The authors of even the slightest criticism are punished with many years imprisonment, deprivation of job, expulsion from the capital city. Draconian reduction in electricity, gas, heating and food supplies has deprived the people of even the minimum of living conditions. This is being done under the banner of creating "a new type of a human being, who will live in society of equal people in its most perfect shape". This also serves as an excuse for implementation of the planned destruction of about 8 thousand villages within the frames of the so called "systematization of rural areas". Most of those villages are located in Transsylvania. It means, therefore, destruction of the roots of 2,5 - 3 milion Hungarian minority, who have lived there for ages. The systematization plan constitutes a culmination of carried for years discriminating policy towards that group of Romanian citizens. In that situation thousands of Hungarians seek shelter in Hungary. Aboriginal Romanians, who cannot bear the poverty, are more and more often found among the fugitives.

Helsinki Committee in Poland calls all the states - signatories of the Vienna Document, to undertake every possible step in order to make Ceausescu's policy towards Romanien people change. One cannot keep silence if in the middle of Europe the fundamental human rights are violated in such a drastic way.

We appeal to all the Western States not to close their frontiers before fugitives from Romania and not to send them back, because in that way they sentence the poor people to multiplied repressions. Let the democratic West hold a helping hand once more, as it held it to the Hungarians after 1956, to Czechs and Slovaks after 1968 and to the martial law. We appeal for that in the name of European nations' solidarity.

On authorisation of the Helsinki Committee in Poland Marek A.Nowicki

Stefan Starczewski.

II. In Paris

On June, 1st, 1989, during the seminar of International Helsinki Federation (IHF), held in connection with the meeting of KBWE, S.Starczewski and Marek A.Nowicki described the situation in Poland.

Marek A. Nowicki

Legal Changes in Poland

Serious changes in those branches of law, which are most vital from the point of view of human and citizens' rights have been introduced since the end of the "round table" debates and since the agreement between the government and the opposition was signed.

On April 7th trade union pluralism was restored and farmers regained their right to associate in trade unions. The new Association Law created more favourable possibilities of association than they were before. Establishment of an association is submitted to judicial control, which is reduced solely to examination of the articles of association conformability with the law, in contradiction to the previous state, when the arbitrary will of the administrative body was decisive. The electoral regulations to the Lower and Upper Chambers of the Parliament has extended the citizens' possibilities of participating in managing public affairs through eligibility and electoral franchise. The guarantees of independence of the judiciary have been extended by inserting to the Constitution the provision ensuring irremovability from the post, cancellation of the principle of electing the judiciaries of the Supreme Court every five years, by appointing the National Council of Judicature, able to deprive State administration of the exclusivity in selecting and promoting the judiciaries. On 24th May the Parliament passed the Act enabling all those who had lost their jobs in result of their activities in trade unions and in opposition, to resume work.

Other important legal acts are being discussed by the Parliament and one may expect that they will be passed soon. Among others, amendements to the criminal law are being discussed; the draft provides for renouncement of punishability of activities undertaken in order to elicit public unrest or riots and for abridgement of punishability of other deeds performed out of political motives. The draft also provides for judicial control over detention, the possibility of receiving a compensation for unjust detention, reduction of the prosecutor's powers with respect to temporary arrest, it guarantees the suspect's right to communicate with his lawyer in each case and reduces the possibility of adjudication by the court of appeal to the disadvantage of the defendant.

Parliament has also new provisions of the press law under consideration; the draft provides for new conditions for legalization of publishing initiatives of the "second circulation". Draft Censorship Act provides for reduction of the catalogue of goods protected by the censorship and specifies them in such a way as to avoid abuse; it also extends the scope of publications exempted from control. Amendments suggested in the Customs Law provide for the possibility of bringing from abroad, for personal use, single copies of publications prohibited in Poland. Draft amendments to Academic Schools renounce of the necessity of obtaining the socio-political opinions about academic teachers.

Abolition Act, providing for remittal and consigning to oblivion of some offences and petty offences committed after signing the August Agreements in 1980, because of political reasons, in connection with strikes or protest actions or militarisation in the period of the martial law. The above Act will eliminate the most serious legal results of political trials of recent years.

According to the criteria of the Universal Declaration and the International Covenants of Human Rights, the changes presented above in short, do not constitute any satisfactory system of legal guarantees. The Polish legal system requires numeros amendments, and those which we are witnessing at present, should be treated only as a positive beginning. The Minister of Interior amnd the Scopa of Powers of Subjected Agencies Act is still in force, constituting real impendency to fundamental human rights; the legal guarantees of judiciary independence are still insufficient; criminal law and the provisions concerning censorship must be radically changed.

I have mentioned only some of the fields, which, in my opinion, are the most important. I would like to express my hope that the future Polish parliament, having opposition representatives in both Chambers, will undertake and realize this task.

Stefan Starczewski

Human rights in Polish People's Republic in the "transitory period"

1. Since the imposition of the martial law in 1981 Poland was in the state of an acute conflict. It was a conflict between the government and its supporters and the democratic social movement gathered around "Solidarity", operating underground. "Solidarity", using peaceful measures, fought for introduction of the fundamental civil and political rights and freedoms. The activists of "Solidarity" and other groups of "illegal" opposition were imprisoned, beaten, tortured, fired, persecuted, and defamed in mass media. Some of them were killed. Violation of human rights was not reduced to single cases. It was, to a certain degree, sanctioned by the law, by a particular kind of a "permanent state of emergency". If the criteria and standards of the Covenants of Human Rights were to be assumed, the said permanent state of emergency lasted in Poland, with insignificant intervals, since the end of the II World War. To tell the truth, it became the socio-political system lasting for over 40 years.

2. On 5th April 1989 in the building of the Council of Ministers in Warsaw, the representatives of the government which imposed the martial law in 1981, and the representatives of the opposing "Solidarity" signed the social agreement promising

a fundamental change in the socio-political system. The change is to be implemented in stages, in an evolutionary way. The present period, the period of legal changes, of election to the Lower and Upper Chambers of the Parliament, based on new "Electoral Regulations for 1989-1993" is, according to the agreement, "the beginning of a way to parliamentary democracy".

It is, therefore, a transitory period. The changes already introduced also constitute the beginning of a process of creation of lasting institutional and legal guarantees, assuring respect for human rights and the fundamental freedoms.

3. The political desisions agreed at the "round table" have outpaced amendment of the law. The provisions legalizing arbitrarinees in the operation of the State agencies towards the citizens are still in force, for instance the famous Minister of Interior Act, or - equally anachronic - Press Law together with the Censorship Act. In the new political situation the police are rather more reticent in applying force and making use of all the conceded powers to exercise control over the citizens.

Not always, however. In the last few months, during the debates at the round table and after reaching the agreement, we have noted about 20 cases of beating people, who were detained by the police. Various were the reasons of beating, sometimes it was even having "Solidarity" emblem; on 18th March, in Busko-Zdrój, Kielsce province, the police beat ROBERT KOCHAŃSKI, and on 11th May, in Lapuszno, also Kielsce province, STEFAN KWAPISZ, because they had such emblem on them. On 12th March ALICIA TWAROWSKA was beaten at the police station for her activities in "Solidarity" structures. 17 years old BERNARD PYRKOSZ from Klempicz was beaten for distribution of posters protesting against building of the nuclear power station. The people detained during street demonstrations were most often beaten by the police, in the police cars or at the police stations. For instance, on 2nd April two younf students MAREK CHACZEWSKI and KAMIL SAWKA were driven around the town and beaten in the car.

"Unknown perpetrators" were beating "Solidarity" and the opposition activists, for instance on 25th Jsanuary in Cracow MARIA INDYK, and on 7th in Wrocław LOTHAR HERBST, both "Solidarity" activists, were beaten.

4. The past few months constituted the period of significant animation of public life. There were thousands of meetings, gatherings, manifestations, etc. in Poland in that time. Till 17th April, i.e. till the registration of "Solidarity", all its members and activists gathering anywhere, transgressed the law, as the law provides that in order to organize any kind of gathering, one must obtain a permission of an administrative body. People, most often, disregarded those provisions, the government did not apply any sanctions for their transgression. There were, however, exceptions. In several cases we know of, peaceful street manifestations ended with police intervention; in at least six of them the intervention, consisting in using force, could not have been justified by aspects of public safety. Brutal police attacks against manifestants (mainly young people) ended, in several cases, for instance in Poznań on 2nd April, in Wrocław on 1st May, in Cracow on 16th, 17th and 18th May, in retaliation of a part of the manifestants and street fights followed. There were many beaten people, also those who did not participate in the manifestations; there were also policemen among the victims.

5. The principle of equality before the law is not respected, either. Complaints on officials of various State bodies are often still ineffective. The government tend to divide the opposition into "constructive" and "unconstructive". Eligibility of the representatives of the latter part of the opposition (e.g.KPN) is hindered. The agreement signed at the round table is not fully respected. Independent Students' Union (NZS) has not been registered, yet.

6. The social agreement provided that the opposition would have 35% of the seats in the Parliament in June elections. However the lists of candidates for those seats contained many names of people, who - although formally not members of the party - have been suggested by the party. For instance, the former speaker for the government, Jerzy Urban, has been placed on such a list for candidates not belonging to the party.

Officials of various local authorities often transgress the provisions of electoral regulations. In many regions of the country posters of the Citizens' Committee of "Solidarity" are torn off, forged posters are displayed, some people were forced to give up participation in the campaign for the opposition. In some work establishments workers were forced to sign lists supporting the candidates of the government. People openly demonstrating their support for the opposition were threatened and blackmailed. Eavesdropping devices were found in the seat of the Citizens' Cimmittee of "Solidarity" in Shupsk. On 23rd May Polish TV management did not allow to broadcast "Solidarity" programme, which had been earlier placed in an agreed schedule. Access of "Solidarity" and other opposing groups to the television and radio programmes is limited. It is, however, a fact that there has been significant liberalization in the field of implementation of freedom of expression. The provisions of Press Law and Censorship Act, formally still in force, are generally interpreted in a way limiting the scope of interference. Legally published opposition newspaper "Gazeta Wyborcza" (Electoral News) as well as free participation of independent and emigration publications in the International Book Fair in Warsaw has been a spectacular sign of new possibilities of introducing the principle of freedom of expression.

III. Independence of Judicature in Poland*

the Hitherto Existing State and Perspectives

1. Political system in Poland, based on the Constitution of 1952 (with later amendments), has rejected the principle of separation of powers to legislative, executive and judicial powers. The system is based on the priciple of unity of the State power vested, according to the Constitution (Art.1 sec.2), in "the urban and rural working people", supplemented with another fundamental principle of the system of the State of real socialism - the principle of the leading role of the Party (Polish United Workers' Party - Art.3 sec.1 of the Constitution).

Therefore, having failed to provide for independence of judicature, as the whole, from other authorities, the Polish Constitution grants a judge the formal independence of adjudication and guarantees subjection solely to the law binding in given matters (Art.62 of the Constitution). However, that independence has been limited by special regulations introduced by the Structure of the Courts of Law Act, the Supreme Court Act, and by penal and civil proceedings codes.

2. In the period prior to 1955 not only did the system fail to acknowledge independence of judicature, treating it as a part of the State apparatus servants, but even the constitutional principle of a judge's independence while adjudicating in a given case, was commonly transgressed. The Party bodies, the State Security or prosecutors, acting according to their instructions, exerted direct pressure upon judges to pass the required sentences in many criminal cases, particularly in political trials instituted in great numbers in those times. The fundamental provisions of law were commonly violated in the political trials, while judicature became a tool of implementation of the Stalinist policy of repressions and terror.

Political transformations occurring in 1956 related also to judicature. Although the Party did not renounce controlling the judicature by giving general directives and guidelines to the administration of justice, they pronounced observance of the principle of non-interference in adjudication in particular cases.

The situation post 1956, in 1960's and 1970's was as follows:

The State and Party authorities continued to control judicature. The Party authorities were giving instructions concerning the necessity to increase penalty in .

This report was prepared for Human Rights Commission of UN.

particular categories of cases (economic matters above all, as there were not many political processes in those times) and reserved to themselves the decisive voice in appointing judges. Public administration controlled judicature through the extensive system of various kinds of pressure in the shape of supervision over courts' decisions, exercised by the Minister of Justice, by presidents of the courts of law, as well as by specially appointed inspectors, conferences and courses for judges, where instructions relating to the way of adjudication, specific way of reporting, etc., were given.

Direct interference into particular trials occurred not so often as in the preceding period. However, due to the general directives, the judges usually were well aware what kinds of sentences were expected by the authorities. The "disobedient" judges were harassed and repressed in different ways, as they had no guarantees of irremovability, of maintaining their positions. To the contrary, the Structure of the Courts of Law Act has clearly provided (the provision is still in force) that a judge may be moved, even without his consent, to another position, or even another town, "for the benefit of administration of justice". A judge could have been also dismissed from service at any time, without any disciplinary proceedings, if, according to discretionary decision of the authorities, he did not "guarantee proper performance of the judges duties". Furthermore, a new enactment was passed in 1962 (promulgated in Dziennik Ustaw No.11 item 54), providing for further reduction of the Supreme Court independence. Since then the judges of the Supreme Court started to be appointed for the term of office of 5 years (previosly they had been appointed for life), what exerted an additional negative influence upon the feeling of stability od their position and, at the same time, increased their dependence on political authorities deciding about their possible re-appointment.

