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COMMITTEE ON ECONOMIC, SOCIAL  
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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
IN ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL  
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Replies by the Government of Poland to the list of issues (E/C.12/POL/Q/5)  
to be taken up in connection with the consideration of the fifth periodic  
report of Poland (E/C.12/POL/5)**

[13 July 2009]

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## I. GENERAL INFORMATION

**Question 1. Please explain why the fifth periodic report does not provide information on measures taken to implement the general provisions of the Covenant (arts. 1-5).**

1. The State party's third (E/1994/104/Add.13) and fourth (E/C.12/4/Add.9) periodic reports on the implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights did not contain any information on measures taken to implement the general provisions of the Covenant (arts. 1 to 5). The allegation of the lack of such information was not raised in the list of issues to be taken up in connection with the consideration of the fourth periodic report of Poland concerning articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/Q/POL/2). Therefore, the fifth periodic report covered articles 6 to 15, in line with the previous practice.

**Question 2. Please indicate whether the provisions on economic, social and cultural rights included in section IV of the Constitution can be directly applied by domestic courts, taking into account the limitations contained in article 8, paragraph 2, of the Constitution. If so, please provide examples.**

2. On the basis of article 8, paragraph 2, of the Constitution of the Republic of Poland, its provisions concerning the freedoms, rights and obligations of persons are directly applied, unless the provision of the Constitution states that the method of implementing the right or the terms of reference shall be specified by statute.<sup>1</sup> Article 81 of the Constitution provides that the rights specified in articles 65, paragraphs 4 and 5, 66, 69, 71 and 74-76 may be asserted subject to limitations specified by statute.

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<sup>1</sup> Constitution of the Republic of Poland:

### Article 64

3. The right of ownership may only be limited by means of a statute and only to the extent that it does not violate the substance of such right.

### Article 65

1. Everyone shall have the freedom to choose and to pursue his occupation and to choose his place of work. Exceptions shall be specified by statute.

2. An obligation to work may be imposed only by statute.

3. The permanent employment of children under 16 years of age shall be prohibited. The types and nature of admissible employment shall be specified by statute.

4. A minimum level of remuneration for work, or the manner of setting its levels shall be specified by statute.

3. In its decision of 16 May 2006, case FSK 816/05, the Supreme Administrative Court stated that, although according to article 8, paragraph 2, of the Constitution the provisions of the Constitution shall apply directly, unless the Constitution provides otherwise, this does not mean

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5. Public authorities shall pursue policies aiming at full, productive employment by implementing programmes to combat unemployment, including the organization of and support for occupational advice and training, as well as public works and economic intervention.

#### Article 66

1. Everyone shall have the right to safe and hygienic conditions of work. The methods of implementing this right and the obligations of employers shall be specified by statute.

2. An employee shall have the right to statutorily specified days free from work as well as annual paid holidays; the maximum permissible hours of work shall be specified by statute.

#### Article 67

1. A citizen shall have the right to social security whenever incapacitated for work by reason of sickness or invalidism as well as having attained retirement age. The scope and forms of social security shall be specified by statute.

2. A citizen who is involuntarily without work and has no other means of support shall have the right to social security, the scope of which shall be specified by statute.

#### Article 68

1. Everyone shall have the right to have his health protected.

2. Equal access to health-care services, financed from public funds, shall be ensured by public authorities to citizens, irrespective of their material situation. The conditions for, and scope of, the provision of services shall be established by statute.

3. Public authorities shall ensure special health care to children, pregnant women, handicapped people and persons of advanced age.

#### Article 69

Public authorities shall provide, in accordance with statute, aid to disabled persons to ensure their subsistence, adaptation to work and social communication.

that any body or authority applying the law may individually assess the conformity of generally applicable provisions with the fundamental law and refuse to apply them should it consider that they are in conflict with the Constitution.

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#### Article 70

1. Everyone shall have the right to education. Education to 18 years of age shall be compulsory. The manner of fulfilment of schooling obligations shall be specified by statute.
2. Education in public schools shall be without payment. Statutes may allow for payments for certain services provided by public institutions of higher education.
3. Parents shall have the right to choose schools other than public for their children. Citizens and institutions shall have the right to establish primary and secondary schools and institutions of higher education and educational development institutions. The conditions for establishing and operating non-public schools, the participation of public authorities in their financing, as well as the principles of educational supervision of such schools and educational development institutions, shall be specified by statute.
4. Public authorities shall ensure universal and equal access to education for citizens. To this end, they shall establish and support systems for individual financial and organizational assistance to pupils and students. The conditions for providing such assistance shall be specified by statute.

#### Article 71

1. The State, in its social and economic policy, shall take into account the good of the family. Families finding themselves in difficult material and social circumstances - particularly those with many children or a single parent - shall have the right to special assistance from public authorities.
2. A mother, before and after birth, shall have the right to special assistance from public authorities, to the extent specified by statute.

#### Article 75

1. Public authorities shall pursue policies conducive to satisfying the housing needs of citizens, in particular combating homelessness, promoting the development of low-income housing and supporting activities aimed at acquisition of a home by each citizen.
2. Protection of the rights of tenants shall be established by statute.

#### Article 76

Public authorities shall protect consumers, customers, hirers or lessees against activities threatening their health, privacy and safety, as well as against dishonest market practices. The scope of such protection shall be specified by statute.

4. In its decision of 9 February 2005, case III SA/Wa 2426/05, the Voivodship Administrative Court in Warsaw also stated that under no circumstances may the rule of a direct applicability of the Constitution be the basis for the court's refusal to apply the provisions laid down by law. The direct applicability of the Constitution does not signify that courts or other bodies appointed to apply the law are competent to control the constitutionality of national legislation, since the same fundamental law unambiguously shapes this mode of control.
5. Similarly, in its decision of 26 September 2007, case II FSK 1013/06, the Supreme Administrative Court stated that it was inadmissible to demand that the administrative court should omit legal regulations with a statutory rank, which exercise the presumption of constitutionality, and accept the provisions of the Constitution as a basis for the judgement based on the principle of the supremacy of fundamental law and its direct applicability as expressed in article 8 of the Constitution. The court may not form the taxpayer's legal situation by infringing the sphere of rights reserved for the legislator solely on the basis of the rule of a democratic State ruled by law (article 2 of the Constitution).
6. Therefore, the Appellate Court in Warsaw stated in its decision of 9 February 2005, case I ACa 776/04, that the wording of article 67, paragraph 2, of the Constitution: "a citizen who is involuntarily without work and has no other means of support shall have the right to social security, the scope of which shall be specified by statute", gives no grounds for drawing the conclusion that it reshapes the subjective rights which could be successfully realized through legal actions. The above-mentioned provision of the Constitution performs a constitutional function and is directed at national bodies.
7. Similarly, in its decision of 6 November 2007, case II SA/Ol 811/07, the Voivodship Administrative Court indicated that article 67 of the Constitution is a constitutional standard, defining the framework for social security and the direction of State policy, and is addressed mainly to legislative bodies.
8. In its decision of 20 January 2000, in case II UKN 334/99, the Supreme Court specified that the social security function comes into being by the virtue of acts, and not on the basis of article 67 of the Constitution.
9. In its decision of 14 April 2007, in case I CSK 488/06, the Supreme Court also stated that the law in force, including article 67 of the Constitution and article 12, paragraphs 2 and 3, of the European Social Charter, do not impose on the State any obligation to provide all citizens who are incapacitated for work, either due to health or age or those who remain involuntarily without work, with social security benefits to ensure the provision of necessary needs.
10. With regard to article 68 of the Constitution, in case I ACa 1266/05 (decision of 23 May 2006 of the Appellate Court in Poznań), the Court indicated that, although in paragraph 1, the right to health protection is granted, and paragraph 2 provides for the right to equal access to health-care services, financed from public funds within the limits established by statute, the following paragraphs specify only the State policy rules that by their nature cannot be a source of direct claims of individuals. Therefore, according to the Court, it is not legitimate to state that article 68, paragraph 3, grants insured pregnant women and children the right to benefits that should be financed from public funds.

11. The doctrine, however, provides that article 68, paragraph 2, of the Constitution regards civic rights (rather than the rights of the insured), and financing of health care (rather than a particular, controlled supply of drugs), is ensured by the public authorities and refers to the statute specifying the conditions and scope of the provision of health-care services.

***Question 3. Please provide detailed information on the judicial or other effective remedies available to individuals in the case of violations of the economic, social and cultural rights, taking into account that the Supreme Court in its decision of 8 February 2000 ruled that Covenant provisions cannot be directly invoked by individuals before national courts (E/C.12/POL/5, paras. 851-855).***

12. Article 91, paragraph 1, of the Constitution states that a ratified international agreement, after promulgation thereof in the Journal of Laws of the Republic of Poland, shall constitute part of the domestic legal order and shall be applied directly, unless its application depends on the enactment of a statute.

13. As for the protection of economic, social and cultural rights, article 81 of the Constitution states that the rights specified in the following articles may be asserted subject to limitations specified by statute:

(a) Article 65, paragraphs 4 and 5: a minimum level of remuneration for work or the manner of setting its levels, and policies aiming at full, productive employment by implementing programmes to combat unemployment, including the organization of and support for occupational advice and training, as well as public works and economic intervention;

(b) Article 66, paragraphs 1 and 2: the right to safe and hygienic conditions of work, the right to statutorily specified days free from work as well as annual paid holidays, and the maximum permissible hours of work;

(c) Article 69: aid provided by public authorities, in accordance with statute, to disabled persons to ensure their subsistence, adaptation to work and social communication;

(d) Article 71: the State, in its social and economic policy, shall take account of the good of the family; families in difficult material and social circumstances, particularly those with many children or a single parent, shall have the right to special assistance from public authorities, and mothers, before and after birth, shall have the right to special assistance from public authorities;

(e) Article 74, paragraphs 1 and 3: public authorities shall pursue policies ensuring the ecological security of present and future generations; everyone shall have the right to be informed of the quality of the environment and its protection;

(f) Article 75, paragraphs 1 and 2: public authorities shall pursue policies conducive to satisfying the housing needs of citizens, in particular combating homelessness, promoting the development of low-income housing and supporting activities aimed at the acquisition of a home by each citizen; and protection of the rights of tenants shall be established by statute;

(g) Article 76: public authorities shall protect consumers, customers, hirers or lessees against activities threatening their health, privacy and safety, as well as against dishonest market practices; the scope of such protection shall be specified by statute.

