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Poland

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I. Introduction – methodology and consultations

1. This report has been drafted for the purposes of the second Universal Periodic Review of Poland. In line with the general guidelines laid down by the Human Rights Council in its decision 17/119, it focuses on the developments of the human rights situation in Poland since the last review, and on the progress in the implementation of the recommendations received during the first UPR in 2008. The report is the result of inter-ministerial consultations and its preliminary draft has been consulted with representatives of NGOs and the relevant parliamentary committees.

II. Legislative, legal and institutional development

A. Legal framework

1. Human rights – the Constitution of the Republic of Poland and the Criminal Code

2. The standards of protection of human rights and freedoms are laid down in Chapter II of the Constitution of the Republic of Poland. They reflect the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter. The Polish Criminal Code provides the basis for prosecuting crimes violating fundamental freedoms and human rights. The first national report of 2008 includes a detailed overview of constitutional rights and methods of their protection. In this respect the situation has not changed since the date of the report.

2. International instruments ratified by Poland 2008–2011

3. During the period 2008–2011, Poland ratified the following international agreements concerning human rights issues:

- a) Council of Europe Convention on Action against Trafficking in Human Beings;
- b) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III);
- c) Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects – Protocol V;
- d) Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children.

3. Implementation of EU anti-discriminatory directives

4. On January 1, 2011, the *Act of 3 December 2010 Implementing Certain European Union Provisions on Equal Treatment* entered into force. The new law identifies areas and ways to prevent violations of the principle of equal treatment on account of sex, race, ethnic origin, nationality, religion, faith, beliefs, disability, age, or sexual orientation. The Act regulates the legal situation and fully transposes the provisions of European Union anti-discriminatory directives. It also sets out legal measures for protection of the principle of equal treatment and identifies authorities responsible for the implementation of this principle.

B. Institutions tasked with protecting and promoting human rights

1. Civil Rights Ombudsman

5. Established in 1987, the office of the Civil Rights Ombudsman is a constitutional legal protection body. The Ombudsman is appointed by the Sejm, with the consent of the Senate, for a five-year term. The Ombudsman is independent of other state authorities and is tasked with safeguarding the freedoms and rights of persons and citizens, as specified in the Constitution and other laws. In 1999, the Civil Rights Ombudsman was accredited with A status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, as an institution acting in compliance with the so-called Paris Principles.

2. Ombudsman for Children's Rights

6. The Ombudsman for Children's Rights is a constitutional organ of state authority. It takes actions aimed at protecting i.a. the right to life and health care, the right to live in a family, the right to decent social conditions and the right to education. The Ombudsman also engages in actions aimed at protecting children against violence, cruelty, exploitation, demoralisation, neglect and other forms of maltreatment. The Ombudsman is particularly committed to providing care and assistance to disabled children, as well as to promoting and protecting their rights. In 2010, Polish legislation was amended to extend the scope of the Ombudsman's competences. As a result, he or she now has the right, i.a., to participate in proceedings on constitutional complaints concerning children's rights that have been lodged with the Constitutional Court; to file a cassation against a final and binding court judgement and to participate in pending juvenile proceedings.

3. Ombudsman for Patients' Rights

7. The Ombudsman for Patients' Rights is a government agency. Every citizen has the right to ask the Ombudsman for free-of-charge assistance to protect his or her rights. The Ombudsman can also initiate an inquiry, based on substantiated information that a patient's right has been violated. A patient may appeal to the Ombudsman for Patients' Rights' Medical Board against a medical opinion or a doctor's diagnosis, if such opinion or diagnosis affects the patient's rights or obligations. The Board is obligated to issue its decision promptly and in any case not later than within 30 days from the appeal date. The Ombudsman for Patients' Rights also employs **Spokesmen for the Rights of Psychiatric Patients** whose role is to protect the rights of patients who benefit from health services during hospitalisation in psychiatric hospitals.

C. Complaints mechanisms

1. Complaints to the Constitutional Court

8. A complaint may be lodged by every Polish citizen who wishes to request the Court to examine the constitutionality of a law or other normative act invoked by a court or public administration body in adjudicating on the liberties, rights and obligations laid down in the Constitution of the Republic of Poland.

2. Individual complaints of Polish citizens

9. In the framework of the UN system, Polish citizens may lodge complaints with the following Treaty Bodies: the Human Rights Committee, the Committee Against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination Against Women.

10. In the framework of the European human rights protection system, complaints may be lodged with the European Court of Human Rights in connection with a violation of civil rights or liberties guaranteed under the Convention for the Protection of Human Rights and Fundamental Freedoms.

III. Progress in the field of human rights promotion and protection

A. Civil and political rights

1. The right to life, freedom and security

Implementation of recommendations 7,8,9,10

a) Length of proceedings

11. The Polish Government has adopted several measures to shorten the length of court proceedings. The most important one was the 2009 amendment of the Act on complaint against protraction of proceedings. The amendment obligates the courts to adjudicate sums of money in favour of the defendant, provided he or she has made such claim and it is well-grounded. It also provides for filing a complaint against lengthy pre-trial proceedings.

12. In the period after 2008, Poland has also adopted organisational measures to speed up court proceedings by, for example: assigning assistants to judges, docketing cases dealing with minor offenses within a month's time from the date of their filing, or reassigning judges between court sections and courts. The General Prosecutor mandated appeal and regional prosecutors to take measures aimed at streamlining pre-trial proceedings. As a result, 2010 and 2011 saw a substantial decline in cases with proceedings exceeding two years.

b) Length of pre-trial detention

13. The Polish law strictly defines time limits for the pre-trial detention. In pre-trial proceedings the time limit is three months. In extraordinary circumstances, the court may extend it to twelve months. However, by the time the first instance court issues its first sentence, the total length of pre-trial detention must not exceed two years. It may be extended beyond those limits only by the court and only in cases that are enumerated in the Code of Criminal Procedure. In 2009, the catalogue of premises listed in the Code that authorise courts to extend the length of pre-trial detention was shortened¹.

14. Pre-trial detention is subject to administrative oversight by the Minister of Justice, who mandated presidents of courts to monitor lengthy court proceedings, and to submit quarterly monitoring reports, as well as to docket such cases without waiting for their turn. Moreover, in selected courts judges are delegated to review cases where the joint pre-trial detention of the accused has exceeded two years. As a result, the number of prosecutors' motions for pre-trial detention decreased (from 38,519 in 2005 to 24,940 in 2011), the number of court-ordered pre-trial detentions went down (from 35,142 in 2005 to 18,337 in 2011), and consequently, the number of remand prisoners on record dropped (from 13,416 on December 31, 2005 to 8,159 on December 31, 2011).

c) Conditions in correctional facilities

15. Poland has adopted a number of measures and nation-wide programmes to solve the problem of overcrowding in prisons and to improve the conditions in correctional facilities. As of September 2010, around 96-97 % of the capacity of correctional facilities was used.

16. The improvement of the conditions in prisons resulted from the increase in the number of prisoners' quarters achieved through the implementation of the *National Programme to Obtain 17,000 Places in Penitentiary System Organisation Units in the years 2006-2009* (extended until the end of 2010). In addition, more types of alternative punishment to imprisonment have been introduced, punishment in the form of electronic surveillance has been put into effect, a larger group of prisoners is now eligible for parole and efforts have been made to ensure that inmates are evenly accommodated in correction facilities throughout the country.

17. In June 2010, amendments entered into force that enabled courts to adjudicate restriction of liberty more frequently (during which the sentenced person carries out social work). The amendments also reduced the burdens of the entity employing convicts and the costs related to their employment.

18. A new law entered into force in September 2009 that allows convicted persons to stay outside correctional facilities under court-ordered electronic surveillance. In 2010, this law was amended, which resulted in a 4-fold increase in the number of sentenced persons who had the right to apply to serve their sentence under electronic surveillance.

19. The number of convicted persons with a prison sentence who can apply for parole has also increased. Now, they can apply for parole after they have served at least half of their prison term.

20. As of 2009, measures have been taken to significantly limit the number of cases of inmates placed in cells with living space of less than 3 m².

21. The living conditions have been systematically improved as a result of systematic renovations. From 2008 until the end of 2011, about 4353 living quarters were refurbished. Programs are underway to further improve the quality of medical care provided to inmates.

