

Manifestations of anti-Semitism: physical and verbal attacks against persons and places of worship, community property, cemeteries and Holocaust memorial site- examples

The most frequent – stadium verbal attacks, desecrating tombs in the Jewish cemetery, hate speech in public life and in the media

During the football matches – several events: anti-Semitic slogans shouted at the players.

Swastikas on the tombstones – several instances

A short film made with a mobile telephone showing the execution of Jews by the Nazis – the gymnasium students played this scene; the film was placed on YouTube. The mayor of the town notified the court of the offence. The court pronounced four boys guilty of the offence.

A picket by the National Rebirth of Poland in front of the Krakow Jagiellonian University hall during the meeting with Jan Gross. Slogans "Gross to the stake!", "We do not want the liar in Krakow". Banners with slogans "To throw out a weed" and "Jews are liars". The police did not intervene.

Anti-Semitic contents by Professor Bogusław Wolniewicz in the church in Krakow; meetings all over Poland with Jerzy Robert Nowak, who propagates the anti-Semitic views

On YouTube, on the webpage of the party of Leszek Bubel (Polish National Party) an anti-Semitic video clip is placed (L.Bubel and the former manager of the Jewish Cemetery sing. „Grosses and Michniks – piss off to America”, „aj waj – Poland is not your country”).

In Leżajsk – swastika signs and slogans "Jude get out" and "Auschwitz" on the grave of the caddik. The police searches the offenders.

Warka 27.05.08

The teenagers from Warka were accused of insulting a person because of his nationality. One of them got the additional charge of the infringement of personal inviolability. On May 22, on Corpus Christi, three perpetrator aged 13 to 16 insulted a young Jew from the USA and punched him in the face.

Situation in Poland – trends and patterns

Registering manifestations of intolerance and xenophobia and the related interventions

Since November 2008 we may use the press monitoring with respect to the cases that are within our interest. **We registered 193 events of this kind by the end of 2008;** in most cases we also received the information on the reaction of the state authorities and judicial bodies. Methods of our interventions changed a bit. In the situations when we considered it necessary, we sent, the same as in the previous years, letters to the state authorities with an appeal for dealing with the case or informing us about the steps taken by the relevant local institutions. The situation when the local community took steps aimed at the repair of particular offence immediately after the press release was much more frequent. This mainly applies to the writings and swastikas on the walls – the day following the date of the press release they disappeared. Thus, we just recorded the event but we did not have to intervene. We sent 17 letters to the state authorities last year. Another way of reacting is placing an appeal on our webpage and publicizing the event by forwarding the information on it to other organizations or editorial offices of papers and magazines. Sometimes we intervened as a result of information sent straight to our Association. An additional value of the monitoring is recording a large number of positive phenomena. Therefore, we also placed such events in the catalogue of the local initiatives promoting tolerance. **We gathered data on 500 positive events – culture and education, and social projects.**

Hate speech

Hate speech is a term which refers to a whole spectrum of negative discourse, stretching from hate or prejudice and inciting to hatred. It covers not only oral or written communication but also any other form of expression such as for example movies, arts, gestures (symbolic speech). According to our experience, hate speech in Poland is unfortunately a quite frequent phenomenon in the public space. It is directed mainly against racial and ethnic minorities - dark-skinned people, Jews, refugees but also homosexuals.

Extremist groups

The main perpetrators of hate speech acts are members of extremist nationalistic groups such as: Narodowe Odrodzenie Polski (National Rebirth of Poland), Obóz Narodowo - Radykalny (National-Radical Camp), Stowarzyszenie Narodowe Zadruga (National Association Zadruga). From the formal point of view these are purely legal organizations, but those groups organize gatherings, where they promote fascist symbols and hate speech. In 2007 Open Republic Association intervened several times in such cases. In Wrocław, members of Narodowe Odrodzenie Polski celebrated March 21st - International Day for the Elimination of Racial Discrimination with a demonstration in the main city square, where they chanted: "Our sacred res - Jews go away from Poland". In April, Krakow - one of the most famous Polish cities – was the place of a march celebrating the 73rd anniversary of creating Obóz Narodowo Radykalny. During this march participants shouted "Jews - get lost" and used Nazi salute. In June ONR organized a demonstration for commemorating the anniversary of "the invasion on Myślenice" - the anti-Semitic riots in the thirties, when Jewish shops were pillaged and synagogue burned. Participants of 2007 demonstration chanted "Poland for Poles", "It's Poland not Israel", "We won't let Jews spit in our face".