14. Pursuant to article 20 of the Act of 14 April 2000 on International Agreements, the minister directing the government administration unit and in charge of issues referred to in the international agreement is responsible for fulfilling obligations and exercising the rights resulting from the agreement for Poland. This framework includes an obligation to analyse the text of the agreement in order to determine the method of ensuring its implementation. In cases where it is established that the provisions of the agreement, as a whole or in part, do not have a self-implementing character, a draft legal act is prepared, ensuring the implementation of the international agreement, unless such an act is already in force or the provisions of the legal act in force are incompatible with the international agreement. In the course of an analysis regarding the character of the provisions of the international agreement, especially in the case of international agreements on human rights, the following elements are taken into consideration: the doctrine of international law; court case law (national and international); and opinions of the bodies appointed to control the implementation of international agreements.

15. The examination of the possible self-implementation of the provisions of international agreements is also performed by the court in the course of examining the case, provided that the international agreement was invoked as a basis for the complaint. Therefore, determining the self-implementation of the international agreement will form the basis of the court's decision as to whether to implement its provisions. The decision of the Supreme Court in case SN II UKN 374/99 of 8 February 2000, quoted in the fifth periodic report, is an example of such examination as regards the possibility of implementation of the provisions of international agreements in individual cases.

16. Moreover, article 193 of the Constitution ensures the possibility of referring questions of law to the Constitutional Tribunal concerning the conformity of a normative act with an international agreement, if the answer to such a question of law will determine an issue currently before such court.

17. Proceedings for establishing the conformity of national legislation with an international agreement ratified by Poland are relatively rarely instituted. The assessment of the national provisions in force is usually carried out by the courts in the light of the Constitution and the international agreement ratified by Poland. The analysis of common courts and Supreme Court case law indicate that, up to now, no decision has been taken solely on the basis of the provisions of an international agreement ratified by Poland.

18. In its decision of 12 June 2006 in case K 38/05, the Constitutional Tribunal ruled that article 61, paragraph 2, of the Act on Social Insurance Benefits in Employment Injuries and Occupational Diseases is not incompatible with articles 65, paragraph 1, and 67, paragraph 1, of the Constitution, with article 6, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, with articles 1, paragraphs 2 and 4, 10, paragraph 1, 12, paragraphs 2 and 3, and 15, paragraphs 1 and 2, of the European Social Charter and, therefore, is compliant with articles 9 and 91, paragraphs 1 and 2, of the Constitution.

19. In its decision of 18 November 2002 in case 37/01, the Constitutional Tribunal stated that:

(a) Article 241<sup>7</sup>, paragraph 4, of the Labour Code is incompliant with article 59, paragraph 2, of the Constitution and article 4 of the International Labour Organization (ILO) Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (1949), with article 6, paragraph 2, of the European Social Charter and article 20 of the Constitution;

(b) Article 241<sup>14a</sup>, paragraph 3, of the Labour Code referred to in point 1 is not incompliant with article 59, paragraph 2, of the Constitution and article 6 of ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize (1948);

(c) Article 241<sup>19</sup>, paragraph 2, of the Labour Code referred to in point 1, so far as it excludes the possibility of ceasing to apply the multi-establishment agreement by the employer, if the employer resigns from the organization of employers that has concluded the multi-establishment agreement, is not incompliant with article 59, paragraph 1, of the Constitution and article 2 of the Convention referred to in point 2.

20. In its decision of 13 April 2007 in case I CSK 488/06, the Supreme Court indicated that the law in force, including article 67 of the Constitution and article 12, paragraphs 2 and 3, of the European Social Charter, does not impose on the State any obligation to provide all citizens who are incapacitated for work by reason of health or age or who remain involuntarily without work with social security benefit to ensure the safeguarding of basic needs.

***Question 4. Please indicate whether the mandate entrusted to the Commissioner for the Protection of Civil Rights (Ombudsman) includes the protection and promotion of the economic, social and cultural rights. If so, please provide updated information on the number and content of petitions received by the Ombudsman alleging violations of economic, social and cultural rights by public authorities.***

21. Pursuant to article 208, paragraph 2, of the Constitution, the scope and mode of the Ombudsman's work are specified by statute. This provision is enforced by the Act of 15 July 1987 on the Commissioner for Civil Rights Protection. Article 208, paragraph 1, of the Constitution and article 1, paragraph 2, of the Act on the Commissioner for Civil Rights Protection state that the Commissioner safeguards the freedoms and rights of persons and citizens specified in the Constitution and other normative acts. The taxonomy of the sources of universally binding law, adopted by the Constitution in article 87, indicates that these are not only the rights and freedoms specified in the Constitution, but also the protection of rights specified in statutes, ratified international agreements, regulations and enactments of local law.

22. In terms of implementing the Ombudsman's constitutional tasks, particular importance should be ascribed to ratified international agreements on the protection of human rights, including the Covenant on Economic, Social and Cultural Rights. The Constitution implements the Covenant's standards. Therefore, the Commissioner's need to refer to the Covenant is significantly smaller, especially in the case of contesting legal acts before the Constitutional Tribunal. It does not mean, however, that there is no need to refer to the acts of international law

on the protection of human rights. The Ombudsman remains a body for promoting the interpretation of law in accordance with international standards and, to this end, makes use of the international *acquis*, especially that of the European Court of Human Rights.

23. In 2008 the Ombudsman investigated 35,043 individual cases. Cases regarding the labour and social insurance law constituted 12.4 per cent, and 13,567 cases were subject to examination, 10.8 per cent of which were cases regarding the labour and social insurance law.

24. Furthermore, the Ombudsman dealt with issues of the rights to strike, to education, to enjoy the products of culture, and other rights.

25. With regard to the support for persons without work, the Ombudsman addressed the following issues:

(a) Lack of external control as to the decisions taken regarding unemployed persons applying for financial means to set up a business activity;

(b) Lack of regulations regarding the right to pre-retirement benefits due to persons who terminated the employment contract for reasons attributable to the employer;

(c) Situation of the local labour markets in the post-State-owned agricultural areas;

(d) Possibility of acquiring unemployed status by persons who, despite having an entry in the register of business activities, are not actually conducting such an activity.

Most of the issues were solved by the amendment to the Act on Employment Promotion and Labour Market Institutions, which entered into force on 1 February 2009.

26. The Ombudsman is of the opinion that the labour market situation is unfavourable with regard to persons over 50 years old, especially women. Economic inactivity is characteristic of an alarmingly high number of persons in the 50-65 age group. Meanwhile, the case law of common courts and the Supreme Court represents the view that attaining the retirement age and acquiring the right to retirement is a sufficient and autonomous reason for terminating the employment relationship. This line of case law sanctions, and in some circumstances may even encourage, employers to dismiss persons of retirement age. Recently, however, a different line of the Supreme Court case law was established, according to which, as a rule, attaining the retirement age and acquiring the right to retirement do not justify the termination of the employment relationship, since these events are not related to work and in particular they do not indicate the employee's uselessness or the existence of the employer's interest in terminating the employment relationship in connection with the employment rationalization. With regard to the above-mentioned discrepancies in case law, the Ombudsman made a request to the Supreme Court to adopt a resolution in order to explain the legal provisions and prevent the discrepancies in case law by answering the question: "Can attaining the retirement age and acquiring the right to retirement constitute the sole reason for terminating the employment relationship with an employee, woman or man, and does it not constitute gender and age discrimination of employees (article 11<sup>3</sup> of the Labour Code)?" On 21 January 2009, the Supreme Court adopted a resolution in which it stated that attaining the retirement age and acquiring the right to retirement may not constitute the sole reason for terminating the employment relationship by the employer.

27. The Ombudsman made a request to the Constitutional Tribunal to declare, as incompatible with article 92, paragraph 1, of the Constitution (requirements regarding the authorization to issue regulations), the provision of the Labour Code on determining - by means of an ordinance of the Minister of Education and the Minister of Labour and Social Policy - the scope and conditions under which the employer facilitates the improvement of professional qualifications of the employees. The request was worded as follows: The Ombudsman is of the opinion that the authorization included in the Labour Code does not contain the guidelines regarding the content of the act and defines too broadly the scope of cases transferred for settlement by an ordinance. The most important solutions, regulated in detail in the ordinance of the Minister of Education and the Minister of Labour and Social Policy issued on the basis of the authorization contained in the Labour Code, are the issues connected with the granting and duration of training leave and leave for part of a working day with the right to remuneration retained. According to the Ombudsman, due to the social importance and significant burden for employers, this issue should be regulated by an act rather than an ordinance. The request presently awaits a decision.

28. The Ombudsman entered proceedings concerning a constitutional claim on the failure to include, in the basis for calculating sickness benefit, the due elements of remuneration from which the health insurance contribution was paid, and which are not paid while the employee receives remuneration for a period of his incapacity to work due to illness or sickness benefit. In the decision of 24 June 2008 (SK 16/06), the Constitutional Tribunal shared the Ombudsman's opinion, according to which the failure to include in the basis for calculating sickness benefit the due elements of remuneration (discretionary bonus) from which the employee paid the health insurance contribution, and which are not paid to him or her while he or she receives sick pay or sickness benefit, is incompliant with the constitutional right to social security, because it leads to the payment of an understated remuneration or sickness benefit. The decision is the result of a constitutional claim regarding the principles of granting the discretionary bonus in the period of receiving sickness benefit. The decision of the Constitutional Tribunal gave grounds for reopening judicial proceedings and made it possible to demand verification of the sick pay and sickness benefits paid within the period of three years.

29. Since a new retirement pension scheme was introduced, there has been no provision regarding persons who have proof that during a certain period of time they were party to an employment relationship, and thus were subject to social security obligation, but are not able to present documentation that would make it possible to determine the amount of income constituting the basis for calculating the contribution for this period (difficulties with access to the remuneration documentation, small efficiency in substituting it with other measures of inquiry, for example, witness testimonies). Consequently, the entitled had no possibility of using the method for calculating their pension or retirement pension based on the contributions from 10 successive calendar years taken from the last 20 calendar years or any 20 years from the whole period of being subject to the insurance. The Ombudsman made attempts to contest the constitutionality of the law in force in this respect. He entered the proceedings in two cases of constitutional claims on this issue and made requests for relevant amendments to be introduced in the provisions so that when it is not possible to document the income for the purpose of calculating pension or retirement pension, it should be assumed that the income amounted to the level of a minimum wage that was binding in the relevant period. The Ombudsman's request concerning the introduction of a minimum wage as a substitute basis for calculating the

contributions to establish pensions and retirement pension amounts was realized by a parliamentary initiative that led to the appropriate law amendment, in force since 1 January 2009.

