



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Consideration of reports submitted by States
parties under article 9 of the Convention**

**Twentieth and twenty-first periodic reports of States parties
due in 2012**

Poland* **

[5 November 2012]

* This document contains the twentieth and twenty-first periodic reports of Poland, due on 4 January 2012, submitted in one document. For the seventeenth to nineteenth periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/POL/19 and CERD/C/SR.1938, 1939, 1963.

** In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document has not been edited.

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List of abbreviations

| | |
|------------|---|
| BG | Border Guard |
| CBI | Central Bureau of Investigation |
| CCP | Code of Criminal Procedure |
| CSO | Central Statistical Office |
| ECtHR | European Court of Human Rights |
| EIS | Early Intervention System |
| EPC | Executive Penal Code |
| GPH | General Police Headquarters |
| GPO | General Prosecutor's Office |
| HFHR | Helsinki Foundation for Human Rights |
| HRD | Human Rights Defender |
| ISA | Internal Security Agency |
| MCNH | Ministry of Culture and National Heritage |
| MIA | Ministry of Interior and Administration ¹ |
| MJ | Ministry of Justice |
| MNE | Ministry of National Education |
| NBC | National Broadcasting Council |
| NCIC | National Consultation and Intervention Centre |
| NLI | National Labour Inspectorate |
| OC | Ombudsman for Children |
| ODIHR-OSCE | Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe |
| PC | Penal Code |
| PS | Prison Service |
| RP | Republic of Poland |
| VHP | Voivodeship Police Headquarters |
| WPH | Warsaw Police Headquarters |

¹ In November 2011, the Ministry of Interior and Administration was replaced by the Ministry of Interior and the Ministry of Administration and Digitalisation. Taking into account the reporting period and the fact that most of activities described in the Report pertain to MIA activities, the name MIA is used throughout the Report.

I. Information on the implementation of recommendations of the Committee on the Elimination of Racial Discrimination issued following the examination of the previous report submitted by Poland (CERD/C/POL/CO/19)

Information on the recommendations contained in paragraph 4 of the Committee's concluding observations (CERD/C/POL/CO/19)

1. The Act on national and ethnic minorities and the regional languages requires public authorities to take appropriate measures to protect, preserve and develop the cultural identity of minorities as well as to preserve and develop the regional languages. Pursuant to the above-mentioned Act, the Roma are one of ethnic minorities. Thus, according to the Act in question, they benefit from statutory measures aimed at sustaining the cultural identity of minorities. It should also be pointed out that provisions of the Act increased the potential influence of representatives of minorities, including the Roma minority, on issues affecting them. Since 2008, a standing working team has been operating within the Joint Commission of the Government and National and Ethnic Minorities – the Team for Roma Affairs. In the discussed period, 10 meetings of the Team took place.
2. Within the structures of territorial government administration, in 15 out of 16 voivodeships (with the exception of Świętokrzyskie Voivodeship), Voivode's Plenipotentiaries for National and Ethnic Minorities have been appointed to coordinate the implementation of the State policy on national and ethnic minorities at the regional level, with a particular focus on the cooperation with local organisations of national and ethnic minorities, including Roma organisations.
3. The primary component of support for the Roma community in Poland is the Programme for the Roma Community in Poland for 2004–2013, with its possible continuation in the subsequent years. Under the Programme, activities are carried out for the improvement of situation of the Roma in such fields as education, employment and housing. The activities in the area of improvement of housing conditions in 2009–2010 consisted in the construction of new housing units, renovations and providing utilities to over 1 200 Roma dwellings (on average slightly over 600 flats per year; data for 2011 are not yet available, but it can be expected that the number is going to be similar). The dynamics of these activities is increasing – in comparison with the beginning of activities (in 2004), the number of dwellings covered by the programme for improvement of housing conditions increased threefold.
4. The number of persons from the Roma community covered by vocational or upskilling training in 2009–2010 amounted to 269 persons, while 74 persons were employed in subsidised jobs (data for 2011 are not yet available). An important complement to activities in this field was the organisation of upskilling and requalification training courses and vocational counselling, delivered primarily under the so-called “Roma Component” of OP HC financed from the European Union funds (European Social Fund) (information on this Programme is provided in paragraph 7).
5. Activities aimed at improving the situation of the Roma community in terms of education are discussed in paragraphs 12 to 25.
6. In 2011, in connection with the termination of the Programme for the Roma Community in Poland due in 2013, the Minister of Interior and Administration competent for the implementation of the Programme commissioned an independent non-governmental organisation to draft its evaluation, whose conclusions will be used to develop a new strategy for integration of the Roma community in Poland in subsequent years. In order to

obtain information on the tangible results of the Programme, the MIA monitored its implementation on an on-going basis, consulted the directions of the integration policy towards the Roma minority with the Team for Roma Affairs of the Joint Commission of the Government and National and Ethnic Minorities and – in order to exchange experience and best practices – cooperated with international organisations and institutions (ODIHR-OSCE, European Commission, Council of Europe, etc.). Furthermore, the MIA carried out broad information activities on the forms of assistance available to the Roma community and actions aimed at activating Roma non-governmental organisations.

7. Under the so-called “Roma component” of the Operational Programme Human Capital OP HC (2007–2013), Measure 1.3 Countrywide occupational integration and activation programmes, 2,842 persons from the Roma community were covered by support by the end of 2011. At the same time, under Submeasure 1.3.1 Projects for Roma Community (call for proposals), 48 contracts are being implemented, totalling 39 million PLN (ca. 9.2 million EUR). Pursuant to the Detailed Description of Priorities of OP HC, the projects cover activities in the fields of employment, education, social integration and health, which contribute to increased social and vocational activity of the Roma community. The tasks delivered under the Programme for the Roma Community and the “Roma Component” of OP HC are of complementary nature and constitute an important part of actions taken by the government of the Republic of Poland with a view to counteracting the marginalisation of the Roma community in Poland, combating poverty and addressing the problem of inherited poverty.

8. It should be noted that limiting poverty of the Roma community is a long-term process and its results will become visible in the long run. In order to improve the economic situation of the Roma community, it is crucial to increase the level of education in this group, including vocational skills. It is a long process which, in addition to funds and relevant investments, requires further involvement of public administration, local communities and – what is of particular importance – interested parties themselves. Alongside the programmes described above, the Roma community is also covered by other programmes aimed at combating poverty (e.g. Social Policy Strategy for 2007–2013, Multiannual Programme of State Assistance for Supplementary Nutrition, National Programme for Social Security and Social Integration 2008–2010). According to the government of the Republic of Poland, the solutions currently in place may prove that development and implementation of any new programmes for eliminating poverty in the Roma community are not necessary.

9. Data on average lifespan are collected by CSO annually, in the breakdown by sex, regions, voivodeships and subregions. Due to the fact that the “declaration of death” form does not contain information on nationality or ethnic origin, it is not possible to calculate an average life expectancy indicator using this factor.

10. CSO also carries out representative studies used to calculate the percentage of population living below specific poverty thresholds (so-called statutory, relative and minimum standard of living). Due to the rather low share of Roma (and other national and ethnic minorities) in the overall population of Poland it is not possible to arrive at precise results for specific groups in this type of studies. However, data pertaining to the level of poverty broken down by regions are published annually.

11. It will be possible to obtain up-to-date data on demographic and socio-economic characteristics of the population of Poland, including the situation of national and ethnic groups on the labour market, based on the results of another national census carried out in 2011 (the expected date of publishing the results in this regard is the 4th quarter of 2012). A post-census study on the national identity of the population of Poland is planned for 2013. The study will deal with such issues as complex national identities related to the origin (multiple national identifications, ethnic origin, parents’ nationalities, etc.).

Reply to the recommendations contained in paragraph 5 of the Committee's concluding observations

12. In 2009–2011, support for education of Roma pupils was continued through the implementation of an educational module under the government Programme for the Roma Community 2004–2013. For this purpose the following amounts were transferred from the budget of the Ministry of Education:

(a) In 2009 a total of 700 000 PLN (ca. 166 500 EUR) for co-financing 97 educational tasks proposed by 81 entities;

(b) In 2010 a total of 700 000 PLN for co-financing 99 educational tasks proposed by 85 entities;

(c) In 2011 a total of 700 000 PLN for co-financing 78 educational tasks proposed by 67 entities.

The entities that carry out tasks include primarily territorial self-government units running schools, where Roma pupils fulfil their schooling and education obligations, as well as Roma associations and non-governmental organisations working for the benefit of Roma community. Funds, transferred as grants, are primarily allocated to equipping Roma pupils with textbooks, school accessories, sports outfits, clothes and shoes, which is of particular importance in the case of Roma pupils coming from families that rely on social benefits for support. Under educational tasks activities such as organisation of summer camps and day camps, winter camps, scout camps, sightseeing trips, sports and recreational activities are also co-financed. Actions taken in the field of education are complemented by material assistance. It applies mainly to funding that allows Roma children to undergo pre-school education on a systematic basis. It includes the provision of textbooks, school accessories, teaching aids and personal injury insurance to children in particular need of material assistance.

13. Community centres are an important component of actions taken in order to integrate the Roma minority and counteract social exclusion of this group. Such centres, bringing together both young Roma and non-Roma children and youth, offer a broad range of additional cultural, music and sports activities and language courses. In 2009–2011 more than 50 community centres throughout the country received funding of ca. 4.5 million PLN (ca. 1 million EUR). At this point it should be noted that Roma children also attend day rooms financed from self-government budgets.

14. The introduction of an institution of Roma education assistant, initially under the Programme for Roma Community in Poland, became an instrument to increase the participation of Roma children in the education system. Because of high efficiency and effectiveness of this solution, the profession of Roma education assistant was permanently introduced to the Polish education system. At the same time the financing for additional educational needs of pupils of Roma origin was increased by 150% per pupil in relation to majority pupils. This solution facilitates stable financing of the activity of an assistant as well as of a teacher supporting education of Roma children and financing of additional educational tasks for Roma pupils (compensatory lessons, psychological and pedagogic assistance, e.g. correction and compensation activities, logopaedic therapy, etc.), which is independent of the funds of the Programme. In the reporting period, the number of assistants remained on the level of around 100 persons, as did the number of teachers supporting education of Roma pupils. This solution facilitated Roma's perception of school as an institution more open to the needs of and more friendly towards this community.

15. Furthermore, as part of the implementation of educational tasks under the Programme, the Minister of Interior and Administration entrusted non-governmental organisations with the task of delivering a scholarship system for Roma students and

particularly gifted pupils. In 2009–2011, a group of about 70 students (each year) and about 70 particularly gifted pupils in total were covered by scholarship schemes. The scholarship system for pupils of Roma origin at the level of post-primary schools, which came into force in 2010/2011 school year, covered a group of 55 pupils.

16. Results of monitoring of the seven-year implementation of the Programme for the Roma Community in Poland indicate that the number of children fulfilling the schooling obligation has increased (in some voivodeships all children under this obligation attend schools) and both attendance and school results of Roma pupils have improved.

17. Overrepresentation of pupils of Roma origin in the system of special schools is a significant problem, reported both by international institutions at the European level and Roma non-governmental organisations. Therefore in 2010, the Minister of Interior and Administration asked voivodes to submit information on the number of pupils of Roma origin referred to special schools and special nursery schools on the basis of opinions of psychological and pedagogical counselling centres. The data submitted show that on average 16.8% of pupils of Roma origin reported in 2010 to the Education Information System (as pupils, for whom educational institutions undertake additional educational tasks) were referred to special classes, departments or schools (nursery schools).

18. As regards issues related to Roma pupils being referred to special schools, it needs to be explained that pursuant to the Act on the system of education, Polish system of education provides support in development and psychological and pedagogical assistance to all children attending nursery schools, schools or other educational institutions, in accordance with their developmental and educational needs, but solely at the request of parents/legal guardians. In the case of children and youth with special educational needs, these objectives are met by taking such measures as:

(a) Adjusting the content, methods and organisation of education to psychophysical capabilities of pupils;

(b) Providing an opportunity to use psychological and pedagogical assistance and special forms of didactics;

(c) Providing disabled children and youth with a possibility of undergoing education in all types of schools, in accordance with their individual developmental and educational needs and predispositions;

(d) Taking care of disabled students, i.e. providing them with an individually adjusted education process, forms of education and syllabi, as well as revalidation activities.

19. It needs to be emphasized that “special educational needs” is a very broad term. Pupils with special educational needs, who particularly need to be provided with psychological and pedagogical assistance at nursery schools, schools or other educational institutions, include both pupils who are disabled, socially maladjusted or under threat of social maladjustment, and pupils whose need for assistance is a result of social neglect related to the material status of pupils and their families, manner of spending free time, social contacts, or are a result of adaptation problems related to cultural differences, change of educational environment, including related to prior education abroad. If a diagnosis confirms that a child suffers from dysfunctions requiring special organisation of education and special methods of work, special education shall be organised. In such situations, the inclusion of a child into a system of special education is based on the opinion of a public psychological and pedagogical counselling centre issued at the request of parents (legal guardians). Nobody may induce a parent to submit such a request against his or her will. All actions by a psychological and pedagogical counselling centre are taken following the request and with the consent of a parent/legal guardian. Opinions on the need for special

education are issued for a school year, a stage of education or a period of learning in a given school. A parent may submit an application to repeal such an opinion or to issue a new one at any time. Opinions are issued to applicants/parents, who themselves decide whether to present it to a school in order to have special education provided. Applicants have the right to appeal against opinions. Special education is provided by territorial self-government bodies, responsible for running of a nursery school or school of a given type (general, integration, special), as indicated by a parent/legal guardian. Legal regulations presented above show that decisions about all actions taken in respect of a child and related to its education in the education system belong to its parents/legal guardians. Thus, children are placed in special schools at the request of their parents/legal guardians.

20. In order to investigate how opinions on the need for special education of Roma pupils are issued by public psychological and pedagogical counselling centres, the Ministry of National Education undertook the following activities:

(a) In 2010 the MNE carried out a study in 16 psychological and pedagogical counselling centres from 15 voivodeships, which issue opinions on the need for special education to Roma children. Counselling centres from Wielkopolskie Voivodeship were excluded, since the Voivodeship had not submitted to the MNE, via the MIA, any applications for financing the implementation of the educational module of the government Programme for the Roma Community in Poland in 2010. The counselling centres covered by the study issued a total of 2 541 opinions on the need for special education in 2009/2010 school year, of which 23 for Roma children (which constitutes 0.9%). The information obtained from 16 directors of counselling centres indicated that Roma education assistants rarely accompanied parents of Roma children at interviews with parents and pupils preceding psychological and pedagogical examination since in general neither parents nor children have problems with verbal communication with counselling centres' specialists during examinations;

(b) In 2011 the MNE organised five regional information and consultation meetings with representatives of all psychological and pedagogical counselling centres under the project called Increasing efficiency of education of pupils with special educational needs. All issues related to the issuing of opinions concerning Roma children by counselling centres were discussed in detail at these meetings, with a particular focus on the necessity to use non-verbal and culture-neutral tests when testing Roma children, taking into account the level of their command of the Polish language.

21. In order to increase the efficiency of teaching pupils with special educational needs and providing them with psychological and pedagogical assistance, new legal regulations were drafted in 2010. The Regulation of the Minister of National Education on principles of provision and organisation of psychological and pedagogical assistance in public nursery schools, schools and other educational institutions lists the entities entitled to initiate the provision of psychological and pedagogical assistance in nursery schools, schools and other educational institutions; in addition to teachers, tutors of education groups, specialists providing tuition to pupils, psychological and pedagogical counselling centres, parents and pupils themselves, the list also includes Roma education assistants or teachers supporting education of Roma pupils. A new formula of psychological and pedagogical assistance introduced by the above-mentioned provisions ensures early identification of child's needs at school/educational institution and provision of such assistance as early and as close to child's education environment as possible. A Roma education assistant is one of entities that having identified a child's needs may propose that a child is covered by psychological and pedagogical assistance. A team of teachers and specialists plans both forms and manners in which such assistance is provided to a child, as well as activities supporting parents of a pupil. Each Roma child who due to individual developmental and educational

needs requires psychological and pedagogical assistance should be provided with relevant assistance in its school or educational institution.

22. In 2009, the MNE together with the MIA approved a strategy for eliminating the so-called Roma grades. It was assumed that as of 2009/2010 school year there would be no recruitment in Poland to any of five Roma classes functioning at the time, while pupils from these classes continuing their education would receive educational assistance according to individual needs (for example in the form of compensatory classes). In 2009/2010 school year Roma classes still functioned in two primary schools (in Maszkowice and Elk). They included pupils who because of their age should be at higher stages of education system, pupils with decisions on lowering of education requirements as well as pupils with high levels of educational neglect who did not get promoted to a subsequent grade due to the lack of progress or poor attendance. As of 2010/2011 school year, the so-called "Roma classes" no longer exist.

