

press; stipulates that laws may require a permit for the operation of a radio or television station; guarantees freedom of the press and other means of social communication; stipulates that a citizen has the right to obtain information on the activities of organs of public authority as well as persons discharging public functions; specifies that the right to obtain information provides access to documents and entry to sittings of collegial organs of public authority established through universal elections; and permits limitations on the rights to information solely for the purpose of protecting the rights and freedoms of other persons, public order, security, or important economic interests of the state. Constitutional provisions also relate to the National Council of Radio Broadcasting and Television — which has the role of safeguarding freedom of speech and the right to information, as well as the public interest regarding radio broadcasting and public television — as well as the Commissioner for Citizen's Rights, specifying the Commissioner's role in safeguarding the freedoms and rights of persons and citizens as set out in the Constitution and other laws.

The report refers to provisions in the Penal Code of 1969 — which was still in force pending adoption of a new Code — relevant to freedom of opinion and expression, as well as articles in other laws. These provisions relate to such areas as: insulting government institutions or officials, which the authorities stated was a legacy of communism and abused for political purposes; defamation, involving offences against honour and personal inviolability, with the 1996 Civil Code establishing the right to seek financial compensation for a violation of personal interests; and, repeal of the provision in the Press Act which had established that, in order for financial compensation to apply in cases of a claim of defamation, the fact that the journalist consciously violated an individual's personal interest had to be proven. The report notes that repeal of the provision in the Press Act had given rise to the concern that the action will have a chilling effect on press freedom since journalists are now held responsible not only for deliberate, but also unintentional, infringements on personal interests. Concern was further expressed that this risk may cause journalists to avoid dealing with difficult subjects and discourage investigative reporting.

Other aspects of the legal framework addressed in the report include, *inter alia*: the penalty of six months' to five years' imprisonment for disclosing information classified as a state secret and research in the area of national defence or security, industries of key importance for the national economy, banking, and preparations for, and negotiation of, international agreements; protection of sources, noting that a 1995 ruling by the Supreme Court held that provisions of the Penal Code override those of the Press Act and, as a consequence, journalists may not refuse to divulge a source if they have been released from that obligation by a court or the prosecutor; access to information, noting that journalists have encountered difficulties obtaining information, particularly in areas related to the state and activities of public institutions, especially with regard to local government officials who

are reluctant to release documents allegedly in the absence of clear guidelines; broadcasting, noting the 1992 Broadcasting Act which established the independence of public broadcasting and the principle of regulation of the market through the National Broadcasting Council; the National Broadcasting Council, which grants television and radio broadcasting licences and frequencies, appoints the members of the supervisory boards and programme councils in public radio and television, may order the suspension of programmes violating the law, and may fine broadcasters who breach the law or refuse to carry out a decision of the National Council; and, political interference in public broadcasting, related to concerns over the failure to appoint individuals to the National Broadcasting Council on the basis of expertise, and political bias in television coverage.

The report notes that the Broadcasting Act defines the tasks of public radio and television as including: encouragement of artistic, literary, scientific and educational activity; production of programmes for Polish communities abroad; provision of reliable information about the diverse developments and processes taking place in Poland and abroad; promotion of the free formation of citizens' views and of public opinion; enabling citizens and their organizations to take part in public life by expressing diversified views serving the development of culture, science and education, with special emphasis on Polish intellectual and artistic achievement; respecting the Christian system of values, serving the strengthening of the family and promoting health protection; serving the combatting of social pathologies; and taking into account the needs of national and ethnic minorities.

The report comments on various stipulations in law related to respect for Christian values and religious feelings and notes that these provisions were disputed prior to adoption of the Broadcast Act and were challenged before the Constitutional Court on the bases that: they are incompatible with the Constitution because they violate the principle of equality; and they establish preventive censorship. In June 1994 the Court ruled the provisions constitutional on the basis that they create a duty of respect for values which are of universal and not only religious character. The report also notes that fears that the provisions would be used as a means of preventive censorship had, to date, proved unfounded.

Reference is also made to a provision in the Penal Code related to offending religious sentiment, making such an offence punishable by a fine or two years' imprisonment. Following on this, the report notes that there have been several instances in which there were calls from certain Roman Catholic groups for the banning or censorship of films or publication of materials with a religious connotation. The SR cited the example of complaints arising in August 1994 in response to an issue of *Wprost*, a weekly publication, which featured on the cover a black Madonna and Child wearing gas masks to protect themselves from environmental pollution.

Concerning the protection of public morals, the report comments that the issue has taken on increased impor-