30. The institution of a voluntary continuation of the pension and retirement pension insurance may play a significant part in changing the socio-economic situation, enabling persons who do not have other entitlement to the pension and retirement pension insurance to continue their insurance. The use of this institution depends on keeping the 30-day time limit for submitting the application for these insurances. The act does not provide for the possibility of reopening this period. On occasions, persons applied for the voluntary insurance after the time limit, paid the contributions for several years and, after the Social Insurance Institution verified the application, it turned out that they were not subject to insurance security. The Ombudsman supported the government initiative to amend the provisions on the social security scheme in order to remove the time limit for filing the application for voluntary continuation of pension and pension retirement insurances. The Sejm passed this amendment on 24 April 2009.

31. Another request made by the Ombudsman to the Constitutional Tribunal regarded the provision of the Act on Social Assistance containing the authorization for the minister in charge of social security to specify, by means of an ordinance, a flat-rate amount necessary for raising a child and a contribution for the present functioning of a foster home, taking into account the needs for an adequate functioning of the facility. The Ombudsman is of the opinion that this provision is incompliant with article 92, paragraph 1, of the Constitution, since, apart from the indication of the need for taking into consideration the adequate functioning of a foster home, it does not contain any guidelines as to the specific regulations of these issues. Moreover, these guidelines do not result from other provisions of the Act on Social Assistance. Based on the contested provision, an ordinance was issued by the Minister of Labour and Social Policy on specifying the flat-rate amount necessary for raising a child and contributions for the present functioning of a foster home. This ordinance specifies in an unrestricted and almost free way the closed catalogue of expenses related to the present functioning of a foster home and expenses related to raising a child. The request awaits a decision.

32. Detailed information on the Ombudsman's activity can be found in the yearly report "Information on the activity of the Commissioner for the Protection of Civil Rights and the state of respecting rights and freedoms of persons and citizens". Information on 2007 is available, while information on 2008 has yet not been prepared.

***Question 5. Please provide additional information on specific training programmes, seminars and courses, if any, organized by the State party for judges, members of the Bar Council, public officials, teachers, social workers and the public at large on the provisions of the Covenant and their application (E/C.12/POL/5, paras. 1077-1097).***

### **Training for public officials**

33. Issues regarding the widely understood prohibition of discrimination are discussed during the basic training of police officers. The issue of human rights covers:

- The presentation of human rights

- The aims and circumstances for the restriction of human rights
- The importance of human rights
- The means for human rights protection
- The standards of human rights in the work of the police

34. The programme of the basic course includes the subject “Anti-discrimination issues” covering the basic terms of discrimination, its types, and measures for counteracting it. The courses present Polish national legislation on counteracting discrimination, issues of racial equality and equality in terms of employment.

35. The curricula of studies at high policy schools contain a course on human rights, including the issue of “Human rights in different international systems”. Among other things, the programme presents the United Nations system of human rights protection. The aim of the course is to present the mechanisms governing the formation of discrimination cases, to raise officers’ awareness and sensitivity with regard to these processes as well as to introduce methods of counteracting them.

36. Currently, preparations are being made to prepare a programme of vocational training in respect of counteracting and fighting hate crimes.

### **Training for judges and members of the Bar Council**

37. The National Training Centre for the Officials of the Common Courts of Law and the Public Prosecutor’s Office provided for the participation in training sessions organized by the Academy of European Law in Trier, Germany in 2008 for judges ruling in cases on labour law in the following fields:

- References for a preliminary ruling to the European Court of Justice
- European Union anti-discrimination directives, (three training sessions)

38. In 2009, the following are planned:

- Three seminars on the European Union anti-discrimination directives
- Three seminars on legislation regarding the equal treatment of women and men
- Training on references for a preliminary ruling to the European Court of Justice

39. From 1 September 2006 until the end of 2008, the National Training Centre for the Officials of the Common Courts of Law and the Public Prosecutor’s Office carried out 29 training courses on labour law for judges and assessors ruling in such cases, 2 training courses for judges’ assistants and a conference for judges of appeal and district courts ruling in such cases. The following are scheduled for 2009: one conference and five training courses for judges and assessors ruling in cases on labour law as well as four training courses for judges’ assistants.

40. Judges also attend postgraduate courses. The first edition of such courses (2007-2008) was dedicated to the labour law and civil proceedings and realized in cooperation with the Polish Academy of Sciences. The second edition (2008-2009), dedicated to the subjects of labour law and social security in market economy conditions, is realized in cooperation with Warsaw University. Postgraduate courses will be continued.

41. In December 2008, a seminar on European law took place. Participants of this seminar included not only judges ruling in civil and economic matters, but also judges of the labour courts.

42. List of training courses:

**2006:**

Training for judges ruling in the fields of labour and social security (one edition).

**2007:**

- (a) Prohibition of discrimination and obligation of preventing mobbing in national and community court practice. Controversies regarding the Act on Court Fees (two editions);
- (b) Accidents at work and occupational diseases as a subject of claims pursued through administrative means and before common courts, opinion of an expert at trial as a measure of inquiry in cases on labour law and social security as well as its importance in the proceedings. Resumption of proceedings in cases concerning social security (three editions);
- (c) Changes in the civil procedure model after the amendment of the Code of Civil Procedure in separate proceedings before the labour and social security court. Impact of the proceedings by writ of payment and liquidation procedure on declaratory proceedings with regard to the labour law (two editions);
- (d) Employment relationship (three editions);
- (e) Labour law after amendments. Analysis of the efficiency of European Community labour law in the case law of Polish courts (two editions);
- (f) Working time and remuneration for work and social security cash benefits in the case of illness and maternity (two editions).

**2008:**

- (a) Proceedings in cases on labour law and social security as separate proceedings in the civil suit (two editions);
- (b) Special regulations regarding working time (two editions);

- (c) Essential function of the chairman of the labour and social security division and its significance for the adequate functioning of the entrusted unit (two editions);
  - (d) Prohibition of discrimination and obligation of preventing mobbing in national and community court practice. Protection of personal rights in the employment relationship (two editions);
  - (e) Working time in the Labour Code and European Community law (two editions);
  - (f) Specific character of employment relationships in corporate enterprises and partnerships (two editions);
  - (g) Impact of European Community regulations on Polish social security labour law (two editions);
  - (h) Conference for judges of appeal courts ruling in fields of labour and social security: “New aspects of the civil suit and its importance for separate proceedings in cases on labour and social security law after the amendments to the Code of Civil Procedure”;
  - (i) Working methodology of judges’ assistants in cases concerning labour and social security law (two editions).
43. Training scheduled for 2009:
- (a) Discrimination and mobbing in employment relationships. Applying provisions of the Civil Code to cases on labour law (one edition);
  - (b) Rules of applying the Community law interpretation by national courts. Impact of Constitutional Tribunal case law on the case law of labour courts (one edition);
  - (c) Labour characteristics of employment on a position of a corporate enterprise body member. Civil law elements in the employment relationship. Labour law regulations besides the Labour Code (one edition);
  - (d) Practical application of the regulations on working time, procedural aspects of proceedings in cases on labour law and social security (two editions);
  - (e) Conference for labour judges ruling in fields of labour with a leading subject: “Working time in Community and national law”;
  - (f) Regular training for judges’ assistants ruling in cases on labour and social security (four conventions within the scope of one edition).

### **Training of the Bar Council members**

44. In the framework of the training courses for barrister trainees, some issues resulting from the Covenant on Economic, Social and Cultural Rights are discussed. Several Regional Bar Councils intend to organize this type of training in 2009.

**Question 6. *Given the fact that many policies and programmes for the fulfilment of economic, social and cultural rights in the State party, including of persons belonging to ethnic or national minorities, fall within the responsibility of regional and local authorities, please indicate how the central authorities ensure overall guidance, adequate resource allocation and minimum standards.***

45. The claim that many policies and programmes for the fulfilment of economic, social and cultural rights in the State party, including those of persons belonging to ethnic or national minorities, fall within the responsibility of regional and local authorities, included in the comments of the Committee, is not supported by the law in force. These policies and programmes fall within the powers of the Council of Ministers. At the same time, competences in this respect fall within the powers of regional and local authorities.

46. The competence of particular bodies in terms of the policy regarding national and ethnic minorities is specified in the Act of 6 January 2005 on National and Ethnic Minorities and the Regional Language. The body responsible is the minister in charge of religious denominations as well as national and ethnic minorities; currently it is the Minister of Interior and Administration.

47. The Minister, by carrying out the tasks related to the maintenance and development of the cultural identity of national and ethnic minorities as well as the preservation and development of the regional language:

- (a) Works towards the implementation of minorities' rights and needs by undertaking actions for the benefit of minorities and initiating programmes on:
- The preservation and development of the identity, culture and language of minorities, at the same time as ensuring civil integration of persons belonging to minorities
  - The implementation of the principle of equal treatment of persons regardless of their ethnic background
- (b) Cooperates with responsible bodies on counteracting the violation of minority rights;
- (c) Carries out analyses and assessments of the legal and social situation of minorities, including the implementation of the principle of equal treatment of persons regardless of their ethnic background;
- (d) Promotes the dissemination of information about minorities and their culture, initiates studies on the situation of minorities, including discrimination resulting from belonging to the minority, the manifestation of discrimination as well as methods and strategies of counteracting it;
- (e) Takes measures to preserve and develop the regional language.

48. The Act on National and Ethnic Minorities and the Regional Language allows minority organizations and cultural institutions with a particular focus on minority culture to subsidize the implementation of tasks. Every year, minority representatives participate in the preparation of the rules of conduct in matters regarding donations and take part in the work of the Joint Commission of Government and National and Ethnic Minorities.

49. The Act specifies that the tasks of the voivode in the field of protection of national and ethnic minorities' rights include:

(a) Coordination in the voivodship of the activities of the government administration agencies that carry out tasks for the benefit of minorities;

(b) Taking measures to ensure:

- Respect for minority rights and counteracting violations of these rights and discrimination against persons belonging to a minority
- Solving problems encountered by minorities
- Respect for the rights of persons using a regional language

50. Bodies of the government administration, local government and non-governmental organizations (NGOs) are under an obligation to provide the voivod with the documents regarding the programmes in which they will participate in their regions, concerning a minority or the preservation and development of the regional language, and which will be financed in full or in part by public funds.