23. In 2011, the MNE together with the MIA and the Office of the Government Plenipotentiary for Equal Treatment, in cooperation with the Contact Point for Roma and Sinti Issues attached to ODIHR-OSCE in Warsaw, initiated activities aimed at drafting and publishing of a Brochure for Roma Parents. The brochure is to serve as a practical guide, presenting to Roma parents how significant early education is for the development of their children and their success at later stages of education. The objective of the brochure is to raise awareness of Roma community concerning issues related to the right to education and the responsibility of Roma parents for the enjoyment of this right by their children (in particular for fulfilling schooling and education obligations). A working group composed of representatives of government institutions and representatives of Roma community appointed by the Team for Roma Affairs of the Joint Commission of the Government and National and Ethnic Minorities is drafting the brochure. Publication is expected in 2012.

24. The Polish legal order provides for the possibility of introducing bilingual teaching in Polish and Romani. However, despite encouragement from Polish government administration, Roma minority did not take advantage of this opportunity. One of the most significant reasons is the reluctance of Roma community to promote its language in any form, because of its taboo status in this culture, which results in the absence of both core curricula and teachers of Roma origin, who could teach the language. Another reason is the multiplicity of Roma dialects existing in Poland and absence of standardised spelling of the language. However, acknowledging the threats to the development of the language and to sustaining of the cultural identity in the long term, the government of the Republic of Poland co-finances projects related to publications in Romani (a primer for Roma children in two dialect versions, comic strips, storybooks, board games, etc.). Three newspapers published partly in Romani by Roma organisations are continuously financed from the state budget. Similar publishing projects are also financed from the so-called "Roma component" of OP HC under the European Social Fund.

25. Alongside educational activities targeting Roma children and youth, both under the Programme for the Roma Community in Poland and under the "Roma component" of OP HC, literacy courses and Polish language courses for adults are organised. One of Roma non-governmental organisations runs a primary school for adults of Roma nationality. Under the Programme there is also a possibility of financing fees for life-long training or reimbursement of costs of travel to educational institution for persons learning in schools for adults.

26. Within the scheme for support of culture of national and ethnic minorities the Minister of Culture and National Heritage provided grants for infrastructural projects targeting the Roma community, which facilitated e.g. the preparation of technical documentation of the Roma Culture and Education Centre in Radom and digitalisation of archives of the Roma Historical Institute. Under the scheme for promotion of cultural

diversity and promotion of knowledge of Roma minority a grant was awarded to Dialog – Pheniben magazine, published in electronic and printed versions. The Polish Film Institute co-financed feature films touching on Roma-related issues, e.g. Papsza and Puri Daj, telling stories of Roma in Poland in 20th century, particularly during World War II, as well as documentaries, such as Crulic – the Path to Beyond.

Information on the recommendations contained in paragraph 6 of the Committee’s concluding observations

27. The Police implement a number of activities aimed at increasing awareness of Police officers to facilitate solving the problem of ethnic-related discrimination and anti-Semitism. These activities have primarily a regional dimension, but some of them are coordinated at the level of General Police Headquarters, through the implementation of formally approved policies of plenipotentiaries for human rights protection for 2010–2012. Under the measure Strengthening of tolerant attitudes and behaviour patterns, several actions were taken including a nationwide workshop devoted to the issue of tolerance and combating all forms of prejudice in the context of preparations for Euro 2012; numerous working meetings were organised in order to review vocational training programmes in terms of human rights protection and to develop methodologies for teaching about these issues, as well as to draft new anti-discrimination projects for the Police; delivery of workshops for field units of the Police were continued, where officers’ sensitivity to issues of diversity, tolerance and anti-discrimination activities was raised (in cooperation with MIA, ODIHR-OSCE and HCHR); in cooperation with MIA, GPH and ODIHR-OSCE an educational guide was drafted and published on combating and preventing hate crimes, as well as information brochures distributed among trained officers from field units of the Police; information on incidents, phenomena and crimes related to discrimination or inadequate Police action was collected and processed for training purposes on an on-going basis; meetings with managing staff and officers were organised with a focus on discussing current examples of unprofessional behaviour of Police officers, while on and off duty.

28. The systemic delivery of cascade training within a scheme for in-service training for officers designed by a special team has been an important activity. The training is delivered under the Law Enforcement Officer Programme for Combating Hate Crimes coordinated by the MIA and implemented in the Police in cooperation with ODIHR-OSCE. The training course entitled the Specialist Course on Counteracting and Combating Hate Crime covers such issues as identification of hate crimes, proper execution of the investigation process and collection of evidence in preparatory proceedings, adequate reaction to such crimes and prevention of such incidents. In the reporting period, 115 officers-trainers were trained at the central level and more than 38 000 officers at the local level.

29. The Border Guard officers were offered training aimed at increasing their awareness in the area of preventing racial discrimination. Between August 2011 and December 2011 the following training courses were organised: Professional relations and respecting human dignity; Stereotypes and prejudice – professional ethics; Awareness of cultural differences in the context of border checks; Style and life Cultural contexts of alien behaviour patterns and Intercultural communication and cultural contexts of alien behaviour patterns.

30. In order to ensure that Police and BG officers act in line with the law, a procedure was approved for monitoring all exceptional events and complaints including aspects of infringements of the prohibition of discrimination. More information on functioning of this mechanism is provided in paragraph 113 of this Report.

31. In detention centres the principle of tolerance and non-discrimination is implemented under legal provisions in force and approved procedures. The principles and conditions of detention of foreigners in guarded centres and detention centres for the purpose of expulsion are laid down in the Regulation of the Minister of Interior and

Administration on the requirements to be met by guarded centres and detention centres for the purpose of expulsion and internal regulations of foreigners' stay in a guarded centre and detention centre for the purpose of expulsion as well as in internal regulations. Attention to observing legal regulations in force and ensuring adequate living conditions e.g. by providing space to practice one's own religion, adjusting the diet to requirements of religion and culture, providing an opportunity to attend didactic and educational activities, facilitates the implementation of the principle of tolerance and non-discrimination.

32. Issues related to combating all forms of discrimination and observation of human rights are included both in the syllabus of the preparatory course for the Prison Service officers and in syllabi of all levels of Prison Service schools: non-commissioned officers, cadets and officers schools. They are delivered both directly, i.e. through discussing the measures to prevent discrimination, protect the rights of migrants, refugees and national and ethnic minorities, and indirectly, i.e. when discussing issues related to the protection of human rights, with a particular focus on the protection of rights of persons detained in penitentiary facilities. At the same time it should be mentioned that penitentiary facilities carry out a variety of prevention activities, both individual and group, organised under programmes for prevention of aggressive behaviour, aggression replacement training and individual counselling. The objective is to maintain a stable atmosphere among inmates, including in particular reducing aggressive and auto-aggressive behaviour (sometimes resulting from intolerance towards persons of another race, nationality or ethnic group). The treatment of detainees and regulations pertaining to implementation of penitentiary measures included in the Executive Penal Code and specific provisions based on it and in European standards are a constant component of training provided to Prison Service officers and employees. The objective of this training is to disseminate knowledge on the rights of detainees, prohibition of discrimination on the grounds of ethnic origin, nationality, religious denomination, sex or sexual orientation. Penitentiary personnel implements group programmes in prisons and detention centres, targeting specific groups of convicts, promoting tolerant attitudes, teaching convicts non-aggressive methods of solving conflicts and respecting other people's rights. Disciplinary measures are taken against convicts infringing social standards in this respect.

33. Prosecution in Poland pays close attention to all hate crimes committed against representatives of groups singled out on the grounds of racial, ethnic, national or religious background or the lack of religious beliefs. In appellate public prosecutor's offices racism consultants have been appointed. These are prosecutors with experience in this type of proceedings, with a task to assist other prosecutors, which will facilitate standardisation of practices and elimination of typical mistakes in such proceedings. Furthermore, racism consultant in Public Prosecutor's Office is responsible for cooperation with other services and institutions involved in combating race related crimes.

34. All criminal proceedings concerning hate crimes are subject to monitoring, irrespective of the wronged group. Every six months the Department of Preparatory Proceedings in Public Prosecutor's Office drafts a special report containing an analysis of preparatory proceedings across the country. Within the framework of line supervision appellate and district prosecutors were obliged to investigate cases leading to issuing decisions on termination of preparatory proceedings or refusal to start proceedings. The objective of such investigation is to verify whether such decisions were expedient. Furthermore, in November 2011 Public Prosecutor's Office drafted methodical guidelines for prosecutors carrying out or supervising criminal proceedings in cases related to hate crimes. The guidelines contain suggestions and recommendations on the collection and searching for evidence and identifying perpetrators, as well as remarks on assessment of selected behaviours in penal and legal terms. They are applicable to all forms of crimes, including spreading hatred through Internet, public insults (particularly in sports arenas), profanation of objects of religious cult, violation of bodily integrity, unlawful threats or

destruction of property. Statistical data for 2010 indicate that almost all documented crimes in cases ending in prosecutors' referring indictment to court meet with an adequate penal reaction in the form of court sentences. In the period in question judgements were issued in 30 cases involving 37 persons, of whom 35 were convicted and only 2 acquitted.

35. Furthermore, cases of hate crimes were monitored by the Monitoring Team on Racism and Xenophobia (since December 2011 Human Rights Protection Team) in the MIA. More information on activities of the Team is provided in paragraphs 37, 46 and 95 of this Report.

Information on the recommendations contained in paragraph 7 of the Committee's concluding observations

36. Following the recommendation of the Council of Europe Commissioner for Human Rights included in the Memorandum to the Government of the Republic of Poland in 2007 and pertaining to Protection of historic monuments and cemeteries of minorities out of respect for them and for protection of the common heritage, the Police implemented local action plans for 2008–2009, focused on particular protection of historic monuments and cemeteries of minorities. These actions were coordinated by the plenipotentiaries of voivodeship commanders and of the Commander of Warsaw Police for human rights protection. The main forms and methods of activities included: workshops for police officers and employees (involving representatives of non-governmental organisations), thematic training and conferences organised by external entities, drafting of educational materials (brochures, flyers, guides), information and education activities delivered jointly with non-governmental organisations and targeting local population, as well as information meetings for cemetery caretakers and students. Anti-discrimination issues and those related to significance of protection of memorial sites, historic monuments and cemeteries were included in training for and meetings with school youth delivered by police officers involved in crime prevention. These activities translated into deeper involvement of Police in fighting acts of vandalism and profanation in cemeteries. There is also an on-going cooperation with cemetery administrators in order to eliminate incidents related to devastation of monuments and cemeteries of minorities. Cooperation extends to churches and religious denominations (particularly in the field of protection of objects of religious cult), as well as to Voivodeship Conservators of Monuments and the National Heritage Board of Poland.

37. The Ministry of Interior and Administration has been involved in activities aimed at monitoring incidents of anti-Semitism. Between August 2009 and December 2011 the Monitoring Team on Racism and Xenophobia (since December 2011 Human Rights Protection Team) in the Department of Control, Complaints and Petitions of the MIA registered 70 cases of anti-Semitic nature, of which decisions were issued in 6 cases (including two not yet binding).

38. In September 2011 an operation and investigation group was established in the Voivodeship Police Headquarters in Białystok on property damage, promotion of anti-Semitic slogans and Nazi regime, which monitors all related preparatory proceedings in Podlaskie Voivodeship on an on-going basis. Furthermore, all commanders of police units in Podlaskie garrison were obliged to intensify supervision of sites of specific nature due to historical or religious character, including Jewish cemeteries. A list of sites of particular significance to historical heritage was compiled in cooperation with other institutions as well.

39. In December 2011 the Voivodeship Police Headquarters in Szczecin published a booklet entitled Police fighting for historic monuments. The publication is a compendium of knowledge on legal provisions related to crime against historic monuments, including devastation of cemeteries and mass graves. The book will be distributed to all police units

in the voivodeship, police academies and institutions involved in the protection of historic monuments.

40. Under the project of the Polish PS Tikkun – Repair aiming at the preservation of selected components of Jewish heritage, inmates of penitentiary facilities participated in renovation and tidying of Jewish cemeteries. The project was developed to preserve selected monuments of Jewish heritage in Poland. 55 penitentiary facilities joined the project. It was delivered in two stages. The first stage, implemented until the end of April 2010, consisted in educational activities for the Prison Service personnel and inmates, familiarising them with the history of coexistence of Jews and Poles in the historical territory of the Republic of Poland. Lectures were delivered by representatives of Jewish institutions and organisations, including Chief Rabbi of Poland, representatives of the Foundation for Preservation of Jewish Heritage and employees of the Jewish Historical Institute. The second stage implemented between April and September 2010 consisted in tidying Jewish cemeteries by volunteering inmates and Prison Service personnel.

41. The Government of the Republic of Poland took a number of educational measures to make the public more sensitive to counteracting acts of anti-Semitic nature. In the reporting period, the Ministry of National Education carried out educational activities targeting education circles, including headmasters, teachers and students, related to counteracting anti-Semitism, racism and manifestations of intolerance, as well as to teaching about the history and culture of Jews, including the Holocaust. Below are several examples:

(a) Study visits, seminars and training courses for teachers of history and arts, organised by public teacher vocational development entities (including the Education Development Centre, an entity subordinate to the MNE) and Yad Vashem, in cooperation with the International Centre for Education about Auschwitz and the Holocaust of the Auschwitz-Birkenau State Museum in Oświęcim;

(b) The CLOSER TOGETHER – the History and Culture of Two Nations programme, implemented by the Education Development Centre, Yad Vashem and the Polish Institute in Tel-Aviv with the support of the MNE, which facilitated the development of a nationwide structure of regional coordinators and teachers (trained in Yad Vashem) who initiate and deliver their own school projects in the field and in cooperation with non-governmental organisations and local authorities, host groups of Israeli youth and visit Israel with Polish youth;

(c) Nationwide essay contest for students of secondary and higher secondary schools organised by the Education Development Centre in cooperation with the Children of the Holocaust Association in Poland;

(d) Nationwide contests: On a Common Ground for pupils of primary schools and secondary schools and History and Culture of Jews in Poland for students of higher secondary schools, organised by the Shalom Foundation with the financial support from the Ministry of National Education;

(e) European seminars and workshops organised by the MNE in cooperation with the Council of Europe;

(f) The European pack for teachers preparing to visit Auschwitz-Birkenau Memorial and Museum with their students, entitled A visit to Auschwitz. The pack was published in 2010;

(g) Educational programme entitled the March of the Living, organised annually in Auschwitz since 1988 on the International Holocaust Remembrance Day, celebrated according to the Hebrew calendar, with the aim to spread knowledge of the Holocaust tragedy among young people. In 2010 the March of the Living was attended by approx.

8,500 people of various nationalities and denominations from over 60 countries and regions, including Israel, USA, Canada, Australia, South Africa, South America, France, Germany, Belgium, Hungary, the Czech Republic and Slovakia. Around 1 500 Polish pupils and students participated in the ceremony. In 2011 about 6 000 young Jews from all over the world and about 1 000 Poles took part in the March of the Living;

(h) projects implemented under open calls for proposals for delivery of public tasks under Polish–Israeli cooperation of schools and youth exchange, whose objectives include: opening intercultural dialogue between young Israelis and Poles; respect for national and cultural identity; mutual overcoming of barriers, stereotypes and prejudice rooted in mentality and culture; counteracting discrimination, racism and anti-Semitism, as well as teaching about the heritage of Polish Jews, taking into account the history of Holocaust and martyrdom of Poles. 7 projects were implemented in 2010 and 8 in 2011;

(i) Activities of the Plenipotentiary of the Minister of National Education for Polish–Jewish Relations and the Consultative and Advisory Team for the Holocaust Education. The Team was established in order to ensure education about the Holocaust in the Polish education system and to enhance good practices in this field, developed in recent years. The work of the Team is coordinated by the Plenipotentiary of the Minister of National Education for Polish–Jewish Relations. The Team is composed of persons with an exceptional knowledge, background and experience in working for education about the Holocaust. One of the main tasks of the Team was to draft a so-called recommendation handbook through collection of existing and development of new guidelines on the Holocaust-related content that should be taught to students. In order to support activities of the Team, the MNE developed a number of proposals for actions supporting and promoting the Holocaust education in Poland, including programmes and textbooks, preparation of teachers, visits to memorial sites and Internet resources.

Information on the recommendations contained in paragraph 8 of the Committee’s concluding observations

42. Pursuant to the Regulation of the President of the Council of Ministers, in 2008 the Sports Events Security Council (SES Council) was set up, in line with Article 2 of the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches, as a consultative and advisory body to the President of the Council of Ministers. The tasks of the Council include: drafting prevention programmes aimed at increasing security at sports events and evaluating their implementation; initiating and providing opinions on legal acts related to sports events security; analysis and evaluation of actions taken by services and institutions in the field of sports events security; coordinating projects aimed at the prevention of acts of violence related to sports events, as well as coordinating and monitoring projects aimed at the prevention of discrimination-related phenomena, with a particular focus on racial discrimination related to sports events. Representatives of supporter associations were also included into the work of the Council. They actively participate in the work of the Standing Expert Group. The Standing Expert Group is responsible for e.g. analysis of legislation and situations involving the use of symbols banned from Polish stadiums.