3. The above described legal and actual situation caused considerable embitterment among judges and dissatisfaction of society, who had no confidence in reliability and impartiality of administration of justice. That situation found its expression in 1980-1981, when the trade union "Solidarity" was created. The demands to amend the legal state in order to guarantee the real independence of judicature and judges were expressed not only by legal circles, but also by other social groups. The Social Legislative Council, appointed on "Solidarity" initiative, prepared proper drafts to reform the existing law. Also the government, being under pressure of various circles, prepared, in the autum of 1981, draft amendments to the Structure of the Courts of Law Act and to the Supreme Court Act, althouth not reaching as far as the social drafts, but constituting a step forward on the way leading to true independence of judicature.

The martial law, imposed on 13th December 1981, ruled all those plans out.

Although after lifting of the martial law, the Parliament passed, on the government's initiative in 1984, the new Supreme Court Act (promulgated in Dziennik Ustaw No.45, item 241) and in 1985 the new Structure of the Courts of Law Act (Dziennik Ustaw No.31, item 137), however both the enactments differ considerably from the drafts prepared in 1981 by both the Social Legislative Council and the government. Apart from minor amendments of cosmetic character, all the provisions limiting the independence of judges were maintained. In particular, the right to move a judge, without his consent, to another position or another court (Art.64 sec.2 of the Structure

of Courts of Law Act) was still vested in the Minister of Justice, and the right to recall a judge "failing to guarantee proper perforance of his duties" was still vested in the Council of the State (Art.61 of the said Act). The 5-year term of office for the Supreme Court judges was also maintained. The Minister of Justice's and his bodies' control over the decisions of the courts of law was extended.

It should be emphasised that after imposition of the martial law several dozen of judges were dismissed from their posts because they had joined "Solidarity" or because they were involved in other kinds of independent activity. Moreover, many judges resigned from their posts, refusing to apply repressive provisions of martial law, inconsistent with their conscience. According to the findings of various sociological studies, all those events contributed to further shattering of the social confidence to administration of justice. There is a common belief among the population, that the courts are not impartial, that they adjudicate in concert with the authorities' requirements.

4. When in the autum 1988 the possibility of negotiations at the "round table", between the government and the opposition was created, the opposition put forward the problem of reforms of the law and courts in order to guarantee real independence of judicature and of the judges, as one of the most important subjects for discussion. A sub-team within the "round table", composed of 36 experts, representing both the government and the opposition, participated in debates on reforms of the law and judicature, from 11th February to 17th March. The debates resulted in important agreements reached in the question of independence of judicature; it has been acknoledged that "independence of the courts and the judges is of fundamental importance to the law-observing functionning of the State as well as to protection of citizens' rights and interests".

It has been, in particular, agreed, that:

- (a) National Judicature Council, composed of representatives of legislative, executive and judicial powers, as body dealing with appointment, promotion and transfers of judges and resolving general problems of judicature and law observance, will be constitutionally created; candidates to the position of judges will be presented to the National Judicature Council by general assemblies of the interested courts.
- (b) The principle of irremovability of judges, with simultaneous determination of statutory exceptions from that principle - because of deteriorating health, disciplinary decision, penalty of interdiction of holding the post of a judge or prosecutor, will be inserted into the Constitution.
 - (c) Terms of office of the Supreme Court judges will be abolished.
- (d) Powers of the judges' self-government bodies will be extended by, among others, participation in making decisions relating to appointment of presidents of courts (with simultaneous determination of their terms of office) and by election of all the members of the board of senior officials by the general assembly.
- (e) The right to a fair trial will be extended by, among others, subjecting to the competence of the court of law new categories of matters (e.g. the of association, economic disputes, by subjecting all the administrative decisions to the control of High Administrative Court, with simultaneous determination of exceptions from this principle).

(f) The actions of impartial courts, guaranteeing impartiality of the criteria of distribution of cases among the judges and the principles of substitution, open to parties, will be determined in the regulations.

In result of the agreements reached at the "round table" in April 1989, the Polish Constitution has been amended (amendments were promulgated in Dziennik Ustaw No. 19, item 101) Art.60 of the Constitution, in its present wording, provides that the judges shall be appointed by the president, following a motion lodged by the National Judicature Council and that the powers, composition and mode of activities of the Council shall be determined by a separate enactment. The same article introduces the principle of irremovability of judges. The principle of terms of office of the judges of the Supreme Court has been removed; Art. 61 of the Constitution provides that the First President of the Supreme Court shall be appointed from among the judges of the Supreme Court by the Parliament, following the President's motion.

The above mentioned constitutional provisions constitute merely the first step on the path of radical transformation of legislation relating to judicature. They will remain mere declarations until the National Judicature Council Act and the Supreme Court Act are passed, until proper reform of the structure of the courts of law takes place. The Minister of Justice has undertaken to submit the relevant drafts not later than on 1st November 1989. One may expect that in case the government delays preparation of the said drafts, the deputies and senatores of the opposing Citizens' Parlamentary Club, who entered the National Assembly in great number as a result of the victorious election in June 1989, will take the legislative initiative in their hands.

The following conclusions may be drawn from the above analysis:

We are, in the field of legal regulation of independence of the courts and judges, in a transitory period.

The legal situation de lege lata, formed in the past, is highly dissatisfactory and fails to guarantee the independence of judicature. The present perspectives are much more optimistic and allow us to hope that we shall be able to state a considerable progress in that field, in our next report.

July 1989

Prepared by: Zofia Wasilkowska,

Translated by: Irena Grątkowska

IV. COOPERATION

Ms. Halina Bortnowska-Dąbrowska
Dr.Jerzy Ciemniewski
Mr. Marek Nowicki
Mr. Stefan Starczewski
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Dear Sirs and Madame,

On behalf of my entire delegation, I want to thank the members of the Helsinki Committee in Poland for meeting with us this past week. It is testimony to the hard work and dedication of people like yourselves that Poland has come so far. For this, you are to be commended and congratulated.

I know that your efforts will not end here, as the reports you passed on to us demonstrate. I hope that you will continue to stay in touch with our Commission through the coming months and years of Poland trasition to democracy. We will continue to monitor the situation in country closely and, as in the past, rely on the people there to provide us with the best information.

I also want to thank you for speaking frankly with my delegation regarding the difficulties faced by Polish citizens attempting to obtain visas to enter United States. In recent years, the growing numbers of refugees as well as the recent increased number of people able to travel for personal or professional reasons have strained the resources of many of our Embassies. The government of the United States is still attempting to respond to these demands, and the perspective you provided will help us do so.

Sincerely

DENNIS DeCONCINI Chairman

V. Changes in the Composition of the Committee

In result of the parliamentary election in June 1989 three members of Helsinki Committee in Poland: Andrzej Stelmchowski, Jarosław Kaczyński and Tadeusz Zieliński were elected to the Senate, later, in the second round of election to the Senate Piotr L.J.Andrzejewski was elected from Piotrków province. At the same time the government was taken by the coalition with Tadeusz Mazowiecki as the Prime Minister. The new Prime Minister decided to appoint Jerzy Ciemniewski to the position of undersecretary of State in the Council of Ministers' Office, Janusz Grzelak - a deputy minister of national education and Stefan Starczewski - deputy minister of culture and fine arts.

In result the personal composition of Helsinki Committee in Poland was greatly reduced. On 10th October the following announcement of the Committee was published:

"The undersigned members of Helsinki Committee in Poland have issued the following declaration:

- We would like to inform that for the period of performing functions in the government and for the office in the Senate we do suspend our membership in Helsinki Committee in Poland. We do so being convinces that Halsinki Committee, monitoring human rights observance, must respect the principle of full independence from the bodies of executive and legislative power.

Signed by: Piotr L. J. Andrzejewski

Jerzy Ciemniewski, Janusz Ł. Grzelak, Jaros;aw Kaczyński, Stefan Starczewski, Andrzej Stelmachowski, Tadeusz Zieliński

Helsinki Committee received the declaration and decided to supplement its composition. The present composition is as follows:

Halina Bortnowska-Dabrowska,

Maria Dziedzic, Marek Edelman, Lech Falandysz, Wanda Falkowska, Mirosław Jasiński,

HELSIŃSKA FUNDACJA PRAW CZŁOWIEKA Biblioteka 00-028 Warszawa, ul. Bracka 18 m. 62 tel./fax (48-22) 828 10 08, 828 69 96 826 98 75, 826 96 50 Jacek Kurczewski,
Wojciech Maziarski,
Anna Michalska,
Marek A.Nowicki,
Danuta Przywara,
Jan Rosner,
Andrzej Rzepliński,
Zofia Wasilkowska,
Janina Zakrzewska

At the beginning of December 1989 the Committee decided to readmit, after a few years' absence, Mr.Marek Nowicki

VI. Parlamentary election Poland in 1989*

1. The latest election to the Parliament in Poland (to the lower house - the Seym and the newly created Senate) took place on the 4th and 18th june 1989; the election was governed by the electoral regulations to the Seym (Dziennik Ustaw of 1989, No. 19, item 102), with later amendment of 12th June(Dz.U.No36 of, item 198) and the electoral regulations to the Senate (Dz,U.No 19, item 103).

The electoral regulations to the Seym, consistent with the agreement reached at the round table, provided for the following distribution of mandates: 65% for the party coalition so far in power, including Polish United Workers' Party, the Peasants' Party and the Democtratic Party, PAX Association, Christian-Social Union and Polish Catholic-Social Union, and 35% for the rtemaining social forces, including "Solidarity" opposition, represented in the elections by the Citizens' Committee "Solidarity". A specific electoral procedure had been provided for the candidates of the party coalition constituting the so called "national list". They were not to have any opponents. It should be emphasised that the above presented distribution of mandates and the electoral procedure to the Seym had been agreed on for just that single election and that the next one, which will take place in four years, unless the President dissolves the Parliament earlier, should be, according to the agreement reached at the round table, totally free and democratic. The character of this year's election expressed in the title of the electoral regulations, which read "Electoral Regulations to the Seym of the Polish People's Republic of the Xth Term for 1989—1993".

It should be, however, stressed that the distribution of mandates was not unequivocal for both of the parties. The coalition in power had their 65% sort of automatically reserved, only the members of the definite coalition parties could have for particular mandates. As far as the remaining mandates, theoretically assigned to the opposition, were concerned, neither the electoral regulations to the Seym, nor the Resolution of the Conuncil of the State, issued on the grounds of the regulations and determining the constituencies and the types of mandates, used the term "mandates for opposition"; they used term "mandates for candidates not being party members". In result, beside the candidates of the Citizens' Committee "Solidarity" and other opposition organizations, those candidates who, formally not being party members, but representing the State authorities, were also found on the list.

^{*} Special Report for UNO Human Rights Commission

Mr.Jerzy Urban, a minister and spokesman for the government, who - taking advantage of the fact of not being a party member - run for the mandate competing with a "Solidarity" candidate, may serve as a good example. Similar, although less spectacular, cases took place also in other constituencies. In this way "Solidarity" had to really fight for the mandates, within those 35%. From among the possible obtainable 161 mandates (35% of the total number of 460 deputies) "Solidarity" got the majority already in the round of elections (160 mandates) and the remaining one was obtained in the second round. The candidates of the Citizens' Committee "Solidarity" usually attained 60%, 70% or even 80% of votes. The electoral regulations to the Senate provided for free elections based on democratic principles of nominating candidates by the voters (at least 3 thousand of voters per candidate). "Solidarity" candidates won 99 of 100 mandates to the Senate.

2. The so called "national list" led to serious transgression both in making and applying the law.

The electoral regulations of 7th Aprill 1989 provided for the possibility of a particular mode of nomination of a narrow group, up to 50 candidates of the party coalition in power. The point was to introduce to the Seym those candidates who were particularly useful to the government, who would otherwise have but little chance of winning the election.

The candidates, whose names were placed on a special list called "national" were not to have any opponents. The list was voted for in the whole country; the point was to safeguard the names against local actions of striking them off the list, and was to give the procedure an appearance of a deeper, democratic sense.

The electoral regulations required for the candidate of the national list, as for all the other candidates in the first round of the election, to attain over 50% of valid votes. Finally 35 names were put on the list.

The foollowing two, most serious in the last election, cases of transgression of the rule of law, were connected with the national list.

3. The State Electoral Commission was, according to the electoral regulations, the only body authorized to interpret the validity of the voting cards. It could have been expected that many voters would want to cross out every single name on the national list. Because in such a case crossing out every one of the 35 names separaately, with horizontal lines, would be inconvenient and psychologically unjustified, the State Electoral Commission announced - on the 4th May 1989, that the voting card containing the national list, crossed out with one big cross, would constitute a valid vote against all the candidates.