51. The Act on National and Ethnic Minorities and the Regional Language allows the voivods to appoint, for an unspecified period of time, a plenipotentiary for national and ethnic minorities under the Act of 5 June 1998 on Central Government Administration in Regions. In some regions, plenipotentiaries for national and ethnic minorities were appointed, in others, the tasks are implemented by the appointed employees of voivodship offices.

52. The Joint Commission of Government and National and Ethnic Minorities plays a crucial role in the implementation of tasks for the benefit of minorities. The tasks of the Joint Commission include:

(a) Expressing opinions on the exercise of minority rights and needs, including the assessment of the way those rights are exercised, and proposing actions to ensure the exercise of minority rights and needs;

(b) Voicing opinions on programmes meant to facilitate the preservation and development of a minority's cultural identity;

(c) Voicing opinions on draft legal acts concerning minorities;

(d) Voicing opinions on the level and the principles of distribution of budgetary funds allocated to the support for activities aimed at the protection, preservation and development of the cultural identity of minorities and at the preservation and development of a regional language;

(e) Taking measures to counteract discrimination against persons belonging to minorities.

53. The Joint Commission consists of representatives of the minister in charge of religious denominations and national and ethnic minorities, the minister in charge of public administration, the minister in charge of culture and protection of national heritage, the minister in charge of education, the minister in charge of public finance, the minister in charge of labour, the Minister of Justice, the minister in charge of internal affairs, the minister in charge of social security, the minister in charge of foreign affairs, the President of the Central Statistical Office, the Council for the Preservation of Monuments to Struggle and Martyrdom, the Head of the Chancellery of the Prime Minister and the representatives of national minorities (Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian, Jewish) and ethnic minorities (Karaim, Lemko, Roma, Tatar), as well as the representatives of the community using the regional language (Kashubian). Within the Joint Commission, the following teams are functioning: the Team for Education, the Team for Culture and Media and the Team for Roma Affairs. The costs of the Joint Commission's operation are financed from the national budget.

54. Thirteen sittings of the Joint Commission took place between 2005 and 2008. The Joint Commission gave its opinion on: the amount of funds planned in the budget for realizing tasks aimed at maintaining the cultural identity of national and ethnic minorities as well as preserving and developing the regional language in 2006, 2007, 2008 and 2009, principles regarding the distribution of donations granted by the Minister of Interior and Administration in 2006, 2007, 2008 and 2009, the draft Act on the Ratification of the European Charter for Regional or Minority Languages, and draft ordinances prepared by the departments.

55. The following entities play a significant role in carrying out State policy regarding national and ethnic minorities: the National and Ethnic Minorities Commission of Sejm of the Republic of Poland, the Commissioner for the Civil Rights Protection, the Ministry of Education, the Ministry of Labour and Social Policy, the Ministry of Regional Development and the Council for the Preservation of Monuments to Struggle and Martyrdom.

56. Funds enabling the local government unit to implement tasks related to managing schools that take measures in order to support the cultural and linguistic identity of pupils belonging to national and ethnic minorities are provided for in local government budgets, in particular the overall education subsidy. In 2009, 163,253,000 PLN (Polish zlotys) will be granted for the instruction of 50,907 pupils who learn minority languages, pupils speaking the regional Kashubian language and pupils of Roma origin, on account of overall subsidies. As in 2008, an increased education subsidy is allocated for pupils from schools organizing extramural classes for pupils of Roma origin.

57. Teaching the minority and regional languages, and the history, culture and geography of a country whose culture the national minority identify with takes place on the basis of curricula and textbooks authorized for school purposes by the minister in charge of education. The

Education System Act of 7 September 1991 provides that school textbooks and supplementary books for education purposes which are necessary in order to maintain the sense of national, ethnic and linguistic identity, are subsidized from the national budget. Textbooks for teaching the minority language as well as the history and geography of its country of origin are financed first, followed by supplementary textbooks, such as dictionaries and methodology textbooks.

**Table 1**

	Expenses in millions of PLN	Number of titles	Circulation	Subject
2004	1 500 000	19	33 900	Learning Lithuanian, Ukrainian, Belarusian, Slovak, Lemko, Kashubian and German, mathematics in Lithuanian
2005	1 222 000	19	13 650	Learning Lithuanian, Ukrainian, Slovak, Lemko and Kashubian
2006	1 138 000	16	8 550	Learning Lithuanian, Ukrainian, Slovak, Lemko and Belarusian
2007	1 228 000	22	19 900	Learning Lithuanian, Ukrainian, Slovak, Lemko and Kashubian
2007	1 295 000	21	16 900	Learning Lithuanian, Ukrainian, Lemko and Kashubian

58. The following programmes implemented for the Roma community are examples of programmes for ethnic minorities implemented by local authorities and non-governmental organizations in cooperation with voivodes and superintendents of schools:

- Pilot programme for the Roma community in Małopolskie Voivodship 2001-2003
- Programme for the Roma community in Poland 2004-2013

**Table 2**

**Expenses for the implementation of education modules  
from the budget of the Ministry of Education**

	Pilot programme, in PLN	Nationwide programme, in PLN/
2001	500 000	-
2002	605 000	-
2003	250 000	-
2004	-	1 000 000
2005	-	700 000
2006	-	701 000
2007	-	600 000
2008	-	700 000

**Question 7. Please indicate what steps the State party has taken to disseminate the Committee's previous concluding observations among civil society organizations and to involve them in the preparation of the fifth periodic report (E/C.12/1/Add.82, paras. 57-58).**

59. Social partners (trade unions, employer organizations) and non-governmental organizations were not consulted on the draft report on the implementation of the provisions of the Covenant. A similar procedure had been applied in the course of the preparation of the previous reports on the implementation of the provisions of the Covenant. The report represents the position of the Council of Ministers, which is solely responsible for the report's content. Consulting the documents at the preparation stage and, as a consequence, partners' and organizations' expectations regarding the consideration of their comments, could undermine the Government's responsibility for the content of the report.

60. The Council of Ministers accepts the report before submitting it to the Committee. Information on the work programme of the Council of Ministers and on the documents it accepts can be obtained from the Chancellery of the Prime Minister. The Council of Minister's minutes are made available to the interested persons according to the procedure for access to public information.

61. Persons and organizations interested in getting to know the report may apply to the Ministry of Labour and Social Policy for its disclosure. The office is obliged to disclose the document pursuant to the Act of 6 September 2001 on Access to Public Information. The method of document disclosure usually consists of sending it in a paper or electronic form, depending on the interested person's application. It should be taken into account that the application for the document's disclosure may be submitted at any stage of its preparation (thus, also before the report is accepted by the Council of Ministers).

62. Considering the scope of the report's subject matter, its volume (235 pages in the Polish version) and the potentially unlimited number of entities interested in familiarizing themselves with the report, the adopted procedure, i.e. providing information on application, is a realistic solution. No application on the disclosure of the report has been received since the report's adoption by the Council of Ministers to the submission of the present information to the Ministry of Labour and Social Policy.

**Question 8. The Committee requests the State party to provide statistical data on an annual comparative basis over the last five years, disaggregated by age, gender, ethnic or national origin and - where applicable - urban/rural residence, in its replies to the issues referred to in paragraphs 17, 23, 25, 26 and 27 of the present list of issues. The Committee also requests the State party to provide specific statistical information requested in paragraphs 13, 15, 18, 24 and 31 of the present list of issues.**

## II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)

### A. Article 2 (para. 2). Non-discrimination

**Question 9.** *Please provide detailed information on the measures adopted by the State party to strengthen its legislative and institutional framework aimed at prohibiting discrimination in all areas of life. Please indicate whether the State party intends to introduce a non-discrimination provision covering all possible grounds of discrimination in its domestic legislation, as recommended by a number of international and regional human rights mechanisms.*

63. Discrimination is prohibited by the Constitution. Article 32 of the Constitution states that all persons are equal before the law, all persons have the right to equal treatment by public authorities and no one can be discriminated against in political, social or economic life for any reason whatsoever. The Constitution allows no deviations from or exceptions to the principle of equality. Article 37 of the Constitution states that everyone under the authority of the Polish State enjoys the freedoms and rights ensured by the Constitution, further strengthening this principle. Exemptions from this principle with respect to foreigners shall be specified by statute.

64. Provisions on equal treatment are also included in a number of ordinary acts of legislation, including:

(a) The Act of 23 April 1964, the Civil Code and the Act of 17 November 1964, the Code of Civil Procedure: the possibility of demanding the cessation of an activity that threatens personal interests; in compliance with a general rule regarding the distribution of the burden of proof, the burden of proof relating to a fact rests on the person who attributes legal effects to that fact. One of the exceptions to that rule, in cases concerning the protection of personal interests, is connected with the rule of a presumption of illegality of violating personal interests, which means that, in the proceedings on the protection of personal interests, it is the defendant who is obliged to prove that there are circumstances exempting illegality of their behaviour, since the defendant attributes legal effects precisely to the fact of the non-existence of illegality;

(b) The Act of 14 June 1960, the Code of Administrative Procedure (in a case regarding another person, a social organization has the possibility of putting forward a demand to institute proceedings or demand to include the organization in the proceedings, provided that the organization's statutory aims justify this and the grounds of public interest have been established);

(c) The Act of 20 May 1971, the Code of Petty Offences (fine for any person who is involved in the sale of goods either in retail trading business or in the catering business and hides from the buyer any goods intended for sale, or intentionally and without a justified reason refuses to sell the said goods, and for any person who provides services professionally and for their provision demands and collects a fee higher than the binding one, or intentionally and without a justified reason refuses to provide the services which they are obliged to provide);

(d) The Act of 2 July 2004 on Freedom of Economic Activity (equal access of men and women to the undertaking of business activity, free access to the provision of goods and services);

(e) The Act of 16 February 2007 on Competition and Consumer Protection (prohibition of applying to equivalent transactions with third parties homogenous agreement terms, thus creating diversified conditions of competition for these parties);

(f) The Act of 24 April 2003 on Public Benefit and Volunteer Work (ensuring equal rights for women and men is a public task performed by public administration bodies);

(g) The Act of 26 June 1974, the Labour Code (the principle of equal treatment and lack of discrimination in employment);

(h) The Act of 20 April 2004 on Employment Promotion and Labour Market Institutions (prohibition to discriminate against persons for whom the district and province job centres and work exchange agencies seek employment or other paid work).