43. The SES Council joined the Fans Together programme implemented by PL.2012 company. The primary objective of the programme is to create local centres delivering long-term pedagogic and educational efforts to football fans community (so-called fan-coaching). Fan Together project provides for establishing centres for working with supporters of Ekstraklasa clubs in EURO 2012 host cities. These will be local centres for supporters’ meetings operated by two employees. Their task will be to stay in touch with fan communities, coordinate and support fans’ initiatives in cooperation with local Football Supporters’ Associations, cooperate with external entities (the city, the Police, schools,

local press, clubs) and engage in media work (a monthly for supporters, a website of the project).

44. The Ministry of Interior and Administration participated in the I'm FAIR (Jestem FAIR) programme implemented in cooperation with the University of Lodz, the City of Lodz Office, and the Ministry of Sport and Tourism. The idea behind this project is to use the "fair play" concept as an educational element of fighting racism, xenophobia and anti-Semitism. The programme is implemented within the Council for Sports Events Safety and as part of the Government programme on reducing violence and anti-social behaviour Safer together (Razem bezpieczniej). The pilot programme has concluded by developing and publishing a report on studies carried out under the pilot project "I'm FAIR" entitled The rules of fair play as an educational value in school education and counteracting hooliganism on stadiums (Zasady fair play jako wartość wychowawcza w edukacji szkolnej i w przeciwdziałaniu chuligaństwu na stadionach). The programme attracted considerable interest among students and teachers alike. Therefore, the City of Lodz Office and the University of Lodz decided to implement the project at a larger scale. Between February and September 2011, the programme was implemented among first-grade students in all secondary schools in Lodz. This edition of the programme was concluded by carrying out evaluation studies to be used to develop and publish a Report. Very importantly, the initiative was supported by two largest Lodz football clubs: Lodz Sports Club (ŁKS) and RTS Widzew which committed to organising a meeting of both teams' players with secondary school students. The programme is a perfect example of an effective local partnership. The project partners also include: Polish Olympic Committee, Lodz Sports Club, RTS Widzew, Lodz Police Headquarters, Lodz Municipal Police, "Never Again" Association, "Red Card to Racism" Association, Out-of-school Activities Centre No 1 in Lodz, TVP Łódź, TV TOYA, Internet portal "Dzieci w Łodzi".

45. The Government programme on reducing violence and anti-social behaviour Safer together promotes also local measures for sports events safety focused on creating appropriate attitudes of mass events participants or promoting an appropriate model of football fans by implementing the following initiatives: subsequent editions of the contest for local self-government units for a project on sports events safety and informational and educational social campaigns aimed at promoting tolerance, respects for differences, indicating alternative mature attitudes, respect for competition and the sense of national identity while being open-minded. The campaign is addressed to children and teenagers.

46. Furthermore, the Ministry of Interior and Administration took measures to verify information on racist incidents in sports as part of the monitoring activity carried out by the Monitoring Team on Racism and Xenophobia (since 2011 the Human Rights Protection Team) within the Department of Control, Complaints and Petitions at the Ministry of Interior and Administration between August 2009 and December 2011. The Team registered 52 cases of racism in sport, of which 5 cases finished with a judgement so far (including 2 not yet legally valid).

47. Both at the central and regional level, training is provided to Police officers which involves discussions on the issues related to the symbolism of a racist, discriminatory and chauvinist nature used by pseudo-fans and behaviours violating human rights and/or public order on stadiums.

48. Moreover, with a view to streamlining and coordinating the actions taken to fight and prevent racism in sports, in some Police headquarters (for example the Warsaw Police Headquarters and the Voivodeship Police Headquarters in Wrocław) special Departments for Combating Violence among Pseudo-fans were established which deal with the broadly understood reconnaissance of the pseudo-fan community, preventing and fighting stadium violence, including racist acts, identifying and apprehending the perpetrators of such acts, and establishing cooperation and exchanging information with the representatives of sports

clubs and associations of fans. The work of the officers of the above-mentioned departments has already brought the first results. For instance, since the beginning of its functioning, i.e. since April 2011, the Police officers from the Department within the Voivodeship Police Headquarters in Wrocław have apprehended over 20 persons, some of whom were charged with inciting hatred on the grounds of racism and anti-Semitism; one of the persons was apprehended for tapping out the rhythm on a drum and shouting vulgar words and phrases insulting people of Jewish origin and the guest team which were then repeated by the crowd of fans during a match between Śląsk Wrocław and Widzew Łódź. The apprehended man was charged under Article 256 § 1 of the Penal Code and Article 257 § 1 of the Penal Code, and the prosecutor applied a preventive measure in the form of Police supervision and banned him from attending football matches. The case is currently examined before the criminal court in Wrocław.

49. The Government Plenipotentiary for Equal Treatment, in cooperation with the Ministry of Sport and Tourism, the Ministry of Interior and Administration, the Polish Olympic Committee and “Never Again” Association, organised conferences entitled No to racism in sport (Nie – dla rasizmu w sporcie) twice (in 2009 and 2010). The participants of the conferences included the representatives of all major sports unions functioning in Poland, sportspersons, officials and journalists. The first conference, held in October 2009, finished with signing a declaration No to racism in sport. The declaration (signed by the representatives of the Government and 44 out of 68 sports unions registered in Poland) refers, inter alia, to the recommendations of the European Commission against Racism and Intolerance on fighting racism in sport and constitutes a public confirmation of the involvement of professional sport organisers into building an open-minded and tolerant society, free of racism and xenophobia, through sport. During the second conference, which was held in December 2010, the measures aimed at eliminating racism from sport were reviewed. Furthermore, good practices in this regard were presented, and there was an award ceremony related to the contest organised by the Government Plenipotentiary for Equal Treatment in cooperation with the European Commission for sports journalists in the print and electronic media for works connected with combating racism in sport, promoting the “fair play” sport message, free from racism and hate speech.

50. Due to the fact that incidents of racist nature has repeatedly taken place during sports events, the Human Rights Defender requested the sports associations to prosecute such behaviour in disciplinary proceedings. However, the Defender was informed that statutes and regulations of sports associations do not provide for the possibility to initiate disciplinary proceedings in such cases. The Minister of Sport and Tourism took appropriate supervisory and monitoring measures. When implementing the recommendations of the Minister of Sport and Tourism, as well as the obligations resulting from the declaration entitled No to racism in sports, individual sports associations take adequate measures to prevent the occurrence of negative phenomena in sport, in particular discrimination based on racial or ethnic origin. In the framework of these activities certain sports associations introduce relevant provisions in their internal regulations. The Human Rights Defender systematically monitors the implementation of these provisions and other anti-discriminatory measures taken by sports associations.

51. The Ministry of Sport and Tourism co-financed the publication of a guide entitled How to combat racism (Jak walczyć z rasizmem) prepared by “Never Again” Association. The guide contains a set of best practices in the field of combating racism in sport and is additionally supported by the recommendations of the Council of Europe and other key institutions which actively fight against racism in sport. The guide was distributed during training sessions for coaches, instructors and stadium stewards.

Information on the recommendations contained in paragraph 9 of the Committee's concluding observations

52. The Polish law severely punishes the propagation of racially-motivated hatred and discrimination based on racial origin, as well as dissemination of racist materials. In the period covered by this Report two amendments of the Penal Code were introduced regarding provisions related to offences motivated by prejudice, including offences motivated by racial, ethnic or national origin. Article 256 of the Penal Code was amended. A new § 2 was added to this Article which penalizes activities such as producing, recording, checking, purchasing, storing, possessing, presenting, transporting or transferring printed matter and recordings or other items whose contents incite the recipient to public propagation of fascist or other totalitarian state regime or whose contents incite the recipient to hatred motivated by national, ethnic, racial and religious differences or differences resulting from lack of religious beliefs, taken with the purpose of disseminating such materials. The perpetrator shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years. Furthermore, in line with § 4, if a person is sentenced for committing an offence defined in § 2, the court rules the confiscation of items referred to in § 2, even if they are not the perpetrator's property. These amendments were introduced in response to the observed practice of selling items (e.g. movies, records, gadgets) whose contents incite to hatred via the Internet. The trade in items propagating fascist or other totalitarian regime or inciting to hatred motivated by national, ethnic, racial or religious differences or differences resulting from the lack of religious beliefs is not prohibited in the framework of artistic, educational, collector's or scientific activity.

53. On 8 September 2010, an amendment of the Penal Code changing the wording of Article 119 of the Penal Code entered into force. § 1 of this Article, providing for criminal liability for using physical violence against or making unlawful threats towards a group of persons or a particular individual based on discriminatory motives, remained in force. However, the previous Article 119 § 2 of the Penal Code (public incitement to activities defined in Article 119 § 1 of the Penal Code) was repealed and its wording transferred to new Article 126a of the Penal Code. Furthermore, Article 118a which concerns the attempts on life against a group of people or persecution of a group of people due to political, racial, national, ethnic, cultural and religious reasons or due to different world view, gender or lack of religious beliefs was added to the Penal Code. Pursuant to Article 126a of the Penal Code, public incitement to commit an act defined in Article 118 (genocide, biological destruction of a group of people), Article 118a and Article 119 § 1 of the Penal Code, as well as voicing public approval for the commitment of such acts is prohibited. Article 126b of the Penal Code, which was also introduced as part of the above-mentioned amendment, relates to the criminal liability imposed on a person who, disregarding the obligation to exercise adequate control, allows a person remaining under his/her actual supervision or control to commit acts defined e.g. in Articles 118, 118a, 119 § 1 and 126a of the Penal Code.

54. Statistical data concerning the number of guilty verdicts reached in cases concerning the commitment of offences defined in Articles 118, 119, 126a and 126b, 256 and 257 of the Penal Code and decrees providing for conditional dismissal of investigation were presented in table 5 added as Annex IV to this Report.

Information on the recommendations contained in paragraph 10 of the Committee's concluding observations

55. Statistical data concerning the victims of trafficking in human beings identified by law enforcement authorities and the prosecution and their eligibility for the Programme for support and protection of a victim/witness of human trafficking² in 2009–2011 are as follows: in 2009: 22 persons, including the citizens of: Bulgaria – 12, Ukraine – 3, Belarus – 1, China – 1, Nigeria – 1, Romania – 1, Turkey – 1, Uganda – 1, Vietnam – 1; in 2010: 34 persons, including the citizens of: Bulgaria – 10, Bangladesh – 7, Romania – 7, Nepal – 5, Ukraine – 3, Belarus – 1, Vietnam – 1; in 2011: 25 persons, including the citizens of: Romania – 12, Bulgaria – 7, Ukraine – 2, Cameroon – 1, Kenya – 1, Russia – 1, Sri Lanka – 1.

56. Statistical data concerning preliminary investigations related to trafficking in human beings are presented below.

Table. Results of preliminary investigations

| <i>Year</i> | <i>Number of completed investigations</i> | <i>Number of investigations which ended in filing a bill of indictment</i> | <i>Number of investigations which ended in a dismissal or suspension</i> | <i>Number of the accused</i> | <i>Number of the aggrieved</i> |
|-------------------|---|--|--|------------------------------|--------------------------------|
| 2009 ³ | 109 | 39 | 70 | 79 | 611 |
| 2010 ⁴ | 117 | 40 | 77 | 78 | 323 |
| Total | 226 | 79 | 147 | 157 | 934 |

57. In 2010 the number of preliminary investigations instituted in cases concerning trafficking in human beings increased in comparison to the previous year (74 cases in 2009 and 93 cases in 2010, respectively). In 2009–2010, a total of 167 preliminary investigations were instituted, though only 78 of them (46.7%) were assigned a legal classification on the basis of articles penalizing the offence of trafficking in human beings. Other cases were classified under Article 204 § 3 of the Penal Code, i.e. inducing a minor to practice prostitution or facilitating it in order to obtain pecuniary advantage and derive material benefits from prostitution practiced by a minor (31 investigations) and Article 203 of the Penal Code, i.e. subjecting another person to practice prostitution (58 investigations).

58. The number of completed preliminary investigations remained at a similar level (109 investigations in 2009 and 117 investigations in 2010); overall, the prosecutor's offices completed 226 investigations. During the two years a similar number of investigations ended in filing a bill of indictment (39 and 40 investigations, respectively). Almost 35% of investigations ended in filing a bill of indictment to court, and approx. 36% were dismissed. As in the previous year, the largest number of decrees providing for dismissal of

² Statistical data were compiled on the basis of an analysis of persons entered into the Programme for support and protection of victim/witness of trafficking in human beings (commissioned by the Ministry of the Interior and Administration).

³ Data from 2009 concern the crime of trafficking in human beings, i.e. crimes classified under Article 253 § 1 of the Penal Code, Article 204 § 4 of the Penal Code and, additionally, crimes classified under Article 204 § 3 and Article 203 of the Penal Code.

⁴ By analogy, data from 2010 concern the crime of trafficking in human beings, i.e. crimes classified under Article 253 § 1 of the Penal Code, Article 204 § 4 of the Penal Code, Article 189a (due to the amendment of the Penal Code which entered into force on 8 September 2010) and, additionally, crimes classified under Article 204 § 3 and Article 203 of the Penal Code.

investigation in 2010 were issued pursuant to Article 17 § 1 point 1 of the Code of Criminal Procedure, i.e. as a result of finding that the act had not been committed or the existing evidence was insufficient to justify the assumption that it had indeed been committed. 28 decrees providing for suspension of investigation were issued in 2010 (as compared to 14 decrees in 2009). In 2010 charges were brought against 78 persons, among whom the citizens of Poland constituted 80%, while other accused were mainly the citizens of Bulgaria and Ukraine. In total, in 2009–2010 charges were brought against 157 persons.

59. In 2009, courts sentenced 19 persons for committing the crime of trafficking in human beings – those acts were classified under two articles, i.e. Article 253 § 1 of the Penal Code (trafficking in human beings) and Article 204 § 4 of the Penal Code (enticement or abduction of another person with the aim of having him/her engaged in prostitution abroad). In 2010, courts sentenced 20 persons for committing the crime of trafficking in human beings – those acts were classified under three articles, i.e. Article 253 § 1 of the Penal Code, new Article 189a of the Penal Code (trafficking in human beings) and Article 204 § 4 of the Penal Code (enticement or abduction of another person with the aim of having him/her engage in prostitution abroad), remaining in force until the amendment. In total, in 2009–2010 the courts sentenced 39 persons for committing the crime of trafficking in human beings.

60. In comparison to the previous year, a smaller number of persons were recognized as victims of trafficking in human beings in 2010 (611 persons in 2009 and 323 persons in 2010). Nevertheless, this data indicate a growing tendency in comparison to data from 2007–2008 (especially in the context of a change in the method of data gathering, i.e. not taking into account the offences under Article 204 § 1 and 2 of the Penal Code since 2009). In total, 934 persons were recognized as aggrieved in 2009–2010, among whom the citizens of the Republic of Poland (772 persons) still constituted a definite majority (77.3%). The rest of the aggrieved (22.7%) were foreign nationals (212 persons). In 2010, the number of minors aggrieved as a consequence of trafficking in human beings decreased (66 persons in 2009 and 32 persons in 2010).

61. Therefore, intra-national trafficking in human beings remains a dominating phenomenon. Taking into account all investigations instigated in 2010, as many as 78 of those investigations concerned the abuse of women (also foreigners) for the purposes of prostitution or for the purposes of performing other acts of sexual nature. In 2010, the victims of such practices in Poland included mainly the citizens of Ukraine, Bulgaria and Belarus; in the recent years the citizens of African countries and the countries of Latin America were also identified as victims. Polish women were identified as victims of trafficking in human beings for the purposes of sexual exploitation both in Poland and abroad, mainly in Italy, Germany and the Netherlands. The tendency related to the use of Polish citizens for forced labour or for the purpose of committing crimes in western European countries is still observed. The main victims of such practices in Poland are the citizens of the neighbouring countries and the citizens of Asian countries.

62. In order to improve the rate of detection of the phenomenon of trafficking in human beings and in order to increase the effectiveness of activities aimed at combating this phenomenon, the relevant legislative amendments were implemented and several structures responsible for tackling this problem were created, e.g. within the Police and the Border Guard, the prosecutor's office, voivodship offices and the National Labour Inspectorate. The above-mentioned activities and legal instruments increased the detectability of crimes.