22. In 2009, the Council of Europe and the European Union have awarded the Polish Prison Service a "Cristal Balance of Administration of Justice" – the most important European prize conferred upon institutions promoting and improving the public justice system.

d) *Lustration proceedings*

Implementation of recommendation 21

23. The current lustration procedure guarantees persons to whom it applies all the rights provided under the Constitution and the Code of Criminal Procedure, including: the presumption of innocence, the right to defence, freedom to evaluate evidence in lustration proceedings, the substantive truth principle and the principle of beyond reasonable doubt in favour of the lustrated person.

24. On 18 October 2006, the Polish Parliament adopted the Act on *Disclosure of Information about State Secret Service Documents dating from 1944-1990 and the Contents of Such Documents*³.

e) *Human rights education of the Police*

Implementation of recommendation 16

25. In 2008-2011, human rights protection became more systemic, planned and strategic in Police operations. A network of plenipotentiaries for human rights began their work under the motto "Human beings come first". Police recruitment system was also changed. The examination of a candidate's hypothetical reactions in interaction with another person became more thorough. In addition, unprecedented workshops were organized for middle-level management under the heading "Human Rights in Police Management". A guide for

Police trainers was developed under the title “To Protect and to Serve – How to Foster the Right Attitudes and Behaviours During Primary Professional Training”. The Police continues to provide training courses to officers on prevention and combating hate crimes. Representatives of national, ethnic, religious and sexual minorities educate policemen as part of different projects. The Polish Police also cooperates with other European police forces in developing common antidiscrimination strategies. One example of such cooperation is the *European Diversity in Policing* project.

26. In addition, the Early Intervention System was launched in the Police force, to deal rapidly and effectively with improper behaviour of Police officers.

f) *Combating human trafficking and supporting its victims*

Implementation of recommendation 16

27. In the Act of 20 May 2010, amending the act – Criminal Code, the Act on Police, the act Regulations introducing the Criminal Code and the act on the Criminal procedure code a definition of human trafficking (with an open catalogue of different forms of human trafficking), based on the definitions formulated in international agreements (including the Palermo Protocol) was introduced.

28. In 2009, the National Consulting and Intervention Centre (KCIK) for Polish and foreign victims of human trafficking was set up as part of the *Program of support/protection to victims/witnesses of human trafficking*. The Centre provides assistance to all persons who have been abused in the course of human trafficking, whether they have contacted law enforcement authorities and cooperated with them or refused to testify⁴.

29. On 1 January 2009, new rules entered into force on legalizing the stay of foreigners – victims of human trafficking – in the territory of the Republic of Poland. A residence permit of specified duration replaced a two-month visitor’s visa that had previously been granted to victims of human trafficking to give them time to decide whether to cooperate with law enforcement authorities. At the same time, the “time for reflection” was extended from 2 to 3 months.

30. As of 1 February 2011 foreigners who legalize their stay in Poland on the basis of a residence permit of specified duration issued to victims of human trafficking are exempt from the obligation to hold a work permit.

31. In 2011, the General Prosecutor’s office developed a detailed methodology of pre-trial proceedings on human trafficking that emphasized the rights of such people and the special treatment that persons affected by this type of crimes should receive.

g) *Preventing torture and inhuman or degrading treatment and punishment*

Implementation of recommendation 25

32. Poland is a party to a number of international agreements that ban torture. They include, in particular, the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol. These agreements constitute part of the Polish legal order and are directly applicable by Polish courts.

33. In addition, the Polish law penalizes all actions that fall under the definition of torture found in international regulations: infringement of physical inviolability, punishable threats, forcing a person to a specific action by resorting to violence or illegal threats, harming another person’s health, and cruel treatment of a dependant.

34. The Criminal Code punishes public officials whose actions contain elements of torture. The use of force, illegal threats or other form of physical or mental cruelty by a

public official or person acting in his/her name in order to elicit specific testimony, explanations, information or statements is punishable by imprisonment of one to ten years. The Code also penalizes physical or mental cruelty against a person legally deprived of liberty by imprisonment of three months to five years. Acts that have been committed with particular cruelty are punishable with imprisonment of between one and ten years. If reported by the victim or otherwise disclosed to law enforcement authorities, any other abuse of force by public officials during the performance of, or in connection with their duties, is investigated in pre-trial proceedings and treated as an autonomous crime.

35. Given the fact that prisoners face the highest risk of ill treatment, their detention centres are regularly visited by representatives of NGOs and state authority institutions, including the Civil Rights Ombudsman, who under a Government decision fulfils the function of the National Preventive Mechanism, as defined in the OPCAT. Detention facilities are also supervised by penitentiary judges, who represent the independent judiciary.

h) Secret detention centres

Implementation of recommendation 20

36. Under the supervision of the General Prosecutor's Office, the Appellate Prosecutor's Office in Warsaw is conducting an investigation into the suspected breach of authority by public officials for acting against the public interest in connection with the alleged use of Poland by the Central Intelligence Agency of the United States of America to transport terrorist suspects and to imprison them illegally in a secret detention centre. In 2011, contacts were established between the Council of Europe's Commissioner for Human Rights and the General Prosecutor's Office. As a result, the Commissioner provided the General Prosecutor's Office with information relevant to the investigation supervised by the General Prosecutor's Office.

37. The investigation findings remain secret. It should be noted, however, that most of the classified case evidence secured by prosecutors in charge of the case was prepared by other government agencies. Therefore, the Prosecutor's Office is not empowered by law to declassify this evidence.

38. In January 2012, the General Prosecutor's Office decided to vest the continuation of the investigation in the Appellate Prosecutor's Office in Kraków.

i) International Convention on Protection of All Persons from Enforced Disappearance

Implementation of recommendation 4

39. Polish legislation severely penalises behaviour referred to in the International Convention on Protection of All Persons from Enforced Disappearance. It also provides for a number of process guarantees that protect the rights guaranteed under this Convention and ensure their observance. Therefore, the ratification of this Convention would not contribute to raising international standards of human rights protection in Poland in this respect.

2. Freedom of speech

Implementation of recommendation 15

Liberalizing freedom of expression laws

40. Prior to June 2010, libel and slander committed in the mass media was punishable by up to two years in prison under the Criminal Code. This piece of legislation was considered too restrictive and was liberalized. Under the amended CC, in force since 8 June 2010, the maximum sentence for libel or slander in the mass media was reduced to one year

of imprisonment. Under the amended law, other libel or slander offences committed outside the mass media are now punishable by a fine or restriction of liberty, rather than deprivation of liberty. At the same time, the amendment widened the catalogue of grounds on which libel or slander charges may be brought. Now a person who publicly raises a true accusation against the conduct of a public official does not commit an offence, even if by raising such accusation he or she compromises a socially warranted interest. If a charge is made publicly against a private person, such act will be considered legal, provided the person who levied it did so to protect a socially warranted interest. If an accusation concerns private or family life, evidence that it is true may only be requested if a person's life or health is in danger or to prevent demoralization.

B. Social, cultural and economic rights

1. Right to privacy, marriage and family life, counteracting family violence

a) Family policy

41. Family policy is mainly oriented at supporting families financially, developing a society that is friendly towards children and families and enabling people to balance their work and family life. Measures are implemented to improve the living conditions of families (material support for families with dependent children), lessening the burden connected with having children and making parenthood more attractive.

42. In order to make the balance between work and raising easier and to provide a real choice between raising children at home and benefitting from care over a small child outside home in different forms, *Law on Care for Children under the age of three* was passed in 2011.

43. Act on the Family Support and Substitute Care also adopted in 2011, aims to:

- enhance prevention and improve methods of working with a family experiencing problems in fulfilling its care and formation functions,
- develop family forms of substitute child care, provide substantive and financial support to a foster family; develop family foster homes, change of standards applicable to care and formation institutions, in particular decreasing the size of institutions that eventually should admit up to 14 children, ban on placing children younger than 10 years in institutions.

44. Numerous additional measures have been taken to support the implementation of the family policy⁵.

b) Counteracting domestic violence

45. On 1 August 2010, the amended *Counteracting Domestic Violence Act of 10 June 2010* entered into force.

The amendments aim to:

- increase prevention of domestic violence;
- ensure more effective protection of victims of violence, especially children;
- develop mechanisms that help separate offenders from victims;
- change the attitudes of people who resort to domestic violence through corrective and educational programmes.