65. Under the Ordinance of the Council of Ministers of 22 April 2008, a Plenipotentiary for Equal Treatment with a rank of Secretary of State in the Chancellery of the Prime Minister was appointed. The main task of the Plenipotentiary is to implement government policy on equal treatment, including counteracting discrimination, especially on the grounds of gender, race, ethnic background, nationality, religion or denomination, political views, age, sexual orientation, as well as marital and family status.

66. The responsibility of the Plenipotentiary for Equal Treatment is to include the issues of counteracting discrimination in the government decision-making process and supervise on behalf of the Prime Minister the anti-discrimination activities of individual ministries, also by voicing opinions on draft legal acts and other governmental documents regarding equal treatment. The Plenipotentiary carries out legal and social situation analyses and assessments in terms of respecting equal treatment. To this end, the Plenipotentiary initiates and coordinates actions aimed at ensuring equal treatment and submits requests on the introduction or amendment of legal acts to competent bodies.

67. The Plenipotentiary monitors the situation and undertakes actions with the aim of eliminating or reducing the effects resulting from the violation of the equal treatment principle. In this respect, he cooperates with the competent government administration bodies. The Plenipotentiary also implements tasks with regard to the promotion of knowledge on equal treatment as well as discrimination and its manifestations in addition to methods and strategies of counteracting it.

68. In order to perform these tasks, the Plenipotentiary for Equal Treatment has appointed the following advisory and consultative teams:

(a) Team on monitoring the National Programme of Counteracting Racial Discrimination, Xenophobia and Related Intolerance;

(b) Team on counteracting the discrimination of women;

- (c) Team on counteracting mobbing;
- (d) Team on counteracting the discrimination of fathers;
- (e) Team on counteracting juvenile discrimination in electronic mass media;
- (f) Team on counteracting child discrimination due to the lack of legal guardians in relation to the departure of parents (abroad);
- (g) Team on counteracting discrimination of chronically ill children;
- (h) Working party on early support for the development of children with hindered development from the moment of detecting the disability risk or the disability to the moment of entering school education, as well as for their families.

The teams consist of representatives from ministries, public institutions, trade unions, non-governmental organizations and experts.

69. The teams produce analyses of legal solutions and proposals as to their amendments, draft strategies and programmes aimed at promoting, disseminating and propagating equal treatment and counteracting discrimination.

70. The guarantees provided for in the law in force are sufficient and no fundamental amendments to the legislation are expected. Currently, works are being carried out with the aim of fully implementing the following European Community provisions:

- (a) Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;
- (b) Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood;
- (c) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- (d) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;
- (e) Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;

(f) Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;

(g) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

71. The draft Act on the implementation of some of the European Union regulations on equal treatment provides for the prohibition of discrimination in respect of:

(a) The possibility of undertaking occupational training, including in the framework of higher education, postgraduate training, as well as improving qualifications, occupational retraining and occupational practice;

(b) The possibility of undertaking occupational activity and the conditions of performing it, conditions of undertaking and performing economic or agricultural activity and work on the basis of a civil law contract;

(c) Access to instruments and services offered by labour market institutions as well as services and instruments offered by other entities operating in the field of employment, human resources development and counteracting unemployment;

(d) Joining and participating in trade unions, employers' organizations, professional self-governments and non-governmental organizations, as well as the rights of members of such organizations;

(e) Social security;

(f) Health care, unless objectively justified by the specifics of medical treatment;

(g) Education and higher education;

(h) Access to services, including housing, goods as well as acquiring rights and energies, if they are offered publicly.

72. The draft Act, however, includes a reservation that it is possible to differentiate the legal situation of persons based on other values established in the Constitution, principles or norms which justify different treatment of persons in a similar situation. Furthermore, as for the particular case of foreigners, the Act will not be in breach of the provisions establishing the different treatment of citizens of countries other than member States of the European Union, member States of the European Free Trade Agreement, parties to the Agreement on the European Economic Area or Swiss Confederation, especially with regard to the conditions of entry into and stay of foreigners in the territory of Poland as well as the treatment related to the status of those persons.

73. Pursuant to the Act, the following acts will not be considered as discrimination:

(a) Actions aimed at preventing or aligning the different treatment of persons due to one or more reasons referred to in article 5, paragraph 1,<sup>2</sup> by reducing factual inequalities in favour of such persons;

(b) Different treatment for one or more reasons referred to in article 5, paragraph 1, with regard to undertaking and performing an occupational activity, if the nature and conditions of such activity turn the reason(s) into a factual and decisive occupational requirement set for a particular person and proportional to the legitimate aim of differentiating such person's situation;

(c) The restriction, by churches and other faith communities, of access to the occupational activity and its performance due to the religion or belief if, because of the character or conditions related to the performance of such activity, religion or belief is a factual and decisive occupational requirement for a particular person and proportional to the legitimate aim of differentiating such person's situation;

(d) Differentiating a person's situation due to their age:

- When it is objectively and rationally justified in view of a legitimate objective, especially with an objective regarding employment policy, the labour market and occupational training, provided that the measures for its implementation are appropriate and necessary
- By establishing, for the sake of social security, different rules of granting or acquiring rights for benefits, including different age criteria for the calculation of the level of benefits. In the case of employees' retirement programmes such differentiation may be allowed, provided that it will not constitute discrimination on the grounds of gender

(e) Differentiating between persons when access to services and goods and acquiring rights and energy solely or mostly by the representatives of one gender, race or ethnic group is objectively and rationally justified with a legitimate aim, provided that the measures for its implementation are appropriate, necessary and proportional.

74. The draft Act proposes entrusting the implementation of tasks regarding equal treatment to the Plenipotentiary for Equal Treatment. The Prime Minister will appoint the Plenipotentiary, whose tasks will include:

(a) The preparation and voicing of opinions on draft legal acts on equal treatment;

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<sup>2</sup> Article 5, paragraph 1, will prohibit discrimination on the grounds of gender, race, ethnic background, nationality, denomination or worldview, political views, disability, age or sexual orientation, marital and family status, or for any other reasons.

(b) The initiation and implementation of activities aimed at reducing the effects of violations of the principle of equal treatment;

(c) Cooperation with other entities, including public administration bodies, social partners, non-governmental organizations and other entities;

(d) The preparation and submission of the National Programme of Counteracting Discrimination to the Council of Ministers.

75. With the aim of counteracting violations of the principle of equal treatment, the Plenipotentiary will be entrusted with the right and obligation of undertaking actions envisaged by law in respect of providing support, including financial support, in order to protect and counteract further violations.

76. If a request is received from the Plenipotentiary, relevant parties, including public administration bodies, have an obligation to take a stance regarding matters within the scope of their activities, to provide information and present documents, and to undertake and implement activities in respect of equal treatment.

77. A draft Act on the implementation of some of the European Union regulations on equal treatment was submitted for approval to the Legislative Council of the Prime Minister by the decision of the Committee of the Council of Ministers of 22 January 2009. The draft Act, together with the Legislative Council's opinion of March 2009 and an opinion of the Minister of Labour and Social Policy, were resubmitted for the Committee's deliberations.

78. In order to ensure cohesion of the policy undertaken in the field of counteracting racial discrimination, the National Programme for Counteracting Racial Discrimination will be developed. The Programme will provide a framework for actions aimed at counteracting discrimination and violations of the principle of equal treatment, undertaken by public administration. Annual reports on the implementation of the Programme will allow for an analysis of violations of the principle of equal treatment, an assessment of any actions undertaken in order to eliminate discrimination, and recommendations to be made about the best ways to achieve the established goals.

79. The Covenant does not impose the obligation to ban discrimination in all spheres of life. Article 2, paragraph 2, of the Covenant introduces an obligation to guarantee that the rights enunciated in the Covenant are exercised without discrimination (arts. 6-15). Other international agreements ratified by Poland do not impose the obligation to introduce an absolute ban on discrimination in all imaginable spheres of life. The existing doctrine, national and international courts' case law, as well as opinions of expert bodies established to control the implementation of international agreements on human rights allow for the ban on discrimination to be interpreted as not imposing the obligation to grant the same rights to everyone. While arbitrary discrimination is prohibited, it is accepted that decisions taken by individual States regarding the scope of some rights comply with the requirements of realization of justified interests of those States, provided that they are based on rational and objective political, social and economic grounds.

80. In the context of the provisions of the International Covenant on Civil and Political Rights, regarding *Zwaan-de Vries v. the Netherlands*, communication No. 182/84 (A/42/40) the Human Rights Committee considered that the right to equality before the law and to equal protection of the law without any discrimination does not make all differences in treatment discriminatory. A differentiation based on reasonable and objective criteria does not amount to prohibited discrimination within the meaning of article 26 of the Covenant (para. 13): “The right to equality before the law and to equal protection of the law without any discrimination does not make all differences of treatment discriminatory. A differentiation based on reasonable and objective criteria does not amount to prohibited discrimination within the meaning of article 26.”

81. A similar opinion is shared by the European Court of Human Rights, which ruled, for example, in *Rasmussen v. Denmark*, judgement of 28 November 1984, application No. 8777/79, that “For the purposes of Article 14, a difference of treatment is discriminatory if it ‘has no objective and reasonable justification’, that is, if it does not pursue a ‘legitimate aim’ or if there is not a ‘reasonable relationship of proportionality between the means employed and the aim sought to be realised’” (para. 38), and “Contracting States enjoy a certain ‘margin of appreciation’ in assessing whether and to what extent differences in otherwise similar situations justify a different treatment in law. (...) The scope of the margin of appreciation will vary according to the circumstances, the subject-matter and its background” (para. 40).

82. Polish legislation grants foreigners social rights that are in some respect limited compared to the rights guaranteed to Polish citizens. While the Constitution envisages that citizens have access to some of the social rights (social security whenever incapacitated for work by reason of sickness or disability as well as having attained retirement age, or being involuntarily without work (art. 67), access to health-care services, financed from public funds (art. 68)), the ordinary legislation provides the same protection to foreigners as to Polish citizens if the delivery of benefits is preceded by the foreigners’ participation in the creation of funds from which benefits are paid out (insurance benefits), or envisages providing to foreigners, irrespective of their financial status, free access to health-care services only to the extent necessary to save life or health, in cases of emergencies and acute diseases. The consequence of the fact that Poland does not pursue a policy supporting economic migration is a restriction of the access of foreigners who temporarily reside in Poland to some of the benefits provided by labour offices and social assistance centres, and to non-contributory benefits envisaged in the Family Benefits Act. The adopted solutions aim to guarantee the realization of the interests of States and are based on reasonable social and economic criteria, also applied by other States.