63. The definition of trafficking in human beings, which was introduced into the Polish Penal Code and which was based on the definition contained in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, has remained in force since September 2010. Definitions contained in the Council Framework

Decision on combating trafficking in human beings and in the Council of Europe Convention on Action against Trafficking in Human Beings were also used. The provisions of Polish Act on foreigners introduce an institution of the reflection period for those victims who wish to cooperate with law enforcement authorities and are ready to testify against the perpetrators involved in trafficking in human beings.

64. The Central Unit for Combating Trafficking in Human Beings functions within the General Police Headquarters (since 2011 within the structure of the Central Bureau of Investigation) and is responsible for: coordination of and supervision over activities of coordinators and units within voivodeship Police headquarters and Warsaw Police Headquarters, conducting preventive activities, participating in the organisation of international operations, organising cooperation with non-Police entities. Voivodeship Units for Combating Trafficking in Human Beings, which function within Criminal Departments, have been established in each voivodeship and within Warsaw Police Headquarters. Coordinators in the voivodeship units are responsible for identifying the victims of trafficking in human beings and supporting subordinate units in this regard, as well as conducting operational and investigative activities in order to detect the instances of trafficking in human beings. Due to the inclusion of the Central Unit into the structure of the Central Bureau of Investigation, which specialises in combating organised crime, and due to the fact that in practice investigations in the field of combating trafficking in human beings were conducted by regional units of the Central Bureau of Investigation, in 2011 coordinators for trafficking in human beings were appointed also in divisions of the Central Bureau of Investigation. In this way the regional structures for the prosecution of trafficking in human beings have been strengthened.

65. In addition to the Unit for permanent monitoring and coordination of activities conducted by the Border Guard in the field of preventing and combating trafficking in human beings functioning since 2008 and responsible for: current monitoring and analysis of cases of trafficking in human beings detected by the Border Guard; cooperating with the Ministry of Interior and Administration, the Police, other public administration authorities and non-governmental organisations in the field of combating trafficking in human beings, the Section for Illegal Migration and Trafficking in Human Beings was established within the General Headquarters of the Border Guard in 2009. This unit was made responsible for coordinating and supervising activities conducted by individual departments of the Border Guard in the field of preventing and combating trafficking in human beings. Furthermore, both within the General Headquarters of the Border Guard and within individual Border Guard departments, there are coordinators and deputy coordinators for combating trafficking in human beings who are not employed as full-time employees. Coordinators are the officers from the operation and investigation unit. Their scope of duties includes coordinating activities between organisational units and sections of the Border Guard and between the Border Guard and the Police and coordinating activities in the framework of Programme for support and protection of a victim/witness of human trafficking, including also cooperation with non-governmental organisations conducting activities related to the protection of victims. Involvement of officers from the unit for foreigners, who control the legality of foreigners stay, is also significant. It should be noted that their cooperation with the National Labour Inspectorate within the framework of the agreement referred to in paragraph 67 of this Report is important for the purposes of possible identification of victims of trafficking in human beings and victims of forced labour.

66. When the officers of the Border Guard and the Police identify a person who might be a victim of trafficking in human beings, they act in line with the so-called Algorithm of conduct in the case of identifying a victim of trafficking in human beings. The Algorithm systematises activities taken with regard to the victim/witness of trafficking in human beings within the procedure of identification and granting support on the territory of the Republic of Poland, while allowing the measures necessary to achieve the objectives of

criminal proceedings to be taken. While performing his/her duties with regard to the victim of trafficking in human beings, an officer has to act in accordance with the principle of minimising the risk of secondary victimisation of the victim, whose traumatic experiences are frequently so powerful that they constitute a significant obstacle for his/her active participation in criminal trial and in contacts with uniformed services. The work on developing a new Algorithm of conduct for officers in the case of identifying the victim of trafficking in human beings, including a minor, is currently ongoing.

67. In 2008, the Commander-in-Chief of the Border Guard and the Chief Labour Inspector signed an agreement which provides for the possibility of conducting joint controls by the officers of the Border Guard and the labour inspectors and allows for the exchange of information on violations of regulations regarding foreigners, including information about the cases of illegal employment of foreigners. Thanks to this agreement specialised units of the Border Guard can instigate investigations supervised by the prosecutor with regard to the cases of trafficking in human beings identified by labour inspectors. The introduction of a system for examining complaints by the National Labour Inspectorate authorities constituted another important step in combating trafficking in human beings for the purposes of performing forced labour and the cases of violating labour rights of foreigners. It is also important to note that in the 1st quarter of 2009 units for the control of legality of employment, including legality of employment of foreigners, were established in each regional labour inspectorate. Overall, those sections employ approx. 150 persons who are successively trained in identifying the cases of trafficking in human beings.

68. Prosecutors acting as consultants in cases of trafficking in human beings were appointed in appeal prosecutor's offices. They are responsible for providing the prosecutors conducting the investigation with necessary information or – if a given case is particularly complex – conducting the investigation themselves. The post of consultant for trafficking in human beings was also introduced in the General Prosecutor's Office.

69. The national network of voivodeship consultants responsible for providing support to victims of trafficking in human beings was established in order to improve the coordination of activities of social assistance services. The network consists of trained employees of voivodeship offices responsible for contacting and cooperating with organisational units of social assistance services functioning on the territory of a given voivodeship, as well as with other institutions providing support for victims of trafficking in human beings. The 2010 amendment of the Act on social assistance imposed a new obligation on the voivode, requiring him/her to coordinate within the framework of social assistance activities in the field of preventing trafficking in human beings and providing support for victims of trafficking in human beings (Article 22(15) of the Act on social assistance).

70. Since April 2009 the citizens of the Republic of Poland have been also covered by direct support within the framework of public task aiming at establishing and operating the National Consultation and Intervention Centre for victims of trafficking in human beings (NCIC), provided for in the National Action Plan against Trafficking in Human Beings for 2009–2010. In the previous period covered by the above-mentioned public task financed from the state budget and announced by the Minister of Interior and Administration support could only be provided to foreign victims (unlike support for victims provided under social assistance). La Strada Foundation – a non-governmental organisation selected in an open competitive bid procedure – was commissioned with the task of establishing and operating the NCIC in 2009–2011.

71. Support provided for foreigners under Programme for support and protection of the victim/witness of trafficking in human beings constitutes a special kind of support provided by the NCIC. The Programme is initiated when a foreigner (who came forward on his/her

own or who was identified by law enforcement authorities) contacts the law enforcement services and after conducting an interview the law enforcement services establish that there are grounds to suspect that he/she is a victim of trafficking in human beings. In order to be covered by the Programme, the foreigner has to sever all contacts with the offenders. A foreigner is not obliged to notify the relevant authorities about the offence, since the Programme provides him/her with a "reflection period" in which he/she can decide whether he/she wishes to cooperate with the law enforcement authorities or not. The fact that the Programme can be launched only by a representative of a particular law enforcement authority (an officer of the Police or the Border Guard) and a prosecutor is especially important in this context. If a foreigner is willing to participate in the Programme, he is immediately contacted with a representative of the organisation implementing the Programme responsible for evaluating the situation of a foreigner and, depending on the needs of the aggrieved, providing him/her with support. The aggrieved is placed in a safe centre and is put under the care of a trained social worker. A foreigner participating in the Programme is provided with safe haven, food, medical care, psychological support, legal consultations, interpreter's assistance, transport service on the territory of the country, where necessary, and assistance of a worker of the organisation in his/her contacts with law enforcement authorities and judicial authorities when giving evidence or during court proceedings.

72. Furthermore, the provision of support also to alleged victims of trafficking in human beings is possible only through the NCIC. This fact is particularly important when it is necessary to provide support to foreigners whose labour rights have been violated, since such offences may, but do not have to be, related to trafficking in human beings. Therefore, in the case when a particular person is not identified as aggrieved by the offence of trafficking in human beings by law enforcement authorities, but is regarded as such by a non-governmental organisation responsible for implementing the task, such a person may receive support from the NCIC. However, the extent of support provided in this manner is not equivalent to the extent of support provided to foreigners covered by the Programme for support.

73. The citizens of the Republic of Poland who are victims of trafficking in human beings may apply to the NCIC for support during their stay abroad or after their return to the country. However, it needs to be stressed that the NCIC is not allowed to cover the costs of return to Poland borne by citizens of the Republic of Poland. The NCIC takes intervention measures aiming at providing direct support and protection for the aggrieved as well as preventive measures addressed to state and local government institutions, non-governmental organisations and persons intending to travel abroad for non-tourist purposes.

74. In the framework of services provided by the NCIC, which carries out tasks aiming at providing support and identifying victims of trafficking in human beings, assisting the victim during contacts with law enforcement authorities and judicial authorities, providing psychological support, interpreter's assistance, legal consultations and transport service on the territory of the country (availability 24/7), 193 victims of trafficking in human beings received support, i.e.: 77 citizens of the Republic of Poland and 116 foreigners in the period between April and December of 2009, 253 victims of trafficking in human beings, i.e. 83 citizens of the Republic of Poland and 170 foreigners in 2010 and 133 victims of trafficking in human beings, i.e. 81 citizens of the Republic of Poland and 52 foreigners in 2011.

75. Since December 2010, the Border Guard has been applying the progressive System of Border Guard officers training in issues related to trafficking in human beings (from basic to expert level). Level I covers all new officers and officers already working in organisational units, and provides basic information on combating and preventing trafficking in human beings. The purpose of training at Level II is to deepen the knowledge acquired during basic training. Level II training is intended primarily for officers from

intelligence and investigation departments and department for foreigners, as well as for officers having a direct contact with the society (e.g. patrols, border clearance, mobile groups). Level III training makes it possible to prepare officers for the performance of tasks connected with preventing and combating trafficking in human beings, identification of victims and providing support to victims. Level IV is intended for the so-called coordinators for preventing and combating trafficking in human beings (i.e. for Border Guard officers with the most extensive knowledge and training, appointed by particular organisational units).

76. As of 1 February 2011, pursuant to Article 87(2)(1) of the Act on employment promotion and labour market institutions, foreigners who are victims of trafficking in human beings are able to take up employment on the territory of Poland without the need to hold a work permit, provided that they obtain a residence permit for a specified period issued pursuant to Article 53(1)(15) of the Act on foreigners. Such persons should fulfil all of the following requirements: stay on the territory of the Republic of Poland, start cooperation with the body competent for proceedings on combating trafficking in human beings and sever contacts with persons suspected of committing criminal offences related to trafficking in human beings.

Information on the recommendations contained in paragraph 11 of the Committee's concluding observations

77. The government of the Republic of Poland is aware of the special role of the media with regard to activities aimed at improving the level of social education and awareness in the field of human rights. Telewizja Polska (national Polish TV), in cooperation with the Government Plenipotentiary for Equal Treatment, produced a series of programmes entitled We are different, we are equal (*Jesteśmy różni, jesteście równi*), broadcast once a week. By presenting documentaries about specific individuals – representatives of minorities and their problems and achievements – the programme provided information about minority groups residing on the territory of Poland and helped to eliminate stereotypes and promote equal treatment and diversity. 28 episodes of the programme were broadcast between April and November 2011 – 20 of them presented profiles and environments of representatives of national and ethnic minorities, as well as members of different religious denominations and foreigners, including refugees.

78. The Voivodeship Police Headquarters in Lublin, in cooperation with Polish Radio Lublin, produces a preventive programme entitled Patrol – Human Rights (*Patrol – Prawa Człowieka*). Until now 11 radio programmes devoted to the issue of human rights have been broadcast. Each programme consists of two parts. The first part covers preparation of the material – taking part in a preventive patrol. The second part constitutes a commentary to the described situation presented during a live broadcast. Materials gathered during the preparation of the broadcast function also as teaching materials. They are used to discuss specific actions taken by police officers and difficulties in ensuring compliance with human rights protection standards when taking such actions.

79. The Police encouraged the media to focus on anti-discriminatory issues in educational context. For example, in relation to a training session on Preventing and combating crimes motivated by hatred organised at Municipal Police Headquarters in Krosno, which was also attended by the local assistant for Roma education, a representative of the Police and an assistant gave the Polish Radio Rzeszów an interview on the situation of Roma in Podkarpacie region.

80. Additional information on the role of the media and on access to information is presented in paragraphs 191 to 195 of this Report, which concerns the implementation of Article 7 of the Convention.

Information on the recommendations contained in paragraph 13 of the Committee's concluding observations

81. In relation to the implementation of Durban Declaration and Programme of Action, adopted in September 2001 at the conference in Durban, Poland prepared the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance 2004–2009. In May 2010, the Council of Ministers adopted the Report on the implementation of the programme. In line with the recommendations presented in the Report, the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, chaired by the Government Plenipotentiary for Equal Treatment, was established in February 2011 to create a wide common ground for coordinating activities of government administration bodies in the field of combating racism, xenophobia and related phenomena of discrimination and intolerance. The Council is a subsidiary body of the Council of Ministers, established pursuant to Order No 9 of the President of the Council of Ministers of 28 February 2011. The Council is responsible mainly for planning, coordinating and evaluating the activities of government administration bodies and ensuring their cooperation with the local government bodies and other relevant entities in the field of combating racism, xenophobia and intolerance. The Council consists of representatives of government administration and public institutions. The Council functions as an institutional extension of the Unit for Monitoring of the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, which was responsible for the implementation of the National Programme for Counteracting Racial Discrimination (...), completed in June 2009. In June 2011, the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance began work on the preparation of government action plan in the field of counteracting and combating racial discrimination, xenophobia and related intolerance, which is to be submitted to the Council of Ministers once every two years. The Consultation Council appointed by the Government Plenipotentiary for Equal Treatment will be responsible for ensuring that decisions taken by the Council are controlled under a permanent public consultation mechanism. The Consultation Council is composed of persons actively involved in taking measures aimed at combating racial discrimination, xenophobia and intolerance or representing groups and circles at risk of being discriminated against due to their race, nationality or ethnic origin.

Information on the recommendations contained in paragraph 14 of the Committee's concluding observations

82. The Government of the Republic of Poland cooperates with non-governmental organisations on a daily basis, also in terms of implementing the present Convention. In the framework of this cooperation the government submits projects of Reports to non-governmental organisations for consultation and subsequently analyses their comments.

Information on the recommendations contained in paragraph 15 of the Committee's concluding observations

83. The 15th and 16th Periodic Reports of the Republic of Poland on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and records of the meetings of the Committee on the Elimination of Racial Discrimination devoted to analysing this report are available – in Polish and English language versions – on the Ministry of Justice website (www.ms.gov.pl) under Prawa człowieka – Sprawozdania RP – ONZ i prawa człowieka. A document prepared by the Ministry of Justice, entitled Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination by Poland; the 15th and 16th Periodic Reports can also be found there. The 17th, 18th and 19th Periodic Reports of the Republic of Poland on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and documents related to their analysis carried out by the

Committee on the Elimination of Racial Discrimination are available on the Ministry of Interior (www.msw.gov.pl) and on Government Plenipotentiary for Equal Treatment (www.rownetraktowanie.gov.pl) websites.

II. Detailed section containing information on the implementation of the provisions of articles 1–7 of the Convention

Article 1

84. On 1 January 2011, the Act on the implementation of certain European Union provisions on equal treatment entered into force. This Act sets forth the areas of and methods for the prevention of equal treatment principle violations on grounds of gender, race, ethnic origin, nationality, religion, denomination, world view, disability, age or sexual orientation. Article 3 of the Act introduces inter alia the definitions of direct discrimination, indirect discrimination, unequal treatment and the principle of equal treatment (the above-mentioned definitions are presented in Annex I).

Article 2

85. The Act on the implementation of certain European Union provisions on equal treatment defines the legal measures for the protection of the principle of equal treatment and authorities responsible for the implementation of this principle. Additional information on this Act is presented in paragraphs 136 and 139–141.

86. Detailed information on the prohibition of racial discrimination in Polish internal legislation, including the provisions of the Constitution of the Republic of Poland, the Penal Code, the Labour Code and the Act on national and ethnic minorities, was presented in the previous Report, paragraphs 91–96.

87. In the discussed reporting period, measures of institutional nature were also taken in order to increase the effectiveness of activities aimed at preventing and combating discrimination and promoting the respect for human rights.

88. The performance of tasks related to implementation of the principle of equal treatment – in line with the Act on the implementation of certain European Union provisions on equal treatment – was entrusted to the Human Rights Defender (functioning as an independent authority) and the Government Plenipotentiary for Equal Treatment responsible for the implementation of government policy in the field of equal treatment, including combating discrimination, especially on the grounds of gender, race, ethnic origin, nationality, world view, religion, denomination, age, disability and sexual orientation. The Plenipotentiary is responsible in particular for: developing projects of legal acts in the field of equal treatment and presenting his/her opinions on such acts; analysing and evaluating existing legal solutions; taking steps aimed at eliminating or limiting the consequences of violations of the principle of equal treatment; analysing and evaluating the legal and social situation with regard to equal treatment and initiating, implementing, coordinating and monitoring activities aimed at ensuring equal treatment; promoting, disseminating and propagating the idea of equal treatment; developing the National Action Plan for Equal Treatment and submitting reports on its implementation. Detailed information on actions taken by the Plenipotentiary is presented in Annex I.