On the Eve and on the day of election, sometimes even after the voting has been finished, the electoral commissions were delivered radiotelegrams signed by the chairman of the Provincial Electoral Commissions, instructing them that a voting card containing the national list, crossed out in whole, should be interpreted as a valid vote for all the candidates. Only a card with each name crossed out separately with a horizontal line was to be interpreted as a valid vote against the candidates. The radiotelegram informed that the relevant part of the State Electoral Commission's ordinance of 4th May 1989 had been quashed. The radiotelegram was sent with neither

the knowledge nor consent of the State Electoral Commission.

We have no idea how wide was the range of that action, anyway it was certainly covered a few provinces. We do not know how many of the commissions was summing up the votes according to that recommendation and what part of them acknowledged the radiotelegram to be lawless and counted the votes according to the State Electoral Commission ordinance. Only the electoral commissions of the lowest level were able to actually see the voting cards. On the higher levels only numbers were summed up. The published election returns (for the national list) constitute, therefore, a sum of votes calculated according to various rules, so their accuracy is not quite clear. One may, however, suppose that the true number of votes for the national list was lower than the announced one by a few per cent.

According to the election returnes published after the first round, only two from the 35 persons on the national list have attained the required number of votes; one of them has attained 50,9% and the other one - 50,7% valid votes.

B. The electoral regulations provided for a particular procedure in case none of the candidates to other mandates than the national list, attained the required 50% of valid votes. In such a case two candidates with the highest number of votes took part in the second round.

However the regulations did not provide for the candidates of the national list participation in the second round of the elections. Anyway, they had no opponents. Therefore the logical result would be to leave the 33 mandates in the 460 deputies Seym unfilled. However that would increase participation of the independent mandates from 35% to almost 38%.

In that situation, in the midst of the elections, between the first and the second round, the electoral regulations were changed. The idea of the national list given up in the second round, and the unfilled mandates were run for by the candidates nominated by the party-government coalition. This time they could have attained less than 50% of valid votes.

- 3. As far as the mere fact of voting and summing up the returns apart from the above mentioned cases, no other infringements of law were noted. Voting took place by ballot, special cabins guaranteeing secrecy were provided in all the electoral stations. We haven't been informed about any incorrectnesses in that field, nor in the field of summing the number of votes up.
- 4. Certain transgressions of law were noted at the stage of preparations to the elections and electoral capaign, but they were gradually removed.

There were, among them:

a) transgression of the agreement concerning the parity of electoral commissions composition - many a time the Citizens' Committee "Solidarity" had to lodge protests to various governmental bodies and to the State Electoral Commission against refusal tu include "Solidarity" representatives into the electoral commissions. In three regional commissions and in some of the district commissions the State administration bodies refused to appoint representatives of the Citizens' Committee "Solidarity" to the electoral commission. In other Commissions the parity od 35% was not observed.

The protests repeated many times usually brought the required results and "Solidarity" representatives were included, although often below the agreed parity, into the commissions in the later stages of preparations. Their considerable activity usually balanced their insufficient number;

b) persuading the State administration bodies to take an active part in the electoral campaign - at the meeting with heads of people's councils in towns and communes on 2nd May 1989 M,F,Rakowski, the prime minister, called the State administration bodies to join the electoral campaign, actively supporting the candidates appointed by the coalition in power.

Thanks to "Solidarity" protests against such lawless practice it took place only occasionally.

c) making electoral campaign difficult - There was one flagrant abuse in that field, relating to the Committee for Independent Poland (KPN). The Militia, claiming that KPN is an illegal (unregistered) organization, brutally broke up a few electoral meetings (in Lublin, Warsaw, Toruń and Kielce), battered their participants, detained the candidates to the parliament, forseited the lists of voters supporting the candidates.

The State Electoral Commission protested against such abuse of power, referring to the provisions of the electoral regulations and the law of associations, quaranteeing free activities, without the necessity of registration or permissions, to any electoral committee and any meeting during the electoral campaign.

Such difficulties decreased in the second phase of the electoral campaign and finally KPN candidates were registered and were able to run in the election.

The Citizens' Committee "Solidarność" was not exposed to any serious persecution during the electoral campaign, however we have been informed about occasional incidents of making distribution of leaflets or posters difficult, burglary to electoral offices, detaining or even beating - by Militiamen - those distributing "Solidarity" posters; there was also one event (in Słupsk) of installation of tapping device in the office of the Citizens' Committee "Solidarity".

- d) transgression of law at the stage of completing lists of voters supporting the candidates there were cases of blackmail while collecting the required number of signatures of people supporting a candidate (for instance, director of a hospital in Pila collected signatures among the patients staying in the hospital and among the hospital staff; the patients were given to understand that if they refused to sign the list they might not expect proper medical care); bribery (for instance in a food industry enterprise in Lublin people were paid 200 zl. each for signing the list supporting their candidate), forcing the signatures from people (for instance, in a military unit in Malbork officers force the soldiers to sign the list supporting the candidating general), making unfair advantage of children (for instance, headmaster of a primary school in Lublin forced pupils to collect, during school hours, signatures supporting a candidate to the Senate, a party member).
- 5. 39 protests were lodged to the Superior Court after the election. The Superior Court decided that in two of the cases infringement of the provisions of electoral regulations could have an influence upon the election results. In both cases (in Warsaw and Gdynia) the candidate was expelled from his organization after having been registered. The electoral commissions decided that the candidate had lost his eligibility and

delected him from the list of candidates; however the Superior Court decided that such action had not been valid, therefore deleting them from the list of candidates and making it impossible for them to run for the mandates was incorect.

In the remaining 37 cases the Superior Court gave a negative opinion claiming that either there had been no infringement of law or that the infringement had been so insignificant that it could have had no influence upon the returns of the election. The charges related to various matters, e.g. that some of the voters voted twice, or that the two of voters were unjustly refused the right to vote. that one of he candidates was refused the possibility of making his political orientation known. In the above cases the Superior Court decided that, irrespectively of the substantial correctness of the charges, the possible fault could not have any influence upon the result of the election, as the candidate had attained a vast majority of votes anyway.

It should be emphasised that, according to the electoral regulations, the Superior Court forms only the opinion relating to the lodged protest, while the final decision concerning validity of election should be made by the Seym. The Superior Court has directed their opinions, both positive and negative, to the Seym. They are now being considered by the Credential Committee of the Seym; the final decisions have not been announced yet.

Warsaw, 9 November 1989

VII. In Defence of Albanian Women

Warsaw, 18.10.1989

The Government of Polish People's Republic and the governments of Other States - Signatories of CSCE

Miss Nafije Zendeli and her three school friends have been kept in prison in Kossovo region, in Yougoslavia, since October 1988. They were sentenced to 6 years of imprisonment each for "counterrevolutionary offences", while their participation in peaceable demonstration and demands of teaching Albanian language at school constituted the real reason for their conviction.

Nasije Zendeli was 18 years old when arrested, her sriends were 17.

The Serbian Republic authorities have violated the provisions of the Covenants on Human Rights as well as the obligations undertaken by the Yougoslavian government in the Final Act of Vienna Conference, particularly in the part concerning respecting the rights of national minorities.

We request the governments of the states, signatories of CSCE, to undertake the necessary steps leading to have the four young Albanian girls released from prison.

Copies to:

1. The Senate Commission of Human Rights

2. International Helsinki Federation for Human Rights IIHF).

VIII. In Prague

On 17 November 1989 Mr. Marek A. Nowicki and Mrs Krystyna Krauze, an activist of Polish-Czechoslovakian Solidarity, cooperating with Helsinki Committee in Poland, went to Prague, invited by Helsinki Committee in Czechoslovakia. The first of a series of great manifestations initiating political transformations, which resulted in the downfall of the communist party and in election of Vaclav Havel for the President of the Republic, took place on that day. Both Polish guests took part in the manifestation, luckily avoiding detention and beating.

On the next day, 18th November, Marek A.Nowicki met with prof. Jiri Hajek, Libuse, Silhanova, Radim Palous and Jan Stern, in Jan Urban's apartment. They discussed cooperation of both the Helsinki Committees and participation of Czechoslovakian activists in the initiative of Centre of Human Rights in East Europe. During the meeting the apartment was surrounded by security forces. Jan Urban escaped through the window - from the second floor. Prof. Hajek, Jan Stern and both Poles were detained on the stairs, while leaving the apartment. They all were taken to the police station in Prague, where were searched; the police confiscated practically everything they had on themselves. Marek A.Nowicki and Krystyna Krauze were released after 6 hours, and taken, by car, to the Polish frontier, where they were transferred to Polish frontier officers in Nahod. Both of them were forbidden to enter Czechoslovakia for one year.

In the evening the same day the independent journalists received the following declaration:

DECLARATION

In the name of Helsinki Committee in Poland I express my deep resentment and protest in connection with the events that took place yesterday on the streets of Prague. Special troops of the Militia and Army broke up a paceful manifestation of several thousand inhabitants of Prague, in an unusually brutal way. Many of the people taking part in the manifestation were wouded, women and children among them Czechoslovakian communist government once more proved that they are unable of introducing any democratic reforms, continuing their policy based on force and violation of human rights.

Prague, 18 November 1989 .

On behalf of Helsinki Committee in Poland

Marek A. Nowicki

IX. To Prof.K.Skubiszewski, Minister of Foreign Affairs

Warsaw, 6 November 1989

Prof.Krzysztof Skubiszewski Minister of Foreign Affairs of Polish People's Republic

We do apply to your Excellency to prepare the ratification act of the Optional Protocol to International Covenant of Citizens' and Political Rights. Polish citizens would gain, in that way, the right to lodge their individual complaints respecting violence of any rights specified therein, to Human Rights Committee, the international body monitoring observance of the Covenant provisions.

The Act shall have a considerable importance for the development, in Poland, of the system of guarantees for human rights and fundamental freedoms. At the same time the obligation to ratify the Protocol, undertaken by Polish government by the fact of signing the Final Document of CSCE Vienna Conference shall be fulfilled.

We believe that, apart from ratification of the Optional Protocol, measures allowing for creation of conditions for accession to European Convention of Human Rights should be undertaken.

Ministry of Foreign Affairs Warsaw,

23 November 1989

Helsinki Committee in Poland c/o Mr. Marek A.Nowicki

Dear Sirs,

Thank you very much for your letter of 6 November. Your suggestion - as far as I am concerned - no longer comes into consideration, as I made the decision respecting accession of Poland to the Optional Protocol in September 1989. The decision was announced in my speech in UNO on 25 September 1989. My speech was published by Polish press. The procedure of accession to the Protocol has been commenced.

Neither the encouragement concerning European Convention of Human Rights comes into consideration, as I have already declared our will to accede to the Convention in the Council of Europe in Strasbourg - in my two speeches, I have also

discussed certain particulars of that matter with Mr.A. Bjork, chairman of the Parliamenttary Assembly of the Council. Our accession to the Convention depends both on the attitude of the Council of Europe and on introduction of important amendments to the existing Polish law.

Therefore my earlier assumed attitude complies wit the Helsinki Committee's opinion, what I ascertain with deep content.

Yours faithfully Krzysztof Skubiszewski

X. To the President

Warsaw, 27 November 1989

Gen. Wojciech Jaruzelski President of the Polish People's Republic

Mr. President,

The Helsinki Committee in Poland, concerned for the rights of those people who have already arrived or may arrive at the territory of Polish People's Republic, fleeing political or religious persecution or discrimination because of their race, nationality or social origin, takes the liberty to apply to you with a request to have the UNO Convention on Refugees Status (1951) as well as the Protocol relatin to the Refugees Status (1967) signed and ratified as soon as possible. The above mentioned documents, so far ratified by the majority of the countries in the world, grantt special legal protection to both the refugees taking advantage of the asylum and to those who have applied for it.

On the grounds of the Final Document of Vienna Conference, Polish government is obligated to consider ratification also of that Convention. Ratification of the Convention on Refugees Status is a duty of all the States declaring that the guarantees of observance of human and fundamental freedoms make the grounds of their inner order.

On behalf of the Helsinki Committee in Poland Sincerely yours,

Lech Falandysz
Maria Dziedzic
Marek Nowicki
Wanda Falkowska
Halina Bortnowska-Dąbrowska
Jan Rosner
Danuta Przywara
Marek A. Nowicki

XI. In the name of Lech Wałęsa

On 10th December 1989 Mr Marek A.Nowicki arrived in Lyon (France) where he represented Lech Wałęsa and "Solidarity" at the celebration of unveiling of the Human Rights Monument founded by Lyon inhabilitants to commemorate the Bicentennial of the French Revolution. Mr.Michel Noir, the Mayor of Lyon, Mr.Bernard Kouchner, Secretary of State for Humanitarian Affairs, Mr. Christian Melet, representative of Human Rights League and Mr.Marek A.Nowicki gave speeches. The presence of cardinal Decourtrey was noted.

Marek A. Nowicki, s Speech

Ladies and Gentleme

I have the honour to represent, at this magnificent celebration, Mr Lech Walesa, the prize-winner of Nobel's Peace Prize, the Chairman of "Solidarity". In his name I like to thank Mr.Michel Noir, the Mayor of Lyon and all the inhabitants of your beautiful land for the invitation. 10th of December, the day of human rights, is the day of particular reflection on the position a human being takes in the world, reflection on his chances, impediments and hopes. It is also the day of remembrance of those who, fighting for human rights, are harassed, tortured, imprisoned or - only too often - lose their lives. The Monument expresses remembrance and hope, also of those in Central and East Europe who, in the name of solidarity and fundamental human rights perform great, historical transformations on their way to democracy. Untertaking the challenge of Polish workers in August 1980, they undertook the ideas which, 200 years ago, your ancestors contained in the Declaration of Human and Citizens' Rights.