***Question 10. Please provide additional information on the measures undertaken pursuant to the Programme for the Roma Community in Poland (2004-2013) to eliminate the widespread prejudice and persistent discriminatory practices faced by persons belonging to the Roma community in the fields of employment, housing, education and access to health care, social assistance and public services. Please also describe the progress made, and difficulties encountered, in the implementation of this programme (E/C.12/POL/5, paras. 874-882)***

83. Within the Programme for the Roma Community in Poland, the government administration, local self-government units and NGOs undertake actions in respect of education, improving living conditions, counteracting unemployment, health, safety, culture and

maintaining Roma identity, as well as promoting knowledge of the Roma community in society as a whole. These actions are aimed at eliminating prejudice and potential discriminatory practices. Among other things, support is provided to actions that disseminate among the general public reliable information about members of the Roma community. The majority of the general public supports the maintaining of the identity of the Roma community.

84. Actions are undertaken in a great variety of forms; actions to promote knowledge of the Roma community and eliminate prejudice aimed at presenting cultural achievements of the Roma population (organizing days of culture, concerts, exhibitions, open-air events, and workshops) are of particular importance. The co-organizers of these events and, frequently, the performers, are members of Roma associations. At the same time, the creation and maintenance of musical groups (formed in cultural centres, after-school clubs and community common rooms) can be supported by the State. There are also publications and educational materials aimed at both Roma community members and society as a whole.

85. Training courses are organized for employees of local self-government units, social assistance centres, labour offices and educational establishments attended by Roma children, which aim to promote knowledge of the Roma community. In 2006, the Pedagogical University of Warsaw launched a postgraduate course in Roma studies, entitled "The situation of the Roma in Poland - history, law, culture, ethnic stereotypes".

86. Integration is also supported by actions that aim at more active participation of the Roma minority in civil society. An increase in civil activity of the Roma is closely linked to the solving of major problems faced by this community. The funds available under the Programme are used, for example, to finance Citizens Advice Bureaux in a few voivodships, to support the establishment of new centres of a similar type and to provide organizational and technical support to Roma organizations. There were sponsored consultation meetings, in which the Roma community participated, together with local authorities, NGOs, city guards and the police.

87. Within the framework of the activities aimed at the civil integration of the Roma minority, on 6 June 2006, the Team for Roma Affairs at the Joint Commission of Government and National and Ethnic Minorities was permanently created. The Team consists of representatives of the departments responsible for the policy towards the Roma minority in Poland (the Ministry of Interior and Administration, the Ministry of Labour and Social Policy, the Ministry of Finance, the Ministry of Justice, and the Ministry of Culture and National Heritage) and 22 Roma members representing all the organizations of this minority. In 2008, during four meetings of the Team, the issue of discrimination against the Roma in public life was discussed.

88. The implementation of the Programme for the Roma Community in Poland is limited, to some extent, by the amount of funds allocated for the realization of tasks envisaged in the Programme. The amount of the State budget reserve allocated to the Programme between 2004 and 2005 was 5 million PLN annually, and in 2007 rose to 10 million PLN. Despite financial constraints, the number of applications received is increasing each year - in 2004 there were 298 applications, in 2005 there were 426, in 2006, 434, in 2007, 539, and in 2008 there was a total of 629.

**Question 11. Please provide detailed information on the implementation of the legislation and policies adopted by the State party to eliminate all forms of discrimination against persons with physical or mental disabilities and to promote the equal and effective enjoyment of their rights in all fields of life, including employment, adequate housing, health care and services, education, cultural life, transport, and access to public places and services. Has the principle of “reasonable accommodation” been integrated into the legislation of the State party, in line with the Committee’s general comment No. 5 (1994) on persons with disabilities? (E/C.12/POL/5, paras. 1056-1065)**

## **Employment**

89. The provisions of the Labour Code concerning the disabled:

Protection against discrimination:

- (a) Article 9, paragraph 4: the provisions of collective labour agreements and other collective arrangements based on the Act, regulations and statutes determining the rights and duties of the parties to an employment relationship which infringe the principle of equal treatment in employment are not valid;
- (b) Article 11<sup>3</sup>: any discrimination, direct or indirect, in employment is inadmissible;
- (c) Article 18<sup>3a</sup>: employees must be treated equally as regards the establishment and termination of employment relationships, the conditions of employment, promotion and access to training in order to raise occupational qualifications;
- (d) Article 18<sup>3b</sup> specifies the consequences of the infringement of the principle of equal treatment in employment and provides in paragraph 2 that application of means which differentiate an employee’s legal situation due to disability is not considered a breach of the principle of equal treatment in employment, and that no actions are to be considered a breach of the principle of equal treatment in employment if taken for a limited time and aimed at the equality of opportunities of employees by decreasing, in favour of such employees, the actual inequalities;
- (e) Article 94, paragraph 2 (b): the employer is obliged to counteract discrimination in employment;
- (f) Article 94<sup>1</sup> obliges the employer to make the text of provisions on equal treatment in employment available to employees in the form of written information disseminated in the employing establishment or to provide employees with access to said provisions in another manner accepted by the given employer;
- (g) Protection against termination of the employment relationship;

- (h) Article 18<sup>3e</sup> provides protection to an employee, stating that an employee's exercise of the rights resulting from the infringement of the principle of equal treatment in employment may not constitute the grounds for the employer to submit a notice of termination of the employment relationship or to terminate such a relationship without notice.

90. The disabled are subject to the general legislation in respect of the termination of a contract of employment (art. 32 et seq.) and the rights of an employee in the case of an unjustified and unlawful notice of termination of a contract of employment by an employer (art. 44 et seq.), as well as unlawful termination of a contract of employment without notice (art. 56 et seq.).

91. Rights of the disabled envisaged in the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Persons with Disabilities:

- (a) A disabled person registered in a powiat (local government administration) labour office as an unemployed person seeking employment can exercise their right, in accordance with the rules applicable to the unemployed, to internships, training courses, intervention works, vocational training for adults and postgraduate courses;

- (b) A disabled person receives a one-off payment of up to 15 times the average remuneration for the start of a business or agricultural activity or for a contribution to a social cooperative;

- (c) A disabled person receives a subsidy of up to 50 per cent of the interest on a bank loan taken to continue a business or agricultural activity;

- (d) The disabled with a moderate or high degree of disability work shorter hours (7 hours per day and 35 hours per week);

- (e) Night-time and overtime work is not allowed (this principle does not have to be applied in the case of a disabled person employed in work involving guarding, as well as when, at a disabled person's request, the physician performing the preventive examination of employees or a physician liable for medical care of that person gives his consent);

- (f) An additional (15 minutes within working hours) break for rehabilitation exercises or relaxation is provided for;

- (g) A person with a high or moderate degree of disability is entitled to additional holiday leave (10 working days);

- (h) Persons with a high or moderate degree of disability have the right to be released from the duty to perform work for a period of 21 days, while retaining the right to remuneration, in order to participate in a rehabilitation course or to undergo specialist examination, medical and rehabilitation treatment, as well as to receive orthopaedic items or to have them repaired, if the activities cannot be performed outside working hours.

92. Under the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, the aim of the quota system is to encourage employers to employ disabled persons and to obtain funds for rehabilitation. Employers who do not achieve the employment rate for persons with disabilities, as specified in the Act, are obliged to pay contributions to the State Fund for the Rehabilitation of the Disabled (PFRON), from which the majority of the funds accumulated are transferred for the realization of the tasks specified in the Act, most importantly those supporting the employment of the disabled.

93. Until 31 December 2008, employers of the disabled were entitled to compensation of the higher costs of employing the disabled from the PFRON funds: financial assistance towards the payment of remuneration and reimbursement of social insurance contributions. As of 1 January 2007, financial assistance towards the payment of remuneration and reimbursement of social insurance contributions were replaced by financial assistance known as wage subsidies.

94. For employers with at least 25 employees in full-time or equivalent work who achieve a disabled employment rate of at least 6 per cent, monthly financial assistance towards the payment of remuneration for a disabled employee amounts to:

- 160 per cent of the lowest remuneration in the case of persons with a high degree of disability
- 140 per cent of the lowest remuneration in the case of persons with a moderate degree of disability
- 60 per cent of the lowest remuneration in the case of persons with a low degree of disability

95. When employing disabled persons diagnosed with mental illness, mental retardation or epilepsy, as well as those visually impaired, the financial assistance increases by 40 per cent of the lowest remuneration.

96. The amount of subsidy cannot exceed 90 per cent of the real costs borne by the employer, and 75 per cent of those costs in the case of an employer with his own business.

97. In an open and protected labour market, the instrument for providing assistance to employers employing the disabled is the existence of a reimbursement of the costs related to the adaptation of workplaces and work premises to the needs of disabled employees. An employer who takes on an obligation of employing a disabled person for 36 months can be reimbursed from the PFRON funds towards the costs of employing a disabled person related to:

(a) The adaptation of existing workplaces and those that are being created, as well as premises at the place of employment, to the needs of disabled employees;

(b) The adaptation or purchase of equipment facilitating the work and well-being of a disabled person at the place of employment;

(c) The purchase and authorization of software for use by disabled employees;

(d) The purchase of equipment, supporting technologies and technologies adapted to the needs resulting from a disability;

(e) The identification of such needs by occupational health services.

98. The reimbursement of the costs of employing the disabled is possible in the following cases:

(a) Unemployed or unemployed seeking employment, referred to work by a powiat labour office;

(b) Employed by an employer applying for the reimbursement of costs, if the disability developed while employed by that employer, except for cases when a disability is a result of an infringement of law by the employer or employee, including any breach of the labour law provisions.

99. The reimbursement cannot exceed 20 times the average remuneration for each workplace that has been adapted for a disabled person. The reimbursement is guaranteed if the National Labour Inspectorate issues a positive opinion regarding the adaptation of a workplace towards the needs of the disabled employee.