89. The Government Plenipotentiary for Equal Treatment took action based on complaints or information submitted by the citizens, non-governmental organisations or the

media. The Plenipotentiary conducted certain cases on his/her own (by suggesting e.g. an amendment of existing legislation or by requesting to abandon discriminatory actions), while in other cases he/she explained to the applicant what legal measures or what options for taking action were available to him/her. The Plenipotentiary transferred certain cases to authorities responsible for taking relevant actions or providing relevant information for analysis. The number of complaints related to discrimination on the grounds of race, nationality or ethnic origin amounts to approx. 30 complaints per year.

90. By amending the Act on the Human Rights Defender, the Act on the implementation of certain European Union provisions on equal treatment imposes specific responsibilities related to the implementation of the principle of equal treatment on this authority. They include: analysing, monitoring and supporting equal treatment of all persons; conducting independent research on discrimination, preparing and publishing independent reports, issuing recommendations on problems related to discrimination and performing additional information tasks consisting in informing the Sejm and the Senate about his/her activities and about the observance of human and citizen rights and freedoms on an annual basis, including the submission of: information on activities in the field of equal treatment and their results; information on observance of the principle of equal treatment in the Republic of Poland, prepared especially on the basis of independent research conducted by the Defender; conclusions and recommendations concerning actions which need to be taken in order to ensure compliance with the principle of equal treatment. Additional information on the responsibilities of the Human Rights Defender is presented in Annex II.

91. Between 2009 and 2011, the Human Rights Defender examined 143 cases in which the complainants complained about the discrimination on the grounds of nationality or race. The Defender initiated 98 cases, 9 of which were included in its general address. The activities of the Human Rights Defender included in particular: combating discrimination against the Roma, combating discrimination in sport and taking decisive steps to prosecute and punish the perpetrators of offences motivated by racial hatred.

92. The Department of Human Rights was established in the Ministry of Justice in December 2009. The Department prepares and disseminates publications concerning the compliance of Poland with the relevant obligations, including reporting obligations, imposed by international agreements in the field of human rights to which Poland is a party. The publications concern the implementation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights by Poland. Their content includes the text of the report, protocols of the meetings of the United Nations Committee against Torture and the UN Human Rights Committee, recommendations of those Committees and information on the possibility of filing complaints before them, as well as the relevant procedure and templates of complaints. The publications are available on the Ministry of Justice websites and are distributed to such places as the most important public libraries, university centres, non-governmental organisations, courts and prosecutor's offices and prison libraries. Furthermore, a monograph on the possibility of and rules on submitting notifications concerning violations of human rights to the UN bodies established under the Treaty by the relevant units entitled *How to apply the complaint procedures provided for in the UN system of human rights protection established under the Treaty? A guide for victims of violations (Jak korzystać z procedur skargowych w traktatowym systemie ochrony praw człowieka ONZ? Informator dla ofiar naruszeń)* is available on the Ministry of Justice website. The monograph contains theoretical and practical information on measures which a unit should take in order to file a complaint to the UN bodies established under the Treaty, information on practice and case-law of these Committees, templates of complaints and relevant provisions of specific UN Treaties on the protection of human rights.

93. The Department of Human Rights both analyses international human rights protection standards, also in terms of necessary legislative changes and promotes them. The Department popularises the knowledge about the ECtHR judgments by translating them into Polish, publishing them on the website of the Ministry of Justice and providing them to courts. The objective to be achieved is to collect in one place, on one website, all information on convention standards whose popularisation should improve the functioning of the judiciary, in particular of the courts, help eliminate infringements of the Convention in future and increase the general public awareness of the binding human rights standards. In December 2011, the Department of Human Rights issued a publication entitled Human rights protection standards in the legislation of the European Convention on Human Rights containing the analysis of Polish cases pending before the Court of Human Rights.

94. The dissemination of relevant knowledge also includes preparing information about the standards originating from the case law of the Court in Strasbourg in an accessible format, which is addressed mainly to practitioners, i.e. judges and prosecutors, and which is distributed via the website of the Ministry of Justice. The effectiveness of those activities is evidenced by a decreasing number of judgments issued by the ECtHR in cases against Poland where the infringement of the European Convention for the Protection of Human Rights and Fundamental Freedoms was found. In 2008, the Court ruled that the European Convention for the Protection of Human Rights and Fundamental Freedoms was infringed in 129 judgments, in 2009 in 123 judgments, in 2010 in 87 judgments and in 2011 (as at 20 December 2011) only in 52 judgments.

95. In December 2011, the Human Rights Protection Team was established based on the Monitoring Team on Racism and Xenophobia which was created in 2004 within the structure of the Ministry of Interior and Administration. The scope of duties of the Team includes monitoring of cases related to hate crimes, activities aimed at preventing such crimes, cooperation with authorities and units reporting to or supervised by the Minister, and with other public administration authorities, institutions and non-governmental organisations in protecting human rights and combating hate crimes; participation in the work of national and international institutions for protection of human rights and combating and counteracting hate crimes; monitoring, and in justified cases, also coordination of the implementation of training programmes concerning human rights protection, in particular in the Police and the Border Guard, and preparation and then updating of training materials on human rights protection for those entities; conducting cases related to the Minister's supervision over the activities performed by the Police and the Border Guard and stemming from the ECtHR judgments and concerning the submission of complaints and other non-complaint information regarding those services to the Independent Authority for Police Misconduct Investigation; undertaking measures to ensure appropriate level of human rights protection during the implementation of tasks by the offices providing services to those authorities and the heads of organisational units reporting to or supervised by the Minister, including the Police and the Border Guard. The Team implements the above measures in close cooperation with NGOs which are active in the area of human rights protection, including counteracting and combating racism, anti-Semitism, racial discrimination and xenophobia. The Team also cooperates with domestic institutions (in particular the Police and the Prosecutor's Office) and with international organisations active in the field of human rights protection.

96. In 2011, the Office of the Government Plenipotentiary for Equal Treatment launched the Equal Treatment as a Standard of Good Governance project implemented under the Operational Programme Human Capital, in cooperation with the Warsaw School of Economics and the Jagiellonian University. The objective of the project is to prepare the government administration at all levels to enact and monitor laws and to draw up and implement strategies taking into account the principle of equal treatment. By the end of 2011, a nationwide network of 51 Coordinators for Equal Treatment was established in all

ministries, the Chancellery of the Prime Minister, voivodeship offices and selected public institutions. The Jagiellonian University performed the analyses of the discriminated groups which will serve as the basis for elaborating strategic recommendations for the National Action Plan for Equal Treatment. Other activities included a social information campaign entitled *Widzisz? Reaguj!* (React when you see!) and the launch of www.siecznosci.gov.pl website.

Article 4

97. Information on the amendment of the Penal Code is presented in paragraphs 52–53 of this report and in annex III.

98. Courts have an obligation to take into account racist motives of crimes when giving their verdicts as stipulated in Article 53 § 2 of the Penal Code, where the motivation of the perpetrator's actions or failure to act is defined as one of the determinants of the sentence. The incriminating nature of such motives is evidenced by the fact that the racist motivation of crime constitutes an attribute of certain types of crime specified in the specific part of the Penal Code (Article 119 § 1 and Article 257 of the Penal Code).

99. The scale of hate crimes, as estimated based on the analysis of files from criminal proceedings completed in 2010 and in the first half of 2011, is presented below. In 2010 organisational units of the prosecutor's offices in the entire country completed 163 penal proceedings, out of which 30 (against 38 persons) finished with charges filed to the court, 72 with dismissal and 54 with refusal to initiate preparatory proceedings. Apart from that, 6 cases were suspended. In the overwhelming majority of cases, dismissal of proceedings was caused by the failure to identify the perpetrator (38) and the lack of statutory features of a prohibited act (23). None of the cases was dismissed due to insignificant social noxiousness. The majority of decisions concerned public insults hurled online or in the form of writings on walls and facades of buildings. Proceedings concerning other acts usually ended with charges being filed to the court. The data show that in the case of insults prosecutors have difficulties with interpreting the act in penal and legal terms or in identifying the perpetrators. Such problems do not occur in the case of other acts such as battery, bodily injury, breach of personal inviolability or making threats. At the end of the first half of 2011, 109 preparatory proceedings were completed, out of which 11 (against 16 persons) finished with charges filed to the court, 53 with dismissal, one with conditional dismissal and 36 with refusal to initiate preparatory proceedings. As in 2010, the most common reason for dismissal (29 cases) was the failure to identify the perpetrators. In 12 cases, proceedings were dismissed due to the lack of statutory features of a prohibited act, in 10 cases due to the lack of sufficient evidence of crime, in one case due to a statute of limitations and in one due to insignificant social consequences.⁵

100. The above data lead to the conclusion that major problems for law enforcement authorities include the failure to identify perpetrators and problems with classifying the perpetrators' acts in penal and legal terms. The perpetrators of hate crimes most often committed those crimes online (in 42 cases in 2010 and 45 cases in the first half of 2011). The second most common method of expressing hostile attitudes to other groups was writing on walls and facades of buildings (in 17 cases in 2010 and 16 cases in the first half of 2011).

⁵ Based on research conducted by prosecutor E. Petryna at the Department of Preparatory Proceedings of the General Prosecutor's Office.

101. Attributes of hate crimes were also found in the behaviour of football fans in the stadiums (6 cases in 2010 and 5 cases the first half of 2011), as well as in books and music works (3 cases in 2010 and 4 cases in the first half of 2011). One of the cases concerning crimes committed in the form of publications, books and music works was conducted by the District Prosecutor's Office in Gdańsk, which on 16 September 2010 filed charges to the court against a person maintaining a website with an online shop selling CDs and audio cassettes with musical works propagating fascism, as well as T-shirts and key rings with Nazi symbols. The suspect also compiled 13 issues of a periodical entitled *Odlam Skiny* containing articles inciting hatred based on national, ethnic, race or religious differences.

102. Proceedings concerning propagation of the fascist system constitute a relatively large group of cases. In 2010, 37 preparatory proceedings concerning this category of crime were completed, out of which 6 finished with charges filed to the court, 19 with dismissal and 12 finished with refusal to initiate preparatory proceedings. In the first half of 2011, 22 preparatory proceedings concerning propagation of the fascist system were completed, out of which 2 finished with charges filed to the court, 14 with dismissal and 6 with refusal to initiate preparatory proceedings. One of the cases within this category of crimes, which finished with charges filed to the court by the District Prosecutor's Office in Warsaw, concerned a user of a social networking site who created a relevant profile and published a anthem of the Third Reich and Adolf Hitler's speeches and photos.

103. The majority of cases completed in 2010 and in the first half of 2011 concerned crimes committed on anti-Semitic grounds (42 in 2010 and 27 in the first half of 2011) and on racial grounds (16 in 2010 and 14 in the first half of 2011). A relatively large number of cases concerned crimes motivated by hatred towards the Roma community (14 in 2010 and 8 in the first half of 2011). An example of a successful case is the case supervised by the District Prosecutor's Office for Wrocław Stare Miasto which concerned posting up leaflets stating "Take care of the security of our continent and its racial unity. White Europe, not Muslim" on bus stops. The perpetrators were arrested by the Internal Security Agency. At their places of residence, the officers found leaflets with the same content, the copying equipment and the relevant materials in electronic form. The charges against three persons were filed to the court.

104. Several cases concerned desecration of human ashes and graves on the Jewish cemetery. An example of such proceedings is a case conducted by the District Prosecutor's Office in Ząbkowice which ended with charges filed to the court against 3 persons who published online a film presenting carousal in the cemetery chapel.

105. In the cases relating to behaviour of football fans during matches, it is extremely difficult to assign individual responsibility to individual football supporters chanting insults at other people in a stadium full to the brim (even if video material is available). Furthermore, even if the perpetrators are identified, the chanted slogans must be analysed in terms of their addressees, who are the supporters of another football club and not an ethnic or religious group. Such problems do not occur in the case of banners with slogans insulting a specific ethnic, national or religious group. One of such cases was conducted by the District Prosecutor's Office in Rzeszów which filed charges against football fans suspected of presenting a banner saying "Death to hooked noses" (*Śmierć garbatym nosom*) and a banner presenting a caricature face of a Jewish man.

106. The analysis of cases completed in 2010 and in the first half of 2011 reveals that the largest group of crimes motivated by prejudice and hatred consists of insults and incitement to hatred (110 in 2010 and 67 in the first half of 2011). Damage to property (in particular in the form of writing on walls and facades of buildings) was found in 10 cases in 2010 and 8 cases in the first half of 2011. Crimes against health (bodily injury and battering) are rare. In 2010, there were 3 cases of battering of representatives of Roma community and 2 cases of bodily injury inflicted on a citizen of an African country and a citizen of Bulgaria. In the

first half of 2011, 3 cases of battering were reported (a person from Roma community, a black person and a citizen of an Arab country). However, there were more cases of breaching the personal inviolability. In 2010, proceedings were completed in 10 such cases (6 concerning black people and one concerning a representative of Roma community, a Ukrainian citizen, a Jewish person and a person from an Arab country); while in the first half of 2011 4 cases of breach of personal inviolability were reported; their victims included 2 black persons, a representative of Roma community and a citizen of Chile.

107. Other completed proceedings concerned crimes consisting in making threats. Nine such crimes were reported in 2010 (8 against representatives of Roma community and one against a citizen of a Muslim country) and 10 in the first half of 2011.

108. As regards desecration of graves (including mainly the devastation of graves in cemeteries by painting swastikas and other fascist symbols on them), there were 4 such cases in 2010 and 3 in the first half of 2011.

109. Annex IV (Tables 1 to 4) presents statistical data on crime, based on results of proceedings and compiled by the Police, and the number of reported crimes in the cases completed in 2010, prepared by the General Prosecutor's Office.

110. The Ministry of Justice compiles statistical data on judiciary, concerning various forms of discrimination, intolerance and xenophobia, acting pursuant to the Act on public statistics and its implementing acts, as well as the Act on personal data protection. The data on victims of crime, with relation to all forms of discrimination, can only be collected within public statistics on a voluntary basis. The access to information, which is aggregated and subject to the above-mentioned Acts, is full and unrestricted. The data are provided at the request of persons, organisations and institutions, and published on the website of the Ministry of Justice. The data on validly sentenced adults and conditional dismissal of proceedings (in the period 2009–2010), as well as on persons judged in the first instance (in 2011), based on selected articles of the Penal Code are presented in Annex IV (Table 5).

111. Examples of decisions of Polish courts in cases concerning racist crimes are presented in Annex V.

Article 5

1. The right to equal treatment before the tribunals and all other organs administering justice

112. Information about legal acts concerning the right to equal access to courts and all other judiciary authorities was presented in the previous Report. None of the legal acts discussed in the Report gives grounds for discrimination of persons on account of race, skin colour, birth or national or ethnic origin. All legal acts must comply with the Constitution of the Republic of Poland, including its Article 32 stating that all persons shall be equal before the law and all persons shall have the right to equal treatment by public authorities, and that no one shall be discriminated against in political, social or economic life for any reason whatsoever.

2. The right to security of person and protection by the State against violence or bodily harm

113. The actions were initiated in the Ministry of Interior and Administration to implement the recommendation of the Council of Europe Commissioner for Human Rights (formulated in the Memorandum to the Polish Government from 2007 and included in the Programme for implementing the recommendations of the Council of Europe Commissioner for Human Rights adopted by the Council of Ministers) to establish an

independent body to investigate police misbehaviour. Following an analysis of the binding legislation, it was decided that it would be best to assign the tasks of such a body to the Human Rights Defender. The binding Act on the Human Rights Defender contains solutions allowing to investigate complaints of citizens about the behaviour of the Police officers and other services. The powers granted to the Human Rights Defender in the Constitution allow the Defender to act as an independent authority examining complaints for the activities of the Police and other services. Therefore, a system was developed to provide the Human Rights Defender with information about complaints and incidents in which the Police and the Border Guard participated and which concerned the cases usually subject to the judgments of the European Court for Human Rights. Such information has been submitted by the Police and the Border Guard since January 2010. Furthermore, since the Minister of Interior and Administration supervises the Police and the Border Guard, a separate unit was established within the structure of the Ministry of Interior and Administration (Human Rights Protection Team) to supervise the functioning of the mechanism related to submission of complaints and other non-complaint information concerning those services to the Independent Authority for Police and Border Guard Misconduct Investigation. According to the Ministry of Interior and Administration, the procedure for submission of complaints to the Human Rights Defender is appropriate, correct and complied with. In 2010, 85 complaints and 104 non-complaint items of information were submitted to the Human Rights Defender. The Human Rights Defender acted on 19 cases. In 2011, 38 complaints and 116 non-complaint pieces of information were submitted to the Human Rights Defender. The Defender initiated investigations in 26 cases.