I am truly moved to be able to participate in this celebration. I represent Helsinki Committee in Poland, the citizens' initiative for human rights, being a part of the great international movement, whose essence stems directly from immortal achievements of your ancestors, through the Universal Declaration of Human Rights and the Helsinki process.

Thank you, France! Thank you, French people!

XII. On Tragic Events in Prisons

Warsaw, 14 December 1989.

STATEMENT

Helsinki Committee in Poland cannot stay indifferent in the face of the tragedy which has recently taken place in Polish prisons.

Minister A.Bentkowski's television speech announcing the amnesty, as well as some of the deputies' and senators' statements aroused the prisoners' hope for a broad amnesty.

The outbreak of protest in result of rejection, the Seym, of the Senate's amendments to the Amnesty Act could have been anticipated. It was the duty of Minister of Justice and the subordinated to him Penitentiary Service, to make all the necessary preparations to supress the protest. There was time to do so. The duty had been neglected and in result 7 lives were lost, several dozen prisoners suffered serious injuries and the damages amounted to thousands millions zlotys.

Helsinki Committee in Poland summons the Polish government to undertake relevant steps, for instance by granting selective acts of pardon or lodging extraordinary appeals in order to change the unjust sentences imposed in the 1980's.

We appeal to the church and voluntary organizations to undertake actions striving for promt improvement of the situation in Polish penitentiary system.

We believe that a special commission to investigate the reasons and the course of the tragic events in Polish prisons should be appointed by the bodies independent from the Minister of Justice.

Helsinki Committee in Poland expects that the persons guilty of assasinations and violence will be prosecuted and that persons bearing the political responsibility for the tragedy will be revealed.

Halina Bortnowska-Dąbrowska
Wanda Falkowska
Jan Rosner
Danuta Przywara
Lech Falandysz
Marek A.Nowicki
Zofia Wasilkowska
Andrzej Rzepliński
Marek Nowicki
Marek Edelman

DEPUTY PROSECUTOR GENERAL OF POLISH PEOPLE'S REPUBLIC

Warsaw, 1990.01.05

Ref. DP Prez. 1/90

Helsinki Cimmittee in Poland c/o Mr. Marek A. Nowicki

Reffering to Helsinki Committee in Poland's declaration published in the press, expressing their concern for the situation in prisons, in the light of the recent riots, and requesting to bring to justice those guilty of homicide, violence and destruction of property, as well as those responsible for the tragic events and their results, I would like to kindly inform you that at the end of November and in the period up to 16 December 1989 there occurred protest actions and rebels expressing the prisoners' dissatisfaction caused first by the delay in legislative works on the draft Amnesty Act and then by the scope of the Act passed by the Parliament.

Respecting the particularly dangerous riots with tragic results bearing the features of crimes against life, health, property and public safety, which took place in the Penitentiary Institution in Czarne, province of Shupsk, in Goleniów and Nowogard, province of Szczecin and in Sieradz, as well as in Custody Suits in Gdańsk and Sanok, the prosecutors have instituted investigations.

Investigation should reveal those guilty of homicide, bodily injuries, arson, destruction of property and active attacks on the penitentiary and Militia officers.

The reasons of such extensive and tragic riots, indicated in Helsinki Committee's declaration are being examined in the course of investigations. The evidence gathered will allow the prosecutors to apply the necessary legal measures.

It has been established, on the grounds of certain witnesses' testimonies as well as of a survey carried on by the Commissioner for Civil Rights Protection, that after the riots had been supressed and in the time of transporting to other prisons and detention suits the prisoners were beaten by penitentiary officers (some of them several times); therefore seperate investigations have been instituted by the Provincial Prosecutor's Offices in Szczecin and Białystok. Further evidence justifying institution of further proceedings is being gathered.

Polish society is currently informed by the press about the course and results of the investigations. Such practice will be continued.

Yours truly Hipolit Starszak

In result of Helsinki Committee movement a Social Committee for recognition of reasons of the events was created. The Committee, under the chairmanship of Ass.Prof.Teodor Szymanowski, chairman of the Patronal Penitentiary Association is composed of representatives of parliamentary clubs and human rights organizations. Helsinki Committee is represented by Mr.Marek A.Nowicki.

XIII. Aid for Romanians

On 23 December 1989, after the massacre in Timisoara, Helsinki Committee in Poland called up a protest rally in front of Romanian Embassy in Warsaw. It was the first action of that type organized by Helsinki Committee in Poland in 7 years of their activities. The rally turned into a manifestation in support for the fighting Romanians. During the rally the Romanian ambasador declared to have taken the side of the fighting nation.

Those gathered in front of the Embassy spontaneously flooded the organizers with money to help the Romanians. Sixteen members of Helsinki Committee in Poland could not refuse to join in the aid campaign, becoming, quite by chance, organizers of a charitable action. On the following day, together with the students - members of the Independent Students Association of Warsaw University, who had joined us, we started collection of money and clothes, open through Christmas, until 5th January. We also announced the number of bank account receiving money for that purpose.

We had gathered, sorted out, packed and sent to Romania about forty 6-tons trucks-load of clothes.

650 milion zlotys have been collected so far, an equivalent of over a thousand typical salaries in Polish industry. With the help of Minister of Health and Minister of Domestic Market we had determined the types of food and medicaments needed in Romania, which we could spare without worsening our own difficult situation.

Immediately after Christmas we dispatched a special plane AN-24, loaded with the purchased medicaments. 11 rail cars with food and clothes were attached to the scheduled passenger train to Bucharest. Road vehicles were sent to northern Romania (despite considerable difficulties a 16-tons TIR vehicle reached the villages in Carpathian mountains inhabited by Poles). We were able to get all the means of transport free of charge.

All the vehicles were escorted by our friends who safeguarded the shipments up to the point of their distribution. We were able to transfer all the shipments, except one rail carload, to non-governmental institutions: the Catholic Church, the Orthodox Church and groups gathered around well known former political prisoners.

All the things and money entrusted to us before the 10th January, were delivered to Romania till 15th January.

Furthermore, we have had the Universal Declaration of Human Rights and some model articles of association and regulations of voluntary organizations (such as students' association) translated into Romanian. We have purchase 15 typewriters for the intellectuals, former political prisoners. We have also undertaken steps to set up

a group of Romanians in order to collect documents evidencing violation of human rights in Romania, both under Ceausescu and at present.

We have also sent some technical means and organized training for various independent milius in the simple techniques of printing.

Warsaw, 24 January 1990.

XIV. REFORM OF CRIMINAL LAW.

Opinion on the reform of Punishment Execution Code.

Creation of statutory instruments forcing the permanent reduction of punitiveness of the penal system in Poland, constitute the initial assumption and the condition sine gua non of Europeanization of the Polish substantive criminal law, law of criminal proceedings and executory criminal law. Comparison of the structure of criminality and penalties in Poland and in other big European countries (France, Spain, Great Britain and Italy) indicates that the number of the temporarily arrested and prisoners should not surpass 30 thousand.

The maximal quota of prisoners, determined by the Parliament, as well as the recommendation that filling up the statutory capacity of penitentiary institutions shall not surpass 75% constitutes, apart from the criminal codes making it difficult, for the judges, to reach mechanically for the penalty of imprisonment, the instrument of legal acceptance of the number of prisoners.

The number of prisoners is, first of all, the matter of social convention, and -secondly-the result of a given criminality. There has been, so far, an accepted opinion among those who formulated the policy of application of the penalty of imprisonment, also in Poland, that such number should not exceed 100 thousand. Each time that limit was surpassed it became the reason to announce amnesty or liberalization of conditional release policy and lessening the pressure on imposition of severe penalties. It was always a temporary policy.

Such ups and downs of the penal policy with a stable structure and intensification of common offences is anacceptable from the point of view of both human rights and guaranteeing public order. It is obvious that not the severity of repressions but their inevitability, not the ups and downs but stability of the penal policy, not treatment of the convicts (anyway socially and economocally, and often individualistically underpriviledged) as scapegoats, but the rationality of penal policy understood as a part of social policy of the State and self-government bodies, create the assumptions of civilized attitude to the problem.

Severe penal policy, as it has been indicated by the observation of various countries practice, neither more nor less effective than the liberralistic one, creates more negative side effects. First of all it causes a feeling of being threatened by repressions and by often blind operation of the State bodies. This results in growth of social distrust, limitation of people's activity also in the economic sphere and - in extreme cases, leads to "the society of flat calm".

The liberal penal policy, deprived of a specific complex of criminality, is disposed to penalize solely an act, without additionally penalizing the style of life, while with respect to the convicts it is disposed to fill in as many personality shortcomings and defficiencies as possible, mainly at liberty and with free involvement of local communities and the convict himself. The penitentiary policy puts a particular stress upon the substantive and formal-legal guarantees of the convict's right to be treated with dignity; therefore the prisoner as not considered as a convenient "social rubbish heap", where the guards, submitted to only vague legal rules, discipline and economically exploit the prosoners.

The new punishment execution code should include a carefully worked out general part, relating to the punishment execution bodies, about procedural regulations and about the legal position of the person sentenced to any of the penalties provided for by the criminal code. The special part should determine precisely the institutions of the legal status of the persons deprived of liberty (the detined, the temporarily arrested, the convicts, the arrested soldiers, interned in hospitals), the powers of the personal of penitentiary institutions to apply penalties and coercive measures. In case of non-isolating measures and penalties the legal status of the convict submitted to probation should be precised.

...

In the light of the above presented ascertainments, the new punishment execution code should be based on the following principles:

 mutual respect of the legal position of the convict and the executive body, guaranteeing subjectivity and coresponsibility to the convicted person,

2) detailed regulation of the rights and duties of the convict in order to exclude determination of his legal status, not so by the executory provisions, but mainly by unpublished instruction, escaping any form of supervisions;

3) reduction of isolation of a person deprived of liberty to the limits resulting from the nature of temporary external and internal isolation, integration of a penitentiary institution with the extra-penitentiary social structure,

4) a prison which would not mechanically dehumanize the convicts and their guards cannot isolate more than 500 convicts divided into groups of 20 persons at the most, 5) conferring the title of an executive body solely to the institutions able to perform and actually performing that role,

6) formulation of the role of a penitentiary judge excluding the possibility of performing the function of a supervisory administrative body; such role should be performed by penitentiary inspectors subordinated solely to the Minister of Justice and appointed in the place of the present prosecutors of penitentiary supervision,

7) determination of the role (voluntarily accepted) of voluntary and self-governing institutions and work establishments (social and private) in execution of probation.

. . .

Extention of procedural provisions in the new punishment execution code, in the situation where the convict is particularly lonely when facing the whole machinery of State bodies disposed towards execution the imposed, is of particular importance to protection of his natural human rights and to prevention, always and everywhere, of

the possible degeneration of such bodies operation. The convict must have the right to pose demands and to lodge complaints to the executive authorities. The chance of departure from the current practice shall not exist until the granted rights find procedural channels of real protection. That is why the convict should have the right to sue all the decisions of executive bodies to the court executing punishment; he should also be entitled to participate in the court's session and to appeal against the court's decisions.

The right to change the decision to the disadventage of the convict at any time (Art.25 of the present punishment execution code) should be excluded.

The monstrous definition of the aim of punishment (Art.37 par.3 of the present punishment execution code) should be dropped. Such an extended definition of the aim of punishment as well as the aim of "resocialization activities" constituting, according to the assumptions, the essence of the penalty, constitute a particular proof of legal language inability to define the notion concerning social phenomena which are dynamic and individual. The definition of the notion "resocialization activities" has not been even attempted at, either in the judicial decisions or in the doctrine, for the last 20 years, as one cannot acknowledge reduction of everything to the halfslavish labour, absolute obedience to the guards and possibly atending a prison school.

A similar failure has been noted with respect to another notion concerning evaluation, included in the same provison, namely "socially desired attitude".

Sucg failures result from disrespecting a few facts. The attitude of the head of a given penitentiary institution has the decisive influence upon application of law in practice. A prisoner must, if he is a reasonable man, adapt himself to the policy as soon as possible. He must learn to live in prison. Therefore the assumption that he will learn to live being at liberty seems to be ironical. Anyway, he is deprived of liberty not with the view to teach him living at liberty. In prison he should learn to live in the situation constantly threatening with a conflict and with limitation of vaguely defined rights. A strictly vertical position of social relations between the community of convicts and their guards and, additionally, inside such communities, deepens the entanglement of similarities and differences in values professed by penitentiary staff (usually) coming from peasants' families, employed in small towns' prisons) and the prisoners (usually coming from low qualifield workers' families in big cities). Not very firm attitude to alcohol is often their common feature. The well informed society (e.g. informed simultaneously from many sources) will not expect that the offender can be transformed into a blameless citizen; they simply expect that the former prisoner will behave within the limits of tolerance of people of his own social class. Liberalization of expectations is strictly connected with the expectation that a former prisoner will be able to respond to such expectations more easily.