100. An employer can also receive a reimbursement of the monthly costs of employing extra staff members who assist the disabled employee in their work with regard to their communication at the workplace and activities which may be difficult or impossible for the disabled person to perform on their own at the workplace.

101. An employer who can take on an obligation of employing, for a period of 36 months, a disabled person registered in a powiat labour office as unemployed or unemployed and seeking employment, is entitled to support in the form of a reimbursement of costs of equipping the workplace of a disabled person of up to the amount of 15 times the average remuneration. The solution is more attractive to employers because they do not need to demonstrate the link between the disability of the employee and the costs incurred by equipping the workplace of that person.

102. In the case of a sheltered employment business, due to the high number of disabled employees (over 50 per cent of employees) and the increased costs of running this type of business, the employer is exempt from paying property tax, agricultural and forest tax, and tax on civil law actions if the activity of the employer is directly related to the running of that business, and from other expenditures, except revenue duty and fines.

103. An employer who runs a sheltered employment business can receive a subsidy of up to 50 per cent of the interest on bank loans taken, on condition that they are allocated for the purpose of professional and social rehabilitation of the disabled. If the employment rate of the disabled is at least 50 per cent, the employer can also be reimbursed towards the costs of building or expanding workplace premises, as well as transport and administration facilities.

104. Professional activity establishments are created to offer employment to persons with a high degree of disability, and in order to prepare them, through vocational and social rehabilitation, for an independent and active life in society. The costs related to the establishment and maintenance of professional activity establishments are subsidized from the PFRON funds.

105. Pursuant to the Ordinance of the Minister of Labour and Social Policy of 21 January 2000 on professional activity establishments, in every establishment there is a team responsible for drawing up a programme for vocational, social and medical rehabilitation of those with a high degree of disability, which determines:

- (a) The scope and methods of mastering skills required at work;
- (b) The scope of the adaptation of technologies, including determining the type of activities and equipment required at a workplace properly adapted to the individual competences of disabled employees;
- (c) The scope and methods of improving psychophysical aptitude, self-reliance and the ability to live in society.

106. Each team determines the competences and skills of the disabled employee and develops, in cooperation with the disabled person, an individual rehabilitation programme. Once a year, an assessment of the rehabilitation results is carried out. For, and in cooperation with, those who have achieved an appropriate level of social and vocational competences, a plan for employment with a different employer is prepared. On the basis of this plan, the person in charge of the establishment provides support to the person in their employment search on the open labour market.

**Table 3**

**Vocational activity of disabled people of working age  
(percentage)**

	Professional activity rate	Employment rate	Unemployment rate
2001	26.1	20.9	19.8
2002	25.8	20.5	20.5
2003	23.7	19.1	19.2
2004	23.4	18.1	22.6
2005	23.9	18.6	21.9
2006	22.1	18.2	17.3
2007	22.6	19.4	14.1
2008	23.9	20.8	13.1

107. The employment rate of the disabled population of working age is higher among the inhabitants of villages than the inhabitants of cities (respectively 21.1 per cent and 20.3 per cent in 2008, and 20.5 per cent and 18.7 per cent in 2007), which results from the former being self-employed in their own agricultural holdings. Disabled men are more frequently in employment than disabled women. In 2007, the employment rate of men of working age was 21.3 per cent, whereas for women it was 16.9 per cent.

108. Since the introduction of measures providing support to employers in the open job market (subsidized remuneration for disabled employees) in 2004, there has been an increase in the employment rate with this type of employer. The number of the disabled employed by employers who received subsidies was 28,000 in 2004, 33,000 in 2005, 38,000 in 2006, 42,000 in 2007, and 39,000 in 2008. In 2008, 64 per cent of disabled employees of working age had their remuneration subsidized.

109. The degree of disability, by its very nature, diversifies the vocational activity: in 2007, the number of employed disabled people of working age with a low degree of disability was 26.1 per cent, with a moderate degree of disability, 16.8 per cent, and with a high degree of disability, 6.8 per cent. In 2008, the number of disabled people of working age in employment was 28.5 per cent, 18.6 per cent of which had a moderate degree of disability and 6.8 per cent of which had a high degree of disability.

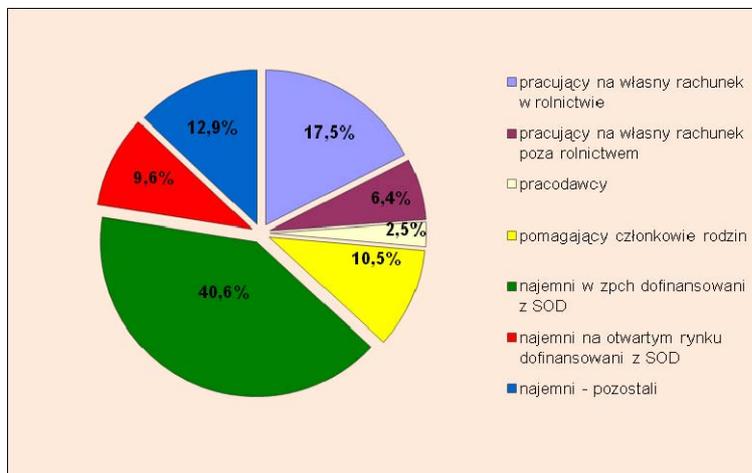
110. The majority of the employed of working age are hired employees (63.1 per cent in 2007, 65.6 per cent in 2008). The percentage of self-employed was 26.4 per cent in 2007 and 23.6 per cent in 2008, whereas the percentage of the disabled helping family members was 10.5 per cent in 2007 and 10.8 per cent in 2008, which means that the majority of the disabled are employed in single agricultural farms.

111. For many years, the majority of disabled employees have been employed with sheltered employment businesses; the number of persons registered as employed with them in December 2004 was 173,000, in December 2005 and 2006 that figure was 174,000, in December 2007 it was 178,000, and in December 2008, 163,300. Although the majority of people who find employment in the protected labour market are still the disabled (80.6 per cent in 2008), there is a growing tendency to employ persons from the open labour market (15.9 per cent in 2005, 17.9 per cent in 2006, 19.1 per cent in 2007, and 19.4 per cent in 2008).

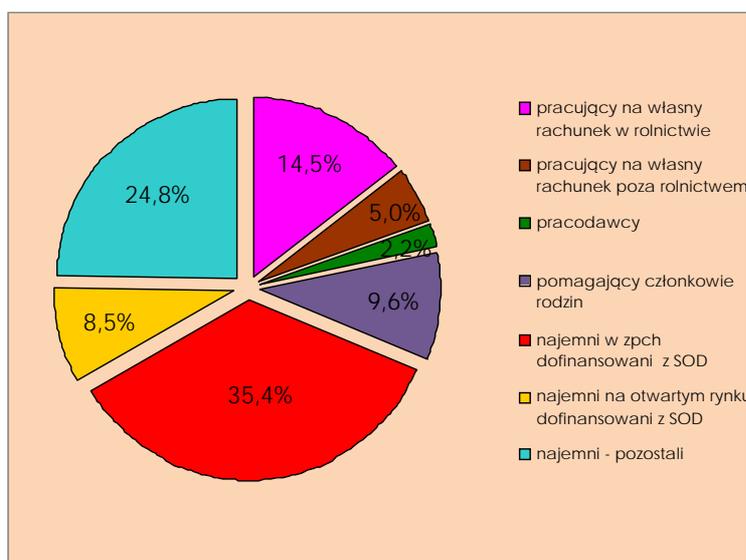
**Figure I**

**The percentage of the disabled of working age in employment according to the employment status in 2007 and 2008**

2007



2008



Polish	English
pracujący na własny rachunek w rolnictwie	self-employed in agriculture
pracujący na własny rachunek poza rolnictwem	self-employed outside agriculture
pracodawcy	employers
pomagający członkowie rodzin	helping family members
najemni w zpch dofinansowani z SOD	hired employees with sheltered employment business subsidized from SOD (subsidies handling system)
najemni na otwartym rynku dofinansowani z SOD	hired employees in the open labour market subsidized from SOD
najemni pozostali	other hired employees

112. As of 31 December 2005, there were 605 workshops run by occupational therapy centres, attended by 19,797 people. As of 31 December 2006, 21,180 people attended 632 workshops run by occupational therapy centres.

113. In order to expand the scope of activities related to occupational rehabilitation and employment of the disabled, targeted programmes financed from the PFRON funds are being implemented.

114. "Junior" (programme supporting vocational activation of disabled school leavers) supplemented the activities undertaken by labour offices within the "First Job" programme (supporting vocational activation of school leavers). The objective of the programme is to help young disabled persons to start their professional life (by traineeships, finding employment). The programme also shows the participants how to effectively present themselves to future employers. Forty-five powiats participated in the programme, 309 disabled persons completed internships, and 158 persons found employment within six months of completing the internship. In 2007, PFRON spent 1,555,422.27 PLN on the programme.

115. The objective of the programme entitled "Disabled persons in the civil service" is the vocational activation of the disabled who are unemployed or seeking employment, through the initiation and support of activities undertaken by institutions that fulfil public administration tasks directed at the disabled. It also allows the disabled to find employment, especially in database management and reception posts. In 2007, PFRON made a subsidy of 7,739,598.37 PLN for the implementation of this programme. A total of 712 disabled persons found employment.

116. In order to increase employers' compliance with the regulations on promoting employment of the disabled, PFRON's supervisory powers have been extended as a result of the introduction of the Act of 15 June 2007 which changed the provisions of the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities and other Acts.

### **Health care**

117. The health-care system provides everyone, including the disabled, with free medical care.

118. The Constitution imposes on public authorities an obligation to provide special health care to certain groups of people, especially to the disabled. In the case of the disabled, one of the forms of execution of this regulation, based on article 35a, paragraph 1, point 7 of the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, is a subsidy towards the purchase of rehabilitation equipment, orthopaedic and supplementary articles, provided that financial support is necessary. As far as rehabilitation equipment is concerned, natural persons engaged in businesses, legal persons and organizational units that are not incorporated can apply for help, provided that they meet the conditions set out by the law.

**Table 4**

**Subsidized purchase of rehabilitation equipment, orthopaedic  
and supplementary articles**

Disabled persons	Number of people		Amount (in PLN)	
	2006	2007	2006	2007
Total	177 602	190 074	156 985 703	164 537 248
Disabled adults only	142 042	156 640	120 692 996	129 729 036
Disabled children and youth only	35 560	33 434	36 292 707	34 808 212

119. The purchase of rehabilitation equipment by other entities<sup>3</sup> subsidized by PFRON amounted to 1,823,942 PLN in 2007 and 2,209,874 PLN in 2006.