114. The dialogue between the Police and the groups of victims or potential victims of discrimination on racial or ethnic grounds is ensured inter alia thanks to plenipotentiaries for human rights protection in the Police who act as liaison officers.

115. While arresting a person or performing other policing activities, the Police must treat every person according to the same standards and with respect for their dignity and human rights. No cases of ethnic profiling, understood as detentions based solely on such characteristics as race and ethnic origin, etc., were reported. No crime of a Police officer goes unpunished. Pursuant to Article 5 § 1 of the Code of Criminal Procedure, a Police officer, as a defendant, is considered innocent unless his guilt is proven and confirmed with a valid sentence. Investigation/disciplinary proceedings concerning Police officers are conducted based on the Act on the Police.

116. The Police recruitment system was also changed – the assessment of candidates became more focused on their hypothetical reactions in contact with other people in the context of human rights and professional ethics.

117. The use of violence or unlawful threat with a purpose of influencing a witness, expert witness, interpreter, prosecutor or the accused is an act penalised by Article 245 of the Penal Code and shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years. The use of violence or otherwise tormenting another person by a public official with a view to obtaining specific testimony, explanations, information or a statement is an offence defined in Article 246 of the Penal Code and shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years. The act of tormenting either physically or psychologically a person deprived of liberty is described in Article 247 § 1 of the Penal Code and shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years; the same penalty applies to a public official who, despite his duties, allows such an act to be committed (Article 247 § 3 of the Penal Code). The abuse of powers by a public official, as defined in Article 231 § 1 of the Penal Code, shall be subject to the penalty of deprivation of liberty for up to 3 years. It should be noted that in the case of being convicted by a valid court judgment for a crime

investigated ex officio committed intentionally, a Police officer is dismissed from service. Recognising the significance of the issue of person's detention, the General Police Headquarters systematically provides the Police regional units with relevant guidelines. For example, the police officers were reminded about the absolute necessity of respecting the applicable legal provisions regulating the detention of a person and appropriate documentation thereof (the rules of drawing up custody reports properly were discussed), with a suggestion to include this issue into the local professional training in the Police organisational units and sections, and a modification of the currently binding template of custody report was prepared, with a particular focus on legal bases of the so-called procedural detention. At the same time, the rights of an arrested person, deriving from legal provisions and mentioned in this report, were highlighted again.

118. The number of foreigners detained in Polish prisons in 2011 amounted to 0.7% of the overall population of detainees. As many as 50% of the detained foreigners originated from post-Soviet states. In line with fundamental law principles, the detained persons are not differentiated between on the grounds of race, ethnic origin or sexual orientation. In the period of isolation, the foreigner's need to overcome difficulty in communicating and the potential cultural or religious diversity are taken into account.

119. The foreigners serving a prison sentence are subject to the same legal provisions that apply to Polish nationals serving a prison sentence, with an exception provided for in Article 105 § 2 of the Executive Penal Code pursuant to which a convicted foreigner may correspond with a competent consular official or – in the absence of such an office – with the relevant diplomatic representation and may be visited by a consular official or an employee of diplomatic representation fulfilling consular functions. Since May 2009, the detained foreigners admitted to a penitentiary institution have been immediately informed about the right to notify, by mail or pay phone, consular offices or diplomatic posts, the next of kin or another person, association, organisation or institution, as well as the defender about their place of detention. The above information was prepared in writing in English, French, Spanish, German, Russian, and Romanian. Furthermore, while being admitted to a penitentiary institution, the detained foreigners are informed about the right to apply for the refugee status and about the relevant procedure.

120. In 2010, the Central Prison Service Management in cooperation with the Central Prison Service Training Centre in Kalisz drew up a guide to the basic rights and obligations of the convicted and temporarily detained foreigners. It also includes information on the organisation of everyday life in a prison and is available on the website of the Central Prison Service Management (www.sw.gov.pl) in the following language versions: English, German, French, Arabic, Bulgarian, and Romanian. At any time, if necessary, the penitentiary staff is able to print and provide the detained foreigner with a written version of the above-mentioned guide.

121. On 29 May 2008, the Act amending the Act on granting protection to foreigners within the territory of the Republic of Poland entered into force; it modified the model of refugee proceedings to a significant extent. Following the amendment, the catalogue of additional forms of protection taken into consideration in refugee proceedings was extended to cover subsidiary protection (an international form of protection). Subsidiary protection is granted to persons who do not fulfil the conditions for granting the refugee status, but who, in the case of returning to their country of origin, may be at a real risk of suffering serious harm understood as death penalty or execution; torture or inhuman or degrading treatment or punishment; or serious and individual threat to a civilian's life or health by reason of indiscriminate violence in situations of international or internal armed conflict.

122. The provisions on the grounds for granting a foreigner the permit for tolerated stay within the territory of the Republic of Poland were also changed. In line with the current text of this provision (Article 97(1)), a foreigner shall be granted the permit for tolerated

stay within the Republic of Poland if his/her expulsion: (1) could only take place to a country in which their right to life, freedom and personal security might be threatened; they could be subject to torture or inhumane or degrading treatment or punishment; they could be subject to forced labour; they could be deprived of the right to fair trial, or they could be punished without there being any legal basis for this within the meaning of the European Convention for the Protection of Human Rights and Fundamental Freedoms; (1a) would violate their right to family life within the meaning of the European Convention for the Protection of Human Rights and Fundamental Freedoms (...) or would violate the rights of the child set forth in the Convention on the Rights of the Child, to an extent that may represent a serious threat to their psychophysical development; (2) practically unfeasible for reasons beyond the authority executing the expulsion decision and of the foreigner. Pursuant to Article 97(1a), the provisions of paragraph (1)(1a) do not apply if the foreigner's continued stay within the territory of the Republic of Poland constitutes a threat to national defence or security or public security and order. On the other hand, pursuant to Article 97(2), the foreigner may be granted the permit for tolerated stay within the territory of the Republic of Poland if their expulsion could take place only to a country to which a foreigner's expulsion is not permitted under the court ruling on the inadmissibility of handing over a foreigner or on the basis of the decision of the Minister of Justice on refusal to issue such an expulsion decision, taking into account the reason for which the foreigner's expulsion has been refused, and the interests of the Republic of Poland.

3. Political rights

123. In the Act of 5 January 2011 the Election Code, which replaced the previous elections statutes, both the regulations relating to the issues of election rights (the possession thereof is not conditional on national or ethnic origin – Articles 10 and 11 of the Election Code) and favourable legal solutions for members of national minorities were maintained. While dividing the seats in constituencies in elections to the Sejm of the Republic of Poland, election committees established by members of registered voter organisations of national minorities may benefit from the exemption of their list from the necessity to obtain at least 5% of valid votes in the country – Article 197 § 1 of the Election Code. As a result of parliamentary election held in October 2011, one Member of Parliament elected from the list of German Minority Electoral Committee sits in the Sejm of the Republic of Poland. Moreover, there is one Member of Parliament representing the Ukrainian minority and one Member of Parliament representing the Belarusian minority (both were elected from the lists of all-Poland political parties) in the Sejm, and one Senator originating from the Armenian minority was elected to the Senate.

4. Other civil rights

124. The principles related to the exercise of the right to free movement were discussed in detail in the previous Report in paragraphs 145–153.

125. Following the amendment of the Act on foreigners introduced by the Act amending the Act on foreigners and certain other acts, which entered into force on 1 January 2009, paragraph 3a was added to the catalogue of entities listed in Article 54 of the Act on foreigners. Pursuant to paragraph 3a, the residence permit for a defined period of time, referred to in Article 53(1)(7), shall be granted to a family member of a foreigner residing on the territory of the Republic of Poland in connection with granting subsidiary protection.

126. In view of the right to free movement, it is significant that the detention of persons applying for refugee status is prohibited. However, the legislator provided for situations when the use of such measures is acceptable. Articles 87 to 89 of the Act on granting protection to foreigners within the territory of the Republic of Poland regulate the issues of detaining foreigners applying for the refugee status and placing them in a guarded centre or

in a detention centre for the purpose of expulsion. Based on these provisions, it is possible to deprive the following persons of liberty: a foreigner whose identity has not been established, a person abusing refugee proceedings, a foreigner posing a threat to the safety, health, life or freedom of other people or to national defence or security or public security and order. Detention is an optional measure in the case of persons who illegally crossed or attempted to cross the border and entered the territory of the Republic of Poland or stay in this territory without the permit, as well as in the case of foreigners staying in the centre whose behaviour poses a threat to the safety, health or life of inmates or staff of this centre.

127. Pursuant to the Act on foreigners (Article 101 et seq.), a foreigner in relation to whom any circumstances that justify rendering of the expulsion decision apply or a foreigner who evades carrying out obligations specified in the expulsion decision, may be detained for a period not exceeding 48 hours. The detention of a foreigner is carried out by the Border Guard or the Police who apply to the court to place a foreigner into a guarded centre or a detention centre for the purpose of expulsion or to the voivode to render the decision on expulsion of a foreigner from the territory of the Republic of Poland. Placing in the guarded centre is possible only if one of the reasons enumerated in the Act is present. A foreigner is released from detention if, within 48 hours from detention, he/she has not been handed over to the court or if, within 24 hours from being handed over to the court, he/she has not been delivered a ruling on placing into the guarded centre or in arrest for the purpose of expulsion. In 2011, 3 666 persons were detained based on the Act on foreigners, of which 711 were placed in a guarded centre for foreigners, and 44 in a detention centre for foreigners.

128. Foreigners are also guaranteed the right to return to their home country which is exercised by the organisation of voluntary returns in cooperation with the International Organisation for Migration.

129. The rules and conditions for the acquisition of Polish citizenship by foreigners are regulated by the provisions of the Act on Polish citizenship. Pursuant to Article 8 of the Act, each foreigner may apply for being granted Polish citizenship by the President of the Republic of Poland. A person residing abroad submits an application through the Consular Office of the Republic of Poland competent for its place of residence, whereas a person residing in the territory of the Republic of Poland – through the competent voivode. In line with Article 137 of the Constitution of the Republic of Poland, granting Polish citizenship falls under the exclusive competence of the President of the Republic of Poland. The President may also make granting Polish citizenship conditional upon submitting evidence of losing or being exempt from citizenship of another state. Each case is examined individually. After the procedure on granting Polish citizenship is completed, a foreigner receives a certificate from the Chancellery of the President of the Republic of Poland on granting (or refusal to grant) Polish citizenship or a pledge to grant Polish citizenship provided that citizenship of another state is lost.

130. In the case of foreigners – who have been married to a Polish citizen for at least 3 years and who have been residing in Poland based on a permit to settle, a long-term resident's EC permit or a permanent residence permit of an EU citizen or stateless persons residing in the Republic of Poland for at least 5 years based on a permit to settle or a long-term resident's EC permit – the granting of Polish citizenship may be subject to an administrative decision issued by a voivode competent for the place of residence of the foreigner in Poland, on request of the person concerned. It also needs to be noted that a child of parents one of whom is a Polish citizen and the other a citizen of another state and for whom the parents chose the citizenship of another state may submit – between its sixteenth birthday and six months after it has reached full legal age – a declaration on acquiring Polish citizenship. In such cases the procedure of granting Polish citizenship is

subject to the provisions of the Code of Administrative procedure. Issued decision may be appealed against. The decisions may be challenged by administrative courts.

131. The issues of the right to get married and the right to choose a spouse are in principle regulated in the Constitution of the Republic of Poland, the Act – Family and Guardianship Code, and the Act – Law on Civil Status Records. From the perspective of the right to get married and to choose a spouse, it is important to emphasise that the legal ability to enter into a marriage – in the national legal order defined in the Family and Guardianship Code – is not in any case conditional on race, nationality or religion.

132. The catalogue of documents needed to enter into a marriage is included in Article 54 of the Act – Law on Civil Status Records. If a foreigner intends to enter into a marriage, in addition to the documents listed in Article 54, the Act requires in principle submitting a document stating that in accordance with the law of the country of citizenship he/she has the legal ability to enter into a marriage (Article 56 of the Law on Civil Status Records).

133. The choice of surname is the sovereign right of spouses-to-be laid down in Article 25 of the Family and Guardianship Code. As regards foreigners, Article 15(2) in fine of the Act of 4 February 2011 – Private International Law applies, which states that the choice of surname while entering into a marriage is governed by the law of the country of each of the spouses.

5. Economic, social and cultural law

134. The Labour Code introduces the prohibition of direct and indirect discrimination in employment on such grounds as race, religion, faith, nationality and ethnic origin. However, Article 2a of the Act on employment promotion and labour market institutions includes a general rule saying that these provisions protect the principle of equal treatment in access to and use of labour market services and instruments regardless of sex, race, ethnic origin, nationality, religion, faith, world view, disability, age and sexual orientation. The principle was further detailed in the above-mentioned Act by introducing the prohibition of discrimination on such grounds as race, nationality, ethnic origin in terms of: establishing the criteria for issuing work permits to foreigners (Article 10(5)); the rules of employment agencies' work (Article 19(c)); providing work exchange services (Article 36(4)(3)); accepting job offers provided by employers (Article 36(5e)); vocational counselling and professional information (Article 38(2)(3)); directing to training and participating in training (Article 40(2)(d), Article 40(6)).

135. The above-mentioned prohibitions apply *erga omnes* since the Act on employment promotion and labour market institutions (...) is addressed to both employers and the unemployed and job-seekers, as well as to entities implementing this Act, in particular public employment services. The Act on employment promotion (...) includes also criminal provisions determining the procedure in the case the prohibition of discrimination is violated. In line with these provisions, those who manage an employment agency and does not respect the principle of non-discrimination on the grounds of sex, age, disability, race, religion, ethnic origin, nationality, sexual orientation, political beliefs and religious denomination or trade union membership or who refuse to employ a candidate on a vacant place or in a vocational training work place because of the above reasons, shall be liable to a fine of not less than 3 000 PLN. The above-mentioned acts were also discussed in detail in the previous Report in paragraphs 146–172 and 177–181.

136. In addition, it should be noted that Article 8 of the Act on the implementation of certain European Union provisions concerning equal treatment forbids unequal treatment of natural persons *inter alia* on grounds of race, ethnic origin, nationality, religion and denomination in the area of: taking up vocational training, including additional training, in-service training, retraining and work placement; the conditions of taking up and pursuing

economic or professional activity, including in particular in the framework of an employment relationship or work pursuant to a civil law contract; joining and acting in trade unions, employer organisations and self-governing professional bodies, as well as exercising the rights due to members of such organisations and access and conditions of using labour market instruments and services laid down in the Act on employment promotion (...) offered by labour market institutions and labour market instruments and services offered by other entities acting in support of employment, human resources development and unemployment prevention.

137. There are certain categories of foreigners with a statutory right to take up employment in Poland without the obligation to obtain a work permit. They are *inter alia* people granted international or national protection in the Republic of Poland. It should also be noted that as of 29 May 2008 the privilege is also available to people applying for the refugee status if the first instance administrative proceedings are lengthy (take longer than six months) at no fault on the part of the foreigner concerned.

138. The number of work permits issued to foreigners was: in 2009 – 29 340; in 2010 – 37 121; and in 2011 – 40 808.

139. The ban on unequal treatment of natural persons *inter alia* on grounds of race, ethnic origin or nationality in the area of access and conditions of using social security, services, including housing services, goods and acquiring rights or energy, if offered publicly, has been introduced pursuant to Article 6 of the Act on the implementation of certain European Union provisions concerning equal treatment.

140. In the area of health care, education and higher education, the ban has been introduced pursuant to Article 7 of the Act on the implementation of certain European Union provisions concerning equal treatment.

141. In addition, the above Act prohibits encouraging to unequal treatment or ordering unequal treatment, *inter alia* in the area of employment and the labour market, social security, services, including housing services, goods and acquiring rights or energy, if offered publicly, health care, education and higher education.

142. As a result of amending the Act on the education system in January 2010, the changes concerned the provisions (Article 94a) on the education of students who are not Polish citizens, e.g. people covered by international protection, can attend public post-secondary schools, public art schools, public teacher education centres and public establishments on the same terms as Polish citizens.

143. In June 2010, the Ombudsman for Children's Rights highlighted the necessity to adjust the lower secondary school leaving examination to the needs of students whose command of Polish is not fluent. The above problem was regulated by Regulation of the Minister of National Education of 17 November 2010 amending the Regulation on the terms and manner of evaluating, classifying and promoting students and holding tests and examinations in public schools, which allows minor foreigners to take exams adjusted to their individual educational needs as well as psychological and physical capacity.