Politicians

What concerns us the most is the fact that hate speech is also expressed by the politicians and other public figures which undoubtedly must have influence on the quality of a public debate. Last year we faced an embarrassing event when Polish Euro-deputy Maciej Giertych published a brochure "War of civilizations in Europe". This publication referred to works of a conservative historian Feliks Koneczny and presented Jews in a way that could lead to aggression and dislike as a "worse" nation. It should be mentioned that Hans-Gert Pöttering called this brochure the substantial violation of the fundamental individual rights, especially dignity of a human being". We also face hate speech in politicians' blogs were they often give vent to their most secret thoughts.

Our association had to intervene when one of the Polish deputies Zbigniew Nowak put some negative characteristics of Jewish people on his blog and stated that the current Polish politics is determined by the people of Jewish origin. A few months ago we had to take legal steps against one of the right-wing politicians who used in his blog the words "Jewish barbarian" and "German boorishness".

Racism on the stadiums

Racist epithets and insults addressed to dark-skinned soccer players happen not only in Poland. There are many such incidents but what may seem specific about Polish situation is that stadium hooligans use hate speech based on race or ethnic origin to degrade the rival team. For example, in Łódź, where Jews used to be one third of all inhabitants, the worst insult is to suggest any Jewish roots of the rival team.

Racism and anti-Semitism in the media

Hate speech is present in magazines and books which can be bought almost everywhere - even in church libraries. You can easily recognize such magazines by their titles - such as "I'm Polish", "Only Poland", "Recognize Jew" or "Szczербiec" (national Polish symbol). Some of the hate speech examples used in those publications are terrifying. In one of the "historical" books of Tadeusz Bednarczyk the author recommends that the Polish people should organize civil self-defense against "the most fanatical enemies of Poland - modern Jews". He also reminds that during the Nazi occupation the punishment of flogging was used and it had 95 percent effectiveness, so he finds the use of it worth considering.

Anonymous and apparently neutral activities - graffiti and jokes. "Jokes" on Jews relating to Holocaust experience.

Face to face attacks

Hate speech acts may be even more serious. In 2006 in Warsaw, antifascist activist Maciej D. was attacked with a knife as the "race betrayer" after his picture was added on the Redwatch website. Luckily, in 2007 in a similar case the tragedy was prevented. Anna Kloza was a teacher in one of the high schools in Białystok, cooperating with the Centre of Civil Education and promoting tolerance classes. Her picture was put on the Redwatch website and just after this she began to receive SMSs with threats such as "You Jewish litter, you'll finish with a knife in your back". Fortunately, the Police found perpetrators, who were convicted by a District Court in Zabrze.

Reaction of public authorities

Examination of court files

In mid-2008 we began to examine the court files from the point of view of offences under Art. 256 and 257 of the Penal Code (propagation of Fascism and totalitarianism and insulting a group or a person), and – a new point – analyzing cases under Art. 119 of the Penal Code (violence or unlawful threat).

The courts reacted in different ways; in certain cases we were sent straight to the Regional Courts as the District Court did not carry put the statistics of such cases and had no data, one court referred to the personal data protection, several courts did not reply, and two of them sent their files to our office. We obtained the information that at that period, 47 cases were pending, of which we have analyzed the files of 12.

Usually such cases ended with the court ruling about a fine or imprisonment, and the execution of punishment was suspended for the probation period.

