Act of 15 July 1987

on Commissioner for Civil Rights Protection

Article 1

1. The Commissioner for Civil Rights Protection is hereby established.

2. The Commissioner for Civil Rights Protection, hereinafter referred to as the "Commissioner" shall safeguard the rights and liberties of citizens as set forth in the Constitution of the Republic of Poland and in other regulations.

3. In cases involving protection of the civic rights and liberties, the Commissioner shall investigate whether, due to any action or default on the part of agencies, organisations or institutions responsible for compliance and implementation of such rights and liberties, the law and/or principle of community life and social justice have been breached.

Article 2

The Commissioner must be a Polish citizen of outstanding legal knowledge, professional experience and high prestige due to the individual's moral position and social sensitivity.

Article 3

1. The Commissioner shall be appointed by the Sejm upon approval of the Senate on a motion tabled by the Speaker of the Sejm or by a group of 35 deputies.

2. Detailed nomination procedures for the Commissioner shall be determined by resolution to be carried by the Sejm.

3. The resolution of the Sejm whereby the Commissioner is appointed shall be conveyed forthwith by the Speaker of the Sejm to the Speaker of the Senate.

4. The Senate shall carry a resolution regarding approval of the appointment of the Commissioner within one month of receipt of the Sejm's resolution mentioned in par. 3 hereof. The Senate's failure to carry such resolution within one month shall be tantamount to approval.

5. Should the Senate disapprove of the Commissioner nominee, the Sejm shall appoint another person Commissioner. The provisions of par. 1-4 shall apply respectively.

6. The outgoing Commissioner shall perform the Commissioner's duties until the office is taken over by the new Commissioner.

Article 4

Prior to assumption of duties, the Commissioner shall make the following oath before the Sejm:

"I solemnly do swear that in following the duties entrusted to me as Commissioner for Civil Rights Protection I shall keep faith with the Constitution of the Republic of Poland, safeguard the rights and
liberties of citizens, abiding by the Law and the principles of community life and social justice. I pledge
to perform the duties entrusted to me impartially, with the greatest of diligence and care, to safeguard
the dignity of the office and to keep the State and office matters in strict confidence.”

**Article 5**

1. The Commissioner's term of office shall be four years starting from the date the oath is made before
the Sejm.

2. One person may not serve as Commissioner for more than two terms of office.

**Article 6**

1. The Commissioner shall be, in performance of the Commissioner's duties, independent of any other
State agencies and shall only be responsible to the Sejm under the rules set forth in this Act.

2. The Commissioner may not be brought to justice in a criminal case, arrested or detained without
prior approval of the Sejm.

3. No other employment or public service may be combined with the Commissioner's duties.

4. Upon termination of service in the position of Commissioner, the person has the right to resume the
position previously occupied or be entrusted with a post equivalent to that held previously, subject to
any other legal provisions to the contrary.

**Article 7**

1. The Sejm shall recall the Commissioner prior to termination of the Commissioner's term of office in
the event of the Commissioner's:

1) resignation from office,

2) having become permanently unable to perform the Commissioner's duties due to illness, disability or
infirmity,

3) having acted in contravention of the Commissioner's oath.

2. The Sejm shall carry a recall resolution concerning the Commissioner on the motion of the Speaker
of the Sejm.

**Article 8**

The Commissioner shall take due action under this Act having found out that a citizen's rights and/or
liberties have been violated.

**Article 9**

Action shall be taken by the Commissioner on:

1) motion of citizens or their organisations,

2) motion of local governments,
3) the Commissioner's own initiative.

**Article 10**

Any motion addressed to the Commissioner shall be exempt from duties and no special form shall be required; however the identity must be stated of the applicant and the person whose rights and/or liberties are involved in the case and the subject of the case must be defined.

**Article 11**

The Commissioner, having become acquainted with each motion received may:

1) take up the case,

2) content himself/herself with instructing the applicant as to whatever action the person is entitled to take,

3) convey the case according to competence,

4) abandon the case, against notification thereof of the applicant and the person involved.

**Article 12**

Having taken up a case, the Commissioner may:

1) take own explanatory proceedings,

2) request that the case or part thereof be explained by relevant agencies, especially agencies involved in the supervision, prosecution and State, professional or public control,

3) request the Sejm to order the Supreme Chamber of Supervision to carry out an audit in order to examine the specific case or part thereof.

**Article 13**

1. In the course of the proceedings referred to in art. 12 point 1, the Commissioner has the right to:

1) examine each case on the spot,

2) demand explanation or presentation of files for each case dealt with by superior and central authorities of State administration, government administration agencies, agencies of co-operative, social, professional or socio-professional organisations as well as agencies of corporate organisational units, communes and organisational units of local government,

3) demand that information on the status of a case dealt with by court or prosecutor's office or other law enforcement agencies,

4) order expertise and/or audit.