The Act introduced:

- **a new preventive measure** ordering an accused to leave the premises occupied jointly with the victim, provided there are reasonable grounds to believe that the accused could commit another violent offence against the victim;
- **new kinds of penal measures** that contain the order to leave the premises occupied jointly with the victim and the restraining order;
- **new kinds of probation measures** that contain the restraining order and may require offenders to participate in corrective and educational programmes, with or without their consent;
- a mandatory premise ordering the enforcement of a suspended punishment and repealing parole granted to domestic violence offenders who have committed such acts again;
- a procedure that involves a court probation officer and allows to file a motion with the court to enforce a suspended prison sentence or repeal parole;
- the right to claim separation of a domestic violence offender from his or her victim in civil proceedings;
- a procedure of removing a child from a family by a social worker, if the child's life or health is in danger because of violence. The decision is taken jointly with the Police, medical doctor, nurse or a paramedic. The social worker is obligated to notify the family court within 24 hours of this fact, and the court then issues a decision about the child's future fate;
- free-of-charge medical examination to determine the cause and nature of bodily injuries and free-of-charge medical certificates that can be used as evidence in court proceedings⁶.

46. The amended Family and Guardianship Code bans corporal punishment of minors by persons who exercise parental or guardianship authority over them. The amended Code imposes new obligations on government administration bodies, i.a. the appointment of Voivodeship coordinators of the National Programme of Counteracting Domestic Violence. Municipal and poviats self-governments are obligated to develop local programmes of counteracting domestic violence and to set up interdisciplinary teams to ensure that steps taken for the sake of victims of domestic violence are more effective.

47. In 2008-2011, a number of trainings and campaigns was organized to combat domestic violence⁷.

2. Right to work and to fair conditions of employment

Labour market – fighting unemployment

48. The labour market situation is, to a large extent, determined by structural and institutional factors. Young people, people over 50 with low skills or low-level of education, people with long history of unemployment, persons with disabilities and women (mostly those that return to work after a period of child care leave) are the hardest hit by the difficult labour market situation.

49. Main indicators of labour market participation, 4th quarter.

| | 2007 | 2008 | 2009 | 2010 |
|---|--------|--------|--------|--------|
| Labour market participants (in thousands) Total | 16,986 | 17,159 | 17,357 | 17,724 |
| Women | 7,713 | 7,787 | 7,878 | 8,022 |
| Men | 9,273 | 9,372 | 9,479 | 9,702 |

| | | | | | |
|--------------------------------------|-------|------|------|------|------|
| Labour market participation rate (%) | Total | 54.1 | 54.7 | 55.1 | 55.8 |
| | Women | 46.7 | 47.1 | 47.5 | 48.2 |
| | Men | 62.2 | 63.1 | 63.5 | 64.3 |
| Unemployment rate (%) | Total | 8.5 | 6.7 | 8.5 | 9.3 |
| | Women | 9.4 | 7.6 | 8.8 | 9.9 |
| | Men | 7.8 | 6.0 | 8.2 | 8.8 |

50. Each year, the Council of Ministers adopts a National Employment Action Plan which details the government's activity to promote employment, mitigate the effects of unemployment and increase labour market participation. On the basis of the Plan, local governments in voivodeships draw up regional employment action plans in which they identify local projects, unemployment groups and other groups in need of special support.

51. Selected priorities for action in 2008–2011:

- development of entrepreneurship,
- improving the ability of employees and companies to adapt by investing in human capital,
- activation of unemployed persons and persons at risk of social exclusion,
- improving social dialogue and partnership to ensure balance in the labour market,
- creating rules of effective migration policy,
- mitigating the effects of the economic crisis and preparing the labour market for economic recovery.

52. Between 2008–2011 numerous initiatives have been undertaken to foster employment and increase labour market participation⁸.

53. Measures undertaken under the National Employment Action Plan (NEAP) have helped mitigate the effects of the economic crisis on employment. Despite the fluctuating level of unemployment, the employment rate of persons aged 15–64 has not changed, and the ratio of persons chronically unemployed to the overall number of unemployed has increased. The number of people working in the agricultural sector has gone down, while the number of persons working in the industry sector has gone up.

54. The implementation of measures addressed to persons living in rural areas is very important. The implementation of the 2009–2011 NEAP helped intensify the processes of modernisation of rural areas resulting in changes in the ownership structure of farms (young farmers settling in farms). Also, the percentage of people employed in the agricultural sector has decreased, while the percentage of people employed in the non-agricultural sector has increased. The rural population's participation in the labour market was 55.5%, up from 55.2% in 2009.

3. Right to health

Prevention of HIV infection and fighting AIDS

55. The government's policy with regard to HIV prevention and fighting AIDS is laid out in the National Programme of Prevention of HIV Infections and Fighting against AIDS that has been implemented since 1996. Legal documents applicable to HIV/AIDS comply with the recommendations and obligations expressed in international documents and declarations, both regional (EU) and supra-regional (WHO).

56. The National AIDS Centre, acting on the authority of the Minister of Health, implements HIV/AIDS prevention and counteraction measures, limiting the spread of HIV infections, improving the quality of life and access to health care for people living with HIV/AIDS and their loved ones through:

- prevention of HIV infections and assurance of adequate access to information about HIV/AIDS prevention, education and services,
- improve the quality of psychosocial life of people living with HIV/AIDS, their families and loved ones,
- ensure wide access to diagnostics and ARV treatment,
- improve quality and access to diagnostics and medical care for people with HIV/AIDS and persons at risk of HIV infection,
- reducing the number of HIV infections among children.

57. Applying ARV diagnostics to a group of newborn babies born to HIV-infected mothers helped reduce the percentage of vertical infections from 23% before 1989 to below 1%. No case of HIV infection after professional or non-professional exposure to infection has been registered in Poland so far.

58. Most notable achievements:

- wide access to ARV treatment, also for persons who are at risk of exclusion (e.g. persons serving time in correctional institutions, drug addicts, persons without medical coverage),
- free-of-charge and anonymous HIV testing,
- running and extending consultancy,
- addressing the HIV/AIDS campaign to a wide group of recipients,
- the existence of an integrated community dealing with HIV issues,
- stable epidemiological situation.

4. Children's rights

Implementation of recommendations 1, 2, 3

59. The applicable regulations protecting children's rights are consistent with the provisions of the Convention on the Rights of the Child. The supreme source of these rights is the Constitution, laying down the basic rules governing family relations, including the protection of children's rights.

60. The Family and Guardianship Code is the main legal act that codifies the rules enshrined in the Constitution relating to the welfare of the child and to equal rights of children, irrespective of whether the child was born in or out-of-wedlock.

a) Prevention and counteracting violence against children

61. The amendment to the Prevention and Counteracting Domestic Violence Act, adopted on 10 June 2010, banned corporal punishment administered by persons who exercise parental authority, act as guardians or care for minors. For information on other changes in the Act, see part C, item II, 1, b).

b) *Child's contact with family*

62. The Polish law gives primacy in raising children to their own family. The *Act on supporting family and the exercise of foster care*, and in the *Social Welfare Act* the hierarchy of these values is reflected and a certain sequence of measures to be taken to preserve the child's right to be raised in his or her own family is presented. Support to biological families, and subsequently assistance to a child who cannot remain with his or her own family are the most important measures.