There while formulating the task of the penalty of imprisonment (not the aim, as that is unascertainable) it would be more rational to determine, in the new punishment execution code, that the task consists in: "arousing and strengthening the convict's will to observe the law and to lead the life of a decent citizen". The convict should also have the right to participate in determination of the programme of such task realization, therefore making resocialization his right and, in the rational penitentiary system, linking it with the right to bear joint responsibility for himself.

If it is obvious in so many penitentiary systems in Europe, that the mere sentencing to imprisonment exhaust the contents of penalty in the whole and that all the ancillary repressions (regimes, etc.) are inadmissible, why such a thought should be alien to our new punishment execution code?

The legal status of a prisoner should be regulated by a separate chapter of the punishment execution code, the behavioural standards contained there must not bear the character of "resocialization", they must be the "standards of law". Legal rules of conduct with respect to prisoners should not be formulated with the convenience of administration in mind. It is desirable that they will operationalize the concepts of justice, pertinence and human rights.

The valid deprivation of the convict of the right to make decisions, determined in time, about the place of his stay constitutes the nature of the penalty of imprisoment, only that and as much as that. The prisoner is not a slave of the State, to whom that State may, as an act of grace, confer some rights.

All the prisoners must enjoy the same legal status. Placement of a statutority determined group of convicts in a closed penitentiary institution (with the maximal degree of security), with naturally limited right to move around the prison and contact with the outer world, will create a sufficient differentiation.

The prisoner's legal status should be determined by the punishment execution code with all particulars, so that the convict would be able to observe the law rather than be obedient to the arbitrary orders of the guard. That requires simult aneous instroduction of a new Penitentiary Staff Act

The punishment execution code must determine, with all details, the convict's right to civilized living conditions, specifying at the same time the multiplicity of sources having the influence upon the quality of such conditions. Official activity of the head of prison and his staff as well as the convict's own activity constitute the two main sources. The outer assistance and the activity of the convicts' self-government constitute the side sources. Providing conditions similar to those in military barracks should be the goal.

Employment of prisoners must be governed by the general provisions of labour law. The punishment execution code may contain the necessary exceptions. It is not easy to solve the problem of the right to work. From the point of view of human rights the prisoner should not be obligated to work, however relieving the prison administration of the duty to provide work for prisoners may, in practice, lead to increeasing the severity of penalty. The majority of prisoners undertake work quite willingly. Work fills their time, even if it is primitive and manual. The following could constitute an acceptable solution: a prisoner is obligated to work, but no disciplinary punishment can be imposed upon him for refusal to work. Shortage of profits resulting from work would be the only sanction.

Respect of the convicts' dignity and the dignity of labour demands the administration's duty to offer the prisoners various jobs, either in prison or in other enterprises operating locally, as well as encouraging the prisoners to undertake craft on their own account and to establish production and services cooperatives. Protection of prisoners against exploitation should assume that no prisoner can be employed without the approval and supervision of the head of prison, as the body executing the penalty. That assumes total separation of prison enterprises from prison administ-

ration (as otherwise the employing enterprise would supervise itself) and ban on direct employment of prisoners by other enterprises and by the prisoners themselves (within the established cooperatives).

A prisoner should receive full payment for work and should cover, out of his earnings, all the living expenses in prison. He should be able to decide about any other payments. The provisions relating to property execution should be included by civil law.

In order to provide a prisoner with the possibility to effectively vindicate his claims in typically administrative legal disputes, his access to legal texts, judiciary decisions and legal books should be guaranteed. Free access to legal knowledge cannot serve demoralization. The penitentiary court should consist of two instances. If administration of justice is reformed, then the regional court (maintaining the names existing since 1950) will be the penitentiary court of the first instance and the court of appeals - the court of the second instance.

Prisoners should have, according to their will, the right to elect self-government which must serve co-creation of social order in prison. Therefore its composition must not be forced and it must have its own powers (except the right to punish prisonmates). Administration should have the right to apply to the court for suspension or dissolution of the group of the prison self-government leaders.

Any coercion measures should be provided by the code and the procedure of their application must be at least consistent with the international law standards. We are for deprivation of all the penitentiary officers of the right to carry guns and against the right to use guns against prisoners, whether it be during attempt at escaping or during chase. The guards on duty in guarding towers (usually in closed prisons) are equipped with sufficient technical measures to be able to inform in time about any attempt at escape over a wall (anyway, in case of escape by a tunnel guns are useless). Solely the police should have the right to shoot to people, and such right should be strictly regulated. The prison guard and the prisoners are doomed to each other. Each case of using guns only increases the conflics in their mutual relations.

The punishment execution code should introduce a ban on application of constraint with respect to prisoners on hunger strike. Hunger strike is usually undertaken by a particularly determined persons (which does not always mean persons particularly demoralized). They usually are those most severely repressed and unable to find other ways to protect their rights. Because of strong response to that form of protest the prison administration usually tries to end it as soon as possible and the prisoners are fed by force. Exlusion of coercion does not mean exclusion of persuasion, a completely different measure, included into the principle of subjective treatment of prisoners.

Regulation of the legal status of a temporarily arrested person should exclude the possibility of applying any of the so called penitentiary actions, of application of prizes and disciplinary punishments -the typical measures making the conditions of the arrested persons similar to those in prisons.

Prisoners of conscience should have the right to such denomination, to refuse work and to chose isolation from other prisoners.

Penitentiary institutions should be managed collectively, while one-person management should be reduced to protective functions. There should be a group of inspectors, appointed at the Council of Ministers, who could inspect all the institutions of isolation. They would overtake all the supervisory functions of the present penitentiary judges and prosecutors.

The legal status of perpetrators isolated in mental institutions should also be regulated. There are about 7,5 - 8 thousand persons annually submitted by penal institutions to mental observation, intermed, submitted to treatment on the grounds of Art. 102 of the criminal code (and other provisions).

. . .

A professional, court-appointed curator should become an independent subjesct, a body dealing with execution of probation.

The penalty of restricting liberty should be executed in only one of the present forms, the one similar to the British community service. The convict should consent to submit to such penalty.

The penalty of forfeiture of property shall, most probably, vanish from the list of penalties; it will be substituted by the penalty of forfeiture of the fruits of a crime, not less painful. Because that penalty will be decided apart from imprisonment, it will be most painful for the convict's family. Execution of such penalty should be civilized and based on punishment execution code provisions; all the provisions relating to presumption should be deleted from the punishment execution code.

prepared by: Andrzej Rzepliński

HELSINKI COMMITTEE IN POLAND

Opinion on the reform of criminal law (material law and procedure)

- Polish criminal law requires fast and deep change. The direction of the changes has been determined by the standards of the Covenant on Human Rights as well as other international documents, including the political ones, such as the Final Document of CSCE Vienna Conference.
- 2. The criminal law principles included in the Covenant on Human Rights should be raised to the rank of constitutional principles.
- 3. Criminal law should determine the limits of criminal policy which must not violate the fundamental human rights, as that would mean opportunism of that law, eliminating its protective function and its guarantees to human rights and fundamental freedoms.
- 4. Reduction of punitiveness of criminal law, particularly by limitation of imposition of unqualified punishment of imprisonment, mitigation of punishment, modification of a fine as a substitute penalty, extension of possibilities of application of conditional suspension of penalty, mitigation of penal responsibility of recidivists should constitute one of the goals of criminal law reform.

- Certain criminal provisions create the possibilities of imposing cruel, inhuman or degrading penalties. Particularly the following should be included in that group:
- provisions relating to offences against fundamental political and economic interests of the State (Chapter XIX);
 - provisions relating to offences against social property;
 - provisions relating to recidivism and offences qualified as hooliganism;
 - provisions allowing for forteiture of property.
- 6. The directive of social influence of penalty should be excluded from among the directives of sentencing. There have been attempts, in judicial practice, to reduce it to a narrowly understood general prevention, i.e. stimulation of public behaviour by discoraging. The so called prevention may be realized solely within the limits of a just penalty.
- 7. The limits of imminence of certain offences, if raised too high, may reduce the citizen's right to a fair trial, as they impair the possibility of sentencing in conformity with the judge's conscience.
- 8. The death penalty, being inconsistent with the fundamental human right the right to live, should be excluded from the Polish criminal law.
- 9. The principle nullum crimen sine lege results in the necessity of elimination of unclear and vague provisions, insufficiently precising the behavioural borders constituting an offence. The most important among them are: Art.Art. 124, 132-133, 199-202, 10 par.8, 192, 194, 195, 221 and 271 of the criminal code. Renoval of Art.282a from the criminal code, by a statute of 31 May 1989 was the proper step.
- 10. The principle of equality before the law has not been fully respected by Polish criminal law. This is most obvious in the sphere of provisions governing protection and resposibility of State officer, mainly police officer. They have been granted special protection, but in case of abuse of power have been almost exempt from punishment. It seems just to introduce proper solutions providing for criminal resposibility for the following cases of abuse of power:
- a) unlawful deprivation of liberty by detaining or arresting or unlawful extention of the period of deprivation of liberty (including unintentional offence),
- b) unlawful search,
- c) forcing testimony or explanation,
- d) abuse of physical means of coercion,
- e) violation of privacy.

Art. 234 od the criminal code should be abrogated as being too severe, as Art.233 providing protection for all the public officers should be considered sufficient also for the police officers. New regulations should take into account, inter alia, the recommendations included in the code of conduct of law enforcement bodies, worked out by UNO and UNO convention on Ban on Tortures and Cruel, Inhuman or Degrading Treatment.

- 11. No form of exercising human rights should constitute an offence, political freedom and public rights should be particularly protected. That will require removal or deep modification of provisions relating to offences against the State and public order, limiting such rights as freedom
- of association, gathering, election, opinions, press and other mass media.
- 12. A radical restructuring of preparatory proceedings (investigation) and a conversion of its role in criminal proceedings should be carried out. It is necessary to put that stage of proceedings under the supervision of an independent court. In order to achieve this a position of an examining magistrate, having several powers in jurisdiction and in certain acts of taking evidence, should be created. It should be solely the examining magistrate who could make decisions about broader limitation of the suspected's rights, and particularly about temporary arrest, who could consider complaints against decisions and acts in connenction with legal proceedings made by a public prosecutor or other bodies instituting preparatory proceedings. Making decisions about conditional discontinuance, about penal orders or bringing the defendant to justice should lie within the powers of an examining magistrate. At request of the parties the examining magistrate should carry out the acts of taking evidence, which can be revealed during trial and included in evidence by the court.
- 13. The defendant's right to benefit from legal assistance in preparatory proceedings should be extended and specified. In particular, the lawyer's right of access to the defendant in each case, his right to participate in any act in connection with legal proceedings and his right of access to the filies should be guaranteed. Furthermore, the lawyer should be allowed to participate in the court's sittings considering the defendant's situation.
- 14. Both the defendant and the injured party have the right to apply to the court. Exercise of that right requires acknowledgement that the parties have the right to lodge to the court a complaint against refusal to prosecute or discontinuation of preparatory proceedings, as well as conveyance of making decisions relating to conditional discontinuance of proceedings and consideration of the cases of petty offences to the exclusive court's jurisdiction. The injured party should be vested with independent right to prosecute.
- 15. Legal regulations relating to temporary arrest require essential changes. Decisions on temporary arrest should lie within the court's powers.
- 16. Contradictoriness and directness of a trial should be broadened. That requires trasference of the main burden of proof from the court to the parties; it also requires introduction of the principle that solely the evidence gathered in result of the examining magistrate actions (exceptionally of the public prosecutor) may be revealed durig trial and included into evidence.
- 17. Provisions governing appeal proceedings must also be amended. The court of appeal's rights to change the appealed verdict should be limited, particulary

adjudicating to the defendant's disadventage should be banned. The defendant's presence at the trial in the court of appeal should be guaranteed.

- 18. Cassation complaint to the Superior Court should be restored. It is also necessary to reduce the scope of grounds for instituting the trial de novo and to shorten the period allowing for instituting the trial de novo to the defendant's disadventage.
- 19. The grounds for compensation for unjust temporary arrest should be regulated in a way guaranteeing each defendant who has been acquitted or in whose case the criminal proceedings were discontinued a proper compensation. The amount of such compensation may be limited only when the defendant himself contributed to application of temporary arrest. The above principles should relate to detention respectively.
- 20. In the proceedings instituted in order to obtain a pardon it is necessary to introduce the principle providing that even one positive decision of a court obligates the prosecutor general to submit the case for a pardon to the President. Maintenance of the extraordinary mode of the proceedings for a pardon, lying within the President's powers (art.499 par.2 of the code of criminal proceedings) is controversial. It should be taken into consideration that such proceedings infringes the principle of equality before the courts and partly relieves the court of its responsibility for the sentence given.
- 21. The institution of exception of a judge constitutes an important gurantee of objectivism and correctness of adjudication. The existing so far grounds for such exclusion should be extended to cover the membership in an organization, whose statutory or programmatic goals or interests were infringed in result of an offence being under trial.
- 22. Civilians should be subject to jurisdiction of common courts of law.
- 23. The speeded-up and simplified proceedings, in their present form, provide for severe limitations of the defendant's rights and should be done away with. The plans for a new kind of proceedings in cases off petty offences (after transferring them to the courts), being a much simpler form than the normal procedure, however providing for fundamental proceedings securities, deserve support.
- 24. Proceedings by writ of payment should be modified. The kind and assessment of penalty requires limitation to a small fine as the most severe penalty. The defendant, the injured person and their defence councelsand plenipotentiaries should have the right to participate in the hearing of the court imposing a penal order; a ban on reformations in peius in case of objection lodged solely by the defendant, should be introduced.
- 25. Provisions of the code of criminal proceedings should specify, in an unreserved and inviolable way, the ratione materiae jurisdiction as well as the principles for the bench

formation (together with the technical way of selection of judges and lay judges in each case).