144. Regulation of the Minister of National Education of 1 April 2010 on admitting foreigners to public kindergartens, schools, teacher education centres and establishments, and providing foreigners with additional classes, remedial classes and classes in the language and culture of the country of origin sets out *inter alia* the rules of taking free extra classes in Polish. Apart from foreigners covered by compulsory schooling or education who do not speak Polish at all or speak it at a level insufficient to attend classes, the right was also granted to people holding Polish citizenship. In addition, the Regulation sets out the manner of organising remedial classes for foreigners and Polish citizens who do not speak Polish at all or speak it at a level insufficient to attend classes. Additional classes are

organised by the bodies that run schools. The total number of classes provided to eligible people is five hours a week, of which additional free classes in Polish account for at least two hours a week. The new regulations are intended to inter alia facilitate foreigners' education within the Polish system and thus to prevent their exclusion and discrimination.

145. Pursuant to the above Regulation, a foreign diplomatic or consular post or a cultural and educational association from a given country can organise up to five classes in the language and culture of the foreigners' country of origin a week at a school. In order to hold such classes, at least seven students must express their interest in the case of primary and lower secondary schools, or fourteen students in the case of art schools.

146. In order to improve the situation of foreign children covered by the schooling obligation, the Office for Foreigners, the Ministry of National Education and the Office of the Human Rights Defender took steps that resulted in changes in the education law. The possibility was introduced to employ assistant teachers from foreign children's ethnic group at schools attended by foreign children (regulated by Article 94a(4a) of the Act on the education system) and subsidies are granted for additional classes in Polish at schools. The funds to cover the costs of holding additional classes for foreign students and employing the assistant are covered by the educational subsidy according to the Regulation of the Minister of National Education on the manner of dividing a part of the general education subsidy between local government units.

147. Between 2009 and 2011, the Ministry of National Education implemented a public task entitled Supporting educational initiatives for refugees, national/ethnic minorities living in Poland to cultivate the language, tradition and culture of the country of origin or teach Polish (Wspieranie inicjatyw edukacyjnych realizowanych na rzecz uchodźców, mniejszości narodowych/etnicznych mieszkających w Polsce, służących kultywowaniu języka, tradycji i kultury kraju pochodzenia lub nauczania języka polskiego). The purpose of the project was to select the best offers from applicants who implement projects for refugees, national/ethnic minorities living in Poland to cultivate the language, tradition and culture of the country of origin or teach Polish, including supporting the sense of national/ethnic identity, particularly in teaching the language of the country of origin, maintaining the culture, habits, rites of national/ethnic groups, integration with the local community, resulting from agreements/arrangements/ executive programmes of Poland's cooperation with third countries; implemented in accordance with the objectives of European policy on migrants in cooperation with schools. In 2009, the implementation of the task was subsidised with 100 000 PLN (6 projects), in 2010 it was 150 000 PLN (9 projects), while in 2011 the figure was 150 000 PLN (10 projects).

148. The Act – Higher Education Law amended considerably by the Act of 18 March 2011 amending the Act – Higher Education Law, the Act on academic degrees and the academic title, and on degrees and title in the area of art and amending certain other acts, concerns taking up studies and studying a university programme, a PhD programme and other forms of education, and participation in research and development by foreigners. Education and participation in research by foreigners takes place according to the same rules as those applicable to Polish citizens laid down in the said Act.

149. In addition, Order No 14/2011 of the Minister of Science and Higher Education of 15 February 2011 appointed the Team for Good Academic Practices composed of 11 academic teachers, such as ethicists, lawyers and a sociologist. The Team's task is to formulate opinions and conclusions in cases referred to it by the Minister, inter alia concerning discrimination on grounds of race. Between March and present, the Minister of Science and higher Education received no complaints related to racial discrimination. The Team's opinion is sent to the applicant or the complainant; the rector of the university concerned can also be notified if necessary.

150. According to the Act, the right to welfare benefits is due to people holding Polish citizenship whose place of residence is in the Republic of Poland and are actually staying in Poland; foreigners whose place of residence is in the Republic of Poland and are actually staying in Poland: (a) on the basis of a settlement permit, EC long-term resident permit, residence permit for a fixed period granted due to a situation referred to in Article 53(1)(13) of the Act on foreigners or in relation to obtaining a refugee status or subsidiary protection in the Republic of Poland, (b) on the basis of a consent for tolerated stay – in the form of shelter, meal, necessary clothing and a targeted benefit; citizens of European Union Member States, member states of the European Free Trade Agreement – parties to the European Economic Area agreement or of the Swiss Confederation and their family members, having the right of residence or right of permanent residence in the Republic of Poland whose place of residence is in the Republic of Poland and are actually staying in Poland, unless international agreements stipulate otherwise. As the provision stipulates, the right to welfare benefits is conditional upon criteria objectively (even indirectly) independent of factors such as race or ethnic background. The regulations that determine the grounds for granting welfare benefits in a specified form are clear, unambiguous and allow interested entities to understand their rights and obligations in a precise way. At the same time, considering Article 25(2) of the Act on welfare assistance which stipulates inter alia that determining the right to welfare benefits may not be delegated by general government bodies, it is obvious that it is always the public authorities that decide on the right to such benefits. In this respect, non-discrimination is guaranteed by Article 32 of the Constitution of the Republic of Poland which stipulates inter alia that all persons shall have the right to equal treatment by public authorities and by Article 77 of the Constitution of the Republic of Poland which says that everyone shall have the right to compensation for any harm done to him by any action of an organ of public authority contrary to law.

151. Foreigners applying for the refugee status who are covered by welfare are also provided access to the same scope of health care services as the people covered by universal health insurance (excluding spa treatment and spa rehabilitation). Therefore, the current infrastructure of centres includes doctor's surgeries where basic medical services and psychological counselling are provided. The scope and rules of providing medical services to foreigners applying for the refugee status who are covered by welfare is regulated by Articles 73 and 74 of the Act on granting protection to foreigners in the territory of the Republic of Poland.

152. The number of associations for people who belong to national and ethnic minorities and using the regional language remains the same. In the period under consideration, an abrupt increase in the number of associations was only seen in the case of the Roma minority. At present, the number is about 80. All national and ethnic minorities have at least one association of people of a given minority. More information on the right to equal participation in cultural activities can be found in paragraphs 184–190 of this Report under Article 7 of the Convention.

Article 6

153. The provisions of the Constitution of the Republic of Poland and the Act on the Human Rights Defender which determine the HRD's competence apply to the cases where the charge consists in breaching the principle of equal treatment or the ban on discrimination. According to Article 80 of the Constitution of the Republic of Poland, everyone shall have the right to apply to the Human Rights Defender for assistance in protection of his freedoms or rights infringed by organs of public authority. Consequently, Article 11(2) of the Act on the Human Rights Defender stipulates that "to exercise the principle of equal treatment of private entities, the Defender may take up the actions set out in paragraph 1(2)," i.e. having become acquainted with each application received, the

Defender may instruct the applicant as to whatever action the person is entitled to take. Yet in the case of horizontal disputes (where no party is a public authority body), the Defender may act indirectly in certain cases, e.g. in the case of a complaint about employee discrimination the Defender informs the applicant about the actions he/she may take and may request the State Labour Inspectorate to perform relevant control activities.

154. Pursuant to Article 13(1) of the Act on the implementation of certain European Union provisions concerning equal treatment everyone who was subject to a breach of the equal treatment principle has the right to a compensation. The provisions of the Civil Code apply to cases where the equal treatment principle was breached. The Act on the implementation of certain European Union provisions concerning equal treatment also introduced rules concerning the burden of proof that are favourable to potential discrimination victims. Pursuant to Article 14(2) and (3) of the Act, an entity that claims the equal treatment principle was breached must prove that it actually took place. If the breach of equal treatment principle is evidenced, the entity accused of breaching the principle must prove that it did not commit such an act.

155. Enforcement of claims pursuant to the provisions of the said Act does not exclude the possibility to enforce claims pursuant to provisions of other acts. Victim's execution of rights related to the fact that the equal treatment principle has been breached may not constitute the reason for unequal treatment and cannot lead to any negative consequences to the person who exercised such rights or persons who supported the person exercising such rights in any way.

156. Information about the competences of the Human Rights Defender and the Government Plenipotentiary for Equal Treatment in terms of examining individual complaints as well as statistical data are presented in paragraphs 88 to 91 and 153 of this Report.

157. Detailed information on the remedies available in the case of breaching the non-discrimination principle in the workplace have been presented in the previous Report, paragraphs 207–213. It should also be noted that pursuant to the 2008 amendment of the Labour Code, using the rights due for breaching the equal treatment principle in the workplace by the employee may not be the reason for terminating the employment relationship by the employer or such termination without notice, but also it may not be the reason for any negative consequences towards the employee. The protection also covers an employee who supports another employee using such rights in any way.

158. The competence of the Department of Human Rights of the Ministry of Justice focuses on supporting crime victims. In cooperation with other entities, it takes such actions as drafting informational documents intended for different categories of victims in order to provide them with information on their rights.

159. Facilitating dialogue between the Police and victim groups takes place on an ongoing basis via plenipotentiaries for human rights protection and widely developed prevention activities, also focused on potential victims of racial violence acts (from the victimological point of view).

160. Pursuant to Article 14(1) of the International Convention on the Elimination of All Forms of Racial Discrimination, Poland files a declaration on acknowledging the competence of the Committee on the Elimination of Racial Discrimination in the area of complaints about Convention breaches filed by citizens.

Article 7

1. Education

161. As of 1 September 2009, the Polish education system has a new core curriculum laid down in the Regulation of the Minister of National Education of 23 December 2008 on the core curriculum of kindergarten education and general education in individual school types. The curriculum reform has been introduced gradually. In school year 2010/2011 the new core curriculum of general education was applied in kindergartens, grades 1–3 of primary school and lower secondary school, and from 1 September 2012 it will start to be applied at the 2nd and 4th education stage. The new core curriculum defines the objectives of education and upbringing in a specific way. Their achievement is supposed to prepare young people for effective, responsible and active life in the modern world. It places emphasis on individual and social development of students, including the shaping of social and civic integrity, responsibility, self-esteem and respect towards others. The new core curriculum pays particular attention to developing and strengthening the attitude of respect for other cultures and traditions, it is also recommended to take appropriate steps to prevent any form of discrimination, thanks to which students will be able to build correct social relations independently. The curricular content focused on counteracting prejudice leading to racial discrimination is taken into consideration at every stage of education, adjusted to the age, experience and cognitive capacity of students. It is included in the core curriculum of classes in Polish language and literature, Modern foreign language, History and society (primary school), History, Ethics, Civics, Philosophy, Family Life Orientation Class (lower secondary schools and post-lower secondary schools), and supplementary subject – History and society (post-lower secondary schools).

162. Problems related to human rights are discussed particularly during classes in Civics. At the 3rd stage of education students learn about the basic regularities, rules and institutions of public life, and develop their civic and social skills. They learn the significance of the constitution as the supreme legal act of the Republic of Poland and discuss the fundamental rights and liberties it defines. Students who decide to take the Civics classes in the basic scope will be able inter alia to find and use information on the way in which the law regulates the life of citizens and use the procedures and possibilities provided to citizens by public life institutions. They will also know the ways of protecting rights and liberties. They will be able to recognise symptoms of racism, chauvinism, anti-Semitism and xenophobia. They will be prepared to respond appropriately when human rights are breached in a selected area.

163. The core curriculum of Civics in the extended scope for the 4th stage of education allows discussing matters of social, political and legal nature with students in an in-depth way. Students learn about human rights in everyday life and the mechanisms of human rights protection in Poland, Europe and globally.

164. According to the Regulation on admitting kindergarten education curricula and curricula for use at school and admitting textbooks for use at schools, textbooks are admitted to use at schools by the minister in charge of education and upbringing. The condition for admitting a textbook to use at schools is obtaining three positive opinions (two didactic opinions and one linguistic opinion) of experts. Textbooks intended for general education present content that complies with the law, including the content of the core curriculum of general education and ratified international agreements. History and geography textbooks must also comply with the recommendations of bilateral textbook committees as well as other textbook committees and teams acting pursuant to international agreements on cooperation in the area of education, or UNESCO national committees.

165. Due to introducing the new core curriculum and new textbooks, the Government Plenipotentiary for Equal Treatment requested the Minister of National Education to order

the team of experts working on new textbooks to analyse them from the point of view of equal treatment and counteracting discrimination on grounds of sex, race, ethnic origin, nationality, religion or denomination, political views, age, sexual orientation, marital and family status. In reply, the Minister of National Education contacted all experts, emphasising the need to analyse the content of textbooks from the point of view of equal treatment and counteracting discrimination. The analysis is performed on an ongoing basis by all experts issuing opinions on textbooks as part of the procedure of admitting textbooks for use at schools. In addition, in 2009–2011 the Government Plenipotentiary for Equal Treatment in cooperation with the Minister of National Education organised inter-ministerial meetings devoted to presenting the problems related to schooling children of a different ethnic or cultural background, and drafting recommendations for actions in this area that would allow counteracting discrimination and isolation of such children at schools and, at the same time, facilitate their efficient education. In the framework of team's work, representatives of the Education Development Centre of the Civic and European Education Platform presented the conclusions of the report entitled *Foreign Children in Polish Educational Establishments – the School's Perspective*. Meeting attendants were also presented the final report entitled *Multiculturalism and Education of Students with Special Needs* that sums up the conclusions drawn from the analysis of schooling children with special needs and multiculturalism prepared by representatives of the Ministry of National Education.

166. In September 2011, the Human Rights Defender inquired the Minister of National Education on the presence of curricula devoted to counteracting racism at schools. In the light of reports of more racist and xenophobic incidents, the Defender highlighted the need to intensify activity against racism and xenophobia in Poland, as well as the role of educating children and young people in the process. The purpose of implementing curricula should be primarily to present cultural diversity to students, prevent the emergence and consolidation of harmful stereotypes, shape the attitude of openness and respect for others regardless of their origin, faith or belief. Many NGOs and local authorities take steps aimed at popularising the idea of tolerance among students, but the classes, workshops and programmes they organise cover only a small group of children and young people. Thus, they are not a comprehensive solution to the problem. In response to the Defender, the Minister of National Education emphasised that the new core curriculum of kindergarten education and general education for individual types of schools takes into account the content devoted to equal exercise of all human rights and fundamental freedoms, as well as supporting respect for human dignity. It also places appropriate emphasis on counteracting racism. The Minister of National Education added that the possible changes in the core curriculum will be introduced in 2015. She also presented examples of specific actions in the area of human rights education and preventing discrimination and racism addressed at students and teachers. Examples of actions in the area:

(a) A conference entitled *Education for human rights in work with children* was organised in April 2010. Its purpose was to initiate a discussion on actions taken by educational establishments to foster respect for the law and shaping civic responsibility attitudes. The conference was an opportunity to inaugurate regional training courses that prepare teachers to work with children in the area of human rights, tolerance, counteracting discrimination and racism based on the Polish version of the Council of Europe's educational package *Compasito* – a manual on human rights education for children. The *Compasito* presents guidelines on how to present information on human rights in an accessible way and talk about subjects such as human dignity, self-respect and respect towards others, freedom, equality, tolerance, solidarity. Class subjects concentrate on problems related inter alia with democracy, discrimination, sex equality, family and foster care, education, health and welfare, poverty and social exclusion;

(b) A conference entitled Education for equality – equality in education was organised by the Anti-discrimination Education Association in May 2011. The conference was devoted to discussing the methods and tools of strengthening the anti-discrimination perspective in the Polish education system. Its purpose was to identify the possibility of introducing systemic solutions that would be conducive to expanding the scope of anti-discrimination education in the framework of formal schooling on the local, regional and national level;

(c) The following were published at the website of the Education Development Centre: Antidiscrimination. Educational Package, Human Rights. Teacher's Guidebook;

(d) The Summer Academy Democracy at school is organised annually in Poland. It is devoted to inter-cultural education, teaching about human rights and civic education. The Summer Academy is attended by teams composed of three: a director, a teacher and a representative of an NGO or a parents' association cooperating with a given school. The teams come from Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova) and from Denmark, Finland, Germany, Norway, Russia and Sweden. The Summer Academy is a joint project by the Ministry of National Education, Education Development Centre, Council of Europe and the European Wergeland Centre. The purpose of the Summer Academy is to disseminate educational materials by the Council of Europe on inter-cultural education, civic education and teaching about human rights;

(e) In the framework of cooperation between the Ministry of National Education and the Contact Point for UNESCO, workshops in intercultural education on Islam culture are organised for students and teachers from Polish lower secondary schools and post-lower secondary schools and teachers from Baltic Sea countries.