63. Children's contacts with his or her parents are regulated by the Family and Guardianship Code, amended in 2008 in order to make these contacts easier. It provides that maintaining contact with one's child is the child's right and obligation, which follows Article 9(3) and 10 of the Convention on the Rights of the Child. The amendment is also consistent with the Council of Europe Convention on Contact concerning Children.

c) *Child trafficking*

64. Consistent with the Constitution, provisions of international agreements that include a definition of human trafficking, including primarily the Palermo Protocol and the Council of Europe Convention on Action against Trafficking in Human Beings are directly applied by the Polish justice administration. According to the 2010 amendment of the CC, in the case of minors who are victims of human trafficking, the use of violence or illegal threat, kidnapping, deception, misleading or taking advantage of a mistake or inability to properly understand the action undertaken, abuse a relation of dependence, take advantage of a situation or condition of hopelessness, offer or take hard or soft bribes or the promise thereof by a person who cares for or is responsible for another person do not necessarily have to take place for an offender's action defined as human trafficking to be qualified as human trafficking.

d) *Children's military service*

65. Under the law on universal duty to defend the Republic of Poland amended in 2009 and the amendment of the law on alternative service, only persons aged 18 and older may be conscripted to the army for compulsory and voluntary basic service.

e) *Sexual abuse of children*

66. The relevant provisions of Polish law are fully consistent with the provisions of the Convention on the Rights of the Child, in particular with its Article 34. Protection against child pornography is wider than the one provided for under the Convention and the Optional Protocol on child trafficking, child prostitution and child pornography. In 2008, the Criminal Code has been amended to strengthen measures that protect children against sexual violence.

f) *Counteracting paedophilia*

67. On 8 June 2010, amendments to the CC and other laws introducing more effective measures counteracting paedophilia, including in the Internet, entered into force with the aim to increase the liability of perpetrators of sexual offences against children under 15. The amendment of the CC brought the Polish law in line with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). The amendment enacted more effective measures against such offenders, providing for mandatory placement of a sentenced offender in a centre that runs pharmacological therapy or psychotherapy.

g) *Court proceedings involving minors*

68. Polish legislation in this area complies with the provisions of the Convention on the Rights of the Child. A person over the age of 17 can be criminally charged for committing an illegal act. As an exception to this rule, a minor over 15 years of age who has committed the most severe offences can be held liable pursuant to the rules set out in the CC. If the offender is a minor, the court passes a more lenient sentence than if he was an adult who has committed the same crime. However, a person aged 13 to 17 years who has committed a punishable offence, as a rule, is not held criminally liable and is brought before a family court which adjudicates corrective or formative measures in respect of such offender. For persons who have shown signs of demoralisation and are under 18 years of age, the family court adjudicates formative measures. In applying corrective and formative measures, the court is guided by the child's welfare and acts to prevent his or her demoralisation and to support parents in their efforts to raise the child.

5. **The right to education/human rights education**

Implementation of recommendation 13

69. Draft amendment to the *Educational System Act* of 2007 required schools to protect students against content that "threatened their correct mental and moral development" by attacking the principle that marriage and the family should be protected and by promoting homosexuality. As education is an action undertaken on the basis of dialogue and social consultations, given that the proposed amendments had not met with acceptance, they were firmly rejected.

a) *Civic education*

70. On 1 September, 2009, a new curriculum was introduced for pre-school formation and comprehensive education. It covers the issues of protection and full and equal enjoyment of human rights and fundamental freedoms and the support for respect of inalienable human dignity. The curriculum imposes an obligation on schools to undertake appropriate measures in order to counter all forms of discrimination and violence. Human rights and counteracting violence were included in school subject contents, in particular: *social science, ethics, family life education, Polish language, history and society*. Moreover, many initiatives have been taken up to promote human rights education⁹.

b) *Actions supporting equal opportunities in education*

71. The educational system guarantees every child attending kindergarten and school support in his or her development and psychological and pedagogical assistance based on the child's development and educational needs.

72. As part of the Ministry of National Education's policy supporting equal educational opportunities for children and young people with special educational needs, a new curriculum base was prepared for pre-school education and comprehensive education (enacted on 1 September 2009), in which special attention was placed on the need to support social skills and on content concerning the rights of disabled persons. Children and young people with disabilities are guaranteed the possibility of studying at all types of schools, in keeping with their individual development and educational needs and predispositions¹⁰.

73. In order to make education of students with special needs more effective, in 2010 regulations were amended placing more emphasis on an individual approach to a child who needs support which should be provided as close to his or her place of education as possible.

c) *Non-discrimination in access to education*

74. “Development of Education and Competences in the Regions” is a priority that identifies specific objectives for implementation to help reduce inequalities in access to education and narrow the inequality gap in educational services, especially between rural and urban areas. These are implemented through regional pre-school education programmes and are partially financed out of local and regional scholarship programmes addressed to particularly gifted students from the poorest families, and through development projects improving the quality of education, narrowing the educational gap in the process of education, more effective teaching of key competences needed in future education and in the labour market.

75. The “High Standard of Educational System” priority plans to introduce systemic measures to raise the standard of education both in rural and urban areas.

d) *Education of foreigners*

76. Requirements for foreigners who are educated in Polish schools are set out in the Act of 1991 on Educational System and the 2010 Ordinance of the Minister of National Education *on admission of persons who are not Polish citizens to public kindergartens, schools, teacher training colleges and institutions, as well as the organisation of additional Polish language courses, compensatory classes and the teaching of language and culture of the country of origin*¹¹.

77. Since 1 January, 2010, fees for non-Polish students attending upper secondary schools have changed. Non-Polish nationals who are subject to compulsory schooling or education and who do not know the Polish language at a level sufficient for learning purposes have the right to additional Polish language classes, free of charge.

6. Rights of persons with disabilities

Implementation of recommendation 26

a) *Welfare, economic and legal protection*

78. Persons with disabilities are guaranteed welfare, economic and legal protection under the Constitution of the Republic of Poland in laws enacted by Parliament and other lower-rank legislation.

79. The right of persons with disabilities to lead an independent, self-sufficient and active life is confirmed by the Resolution of the Polish Sejm of 1 August, 1997 *The Charter of Persons with Disabilities*. This document lists ten rights of special importance for persons with disabilities and identifies key areas of the policy of equal opportunities for persons with disabilities.

b) *Participation in public life*

80. In 2011, a law on sign language was enacted which guarantees deaf people the use of a sign language interpreter in contacts with public administration authorities and medical rescue units. Legal regulations were passed to enable persons with disability to fully participate in democratic processes. To this end, a law was adopted to *adjust the organisation of elections to the needs of persons with disabilities*. Since 2010, such persons may vote through proxies. In 2011, additional measures aimed at facilitating the lives of blind people went into effect: overlays on ballot cards in the Braille alphabet and **persons partially disabled may vote by post**.

c) *Measures to support employment*

81. The employment of disabled persons is regulated by: The Labour Code, The Act on Vocational and Social Rehabilitation and Employment of Disabled Persons of 27 August, 1997 and the Act on Promotion of Employment and Labour Market Institutions of 20 April, 2004; these laws are amended in response to changing needs.

82. The situation of people with disabilities in the labour market has improved significantly as a result of many different measures undertaken by the Government. From 2007 until 2010, the labour market participation rate of persons with disabilities of working age increased by over 3%, and the share of working persons among persons with disabilities of working age went up by 2.5%.

83. The State Fund for Rehabilitation of People with Disabilities (PFRON) supports vocational and social rehabilitation of disabled persons financially, but also through numerous social campaigns¹².

84. The modernisation of the system of vocational education, carried out in 2010, accounted for the needs of people with disabilities.

85. Poland will ratify the UN Convention on the Rights of Persons with Disabilities in 2012.

7. Women's rights and equality of sexes

Implementation of recommendations 11, 19

a) *Policy of equality of sexes*

86. The policy of equality of sexes is a priority for the Government of the Republic of Poland and is treated horizontally. Under the *Act Implementing Certain European Union Provisions on Equal Treatment of 3 December, 2010*, the Government Plenipotentiary for Equal Treatment is the competent authority coordinating government policy on equal treatment, including treatment on account of sex. The Plenipotentiary prepares and submits to the Council of Ministers a National Action Plan for Equal Treatment identifying the objectives and priorities of measures aimed at equal treatment and submits to the Council of Ministers a report on the implementation of the Programme. The Plenipotentiary implements a project called "Equal Treatment – a Standard of Good Governance", co-financed with European Union funds, the purpose of which is to create a cohesive and effective system of counteracting discrimination, including discrimination on account of sex, at all levels of government administration. In 2011, research was carried out into the situation of discriminated groups, including women, with special emphasis being placed on measures taken by government administration and the State Labour Inspection; it represents the most extensive diagnosis of the phenomenon of discrimination ever carried out in Poland.

b) *Policy of equality of sexes in the labour market*

87. Measures in the area of equal opportunities for women and men, counteracting discrimination of women in the labour market, participation in the labour market and in social work of women are carried out as part of routine work of the Ministry of Labour and Social Policy or projects implemented or initiated by the Ministry and co-financed by the European Union.