Legal framework and application and interpretation of law by the prosecutors and judges

In addition to international obligations regarding combating hate speech (Art. 20 of International Covenant on Civil and Political Rights 1996, International Convention on the Elimination of All Forms of Racial Discrimination of 1965, Durban Declaration and Program of Action of 2001), Polish penal code criminalizes both incitement to hatred on the basis of race, ethnic, national origin or belief and insulting people on this basis. Nevertheless, our experience shows that such legal framework is not – in practice - a sufficient and effective tool for preventing and combating hate speech.

First of all, we cannot trust legal statistics – according to it the problem of hate speech does not exist. Statistics provided by Polish Ministry of Justice shows only few cases related to hate speech acts per year (art. 256 and 257 of the penal code). The real problem is, however, that many of hate speech cases are not brought to the courts. There are several reasons for that. First of all, victims of hate speech are terrified and humiliated. Secondly, it is the system of justice that fails. Offences of hate speech should be brought to the courts by the police or public prosecutor acting *ex officio*, every time they face such case. In fact, they usually wait for filing a notification of an offence. Then, the problem is that the proceedings are not initiated because according to the prosecutor there is no characteristic mark of an offence, so there's no reason to initiate the criminal proceedings. In such situation, numerous cases cannot be even analyzed by an independent court because they would never get there. So it is obvious why the problem of hate speech is almost invisible in the statistics of the Ministry. According to statistics of the regional prosecutor's offices in 2003-2007 there were 54 hate speech cases in Warsaw region, 25 in Krakow and 18 in Gdansk.

The greatest problem with combating hate speech is not the law, which we find pretty sufficient, but observance and application thereof by the judicial bodies. It is caused mainly by the lack of awareness and underestimating the dangers of hate speech for the society as a whole but also the long-lasting tradition of stereotypes and prejudice. That is why our association endeavors to first of all monitor hate speech cases in courts and prosecutors' offices to find out what decisions are being made and on what basis. Moreover, we do our best to draw attention of the judicial bodies to the problem of hate speech and harm which it does.

Here are several examples from our monitoring on how law is applied and interpreted by prosecutors and judges in hate speech cases:

1. Insults and incitement to hatred – what does it mean?

These were the cases of hate speech in articles and books, and their authors never faced the criminal proceedings because according to the prosecutors there was no hate speech at all. Prosecutors did not consider the expressions such as: "Jews lie, steal all, promote their perversions", "Jewish thieves, hyenas" or "Jews are the hotbed of all evil in the world", "Jews are the most disgusting vermin" as offensive. According to the prosecutors dealing with those publications, their authors did not intend to

insult Jewish people (intent is the necessary element of the hate speech offence) but only presented their point of view which is guaranteed by the freedom of speech. Second, the prosecutors had doubts whether these are the insult words, as in order to offend somebody, one should use the words which are considered as "generally offensive". What amazes us most is how the prosecutors treat the incitement to hatred. In one of the publication cases the prosecutor stressed that it is actual violence that is to be punished and not "just words". But even the abovementioned suggestion used in one of the books to flogger Jewish people was not qualified as the incitement to hatred. In 2005, the district court in Kielce discharged a person that took part in a demonstration with a sign "We will release Poland from euro-betrayers, masons and Jewish mafia". According to the courts that analyzed this case there was no incitement to hatred against Jews as the sign stated "We **will** release" instead "**Let's** release", so the author of this expression had no direct intent to do this.

2. Judicial bodies' responsibility to act

According to the Polish penal code, offences of hate speech are prosecuted ex officio, which means that no notification of an offence by the victim is needed. Nevertheless there are many cases in which such bodies remain passive. In one of such cases, the building of the Jewish Youth Organization was scribbled with the offensive anti-Semitic graffiti. Activists of the organization were informed that action will be taken only if they file the notification of this event.

3. Problems with qualification

In November last year Chief Rabbi of Wrocław was insulted by a young drunk man while traveling on the train to Warsaw. The prosecutor qualified this act as the common insult (as Rabbi filed the notification) but did not consider it a "special" hate speech insult based on nationality and belief which is punished more strictly.