26. The defendant, the injured person and other parties to the proceedings have the right to be informed about the rights vested in them in the proceedings. The defendant's right to be informed about his being antitled to refuse statements is particularly important.

The success of the reform in the above postulated shape depends, to a great extent, on the fact whether real guarantees of the courts' and the judges' independence are created.

XV. IHF MEETING IN BRATISLAWA

Marek A. Nowicki

We are both witnessing and participating in enormous, fast, sometimes violet political transformations in the whole East Europe. The scale, course and level of the changes vary in particular countries, however the principal direction is strictly determined. The system so far in power, basing on more or less totalitarian, indivisible authority of the communist party, is being disrupted. Democratic social and political order, similar to that in modern western democratics, provides the alternative solution. It is not easy to attain that goal because of considerable economic problems, often low level of political culture, ethnic conflicts, finally the ticklish problem of relations with Moscow which has not ceased to be the important element in the changing situation.

Events occuring in East Europe make us define anew the place, role and tasks of the Helsinki movement which was born in order to monitor observance of the Final Act of the Helsinki Conference on Security and Cooperation in Europe, and pariculary of its obligations undertaken in field of human rights later specified in details in the documents of Madrid and Vienna Conferences.

The countries of the so called communist block were the subject of particular concern. The communist governmets undertook obligations resulting from their participation in the Helsinki process, however they failed to go further than mere solemn declarations. Human rights were, in reality, drastically violated in those countries, human rights activists, striving for implementation of the Helsinki agreements, were imprisoned. Let us go no further than remind the fate of the Moscow Helsinki Group, which in fact initiated our movement. Its members were acutely persecuted, sent into remote areas or into exile.

The situation in East Europe is quite different at present. New governments have considerably widened democratic freedoms, political prisoners have been released from prisons legal instruments guaranteeing observation of fundamental human rights are being created.

Therefore a question arises - what the future role of the Helsinki movement shall be.

Are we still needed or should we leave the scene having fulfilled our historical mission.

I would like to present the opinion of Helsinki Committee in Poland on that matter.

We also vave been asked what our role in the changed situation will be.

Helsinki Committee should be the independent monitor of human rights observance in Poland - that is how we understand our role and our reason for existence. It constitutes the social initiative supervising the government, each government, not only the communist one. Therefore our role has not changed. Each government must

be supervised, even if it originates from the opposition and even if there are quite a few human rights activists in its composition.

The role requires to maintain independence, as no one can play the role of a reliable monitor except when independent; otherwise Helsinki Committee's status would resemble that of a GONGO. It appeared, after the parliamentary elections and after Mazowiecki's government has been formed, that seven out of thirteen members of the Committee have been elected to the Senate or appoined to hold governmental positions. All of them understanding the necessity of respecting the principle of the Committee independence from the authorities, have declared suspension of their participation in the Committee for the time of performing the other functions; the Committee has supplemented its composition with other, fully independent persons.

We are stern and uncompromising. After the recent events in Polish prisons, resulting in loss of lives, we have set up the problems of political responsibility for what had happened. We are determined to act in the same way whenever the human rights are endangered or violated.

The fundamental reform of law is under way in all the East European countries. Helsinki Committees can play an important role in preparation of the assumptions to the reform, suggestions to the new law, can initiate discussions over the contents of the future body of law. The document of Helsinki Committee in Poland "Prawa obywatelsie - prawo i praworządność" (Citizens' Rights - Law and the Rule of Law) constituted the grounds for the attitude assumed by "Solidarity" at the round table debates on law and administration of justice. Two weeks ago we submitted to the Seym, the lower house of Polish Parliament, our suggestion concerning the reform of penal law.

In the time of hectic legislative works in East Europe the exchange of experience and drafted pieces of legislation is of considerable importance; that role should be taken over by Helsinki Committees. The Polish Committee has undertaken to cooperate in those matters with Bulgaria, we have also started to help the new movement emerging in Romania.

All the East European countries experience economic problems, although to a varying degree. The social and ecological situation is dramatic. All he problems connected with realization of social, economic and cultural rights, as well as the problem of national minorities and their rights. Most probably they will dominate and mark the level and evaluation of human rights observance in that part of Europe. They will constitute the main problems we shall have to face and we must be prepared to face them. They are sometimes much more difficult than the problems connected with political or citizens' rights.

Educating the society in the spirit of human rights observance, their popularization, teaching how to defend them, constitute exceptionally important tasks on the way to democracy. The extent of needs is enormous. Human rights should be included into school and academic handbooks and curricula, programmes for young lawyers, penitentiary and police officers, teachers and phycicians training in proper application of law. Independent evaluation of situation in particular countries, as well as theoretical works, are needed. International meetings, conferences, exchange of information and experiences, joint reflection on the existing problems of human rights, as well as those which will emerge in near future, are simply necessary. We should be

able to benefit from the possibilities and experience of our friends in the West, of Helsinki committees, other organizations and specialized institutes.

Awareness that it is necessary to undertake the above tasks makes the grounds for establishing in Warsaw, Poland, the Centre for Human Rights in East Europe. The Centre will serve human rights activists and organizations in each country in East Europe, also through the consultative-programmatic council composed of representatives of all the East European countries. The Centre will probably start its operation this month.

More detailed information relating to the Centre may be found in the provided leaslet. We would like Helsinki Federation of Human Rights to undertake the patronage over that initiative.

Helsinki Committee from East European countries have, so far, concentrated on problems relating to their own or neighbouring countries. This should be changed. We would like to know more about human rights problems in WEst European countries, in the USA and Canada and we would like to be able to intervene in situations when the governments act inconsistently with the Vienna Document. Some problems pertain to foreigners, including our citizens, th visa policy, granting political asylum or illegal employment.

In conclusion it should be said that Helsinki movement in East Europe has an important role to play and its mission has not been finished. There is a lot of work to be done, work which is safer, now that the danger of being imprisoned or otherwisely persecuted has, let us hope, passed, but maybe more difficult than it has been so far.

^{*)} The information is to be found under below.

XVI. CENTRE ON HUMAN RIGHTS IN EAST EUROPE

The Helsinki Foundation of Human Rights, created by the members of the Helsinki Committee in Poland, is now establishing a special Centre on Human Rights in East Europe (EEHRC).

The principal objective of the Centre is to create a possibly broadest, systematically and professionally elaborated, modern and promptly actualised information base for everybody needing such data because of his/her interests or function performed, for politicians and trade unionists, for journalists, scholars, students, etc. The Centre should meet the broadest needs of democratic movements in the whole East Europe.

The Centre will collect and process documentation relating to transgression of human rights at the level of law and practice, legal regulations in particular countries, especially important from the point of view of human rights, judicial decisions of supreme courts and constitutional tribunals, the system of international control over observance of human rights, movement for human rights in Europe, research on the problem, etc.

The Centre will make all the collected information available to everybody who needs it; a monthly journal of informational character "Human Rights in East Eurpe" and a problem three-monthly journal "Prawa Człowieka" (Human Rights) will be published at least in two languages: Polish and English.

The Centre will be publishing books and brochures written on the grounds of its own works and will promote valuable publications by other Polish and foreign authors, giving priority to East European countries.

The Centre will run a specialistic library, the first one of that type in our part of Europe, containing the most valuable publications relating to human rights, mainly from West Europe and the USA. The library will have a computerised catalogue and will provide definitions for studying and copying materials.

The Centre will also pursue educational activities in the field of human rights in various milieus and by various methods. We intend to establish an Educational Centre within EEHRC. The educational efforts will be focused on the milieu of teachers, young lawyers and physicians, as well as young political and social activists.

We also intend to undertake research, mainly at the practical, but also scientific level. We would like the Centre to constitute a well based background for the activities of the Helsinki Committee in Poland, preparing information and materials relating to the situation in the field of human rights observance in Poland in other East European countries. The Centre should also constitute a forum for national and international

meetings and conferences dealing with human rights, with particular attention paid to East Europe.

The success of that undertaking depends mainly on cooperation among human rights activists in all the East European countries, it will be - to a great degree - their Centre, run under the auspices of the International Helsinki Federation of Human Rights. The Programme Council of the Centre shall compose of representatives of particular East European Countries, appointed to pursue cooperation with the Centre by national movements for human rights.

The success depend also on cooperation with and aid granted by similar centres in the West. Numerous organisations and institutions have already declared their aid.

XVII. AIDS

Events drawing attention to the problem of HIV virus carriers in Poland took place in Rembertów, a small town near Warsaw, in January 1990. A group of HIV infected people and their families had to leave a house in which they wanted to live, in result of an unusually hostile attitude of their neighbours and other inhabitants of the towm. All the attempts at finding another dwelling for those people failed. Administrative authorities had to locate them in the building of Ministry of Health. Information about rejection of HIV carries even by physicians and teachers reach us also from other towns. The problem has been so far ignored. In that situation we decided to publish the following letter:

Mr. Tadeusz Mazowiecki
Prime Minister of
Republic of Poland
Al. Ujazdowskie 13, Warsaw, February 1.1990

The government has done nothing, so far, for the people - carriers of HIV virus. They are rejected by the society, deprived of proper medical care because doctors would not attend to them, turned into the streets, infected children are expelled from schools.

Such situation may force the infected people to conceal the fact and to attend the commonly accessible medical centres, private dentists surgeries, ginecologists and doctors of other specializations. Concealment of the disease may prove the only way to be able to lead a normal life.

That would result in enormous social endangerment.

Helsinki Committee in Poland appeals to the government of the Republic of Poland to immediately create, in order to solve that moral and social problem, basic medical centres for the carriers of HIV virus and to set up a special centre for them where they could, according to their will, live, work and learn.

Maria Dziedzic Danuta Przywara Zofia Wasilkowska Lech Falandysz Wanda Falkowska Marek A.Nowcki Andrzej Rzepliński Marek Nowicki Jacek Kurczewski

XVIII. CUBA

Warsaw, February 6.1990

STATEMENT

Cuba is a country where the fundamental human rights have been drastically violated on a large scale for many years. The Cuban people are still governed by a communist dictatorship, one of the last in the world, apart from those in China, North Corea and Albania. People fighting for democratic changes are sent to prisons. Social life has been submitted to tight supervision of the party and its leaders.

In result of such policy the Cuban State and its nation are on the verge of disaster. Rejection of the system, democratic changes and restoration of human rights constitute the only change for Cuba.

On the I January 1990 intellectuals, trade unions activists, people of good will from various parts of the world expressed their support for the Cuban opposition and sent an open letter to Fidel Castro demanding to carry out a plebiscite in which Cuban people could express freely their aspirations and determine the way they want to follow in future.

Helsinki Committee in Poland joins the signatories of the letter and addresses the same appeal to other persons and institutions.

Letters supporting the idea of a plebiscite in Cuba should be sent to the address of Cuban Embassy in Warsaw, ul.Reja 4/6 (the addressee: Fidel Castro); we ask you kindly to sent duplicates of such letters to the address: Marek.A.Nowicki, ul.Zwirki i Wigury 51 m 74, 02-091 Warszawa, Helsinki Committee in Poland.

Helsinki Committee in Poland

Dear Mr.Castro

An open letter

On March 7 this year in Geneva, the United Nations Human Rights Commission adopted a resolution defending human rights in Cuba. Amongst those proposing this resolution were representatives of the Polish and Czechoslovak governments; it was also supported by Bulgaria and Hungary. The resolution calls for the Cuban government to provide explanations concerning grave violations of human rights.

The Cuban delegate showed an incredibly disrespectful attitude to the Commission and its resolution, and rejected the possibility of conforming the motion. The answer to this resolution was increased repression of human rights. On March 8-10 in Havana, activists of the Cuban Human Rights Party were arrested. They are Tania Diaz-Castro, Samuel Martinez-Laro, Eduardo Ruben-Hayos-Ortiz, Cecilia Romero Acanda, Maria Remedio Rodriguez, Domingo Hernandez Valdes, Emente Elejarte Sarrasent, Roberto Calvo Lemus, Alfonso Gonzales and Ivan Detancourt Morejon.

They have been accused of preparing conditions for a possible invasion of the island. In addition, eight other activists, who were arrested for testifying at the UN Human Rights Commission against the Cuban government, still remain under arrest.