88. From November 2008 until June 2012, a project called "Reconciling Women's and Men's Professional and Family roles" meant to improve the labour market situation of women who have children. Another project called "Social and Economic Participation of Women at Local and Regional levels", carried out from 2008 until 2012, is aimed at

reducing differences in women's and men's salaries, increase women's labour market participation and raising social awareness of the need for equal job opportunities, overcoming stereotypes concerning women's and men's roles, creating a favourable climate for women's labour market participation, including for those over 50.

89. A project called "Gender Mainstreaming as a Labour Market Tool", carried out from 2010 until 2012, is meant to promote equality of sexes in the labour market and to raise awareness of the need to implement an employment policy supporting working parents among employers and other institutions active in the labour market environment.

90. The Government Plenipotentiary for Equal Treatment is also involved in similar programmes. It organised a conference promoting women entrepreneurship and measures that would make it easier for women returning to work after maternity or child care leave, called "A Woman's Strength is the Company's Strength". A competition entitled "I am the boss" was organised to overcome stereotypes concerning women and power and to promote a positive image of women – leaders among young people. The competition "Father at Work, Father at Home" promotes a partnership model of family and active fatherhood.

c) *Government Plenipotentiary for Equal Treatment*

Implementation of recommendation 14

91. In March 2008, in order to increase the effectiveness of the government institutional system dealing with protection against discrimination, the Government Plenipotentiary for Equal Treatment was appointed in the rank of secretary of state in the Office of the Prime Minister. The Plenipotentiary worked from 2008 until 2010 pursuant to the Ordinance of the Council of Ministers of 22 April, 2008, that defines her competencies.

92. *The Act Implementing Certain European Union Provisions on Equal Treatment* from 2010 tasks the Plenipotentiary with the implementation of government equal treatment policy, including counteracting discrimination, in particular on account of sex, race, ethnic origin, nationality, religion, faith, beliefs, age, disability, and sexual orientation. The Plenipotentiary carries out the following tasks, among others:

- drafting and providing opinion on draft laws in the scope of equal treatment,
- analysis and assessment of legal measures to see whether they respect the principle of equal treatment and submitting motions to enact or amend legislative acts;
- acting to eliminate or limit the consequences of violating the principle of equal treatment;
- analysing and assessing the legal and social situation when it comes to equal treatment and initiating, implementing, coordinating or monitoring measures meant to ensure equal treatment, as well as protect against discrimination;
- cooperating with competent public administration authorities, social partners, NGOs and other entities in the area of equal treatment;
- promoting, disseminating and propagating issues relating to equal treatment;
- preparing the National Equal Treatment Action Plan.

d) *Quota system in the electoral law*

Implementation of recommendations 21, 22

93. To promote women's participation in public and political life, the Parliament passed in 2011 Amendment to the Electoral Law to Municipal Councils, Poviats Councils and Voivodship Councils; the Electoral Law to the Sejm of the Republic of Poland and to the

Senate of the Republic of Poland and the Electoral Law to the European Parliament that introduces the quota system.

94. The number of women candidates may not be less than **35%** of the total number of candidates on the ballots and the total number of men candidates may not be less than 35% of all the candidates on the ballots to municipal councils, poviats, voivodeship councils, the Sejm and the Senate and to the European Parliament. If the quota is not met and the defect is not removed within a specified time, such ballot will not be registered.

e) *Paternity leave*

95. In 2010, the *Labour Code* was amended to enable fathers to take paternity leave. This measure was meant to improve the work-family life balance and create equal opportunities for men and women in the labour market, as well as to promote active fatherhood and a family model based on partnership. Since the Labour Code amendment in December 2010, adoptive fathers can also take paternity leaves.

f) *Counteracting domestic violence against women*

Implementation of recommendation 18

96. See part C, item II, 1, b)

Action Platform: Stop Sexual Violence in Poland

97. On 25 November, 2010, the Government Plenipotentiary for Equal Treatment announced the creation of an inter-ministry and inter-sector action platform against sexual violence in Poland: “*Stop Sexual Violence in Poland*”. One of the Platform’s outcomes is the *Procedures of Police and Medical Institution Conduct towards Victims of Sexual Violence*.

European Protection Order Directive

98. Poland and Spain jointly initiated legislative work on the Directive on European Protection Order. The initiative is meant to enhance the protection of victims against attempts of repeated actions on the part of persons who pose a threat in the event they relocate to another EU Member State to follow their victims. Protection measures are meant to safeguard the victim against offenders who could pose a threat to her life, physical and mental integrity, as well as personal and sexual freedom.

8. Minority rights

Implementation of recommendation 5

a) *Inter-state dialogue*

99. Polish legal regulations relating to the protection of persons belonging to national and ethnic minority are, according to experts, one of the best in Europe. They include reference to all principles enshrined in the Council of Europe Framework Convention for the Protection of National Minorities. Provisions on the rights of persons belonging to minorities are included in the bilateral agreements between Poland and all our neighbours.

100. Poland attaches importance to the creation of “twinning relationships” and has been engaged in dialogue with its neighbours on the rights of persons belonging to minorities. In 2011, it was one of the points on the Agenda of the Polish-German “Round Table” debate, organized to celebrate the 20th anniversary of the signing of the treaty between our countries. It was followed by the adoption of the common statement of the Round Table of 12 June 2011, on supporting German citizens of Polish origins and Polish people in

Germany, as well as German minority in Poland, according to the Polish-German Treaty on Good Neighbourhood and Friendly Cooperation.

101. These issues were also a key element of the meeting of the Polish-Lithuanian expert group on education which operated during the second half of 2011.

b) *Educational strategies for persons belonging to national and ethnic minorities in Poland*

102. Works are continued on a package of strategies on the education of persons belonging to national and ethnic minorities. The package consists of “Strategy of the development of education of the Lithuanian minority in Poland” (adopted in 2001), “Strategy of the development of education of the German minority in Poland” (adopted in 2007), “Strategy of the development of education of the Ukrainian minority in Poland” (adopted in 2011). Works on the strategy of the development of education of the Belarusian minority in Poland will continue in 2012.

c) *Strategy on Roma inclusion*

103. Since the Roma minority is one of the groups most at risk of discrimination and socio-economic exclusion, since 2004 Poland has been implementing an inclusion strategy aimed at this community, in the framework of the 10-year government-led Programme for the Roma Community in Poland. The top priority of the Programme is education, which is the only long-term factor which can enable representatives of the community to enter the labour market and improve their economic standing. The Programme also allocates funds for projects devoted to counteracting discrimination and crimes based on race, disseminating knowledge of the Roma and civic education for members of the Roma community.

104. Measures undertaken in this field by the Government of Poland were supported by the European Social Fund through the Projects for the Roma Community instrument in the framework of the Human Capital Operational Programme.

105. Owing to the specific nature of this issue, Poland is closely following international solutions to improve the situation of the Roma community, and participates in the work of such institutions as the European Union, the Council of Europe, the Organization for Security and Co-operation in Europe, the EURoma Network, and the European Platform for Roma Inclusion.

d) *Polish law and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

Implementation of recommendation 24

106. Poland is not bound by the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Polish law guarantees most of the rights set forth in the Convention to migrant workers and members of their families. However, the ratification of the Convention would imply a need to introduce certain amendments to the legal acts governing migrant workers employed legally in Poland, and to make far-reaching changes with regard to the situation of illegal workers. Poland does not pursue a policy of migrant work – in general, the labour market is closed off to foreigners (with the exception of EU citizens). Moreover, due to the currently limited levels of immigration and emigration, there is no need to expand the institutions providing assistance services to migrants, as required by the Convention.

9. Equal treatment and non-discrimination

Implementation of recommendations 6, 12, 19

107. In undertaking measures to counteract discrimination on all grounds, the government actively cooperates with a number of non-governmental organizations. On the one hand, these measures are addressed to the individual groups at risk of discrimination; on the other hand, they aim to raise social awareness in the field of counteracting discrimination.

a) *Act of 3 December 2010 Implementing Certain European Union Provisions on Equal Treatment*

108. On 1 January 2011, the *Act Implementing Certain European Union Provisions on Equal Treatment* entered into force. The Act organizes the legal regime and fully implements the provisions of EU anti-discrimination directives, while also defining the legal measures to protect the principle of equal treatment and the agencies responsible for implementing the principles of equal treatment.