167. Information on education activities is also included in paragraph 41 of this Report.

168. Foreign children in school age covered by refugee proceedings have access to kindergartens, primary schools, lower secondary schools and post-lower secondary schools and receive free textbooks, other materials and learning aids. As a result of an amendment to the Act on granting protection to foreigners in the territory of the Republic of Poland prepared by the Office for Foreigners, children covered by benefits but staying outside a centre for foreigners who were only provided access to education will also receive textbooks and school materials.

169. The right of foreigners to education is also discussed in paragraphs 142 to 149 of this Report. Information on education of Roma community children is available in paragraphs 12–25.

170. In addition, in the context of education for children from national and ethnic minorities, particular attention should be paid to the Strategies prepared to solve the problems of education for individual national and ethnic minorities.

171. A conference devoted to discussing the ten years of implementing the Strategy of Lithuanian minority education development in Poland, adopted in 2002, was organised in October 2011. The document, drafted in collaboration by the general government administration and organisations of the Lithuanian minority in Poland, describes the problems of education for the Lithuanian minority in Poland and suggests possible solutions. In the framework of Strategy monitoring, five meetings were organised with a view to summing up the implementation of the recommendations provided in the document and working out solutions that allow their more effective introduction. The Strategy's implementation resulted in opening the Comprehensive School Complex with Lithuanian Instruction Language in 2010. The school was set up thanks to funds provided by the minister in charge of religious denominations and national and ethnic minorities. The majority of problems listed in the Strategy have already been solved in the intervening

years. The effects of the actions taken at that time are already visible (such as a considerable increase in the budget funds provided for teaching minority languages and instruction in minority languages, legislative changes aimed at changes in educational tasks aimed at preserving the cultural identity of minorities).

172. A meeting devoted to monitoring the implementation of the Strategy of German minority education development in Poland, adopted in December 2006, was organised in Opole in April 2011. Its purpose was to analyse the implementation status of recommendations that concern the structure of education for the German minority in Poland, the system of managing and financing education, the curriculum, teachers of German as the language of a national minority (curriculum advice).

173. The Strategy of Ukrainian minority education development in Poland was adopted in June 2011. The document is intended to analyse the situation in terms of education for the Ukrainian minority in Poland and work out solutions that allow correct implementation of actions that serve maintaining a sense of national identity in students from the Ukrainian minority. The proposals of actions and solutions resulting from Strategy recommendations include: examination of needs in curriculum advice, determining the competence and rules of cooperation with Ukrainian minority organisations, voivodeship marshals acting as bodies running Ukrainian minority schools, and the Poland-Ukraine Youth Exchange programme.

174. Data on teaching the languages of national and ethnic minorities and the regional language to children and youth in primary schools and inter-school groups are presented in Annex VI.

175. The Act on national and ethnic minorities provides for the possibility to use national and ethnic minority languages and the regional language as auxiliary languages before gmina (principal unit of administrative division) authorities and the possibility for gminas to introduce additional traditional names of streets, places and physiographic objects in national and ethnic minority languages and the regional language (more information on the subject can be found in paragraph 83 of the previous Report). According to the Act, introducing an auxiliary language is possible in 51 gminas across Poland, of which 13 are in Podlaskie Voivodeship, 27 in Opolskie Voivodeship, 10 in Pomorskie Voivodeship and 1 in Śląskie Voivodeship. As of 5 March 2012, the Official Register of Gminas where an auxiliary language is used included 30 gminas, of which six gminas from Podlaskie Voivodeship (Lithuanian being the auxiliary language in one and Belarusian in the other five), two gminas from Pomorskie Voivodeship (where Kashubian is the auxiliary language) and 22 gminas from Opolskie Voivodeship with German as the auxiliary language. In addition, the Register of Gminas includes 42 gminas, of which 25 gminas from Opolskie Voivodeship (auxiliary names in German), 11 gminas from Pomorskie Voivodeship (auxiliary names in Kashubian), 2 gminas from Śląskie Voivodeship (auxiliary names in German), 2 gminas from Podlaskie Voivodeship (auxiliary names in Lithuanian in one gmina and Belarusian in the other) and 2 gminas from Małopolskie Voivodeship (auxiliary names in Lemko).

176. The funds provided between 2009 and 2011 for replacing information boards due to introducing additional place names in a minority language or the regional language amounted to: in 2009 –537 446.55 PLN (ca. 128 000 EUR); in 2010 –662 058.27 PLN (ca. 157 000 EUR); in 2011 –1 097 677.37 PLN (ca. 262 000 EUR).

177. In the period covered by this Report, many actions were taken to enhance the knowledge and awareness of law enforcement officers in the area of respecting and protecting human rights regardless of their race and ethnic origin. Here are some of them.

178. In the period covered by this Report, the Police implemented the Programme for combating hate crimes for law enforcement officers presented in paragraph 28 of this Report.

179. At all stages of training for Police officers, classes are devoted to anti-discrimination issues (basic course, specialised courses, training for university graduates and as part of 'internal security' programme – during classes in human rights and ethics of state service officers for Police officers and civilian students). In all instances, hate crimes are mentioned as one of the problems. The classes are not only theoretical, but also interactive as the anti-discrimination textbook for Police officers is used.

180. In 2010, the Police started to build and implement the Early Intervention System (EIS) whose purpose is to shape standards and professional responsibility within the organisation. The EIS is a proactive system of multifaceted actions aimed at eliminating and preventing negative phenomena in the Police, including bad treatment of inmates. The EIS serves creating mechanisms that strengthen the managerial staff responsible for shaping standards in the units they manage by providing them with relevant information, knowledge and skills. The mechanisms allow identifying signals of undesirable behaviour of subordinate Police officers and responding in a timely manner. The EIS Newsletter is a proactive Internet tool to prevent irregularities. It is based on the same rules as Lessons Learned bulletins with case-studies, descriptions of undesirable behaviour of Policemen and verdicts of the European Court of Human Rights. At present, the EIS is published by five Voivodeship Police Headquarters. The Police Commander-in-Chief decided that from January 2011 on the Warsaw Police Headquarters and other Voivodeship Police Headquarters will be gradually covered by the EIS. Also, a workshop on Human rights in Police management was prepared for medium level managers (the education process started on a wide scale on 1 June 2011). The special expert group composed of plenipotentiaries for human rights protection from field Police units and Police schools and an expert in teaching based on the attitudes of the people from the Staff and Training Bureau of the General Police Headquarters, under the direction of the plenipotentiary from the General Police Headquarters for human rights protection, prepared a guidebook for Police teachers entitled To Serve and Protect – Guidelines for the Process of Shaping Desired Attitudes and Behaviour during Basic Professional Training.

181. In 2010, the Border Guard prepared an in-service course entitled Preventing torture and inhuman or degrading treatment or punishment. The course is intended for officers who work with foreigners, i.e. bring them to detention places, courts, guarded centres for foreigners, etc. – officers who come in direct contact with detained persons. In addition, it is intended for officers who serve at centres for foreigners and deportation centres and who perform operational and reconnaissance activities and intelligence and investigation activities, as well as border control. The purpose of the course is inter alia to discuss the rights and liberties due to every human being regardless of the race, sex, language, denomination, belief, national and social background, etc. and preventing prejudice that lead to racial discrimination. In 2011, 211 people attended training courses organised by the Main Border Guard Training Centre in Koszalin on solving intercultural conflicts and selected issues in human rights protection, focusing on racial discrimination.

182. Representatives of the Office for Foreigners participate in training aimed at improving their competence in working with foreigners and attend meetings devoted to counteracting discrimination of foreigners; they are also members of expert teams, such as the Council for Prevention of Racial Discrimination, Xenophobia and Related Intolerance.

183. In 2011, the General prosecutor's Office drafted guidelines for prosecutors involved in or supervising proceedings on crimes motivated by prejudice and hate.

2. Culture and Information

184. One of the most important actions taken by the Ministry of Culture to achieve the major objectives of the Convention in the area of culture was to introduce relevant provisions to draft Social Capital Development Strategy (SCDS) that is coordinated by the Minister of Culture and National Heritage. The SCDS is one of the nine horizontal strategies for Poland's development that were created in reply to the key developmental challenges identified by Poland 2030. The draft emphasises counteracting discrimination, strengthening openness and tolerance. Equal rights and initiating actions to prevent discrimination is the perspective adopted by the Strategy's operational objectives and individual priorities. The implementation of all SCDS objectives, priorities and directions takes into account the horizontal rules of the Strategy, such as: popularising openness, tolerance and respect for others as the social norms, combating any form of discrimination on grounds of sex, age, race, skin colour, ethnic or social background, genetic traits, language, religion or beliefs, political views or any other views, being a member of a national minority, economic status, birth, disability, age or sexual orientation and equalising the chances of groups and circles that are socially excluded or at risk of social marginalisation.

185. As concerns objective 4 of SCDS: Development and effective use of the Strategy's cultural potential, actions are designed that serve supporting inter-cultural dialogue and cultural identity on the local, regional and national level. Adopting the SCDS as a horizontal document valid until 2020 would define the path of implementing the key tasks connected with social capital development and allow effective combating of various types of discrimination and exclusion. It will also consolidate social cohesion by ensuring better conditions for the process of integration of many social groups.

186. Acting in the spirit of supporting and promoting cultural diversity, the Ministry of Culture and National Heritage also provides funds for cultural projects by national and ethnic minorities. Financial subsidies are available under special programmes of the Minister of Culture and National Heritage that are available to all non-profit cultural institutions with legal personality. The entrenched practice is that subsidies for different kinds of cultural actions that cover popularising the culture of the above groups are granted under annual programmes Cultural Education and Culture Infrastructure Development. The other source of financing is the Government Multiannual Programme KULTURA+ for 2011–2015. Its purpose is to improve access to culture and participation in cultural life by modernising and building the library infrastructure and digitalisation of the collections of Polish museums, libraries and archives. Subsidies are provided for resources of culture and national heritage, taking into account national and ethnic minorities.

187. The Minister's programmes and KULTURA+ Programme support many projects prepared by organisations that represent minorities, such as Shalom Foundation, Jewish Historical Institute, Association of Ukrainians in Poland, KZKO Armenian Foundation, Association of the Roma in Poland, religious associations and other NGOs that support refugees and migrants. The nature of cultural projects that are granted subsidies is varied. They are usually folk festivals, concerts, exhibitions of artworks, film festivals, conferences, as well as educational projects, presentations and festivals whose purpose is to popularise the culture and religion of national minorities, refugees and migrants who live in Poland. Between 2009 and 2011, the Ministry of Culture and National Heritage also supported infrastructural projects whose purpose was to create favourable conditions fostering cultural activity in the area of protecting and popularising the cultures of minority communities, such as creating the Digital Archive of Polish Armenians, digitalisation of the Roma Historical Institute archive, creating the Central Judaica Database, purchasing equipment for Shalom Foundation, adaptation of a building for the Ukrainian Cultural Centre in Żelichów. Between 2009 and 2011, the Ministry of Culture and National Heritage

spent a total of ca. 1 650 000 PLN (ca. 393 000 EUR) for those projects. Information on supporting cultural projects for the Roma community is also included in paragraph 26 of this Report.

188. The above actions are supplemented by constant support for the Polish Film Institute that co-financed 29 films that depict ethnic and national minorities, migrants and refugees in the above period. In the framework of popularising film, the Institute subsidised a number of minority culture festivals, such as the 6th International Film Festival 'Jewish Motives,' International Festival of Caucasus Cultures 'Transkaukazja,' and Nostalgia Festival 2009.

189. The Minister of Interior and Administration also provided annual subsidies for the achievement of tasks that serve preserving and developing cultural identity of national and ethnic minorities as well as preserving and developing the regional language. Between 2009 and 2011, the value of the subsidies was as follows: in 2009 –13 130 000 PLN (ca. 3 167 000 EUR); in 2010 –13 013 000 PLN (ca. 3 098 000 EUR); in 2011 –13 662 000 PLN (ca. 3 253 000 EUR). The Minister's subsidies were used to finance press for national and ethnic minorities and in the regional language. Thanks to the subsidies, there were over 100 festivals, concerts, fairs, reviews, poetry contests, declamation contests and singing contests organised annually. The Minister's subsidy was also used to co-finance year-round activity of amateur art groups of minorities. In addition, subsidies were granted inter alia for running libraries, archives, cultural centres and memorial exhibition rooms. Another very important area was supporting actions aimed at children and young people: foreign language clubs, theatres for children, art workshops and camping trips for children and youth. Funds of the Minister were also used, on an annual basis, to finance several investments of key importance to maintaining and developing cultural identity of national and ethnic minorities and to preserving and developing the regional language. In addition, annual targeted subsidies are provided by the Minister's budget to support the activity of organisations for national and ethnic minorities and the community speaking the regional language.

190. New forms of activity of associations for members of national and ethnic minorities and speakers of the regional language include online projects and the recently developing media activity that consists in producing radio and TV programmes in minority languages and broadcasting them on non-public channels thanks to state budget subsidies.

191. Article 54(1) of the Constitution of the Republic of Poland concerns the freedom of speech and the press. It recognizes the freedom to express opinions, to acquire and to disseminate information as the fundamental value of democracy. In relation to national and ethnic minorities, these rules are implemented by the Act on radio and television broadcasting, particularly the definition of the 'public mission' introduced in April 2004 by way of the Act amending the Act on radio and television broadcasting. Public radio and television carry out their public mission by providing, on terms laid down in the Act, the entire society and its individual groups with diversified programmes and other services in the area of information, journalism, culture, entertainment, education and sports which are pluralistic, impartial, well balanced, independent and innovative, marked by high quality and integrity of broadcast.

192. Information on the tasks of public radio and television broadcasters introduced by the Act on national and ethnic minorities is presented in the previous Report, paragraphs 240–243.

193. According to Article 213(1) of the Constitution of the Republic of Poland, the National Broadcasting Council shall safeguard the freedom of speech, the right to information as well as safeguard the public interest regarding radio broadcasting and television. As the law protection body, the National Broadcasting Council's main task is to

control and evaluate programmes to be broadcast from the point of view of fundamental and socially approved values. According to Article 18 of the Act on broadcasting, programmes shall not promote actions contrary to morality or social good, they shall respect religious sensibilities of the audience, in particular they shall not include content discriminating on grounds of race, sex or nationality. Any broadcaster who, in the Council's opinion, breaches the above provision shall be fined according to the rules laid down in the Act. In the period covered by this Report, the National Broadcasting Council received two complaints about content discriminating on grounds of race. Both complaints concerned a radio programme entitled Morning Gym (Poranny WF) broadcast by Eska Rock radio station. One of the complaints concerned a programme from May 2011. The proceedings ended with imposing a 50 000 PLN fine on the broadcaster. The other complaint concerned the same programme, episode from 6 October 2011. On 20 December 2011, the Council decided to impose another fine on Eska Rock (the decision to impose another 50 000 PLN fine was made by the Chair of the National Broadcasting Council in March 2012, i.e. outside the period covered by this Report).

194. The basic method of monitoring programmes broadcast to verify their adherence to statutory provisions is to analyse recordings provided by the broadcaster. All programmes are analysed using a sample from at least one week (planned monitoring). The analysis covers all words spoken on air, i.e. during programmes and announcements in between, for discrimination. Thus, it is an expensive and time-consuming procedure that requires the involvement of many specialists. Such controls are necessarily conducted on an ad hoc basis. Proceedings triggered by complaints and requests are also a good tool to eliminate discriminatory content. In the previous years, the media were not monitored for discriminatory content due to limited funds and also because the analyses performed earlier did not reveal such threats (there was only one complaint to the effect, described above).

195. The National Broadcasting Council is open to cooperation with all institutions, organisations and people interested in instances of breaching the law in the area of discrimination on grounds of nationality by public media and by broadcasters holding concessions, the only limit being scarcity of funds. If the Council's budget was extended in the future, it would allow a more comprehensive monitoring for such problems. Also, the multi-annual Strategy of the National Broadcasting Council, adopted in 2011, envisages introducing the position of a Freedom of Speech Ombudsman within the Council's Bureau. In practice, the Ombudsman would be responsible for monitoring and preventing violations of human rights.

196. Respondents of surveys by the Central Statistical Office were asked questions about racial discrimination. In the framework of the survey on social cohesion, performed in February and March 2011, respondents were asked whether, in their opinion, in Poland the reasons for social exclusion are, for example, a different colour of one's skin or discrimination on grounds of the national or ethnic background. Initial results show that being a member of another race, nation or ethnic group is indeed considered the reason behind bad treatment (discrimination) in Poland by 39.2% respondents, 43.6% believe it is not the case, while 17.2% claimed it was difficult to say. The comprehensive analysis of the survey results will be published in 2012. Also, the 2012 survey on national associations was expanded to include a question about the number of people who belong to a given minority who were discriminated (not treated equally) on grounds of their nationality or ethnic origin. The results of the above surveys will help drafting action plans for information campaigns to eradicate prejudice that results in racial discrimination.