The Helsinki Committee in Poland, which supports the human rights movement in Cuba, and all who have take up the struggle for democratic change there and, as a result, suffer repression, demands that you immediately free the activists mentioned in this letter, and all those imprisoned for political reasons. We are calling on you to accept an respect the resolution of the UN Human Rights Commission, adopted out of concern for the Cuban nation, whose leader you consider yourself to be. Cuba must enter on the road to democratic change, along Eastern and Central European lines, as quickly, as possible, and abide by human rights; all other roads lead nowhere.

Marek A.Nowicki
(on behalf of the Helsinki Committee in Poland)
20.03.1990

XIX. Against Brutal Action of the Militia

Warsaw, January 31, 1990

Mr. Aleksander Bentkowski Prosecutor General of the Republic of Poland

On 27 Jannuary 1990 the Citizens' Militia forces disrupted the demonstration organized on the occasion of the XIth Party Congress, in front of the Congress Hall in Warsaw. The task they had been charged with, by the government, wa to protect the Congress. When the Militiamen started to disrupt the peaceful demonstration, some of its participants reacted aggressively. Stones and a few bottles of petrol were thrown at the Militiamen. In result the demonstration was disruped by force.

However, nothing can justify the brutality of Militia forces, who - even a few hours later - were beating people in place far off the Congress Hall: at the Central Station and in the vicinity of Marriott Hotel. Such actions had nothing in common with protection of the Party Congress, not even mentioning the fact that they were undertaken in situations not justifying application of force.

Similar actions were undertaken in Poznań on 26 January.

Helsinki Committee in Poland requests the General Prosecutor to investigate the course of such actions, to reveal the names of the Militia officers guilty of the abuse of force and to insist on their punishment.

Maria Dziedzic Danuta Przywara Zofia Wasilkowska Lech Falandysz Wanda Falkowska Marek A.Nowicki Andrzej Rzepliński Marek Nowicki Jacek Kurczewski

Warsaw, 19990.02.07
POLISH PEOPLE'S REPUBLIC
MINISTER OF JUSTICE

Helsinki Committee in Poland

In reply to your letter referring to the way the Citizens' Militia troops' intervened in the demonstration in front of Palace of Culture in the time of the XIth Conference of the Polish United Workers' Party, I would like to inform you kindly that I have addressed your letter to Mr. Jozef Zyta, the Prosecutor General, as he has been acting very efficiently, so far, on the grounds of Art.2 of the Amendment of the Constitution of Polish People's Republic Act of 29 December 1989 (Journal of Law, No75, item 444), providing that the prosecutor's offices shall operate according to the so far existing pronciples, until new statutory law governing the procedure of appointing and recalling of prosecutores and the principles of organization and operation of the prosecutor's offices, however not later than till 31 March 1990.

The above mentioned provision restrict my present powers as the Prosecutor General, so far in name only.

Sincerely yours

Aleksander Bentkowski

Warsaw, 1990.02.16

PROSECUTOR GENERAL
OF POLISH PEOPLE'S REPUBLIC

No DP II Dsn 85/90/W

Helsinki Committee in Poland c/o Mr.Marek A.Nowicki Aleja Zwirki i Wigury 51/74 02-091 Warszwa

In reply your letter referring to the Militia intervention in the demonstration held in front of Palace of Culture on 27 January 1990 and the police actions around Central Station in Warsaw, as well as on 26 January 1990 in Poznań I would like to inform you that relevant prosecutors in Warsaw and Poznań have initiated investigation in the case of applicocation, by the Militia officers, measures of direct physical coercion towards the demonstrators. The circumstances connected with the demonstrators' attack on the Militia officers and damage to property are also under investigation.

Sincerely yours,

Józef Żyta

XX. REPORT

INFORMATION ON THE ACTIVITIES OF HELSI NKI COMMITTEE IN POLAND in 1989

1989 was the seventh year of the activities of Helsinki Committee in Poland. Profound changes in the political situation that occurred in 1989 exerted a considerable influence on the way of the Committee operation as well as on the subject of its interests. There were also big changes in the composition of the Committee.

The Committee continued to monitor the situation in the field of human rights observance and to evidence the facts of their violation. In result the Committee submitted a report on the situation in that field in 1988, as well as reports on the independence of Polish judicature and on the election to the Seym and the Senate to the UNO Human Rights Commission. A report on human rights observance in Poland in 1989 is under preparation at present. The Committee's opinion on the governmental draft report concerning observance of the International Bill of Human Rights in 1987-89, written for Human Rights Committee, was submitted to the Minister of Justice.

Promoting changes in the legal field constituted an equally important sphere of activities. The programmatic document "Civil Rights - Law and Legality", prepared at the end of 1988, was one of the fundamental documents for the round table debates on legality and judicature. We postulated that all legal limitations imposed on access to publications in libraries be removed. The Committee demanded prompt ratification of the Optional Protocol to the International Covenant on Civil and Political Rights and UNO Convention on Refugees. Assumptions to the postulated reform of criminal law were prepared, as well.

The Committee appealed to Polish government and to the governments of other countries to assume their attitude towards the facts of flagrant violation of human rights occurring in the countries signatories to CSCE documents, mainly in Czechoslovakia, Romania, Bulgaria, Greece and Yugoslavia. The Committee expressed their interest in the situation of Polish refugees in Italy and objected to the way Nicolae and Elena Ceausescu had been sentenced.

Several debates on criminal law reform and the model of education in human rights were organized. The Committee members attended meetings with students in Warsaw and Toruń, with teachers in Gliwice and Cracow and with workers in the Silesia region: A meeting with social activists on living and work conditions in Silesia took place in Tarnowskie Góry, Mihnea Berindlei 's and Ariadna Cornea-Combes' (the activists for

human rights in Romania) visit and several meetings in Poland were organized.

The Committee members participated in international conferences and meetings on human rights. Jerzy Ciemniewski took part in the panel of Dannish Centre for Human Rights in Copenhagen, Marek A.Nowicki and Tadeusz Zieliński took part in the conference in Messina (Italy). Marek A.Nowicki and Stefan Starczewski participated in IHF seminar and talks with the delegates of western and neutral countries for the CSCE conference in Paris. Marek A.Nowicki a member of the IHF mission to Bulgaria and, in the name of Lech Walesa and the Committee, took part in the celebration of unveiling human and civil rights monument in Lyon (France). It should be reminded that the Committee was the organizer and host of the General Assembly of IHF in Warsaw.

Marek A.Nowicki paid, on behalf of the Committee, working visits to Helsinki Committees in Czechoslovakia and Bulgaria, and - together with Stefan Starczewski - in Hungary. Members of the Committee were meeting foreign politicians coming to Poland, for instance a delegation of CSCE Commission of the USA Congress.

The Committee cooperates with various organizations abroad, for instance with Amnesty International, SOSS Torture, Human Rights Watch as well as institutions and centrs dealing with human rights in Europe and elsewhere.

Members of the Committee were invited to Lech Walesa's Citizens Committee and its commissions. Nine of them participated in the round table debates. Four of them were members of the State Electoral Commission inspecting the election.

Jerzy Ciemniewski was appointed to the position of undersecretary of State in the Council of Ministers Office, Stefan Starczewski was oppointed a deputy minister of culture and art, Janusz Grzelak - a deputy minister of national education. They had to suspend their membership in the Committee. Therefore the composition of the Committee was supplemented with new persons. After Danuta Przywara's membership in the Committee had been revealed (it had been secret so far), the composition of the Committee was as follows: Halina Bortnowska-Dabrowska, Maria Dziedzic, Marek Edelman, Lech Falandysz, Wanda Falkowska, Jacek Kurczewski, Anna Michalski, Wojciech Maziarski, Mirosław Jasiński, Marek A.Nowicki, Marek Nowicki, Danuta Przywara, Jan Rosner, Andrzej Rzepliński, Zosia Wasilkowska, Janina Zakrzewska.

The following publications were issued in 1989: the subsequent four numbers of the bulletin "Prawa Człowieka" (Human Rights), No 1/3, 4 (in English), 5 and 6; three first books of theseries "Library of the Helsinki Committee in Poland":

- "Nie możemy milczeć" (We Cannot Stay Silent) a set of speeches of the councels for defence in political trials,
- Wolność związkowa" (Freedom of Association), a translation of ILO handbook for trade union activists,
- "Sądownictwo w Polsce Ludowej" (Judicature in People's Poland) by Andrzej Rzepliński.

Furthermore we have published Tadeusz Zieliński's brochure "Zakładanie związków zawodowych" (Establishment of Trade Unions).

The periodical "Praworządność" (legality) became (since its No 20) a magazine aliliated at the Committee. There were two issues in 1989 - No 20 and 21. A brochore containing the "Universal Declaration of Human Rights" was published together with

the magazine. We have also had other important international documents, such as European Convention on Human Rights and Uno Convention of Refugees, the UNO body of principles for protection of the detained and imprisoned and the code of enforcement officers conduct translated to Polish; some of them have already been published, others will be published soon.

The change in the political situation made it possible for the Committee to have greater access to mass media. The Committee's documents, information relating to its activities and interviews appear in various newspapers and magazines, in radio and television.

The Committee also leads, although to a limited degree, an interventional activity. The Committee members receive complaints either during their duty performed once a week in one of Warsaw churches or by post. We appeal to the State bodies requesting information and explanation in the matters requiring our intervention.

At the end of December, in result of the events in Romania, the Committee organized demonstration in front of Romanian Embassy in Warsaw, followed by a collection of money, clothes, food and medicaments, which expanded enormously and lasted for two weeks. The Committee became one of the main centres of aid.

On the Committee members initiative the Helsinki Foundation of Human Rights was created with the view to promote various initiatives in that field. Establishment of East European Centre for Human Rights, dealing with documentation and information in the field of human rights, is under preparation. The Center will help the Committee in its further activities.

Prepared by Marek A.Nowicki, authorised by Helsinki Committee in Poland

Warsaw, 5 January 1990.

XXI. CHRONICLE

A delegation of International Helsinki Federation visited Bulgaria on 23-28 October 1989. Apart from IHF representatives the delegation consisted of representatives of Helsinki Committee from the USA, Norway, Switzerland and Poland (Marek A.Nowicki). The group met, among others members of Bulgarian government and Prosecutor General, they also visited Bulgarian Parliament. There were several meetings with members of the arising Bulgarian opposition. The problem of Turc minority in Bulgaria became the subject of a particular interest. The visitors talked with the inhabitants of the areas neighbouring the frontier with Turkey, where there is a considerable concentration of people of Turc origin. The results of IHF mission to Bulgaria will be published in a separate report.

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From 27 October till 7 November 1989 Helsinki Committee in Poland received human rights activists from Romania, refugees from that country living in Paris: Minhnea Berindei, a historian and Ariadna Cornea-Combes, a daughter of Doina Cornea, the best known Romanian opposition activists from Cluj. On 28 October the visitors had a meeting with students in Audytorium Maximum at Warsaw University. The meeting was headed by dr Lech Falandysz. On 6 November a similar meeting took place at Jagiellonian University in Cracow. It was organized by the Students' Circle of Human Rights at the Jagiellonian University operating under the patronage of Helsinki Committee in Poland. In Gdańsk the visitors were received by Lech Wałęsa. They also met prof. Bronisław Geremek, the chairman of OKP (the Citizens' Parliamentary Club). Their visit aroused a considerable interest of the press. Interviews were published by "Gazeta Wyborcza", "Polityka", "Nowa Wieś", "Solidarnść Rolników Indywidualnych". Information on the visit was also given by the radio and television.

On November, 28th, 1989 the World Organization Against Torture OMCT SOS TORTURE, with the headquarters in Geneve addressed a letter to Helsinki Committee in Poland, informing about its affaliation to this organisation.

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On 15-18 December 1989 Marek A. Nowicki, on invitation of Helsinki Committee in Bulgaria, visited Sophia on IHF mission. The main goal of the visit was to meet the activists of the new Committee, commence cooperation and the Bulgarians' participation in the Centre of Human Rights in East Europe. Members of the mission met

Marko Ganczew, Chairman of the Committee, Zeljo Żelew, chairman of Democratic Forces Union, Konstantin Trenczew, head of the "Podkrepa" trade union, Dejan Kjuranow, Janko Jankow, and Bojko Projczew. Marek A.Nowicki was a guest at the meeting of "Podkrepa" delegates in Sophia.

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A 4-persons delegation of Danish Helsinki Committee: prof. Erik Siesby (chairman of the Committee), Bjorn Elmquist (chairman of foreign parliamentary commission), Ranzman (vice-manager of penitentiary board) and Małgorzata Kępińska-Jakobsen visited Poland, on invitation of Helsinki Committee in Poland and Minister of Justice, between 3 and 7 January 1990. The delegation wanted to get acquainted with the situation in Polish penitentiary system; they visited prisons in Plock, Warsaw (in Mokotów and Służewiec), a reformatory centre in Mrozy and a detention suit in Mostowski Palace in Warsaw. While visiting prisons in Mokotów and Służewiec in Warsaw they were accompanied by Marek A.Nowicki and Andrzej Rzepliński. The Danes had meetings with Human Rights Commission of the Senate, Minister of Justice, representatives of the Commissioner for Civil Rights Protection, Patronal Penitentiarz Association, Central Penitentiary Board and with a group of Helsinki Committee in Poland members.