109. The Act comprises the definitions of direct and indirect discrimination, molestation, sexual molestation, unequal treatment, principles of equal treatment. The scope of the Act covers:

- undertaking vocational education;
- conditions for undertaking and performing economic and/or professional activity;
- entering and working in trade unions, employers' organizations and professional self-governments;
- access to and conditions for benefiting from:
 - labour market instruments and services;
 - social security;
 - healthcare;
 - general and higher education;
 - services, including housing services, goods and the acquisition of rights and energy, if offered to the public.

110. The Act prohibits the encouragement or ordering of unequal treatment. In the event of a violation of the principles of equal treatment, damages may be claimed. The legal burden of proof in the proceedings is shifted – a plaintiff claiming that the principle of equal treatment has been violated must lend credence to the violation. In the event of lending credence to the violation of the principle of equal treatment, the party accused of violating the principle is obliged to prove that it did not violate the principle.

111. The Civil Rights Ombudsman and the Government Plenipotentiary for Equal Treatment are tasked with the implementation of the principle of equal treatment.

b) *Counteracting labour market discrimination*

112. In 2008 the Labour Code was amended with respect to the regulations governing equal treatment in employment. The changes include:

- the precise definition of indirect discrimination and of instances of discrimination;
- the precise description of situations which will not be considered a violation of the principle of equal treatment in the employment process;
- the precise scope of the protection given to an employee benefiting from the applicable rights as a result of a violation of the principle of equal treatment in the employment process.

113. The basic principles regarding equal treatment in the labour market are enshrined in the *Act of 20 April 2004 on the Employment Promotion and Labour Market Institutions*¹³.

114. Anti-discrimination regulations refer to public employment services and to private job centres which provide job intermediary services, professional and personal advisory and temporary work services.

115. The Act envisages financial penalties for breach of anti-discrimination regulations.

116. Preventive activities consist primarily of information published in the form of brochures and booklets devoted to anti-discrimination regulations, rights of persons discriminated against, and the bodies, institutions and NGOs – both local and national – which provide legal and psychological aid to persons concerned.

117. Control mechanisms help assess whether discrimination has taken place. Controls are undertaken if an interested party, third parties, bodies, institutions, or the media signal the existence of problems in this regard.

118. Complaints against discrimination filed with the National Labour Inspectorate:

| <i>Basis of discrimination</i> | <i>2008</i> | <i>2009</i> | <i>2010</i> | <i>2011 (Q1–Q3)</i> |
|--------------------------------|-------------|-------------|-------------|---------------------|
| Sex | 43 | 37 | 46 | 61 |
| Age | 28 | 41 | 47 | 55 |
| Religious denomination | 0 | 0 | 0 | 2 |
| Disability | 0 | 0 | 14 | 13 |
| Sexual orientation | 0 | 0 | 2 | 1 |

c) Counteracting hate crimes

119. Polish criminal law provides severe punishments for hate speech. The public incitement of hatred against persons on the grounds of nationality, ethnicity, race, religion or lack of religious beliefs is punishable by imprisonment of up to two years.

120. In 2010 the definition of hate crime was broadened to include dissemination, manufacture, recording or acquisition, purchase, storage, possession, presentation, transport or dispatch with intent to disseminate of printed materials, recordings and/or other objects. This amendment was introduced to counteract e.g. the observed practice of Internet sales of objects (e.g. films, recordings, paraphernalia) which contain hatred-inciting content.

121. Publicly insulting individuals or groups on the grounds of nationality, ethnicity, race, religion or lack of religious beliefs, or the physical breach of personal integrity on such grounds is punishable by imprisonment of up to three years.

122. Public incitement to commit a crime, or the glorification of such crime, as well as violence or unlawful threat against an individual or group on the grounds of nationality, ethnicity, race, religion or lack of religious beliefs, are also punishable by imprisonment.

123. Actions directed against an individual due to hatred or intolerance for other reasons (e.g. social provenance or sexual orientation) are investigated as specific crimes, e.g. calumny, physical breach of personal integrity, battery or assault causing bodily harm, unlawful threats.

124. The actions undertaken by prosecutors' offices with regard to rights violations or incitement to hatred have been coordinated by the Prosecution General (PG) since mid-2004, i.e. since the drafting of the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance. The PG has appointed a coordinator tasked with undertaking punitive and non-punitive steps in the domain of rights violations

or incitement to hatred on the grounds of nationality, ethnicity, race, religion or lack of religious beliefs.

125. Potential decisions by prosecutors to cease prosecution are subject to control by an independent and impartial court. If the injured party does not agree with the prosecutor's decision to dismiss a case or with the decision to fail to institute proceedings, he or she has the right to take the decision to court and demand that the court order the prosecutor to initiate or continue proceedings. If, having taken the steps ordered by the court, the prosecutor still finds no grounds for indictment, the injured party may seek an indictment on his or her own.

Human Rights Protection Group

126. Since December 2011, the Ministry of Interior's Department for Control, Complaints and Petitions comprises a Human Rights Protection Group, established on the basis of the Monitoring Team on Racism and Xenophobia which had existed since 2004. Its activities consist i.a. of monitoring cases of all sorts of hate crimes, undertaking actions aimed at counteracting such activities and aimed at ensuring the correct level of human rights protections in the implementation of measures by agencies subordinate to or monitored by the Ministry of Interior. To achieve this goal, the Group cooperates with a network of Plenipotentiaries for Human Rights Protection active within the Police and Border Guard, as well as with a specially-appointed prosecutor with the Prosecution General – the Consultant for Racist Issues, the Ministry of Justice, and with NGOs.

127. A Group member and the director who oversees the Group's activities were assigned as the National Contact Point to the ODIHR/OSCE for crimes committed on the grounds of racial hatred, xenophobia, anti-Semitism and other forms of intolerance.

d) *Counteracting Racism and Xenophobia*

Implementation of recommendations 16, 23

Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance

128. With a view to establishing a broad platform for coordinating central government activities focused on fighting racism, xenophobia and related discrimination and intolerance, the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance was set up in February 2011, headed by the Government Plenipotentiary for Equal Treatment. The Council is an advisory body to the Council of Ministers. The Council's work consists of planning, coordinating and assessing central government actions dealing with the eradication of racism, xenophobia and intolerance. The Council started work on drafting a government action plan in the field of counteracting and fighting racial discrimination, xenophobia and related intolerance, to be presented biennially to the Council of Ministers.

Actions undertaken by the Government Plenipotentiary for Equal Treatment

129. Examples of the Plenipotentiary's structural, educational and promotional activities include:

- The "Equal Treatment – A Standard of Good Governance" project with a view to preparing central government administration at all levels to draft and monitor laws, as well as create and implement strategies which serve the principle of equality. Alongside training workshops and research tasks, the project also consists of the "See? React!" public awareness campaign promoting equal treatment and active participation in anti-discrimination measures.

- Analyzing newly authorised school textbooks from the point of view of criteria of compliance with the principle of equal treatment regardless of sex, race, ethnicity, nationality, religions, faith, political opinions, age, sexual orientation, marital and family status.
- Conferences: “No to Racism in Sport” (2009 and 2010), “How to Raise Your Child to Prevent Him or Her from Thinking in Stereotypes?”, Diversity Day – part of the EU “For Diversity, Against Discrimination” campaign; “Being a Roma Woman in the 21st Century” seminar with an exhibition “Roma” as part of the “Beauty in Diversity” series.
- Public service campaign entitled, “Sweep out Xenophobia – Summer Cleaning in the Name of Tolerance”. The goal of the campaign is to rid the public space in Polish cities of anti-Semitic, racist and xenophobic graffiti.
- Establishing the Government Plenipotentiary for Equal Treatment “Crystal Crowbar” Award; competition aimed at combating stereotypes and counteracting discriminatory content in advertising.
- TV election ad entitled “Different but Equal” which promotes equal treatment regardless of sex, age, race, ethnicity, disability or sexual orientation.
- “Different but Equal” TV programmes aired as a regular piece during the “Kawa czy herbata?” breakfast TV show, showcasing the positive aspects of multiculturalism.