2. In cases involving classified information, providing the Commissioner with information or access to files shall be subject to the rules and procedures set forth in relevant regulations on the protection of
State and public service secrets.

**Article 14**

Having examined a case, the Commissioner may:

1) explain to applicant that no infringement of civic rights or liberties has been found,

2) refer to the agency, organisation or institution whose activity has been found to have caused infringement of civic rights or liberties; such motion may not, however, infringe upon independence of the judiciary,

3) request an agency superior to the one referred to in point 2 to apply due measures under prevailing law,

4) demand that proceedings be instituted in civil cases or participate in any proceedings already pending - with such rights as are vested in the prosecutor,

5) demand that preparatory proceedings be instituted by a competent prosecutor in cases involving offences prosecuted ex officio,

6) ask for instituting administration proceedings, appeal against decisions to administrative court and participate in such proceedings - with such rights as are vested in the prosecutor,

7) move for punishment as well as reversal of a valid decision in proceedings involving malfeasance, under rules and procedures set forth elsewhere,

8) lodge extraordinary appeal against each final and valid sentence, under rules and procedures set forth elsewhere.

**Article 15**

1. In the motion mentioned in art. 14 point 2, the Commissioner shall present opinions and conclusions as to how the case could be settled and may also demand that disciplinary proceedings be instituted or official sanctions be imposed.

2. The agency, organisation or institution to which such motion has been addressed must, without unreasonable delay and in no event later than within 30 days, inform the Commissioner of whatever action or view has been taken. Should the Commissioner disagree with such a view, the Commissioner can approach the relevant superior entity for necessary action.

**Article 16**

1. In connection with the cases examined, the Commissioner can present to the relevant agencies, organisations and institutions opinions and conclusions aimed to ensure effective protection of civic rights and liberties and facilitate the procedures such cases may involve.

2. The Commissioner may also:

1) approach the relevant agencies with proposals for legislative initiative or for issue or amendment of other legal acts concerning civic rights and liberties,

2) file the motions referred to in art. 22 par. 1 of the Act of 29 April 1985 on the Constitutional
Tribunal (Journal of Law No. 109 of 1991, item 470), under rules and procedures set forth in the Act,
3) approach the Constitutional Tribunal for a generally binding interpretation of the statutes,
4) approach the Supreme Court for resolutions aimed to explain legal provisions that may appear vague
or application of which may be causing discrepancies in judicial decisions.

**Article 17**

The agency, organisation or institution which the Commissioner may choose to approach is obliged to
co-operate with the Commissioner and provide due assistance, including mainly:

1) giving access to files and documents under provisions set forth in art. 13,

2) providing the Commissioner with information and explanations required by the Commissioner,

3) giving explanation concerning the factual and legal grounds for its decisions,

4) defining its attitude to the Commissioner's general appraisal, comments and opinions.

**Article 18**

1. The provisions of this Act regarding protection of the civic rights and liberties shall also apply to
persons permanently domiciled in Poland whose Polish citizenship has not been ascertained and who
are not known to be citizens of another country.

2. The provisions mentioned in par. 1 shall also apply to foreigners in as much as they may be entitled
to the rights and liberties in Poland.

**Article 19**

1. The Commissioner shall deliver to the Sejm and the Senate annual reports on the Commissioner's
activities together with comments on the status of compliance with civic rights and liberties.

2. The Commissioner's report shall be made public.

3. The Commissioner may submit to the Sejm and the Senate specific matters ensuing from the
Commissioner's activities.

4. The Commissioner shall, on the motion of the Speaker of the Senate, present information or take
action in specific cases.

**Article 20**

1. The Commissioner shall perform the Commissioner's duties with the assistance of the Office of the
Commissioner for Civil Rights Protection.

2. The tasks and organisation of the Office shall be set forth by its statutes to be conferred, on the
Commissioner's motion, by the Speaker of the Sejm.

3. On the motion of the Commissioner, the Speaker of the Sejm may appoint up to three
Commissioner's deputies, including a deputy for soldiers. The same procedure shall apply in the event
of recall.

4. The Commissioner shall determine the scope of responsibilities of the Commissioner's deputy (deputies).

5. Respective regulations on employees of government offices shall apply to the Deputy Commissioner and employees of the Office of the Commissioner for Civil Rights Protection, subject to the provisions of par. 6 and 7 hereunder.


7. The rights under Art. 30 par. 1 and Art. 31. par. 3 of the Act mentioned in par. 6 hereof shall vest - in respect of the Commissioner's deputies and the employees of the Office of the Commissioner for Civil Rights Protection - in the Speaker of the Sejm.

Article 21

Expenses involved in the functioning of the Commissioner for Civil Rights Protection shall be disbursed from the central budget.

Article 22

The Commissioner may, upon the Sejm's approval, establish the Commissioner's local representatives.