During the meeting dr Andrzej Rzepliński presented the assumptions of his draft of the new punishment execution code and the present state of works on reform of that law. Ass.Prof.Lech Falandysz presented the problems of the recent amnesty.

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On 23 January 1990 Marek A. Nowicki talked with Pierre Henri Imbert, deputy head of the Human Rights Directorate of the Council of Europe; on the next day there was a meeting of the Committee members with Mr. Haremoef, the head of Legal Directorate, and Jean Luis Lourence from Political Directorate. The talks concerned the proceedings towards Poland's accession to the Council of Europe, the state of Polish law in comparison to the standards of European Convention as well as possible forms of the Council of Europe's assistance for the initiative of creation of the Centre of Human Rights in East Europe and cooperation of both institutions.

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On 28 January 1990 in Warsaw Marek A. Nowicki met a group of christian democracy activists from among Cuban emigrants, visiting Poland on invitation of Labour Party; there were among them prof. Jose Prinze from the University of Latin American Workers in New York and Amaya Sanchez from the Centre of Human Rights CEDEHU in Miami, Florida. Cuban visitors asked to support the appeal for a plebiscite in Cuba, addressed to Fidel Castro. They also discussed cooperation betwenn the Committee and the Centre of Human Rights in East Europe on one side and Cuban human rights organizations and CEDEHU on the other.

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On 3-4 February 1990 Jacek Kurczewski visited Bucharest where he met the leaders of Peasants' Party who informed him about the obstacles put in their way by the Front

of National Salvation. J.Kurczewski presented the Helsinki Committee's negative opinion on the Ceausescus' trial. He was acquainted with the recorded on tape report of trial of 4 closest collaborators of the former leader. They also talked about the purposes of further assistance to Romania.

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On 5-12 February 1990 Helsinki Committee in Poland entertained dr Henryk Zieliński from SOS-Torture in Geneva. H. Zieliński had a meeting with representatives of the Commissioner for Civil Rights Protection, Patronal Penitentiary Association and Independent Students' Association, he also took part in a seminar organized by the Institute of Social Prevention and Resocialization of Warsaw University and in the session of the Senate Commissions of Human Rights and Rule of Law. The talks carried on with Helsinki Committee concerned the forms of cooperation and preparations to the international conference on tortures to be held at Warsaw University in November 1990.

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On 12-16 February 1990 three activists of Bulgarian movement "Ecoglasnost": Pirin Wodeniczarov, Viczew and Cvetan Rolczewski visited Warsaw on invitation of Helsinki Committee in Poland. The visitors wanted to get acquainted with ecological problems in Poland and the ways of solving them, social activities in that field and other independent initiatives and political organizations. They had a meeting with Bronisław Kamiński, Minister of Environmental Protection, with other representatives of the department, with activists of Ecological Club and they visited the Institute of Ecology in Dziekanów Leśny. They were entertained by the students - members of the Independent Students' Organization at Warsaw University and had a meeting with prof. Bronisław Geremek, Janusz Onyszkiewicz, Zbigniew Janas and Stefan Starczewski, deputy minister of culture and fine arts. They also had a special meeting with members of Helsinki Committee in Poland.

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On 19 February 1990 in Warsaw Marek A. Nowicki and Marek Nowicki had an hour's talk with Jurij Szczerbak, a Ukrainian deputy to the Supreme Council of the Soviet Union, a member of the Interregional Group gathering the democratic wing of the deputies. J, Szczerbak came to Warsaw invited by the Citizens' Parliamentary Club.

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On 23-26 February 1990 Marek A.Nowicki visited Brussels on invitation of Operation Villages Roumains, Operating before Ceausescu's downfall for salvation of Romanian rural areas threatened by systematization, and at present granting various forms of assistance in restoration of culture and economy and in creation of the fundaments of democracy. The organization pays also a lot of attention to the problems of human rights. Marek A.Nowicki took part in the press conference and in the session of international coordinating committee of OVR.

On March 18th, Marek A.Nowicki, Marek Nowicki and Andrzej Rzepliński were received by Poznań Centre of Human Rights, working under the leadership of assistant

professor Zdzisław Kędzi. The meeting was organized with evaluation of cooperation possibilities in mind.

On March 21st, 1990, Marek A. Nowicki and Andrzej Rzepliński participated at the session of the Senate Commission on Human Rights and Rule of Law, on the subject of the attitude of Polish law to European Convenant on Human Rights.

XXIII. MEMBERS OF HELSINKI COMMITTEE IN POLAND

Halina Bortnowska-Dąbrowska - (1931), journalist, theologian, member of the initiative group of "Znak" monthly and its editress for many years; during martial law interned; member of ecumenical initiatives within the framework of the World Council of Churches, Roman Secretariat for Christian Unity; co-founder of "Hospicjum" Association in Cracov; adviser of NSZZ "Solidarity" at the "Lenin" sateel works in Nowa Huta; member of the Club of Catholic Intelectuals (KIK) in Warsaw and Lech Walesa Citizens Committee.

Maria Dziedzic - (1942) - doctor, journalist, in 1967-72 employe of Polish Radio; expert on AIDS at the Ministry of Health; member of the Commission of Social Preventive Treatment of Council for AIDS; during martial law co-worker of Primate's Committee for Assistance to the Imprisoned.

Marek Edelman - (1922) - doctor, cardiologist; since 1972 ward head of Pirogow Hospital in Łódź, former lecturer at Clinic of Internal Diseases at the Medical Academy in Łódź; winner of the A.Jurzykowski Foundation prize, doctor honoris causa of University of Yale (USA); the last living leader of the Uprising in Warsaw Ghetto; after 1968 many times dissmissed; in 1980-81 member of the Administration of Łódź Region NSZZ "Solidarity"; delegate for the 1st National Congress; during martial law interned, then member of the Underground Organisation RKW; member of Lech Walesa Citizens Committee; chairman of the Commission for Cooperation with National Minorities.

Lech Falandysz - (1942) - lawyer, assistant professor, reader of the Faculty of Law and Administration at the University of Warsaw; Since 1980 co-worker of NSZZ "Solidarity" press and various independent organisations; expert of the Seym and the Senate commissions; member of editorial staff of "Praworządność".

Wanda Falkowska - (1924) - lawyer, journalist; since 1981 working for "Polityka" and "Przekrój" weekly; author of many books; involved in socio-legal publicism; in 1980-81 an activist of Polish Journalists Association (SDP) (vice-president of the Main Journalist's Court, president of Socio-Legal Publicists Club); member of the board of Association for Prevention of Prisoners "Patronat"; currently cooperating with "Gazeta Wyborcza" daily.

Miroslaw Jasiński - (1960) - historian of art.philologist, writer and publicist; since 1978 co-worker of Students "Solidarity". Committee in Wrocław; in 1980 one of the founders of Independent Students Association (NZS); during martial law in hiding; co-founder of Students Underground Resistance Movement; since March 1987 coordinator of the Polish - Czech Solidarity; from December 1987 to September 1988 member of RKW "Solidarity" for Lower Sislesia Region; in 1988 winner of Jiri Lenderer prize

Wojciech Maziarski - (1960) - philologist - Hungarist, journalist; in 1981 member of Students Strike Committee at the University of Warsaw; during martial law activist of mamy underground organisations connected with "Solidarity"; in 1985 elected president of the Stdents Self-government at Warsaw University; founder and coeditor of independent student's newspaper "Refleksy"; in 1988 established Information Service of "Solidarity" and East European News Agency and managed them till autumn 1989; since then he has been working as the correspondent of Polish section of BBC; coeditor of "Obóz" political quarterly.

Anna Michalska - (1940) - professor of international law at A. Mickiewicz University in Poznań, lecturer at Rene Cassin International Institute of Human Rights in Strasbourg, UNESCO expert.

Jacek Kurczewski - (1943) - sociologisat, assistant professor; Head of Social Preventive Treatment and Resocialization Institute of the University of Warsaw; in 1980 -81 member of Programmatic Council of the Center of Socio-professional Works by National Commission of NSZZ "Solidarity"; activist of Polish Sociological Society (in 1976 and 1980-83 president of the Warsaw branch office); one of the founders of the Association Against Capital Punishment and Patronal Penitentiary Association; member of editorial staff of "Res Publica" monthly; vice-president of Lech Walesa Citizens Committee, judge of the Tribunal of State.

Marek A.Nowicki - (1953) - lawyer, barrister; in 1975-81 public prosecutor; in 1971 member of National Coordination Commission of Public Prosecutor's Office Workers NSZZ "Solidarity"; since October 1981 employee of Intervention Office NSZZ "Solidarity" of Individual Farmers and collaborator of Intervention and Mediation Comiission of NSZZ "Solidarity" for Mazovia Region; during martial law publicist of underground press and collaborator of many independent organizations; co-founder of Helsinki Committee in Poland; participant of strike at "Manifest Lipcowy" coal mine in Jastrzębie in August 1988; adviser of NSZZ "Solidarity" in Mazovia and Silesian - Dąbrowa Region; member of editorial staff of "Praworządność" and "Solidarity" weekly; at present spokesman for Helsinki Committee.

Marek Nowicki - (1947) - physicist; in 1973-81 lecturer on didactics and scientist at the Faculty of Physics at the University of Warsaw; in 70-ties member of board of Polish Alpinism Union; president of Federation of Student's Alpinism Clubs; in 1980-81 chairman of Mediatory Commission at Administration of Mazovia Region NSZZ "Solidarity"; chief of Group for Technical Organisation of Protest Actions; during

martial law interned; co-author of first reports of Helsinki Committee; editor-in-chief of "Praworządność" (issued since 1984); officer of Main Council of Polish Socialist Party (PPS).

Danuta Przywara - (1951) - sociologist, employee of the Institute of Psychology, Polish Academy of Science (PAN) and Research Institute of Workers' Self-Government; in 1981 mediator of Intervention and Mediation Commission for Mazovia Region NSZZ "Solidarity"; since December 1982 collaborator and since autum 1983 member of Helsinki Committee; member of editorial staff of "Praworządność".

Andrzej Rzepliński - (1949) - lawyer - criminologist, doctor of law, lecturer at Social Preventive Treatment and Resocialization Institute of University of Warsaw; member of the Centre of Civil Legislative Initiatives in Cracov (in 1981 and since 1989); since 1987 UNO expert, also expert of the Saym and the Senaté commissions; member of governmental commission for criminal law reform; member of Polish Institute of Christian Culture in Rome; in 1990 winner of John Paul II Foundation prize; since 1983 co-worker of Helsinki Committee; member of editorial staff of "Praworządność".

Jan Rosner - (1906) - lawyer, specialist in social politicts and ergonomics; retired professor of Central School of Planning and Statistics (SGPiS); before 1989 employee of International Labour Office in Geneve; member of Resistance Movement during the World War II; in 1946-50 representative of International Labour Organisation (ILO) in Poland and then employee of the Ministry of Labour and Social Welfare; in 1979-82 president of International Ergonomics Society; member of Lech Wałęsa Citizens' Committee; expert of the Seym constitutional commission; member of Council for Work Protection.

Zofia Wasilkowska -(1910) - lawyer, specialist in law of family relations and civil law; in 1933-39 counsellor of General Public Prosecutor's Office and assistant at the Faculty of Law, Warsaw University; member of the Resistance Movement during the World War II; judge of Supreme Court in 1948-55 and 1958-81; Minister of Justice in 1956-1957; member and in 1957-61 president of UNO Commission of Human Rights; vice-president of Social Legislative Council in 1981 and since 1989; Lech Walesa Citizens' Committee member.

Janina Zakrzewska - (1928) - lawyer, professor of constitutional law; in 1968 dissmissed from University of Warsaw; up to 1970 employee of the New Acts Archives and then Research Institute of Keeping of Archives, Central Headquarters of State Archives; member of PARN-Club; participant of the seminar "Experience and Future"; since 1980 author of expert's legal reports for NSZZ "Solidarity" and independent organisations; member of the Centre of Civil Legislative Initiatives in Cracov; judge of the Constitutional Tribunal; chief of experts of the Seym constitutional commission; OWIEKA member of Lech Walesa Citizens' Committee

00-028, Warszawa, ul. Bracka 18 m. 62 tel./fax (48-22) 828 10 08, 828 69 96 826 98 75, 826 96 50 HELSKINKI COMMITTEE IN POLAND is an independent citizens' initiative to inspect the observance of law and fundamental freedoms resulting from the Universal Declaration of human Rights and to examineconsistency of the Polish legislation with international obligations such as International Covenants on human Rights and ILO conventions confirmed in the Final Act of CSCE in Helsinki and in the Concluding Document of the Review Conference of CSCE in Vienna.

THE COMMITTEE operates through informing public opinion and undertaking initiatives on the national and international forum.

THE COMMITTEE propagates rights and freedoms determined by the Universal Declaration of Human Rights and strives for their possibly fullest implementation in particular countries and in the whole world.

HELSINKI COMMITTEE IN POLAND is a member of International Helsinki Federation for Human Rights, having its seat in Vienna.

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