130. Moreover, the Plenipotentiary undertakes actions and interventions on the basis of motions filed or information provided by citizens, civic groups and NGOs.

Grants to implement tasks aimed at fostering cultural identity

131. A broad range of grants are issued each year with a view to performing public projects aimed at fostering the cultural identity of national and ethnic minorities, as well as providing civic advocacy to victims of racial, national or ethnic discrimination – which benefits the overall awareness of citizens, both in terms of national or ethnic minority cultures and ways of dealing with instances of discrimination and/or related crimes.

Making EURO 2012 safe

132. In order to make EURO 2012 safe (in line with the motto “Feel safe, have fun”), it is not enough to correctly prepare law enforcement and public order services for the event; one must also provide a friendly atmosphere in the stadiums and within the public space, as well as access to information, professional services and medical care for football fans. The Polish government supports initiatives aimed at shaping a positive attitude and awareness among Polish football fans. Promoting positive ways of supporting your team – eliminating prejudice and stereotypes, especially among school youth – will help build a culture of fan support based on the principle of fair play. Key decisions in this field include:

- adopting the Mass Event Security Act and subsequent amendments;
- establishing the Sports Events Security Council (an opinion-making and advisory body) which drafts and supports prevention programmes and coordinates and monitors activities aimed at preventing instances of discrimination at sports events.

133. Preventive measures consist primarily of national, regional and local programmes implemented in cooperation with governmental and non-governmental bodies; they include the UEFA EURO 2012 Social Responsibility Programme (Football Fans in Their City, Football Fans Together, Football Fan Embassies), Safer Together, Counteracting Youth Aggression and Pathological Behaviour Through Sport, I Am Fair, Fair Support, as well as the national campaign Let’s Kick Racism Out of the Stadiums.

Police

134. Much attention has been paid to the proper implementation within the Police of the Law Enforcement Officers Programme on Combating Hate Crimes, coordinated by the Ministry of Interior. The Programme is implemented in cooperation with ODIHR/OSCE. One element of the Programme focuses on a system of vocational trainings for Police officers which cover ways of identifying and detecting hate crimes, evidence gathering in the framework of pre-trial proceedings, reacting adequately and counteracting such phenomena. Over 38,000 Police officers have participated in such trainings as of the end of 2011.

135. In order to boost the teaching in the framework of the Programme, several reading materials have been published, including a booklet entitled *Hate Crimes. Teaching Aids for Coaches* and brochures for Police officers which include key definitions and ways of dealing with hate crimes, as well as a catalogue of hate symbols most commonly used in Poland.

e) *Counteracting and combating racially-motivated crimes*

Implementation of recommendation 28

Trainings for prosecutors and judges

136. Prosecutors and judges participate in regular trainings in the field of human rights protection, including ways of counteracting and fighting racially-motivated crimes. The trainings are held as part of the general training for future prosecutors and judges, in the form of in-service vocational training for judges and prosecutors, and as post-graduate courses (e.g. 2008-2009 post-graduate studies: The System of Human Rights Protection in Poland).

137. The main specialized institution responsible for drafting training plans and organizing training workshops e.g. for judges and prosecutors is the National School of Judiciary and Public Prosecution. The Prosecution General conducts human right workshops in the form of video-conferences – e.g. in November 2011 it held a training workshop devoted to fighting racially-motivated crime.

f) *Rights of individuals belonging to sexual minorities*

Implementation of recommendation 17

138. Just like any other Polish citizen, LGBT persons have the right to freedom of speech, freedom of association, and freedom of peaceful assembly and organization of various events, including conferences, film festivals, and activities aimed at increasing public awareness. Organizations which focus on protecting human rights – including LGBT rights – have full access to public funds, including EU funds allocated in the form of grants and other forms of funding.

139. Some of the events organized by the LGBT community are of a nationwide and open format – e.g. parades which takes place in the streets of the largest Polish towns. Polish law enables organizers and participants to hold free and safe parades and demonstrations (e.g. EuroPride 2010 in Warsaw). In an effort to better implement the constitutional principle of freedom of assembly, the Ministry of Interior has drafted an amendment to the Act of 5 July 1990 – the Law on Assemblies.

140. Pursuant to the Labour Code Act, in the event that an employer violates a person's right to equal treatment in employment (e.g. on the grounds of sexual orientation), such person may claim damages.

141. Since 2011, large-scale events attended by representatives of the LGBT community are monitored by Police plenipotentiaries for human rights protection, e.g. in terms of the behaviour and reactions of Police officers. The Police cooperates with LGBT associations “Campaign against Homophobia” and “Lambda”. This cooperation consists both in raising LGBT awareness among Police officers, and in organizing meetings of LGBT representatives with Police experts on how to help crime victims.

Police Plenipotentiaries for Human Rights Protection

Implementation of recommendation 29

142. Police Plenipotentiaries for Human Rights Protection continue to operate. In 2010-2011, the Police Headquarters Plenipotentiary for Human Rights Protection held meetings in London, Brussels and The Hague. The meetings focused on LGBT rights and how to protect them. In 2011, the Plenipotentiary held study visits and attended seminars in Austria, Ireland, the Netherlands, Spain and the UK, organized by the Police community and devoted to developing an anti-discrimination policy and exchanging European police practices in the field of human rights protection. Information on measures undertaken by Police Plenipotentiaries for Human Rights Protection in the framework of the LEOP programme were also presented on the SOCE forum and were met with great interest.

Notes

- ¹ Now, the catalogue comprises the following premises: suspension of the criminal proceedings; confirmation of the identity of the accused; collection of evidence in particularly complicated cases, cases conducted outside Poland or when the accused intentionally draws out proceedings.
- ² Currently, prisoners can be placed in such conditions for a definite period of up to 14 days. Upon the judge’s consent, this can be extended to 28 days. This period can be prolonged to 90 days, but only under exceptional circumstances (martial law, epidemics and a threat to an individual’s security). Persons who are put in such cells are also accorded longer daily walks (by 30 minutes) and additional recreation and educational activities or physical education and sports activities.
- ³ Under this Act, prosecutors from the Vetting Office of the Institute of National Remembrance-Chief Commission for the Prosecution of Crimes against the Polish Nation (hereinafter Institute of National Remembrance) took over the competences of the Public Interest Commissioner. To ensure full respect of process guarantees and human rights, the Act granted lustrated persons all the rights provided to a suspected/accused person under the Code of Criminal Procedure. It also introduced one more important change, namely that lustration proceedings are conducted in open court, unless the lustrated person motions for the whole trial or part of it to be heard in closed court. A case may be ordered to be heard in closed court *ex officio* or at the prosecutor’s motion if there are grounds to believe that state secrets could be disclosed. The lustration case files are open and so a party to such proceedings can use the whole body of evidence to set his or her line of defence.
Should it transpire that archival records used during proceedings are still classified, the Director of the Vetting Office in consultation with the President of the Institute of National Remembrance take measures to declassify such records. The Classified Information Protection Act of 5 August 2010 introduced an important change in this regard. The Act, as a rule, does not provide for any special protection of personal files kept in the Institute of National Remembrance’s archives that concern officers, employees and soldiers active in the Secret Service of the People’s Republic of Poland, as well as persons who cooperated with it. This amendment has led to a considerable reduction in classified evidence used in lustration proceedings.
The Act was examined for its constitutionality by the Constitutional Court (Constitutional Court judgement of May 11, 2007). The Court ruled that every individual, not only public officials, accused publicly of working for, serving or collaborating with, the state secret service, may apply for the institution of proceedings. The law also gave vetted persons the right to file a motion for cassation of final judgements.
- ⁴ Aimed at prevention and intervention, KCIK measures are addressed to victims of human trafficking and labour exploitation, alleged victims, persons under serious threat of human trafficking and their

families, as well as institutions that are directly involved in providing victims with relief and care.

- ⁵ Those measures include a programme of development of child care institutions for children under 3 years of age, “Maluch”; a programme supporting local governments in the process of creating a local system of child and family care. Moreover, from 2008 until 2011:
- Act on the Support for Persons Eligible for Alimony entered into force;
 - family allowances were raised (by over 40%), care benefits for persons who gave up work or did not start work to care for a disabled family member were increased, old-age pension insurance and disability insurance contributions for persons on parental leave (paid by the state budget) were also raised;
 - the right to claim a childcare benefit was granted to parents on parental leave who are gainfully employed and their work does not interfere with childcare;
 - claiming family benefits arising from the birth of a child was made conditional on the mother being under medical care during her pregnancy;
 - company social benefit fund can now pay for childcare in nurseries and kindergartens and finance such forms of childcare in companies;
 - the right to claim care benefits for giving up work to care for a disabled family member is no longer based on the claimant’s income.
- ⁶ Before this provision was implemented, courts relied only on medical examination conducted by court-appointed physicians. Such examination was free of charge only when ordered by a court or a prosecutor.
- ⁷ For example, within the framework of the Programme of Counteracting Domestic Violence, a number of trainings, national surveys and social campaigns were organized. They focused on maltreated children, the elderly and persons with disabilities, victims of domestic violence and their offenders. In 2008 and 2009, the Ministry of Labour and Social Policy along with the National Competence Centre and the Nobody’s Children Foundation carried out a national social campaign to reduce domestic violence, change people’s attitudes towards this phenomenon and prepare the young generation for responsible family life.
- The campaign was divided into three parts. The first one, “I love. I do not hit”, was addressed to people experiencing violence, children, parents, activists who work to solve this problem, and people who resort to domestic violence. The second one, “I love. I react”, was directed at society as a whole and encouraged people to report cases of violence. The last stage of the campaign - “Childhood without violence” was launched in September 2009. Its aim was to make people aware that physical violence was not an effective parenting method.
- The government programme for reducing crime and antisocial behaviour “Safer Together”, in operation since 2007, is a good example of measures meant to counteract domestic violence. It involves efforts undertaken by the Police, central and local government administration authorities and social partners.
- The Polish Ministry of Interior implements a specific EU programme “DAPHNE III” (2007-2013) to Prevent and Combat Violence against Children, Young People and Women and to Protect Victims and Groups at Risk. The Ministry set up a website dedicated to the Programme, organized a series of trainings and two international conferences on how to apply for Programme grants (summarized in publications available in Polish and English), launched a contact database for persons interested in the Programme, and initiated an email service to answer questions from interested entities.
- Moreover, in 2009 the Nobody’s Children Foundation was tasked with operating a helpline for children. The Foundation is also involved in a number of information and promotion measures across Poland that raise public awareness of the helpline for children.
- ⁸ The most important initiatives realised in 2008-2011:
- extension of the actual retirement age, mainly by limiting entitlement to earlier retirements,
 - implementation of “Solidarity of Generations – Actions Supporting People over 50”, a programme of incentives for employing people 50+ and measures meant to raise job skills and improve labour effectiveness,
 - implementation of the 45/50 PLUS programme,
 - amendment of the Promotion of Employment and Labour Market Institutions Act facilitating work life and child care balance,

- implementation of the “Programme for Developing Education in Rural Areas 2008-2013”,
- implementation of programmes meant to increase labour market participation of persons with disabilities: “Computer for Homer 2003” – partial financing the purchase of basic and specialist computer hardware, “Partner III – supporting tasks and projects implemented for persons with disabilities by non-governmental organisations”, “PEGAZ 2003”, “Ready to work – supporting persons with disabilities in becoming employed”, “Student”.
- providing legal grounds for the development of a public system of lifelong education,
- enhancing the potential and cooperation of public and non-public institutions dealing with employment, social assistance and integration,
- development of active forms of assistance for persons at risk of being socially excluded or socially excluded persons, including the development of social economy,
- implementation of projects co-financed with EU funds meant to improve the situation of women in the labour market (promotion of entrepreneurship, employment support, promotion activities addressed to employers, public awareness campaigns against discrimination of women aged 45+),
- amending the Law on Welfare Co-operatives and implementing a programme called “Supporting the Development of the Welfare Co-operative Movement”.

⁹ Selected actions in the field of human rights education:

2010

- Nationwide conference "*Manual on human rights education for children*" designed to launch a discussion on activities of educational institutions for respect for the law and formation of attitudes of civic responsibility.
- Inauguration of the regional training courses preparing teachers to work with children in the area of human rights, tolerance, prevention of discrimination and racism based on the Polish version of the educational package of the Council of Europe.

2011

- Conference "*Education for equality - equality in education*" aimed to discuss the methods and tools for strengthening anti-discrimination perspective in Polish education.
- Summer Academy "*Democracy in school*" - held annually in July in the Training Centre for the Development of Education; its objectives are: intercultural education, education on human rights and civic education; participants come from countries covered by the program of Eastern Partnership (Armenia, Azerbaijan, Belarus, Georgia, Moldova) and Denmark, Finland, Germany, Norway, Russia and Sweden.
- Workshop of intercultural education "*In the circle of Islam culture*", carried out annually since 2005, as part of ongoing cooperation of Ministry of Education with Polish Committee for UNESCO; the recipients are students and teachers of Polish secondary and high schools. The objective is the promotion of openness to cultural diversity, including dissemination of knowledge about national and ethnic minorities in Poland and actions for the Euro-Arab dialogue.

¹⁰ Depending on the type of disability, learning and instruction are organised in such a way as to adjust the process of education, forms and curricula to the individual needs of the child and to offer him or her the right kind of psychological and pedagogical assistance, including complementary classes. The special organisation of study is based on a decision justifying the need for special education. Children and young people whose health prevents them from attending pre-school and school or makes it extremely difficult for them to do so can be taught individually based on a decision justifying the need for individual compulsory one-year pre-school preparation and individual school study. Children and young people who are severely mentally retarded realise compulsory education by attending rehabilitation and general educational classes, taught individually or in groups, organized on the basis of decisions justifying the need for rehabilitation and general educational classes. For small children (from birth until they start school), early development support is organised based on an opinion that early development support is required.

¹¹ The 2010 Ordinance of the Minister of National Education *on admission of persons who are not Polish citizens (...)*:

- introduces easier procedures for admission of children and young people who are not Polish citizens to schools and institutions in Poland;
- sets out the fees paid by foreigners for studies in post-secondary schools, upper secondary schools for adults, artistic schools, teacher training colleges and institutions, as well exemptions from such fees or part thereof;
- prescribes a method for organising additional Polish language classes and the learning of the country of origin's language and culture;
- describes the organisation of compensatory classes eliminating differences in curricula;
- sets out the amount of scholarship for foreigners who benefit from studies as scholarship holders of the minister competent for education and formation.

¹² The support includes:

- partial financing of salaries of disabled employees,
- refunding social insurance contributions of disabled persons who run a business and farmers with disabilities,
- refund the costs of construction or extension of an establishment's buildings and premises, transport and administrative buildings, resulting from employment of persons with disabilities by an employer who runs a protected work establishment whose disabled persons' employment rate equals at least 50%.

From 2008 until 2011, PFRON carried out, as part of the 2007-2013 Human Capital Operational Programme, projects meant to develop independence and activeness of people with disabilities:

- "Support for the deaf in the labour market",
- "Support for the blind in the labour market",
- "Support for people with motor disability in the labour market",
- "Support for people with intellectual disability",
- "Support for people with autism".
- "Study of the situation, needs and opportunities offered to persons with disabilities in Poland",
- "Support for persons with disabilities in unrestricted access to information and services in the Internet".

A social campaign "Vocationally able" was carried out in 2009. It was meant to raise awareness that people with disabilities are full-fledged employees and to instil confidence in people with disabilities that they can pursue their professional goals.

¹³ It provides for:

- the principle of equal treatment in accessing and benefiting from labour market services and instruments regardless of sex, racial, ethnic or national origin, religion, faith, beliefs, disability, age or sexual orientation;
- in the scope of labour office activities – the implementation of the principle of equal treatment when performing such activities;
- the prohibition on the posting of job offers by district-level (*powiat*) labour offices if the employer's offer provides requirements which violate the principle of equal treatment and may discriminate among job candidates;
- the imperative to implement vocational assistance and information services in line with the principles of equality;
- the principle of equality with regard to participation in trainings;
- in the scope of establishing criteria by the provincial governor (*wojewoda*) regarding labour performed by foreigners – prohibition of applying discriminatory requirements.