120. Special needs of the disabled were additionally included in:

(a) The Mental Health Protection Act of 19 August 1994 on basic and specialist health care provided to persons with mental disorders;

(b) The Act of 27 August 2004 on Health Care Services Financed from Public Funds: with regard to the supply of orthopaedic and supplementary articles, an “open system” applies, which guarantees better access to aids and supplementary articles. The patient selects the equipment; strengthened competitiveness enables an increase in the quality of the delivered equipment and a decrease in its price;

(c) The Ordinance of the Minister of Health of 17 December 2004 on the price limit of medical articles that are orthopaedic articles or supplementary aids of the same usage but different price, and on the price limit of the repair of orthopaedic articles;

(d) The Ordinance of the Minister of Health of 17 December 2004 on medical articles that are orthopaedic articles and supplementary aids, the amount of the beneficiary’s contribution towards the cost, basic eligibility criteria, usage periods, as well as medical articles that are orthopaedic articles eligible for repair depending on the medical recommendations and design of these articles and aids.

121. The Act on Publicly Funded Health Care Services and its implementation regulations aims to take into account the special situation of the disabled and which concern:

(a) The payment of general health insurance contributions;

(b) The exemption from extra charges;

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<sup>3</sup> Natural persons engaged in businesses, legal persons and organizational units that are not incorporated.

- (c) The additional entitlements to health-care insurance coverage;
- (d) The entitlements to additional health-care services;
- (e) The gathering of information on the disability by public payers.

122. The disabled with a moderate or high degree of disability who own non-agricultural businesses and are covered by the general health-care insurance, in situations defined by the law, are exempt from paying insurance contributions or have extended rights in respect of tax returns on contributions. In the case of health-resort treatment, the insured bear some of the costs of accommodation and food. Disabled children, among others, are exempt from these costs. Costs of examination and issuing of a medical certificate in respect of a decision on incapacity for work for pension purposes are financed by the same subject who requested the examination to be carried out, and the decision or certificate to be issued.

123. The disabled can claim back income tax contributions on costs they incurred to cover:

- (a) Rehabilitation sojourns;
- (b) Health-resort treatment;
- (c) Stay in establishments of medical rehabilitation, establishments of care and treatment, and establishments of nursing and care;
- (d) Rehabilitation treatments;
- (e) Nursing care at home;
- (f) Care services to people with a high degree of disability;
- (g) Medicines - in the amount equal to the difference between the actually incurred monthly costs and a sum of 100 PLN;
- (h) Transport to and from rehabilitation sojourns.

124. People with locomotive dysfunction who are unable to use public transport are entitled to free ambulance transport in order to undergo treatment. Those with a high degree of disability are exempt from all transport costs; those with a medium degree of disability have to cover only 60 per cent of transport costs.

125. The disabled with a moderate and high degree of disability are entitled to certain dental services to which other insured are not entitled. These services include general anaesthesia while undergoing some of the dental health services, and composite resin fillings.

126. General health insurance covers the insured and members of the family. Members of the family include, among others, children of the insured under 26 and if at school. In the case of disabled children, the status of a family member is not limited by age.

**Table 5**

**Costs incurred<sup>4</sup> on certain health-care services (in PLN)**

	2005	2006	2007
Rehabilitation treatment	914 674 000	1 035 827 000	1 255 027 690
Health-resort treatment	340 402 000	346 363 000	375 324 840
Supply of orthopaedic and supplementary articles	452 041 000	495 297 000	540 345 700

**Table 6**

**Insured undergoing rehabilitation treatment under the pension preventive measure of the Social Insurance Institution (ZUS)**

Medical conditions	Number of insured who underwent rehabilitation		
	2005	2006	2007
Total	53 617	68 041	70 445
Musculoskeletal system diseases, total of which rehabilitated:	41 795	51 862	54 773
In stationary services	36 353	44 028	46 853
In outpatient services	5 442	7 834	7 920
Cardiovascular diseases	8 020	8 999	8 373
Respiratory system diseases	2 751	2 670	2 720
Psychosomatic diseases	943	3 353	4 037

127. The Agricultural Social Security Fund (KRUS) provides assistance to insured persons and other persons entitled to receive services from the insurance who are completely incapacitated for work in an agricultural holding, but are likely to go back to work as a result of treatment and rehabilitation, or who are facing the risk of complete incapacity for work in an agricultural holding. The activities of KRUS include, among other things, referring adult farmers and their children to undergo rehabilitation treatment at rehabilitation centres run by KRUS or at sanatoriums that cooperate with KRUS.

<sup>4</sup> It is not possible to precisely determine the expenditure on treatment of the disabled since the Polish National Health Fund (NFZ) holds information only about all persons covered by health insurance, without listing the disabled. Therefore, the data presented in the table concern all beneficiaries.

**Table 7**

**Rehabilitation sojourns offered by KRUS to ill children and to the disabled**

	2005	2006	2007	2008
Number of farmers	14 365	14 395	14 339	14 644
Expenditure, in PLN	20 663 321	21 196 302	21 546 837	23 000 831
Number of children	1 414	1 407	1 803	1 807
Expenditure, in PLN	2 561 182	2 705 500	3 458 869	3 686 004

128. The “Programme on limiting the effects of disability” supports the implementation of individualized active rehabilitation programmes. Under the programme, PFRON makes subsidies towards the activities of the NGOs that engage in supplying an interactive wheelchair in advance (in the period prior to granting on the basis of separate provisions), running free rentals of rehabilitation equipment and technical aids, early rehabilitation involving supplying appropriate orthopaedic articles and supplementary equipment, as well as psychological and pedagogical therapy. There is a possibility of receiving a subsidy towards the selecting, adaptation and servicing of technical aids and rehabilitation equipment. In 2007, PFRON spent 1,695,000 PLN on children and 2,581,000 PLN on adults, funding projects which benefited 2,273 disabled persons, of which 861 were children.

129. Under the programme “Partner 2006” (support for the projects realized by NGOs for the benefit of the disabled), projects on rehabilitation of the disabled, including children, received support in various types of establishments. A total of 5,495,000 PLN was spent on the programme implementation for 10,847 adults and 32,919,000 PLN for 31,217 children. Altogether, 484 NGOs received funds for 922 projects.

130. The beneficiaries of the “Programme of regional convergence” included, among others, entities that set up and run rehabilitation establishments, including NGOs, local self-government units, national medical schools and health-care institutions. PFRON paid out 7,558,000 PLN for the implementation of projects including supplying 164 rehabilitation facilities with rehabilitation equipment. In 2007, 1,444,000 PLN was spent on the occupational therapy workshops established in four voivodships.

**Social rehabilitation**

131. A range of rehabilitation services are available to the disabled, the aim of which is to enable their participation in social life. Social rehabilitation is carried out mainly through:

- (a) Developing personal independence and stimulating social participation while improving their ability to perform social roles independently;
- (b) The elimination of barriers, including architectural, transport and technical, in communication and in access to information;
- (c) Creating correct social attitudes and behaviour to support integration with the disabled.

132. The Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities defines rehabilitation as a set of activities, especially organizational, treatment, psychological, technical, training, educational and social, the aim of which is to achieve the best possible level of their well-being, quality of life and social inclusion. Powiat self-government units are responsible for the organization of rehabilitation, and they cooperate with NGOs and foundations for the disabled.

133. Basic forms of activities supporting the process of vocational and social rehabilitation of the disabled include rehabilitation sojourns and rehabilitation therapy workshops.

134. The aim of the rehabilitation sojourns is to improve psychophysical fitness and to develop social skills of the disabled, including children, through, inter alia, establishing and developing social contacts, the realization and development of interests, participation in other forms of activities (physical activities improving psychophysical fitness, relaxation and sports activities). Participation in rehabilitation sojourns of the disabled and their carers is subsidized by PFRON.

**Table 8**

**PFRON's expenditure**

	PFRON's expenditure, in millions of PLN	Number of participants
2005	102.8	185 217
2006	115.3	198 621
2007	125	206 729
2008	117.5	181 118

135. A workshop is an organizationally and financially independent establishment that provides the disabled who are unable to undertake work with a possibility of social and vocational rehabilitation. The aim of the activities undertaken in workshops is to develop the ability to perform everyday tasks and to improve psychophysical fitness, including vocational abilities that, in the long term, enable participation in vocational training and undertaking employment. The rehabilitation activities are run in accordance with individual programmes prepared by a workshop programme board. The board performs a periodical assessment (at least every three years) of the implementation of the rehabilitation programme. Participants of the workshops include persons with a high degree of disability, or, in the case of mentally ill or mentally retarded persons, with a moderate degree of disability.

136. Workshops can be organized by foundations, associations and other entities, such as sheltered employment businesses. The organization and conducting of workshops is co-financed by PFRON, local authorities and other entities.

**Table 9**  
**Workshops subsidized by PFRON**

	Number of workshops	Participants	Subsidy from PFRON, in millions of PLN
2004	568	18 233	234.8
2005	605	19 797	253.8
2006	632	21 180	290.2
2007	643	21 825	289.3
2008	653	22 470	300.2

137. Actions undertaken to promote the activity of the disabled are supported by the Act of 26 July 1991 on Personal Income Tax, which provides for the possibility of making tax claims on the costs incurred for rehabilitation purposes. These expenses include:

- (a) The adaptation and equipment of flats and houses;
- (b) The adaptation of mechanical vehicles;
- (c) The purchase and repair of individual equipment, devices and tools necessary for rehabilitation and facilitating the performance of basic activities of daily life, with the exception of household equipment;
- (d) The purchase of training publications and materials;
- (e) The payment for rehabilitation sojourns;
- (f) The payment for a stay in health-resort establishments, establishments of medical rehabilitation, establishments of care and treatment, and establishments of nursing and care, as well as payment for rehabilitation treatment;
- (g) The payment for guides for the visually impaired;
- (h) Maintaining a guide dog for the visually impaired;
- (i) The payment for a sign language translator;
- (j) Summer camps for disabled children and disabled parents' children up to 25 years of age.

138. Activities aimed at the social and vocational rehabilitation and full social integration of the disabled are part of targeted programmes directed at the disabled or at NGOs and other entities acting for the benefit of the disabled. Programmes include:

- The "Partner" Programme (2000-2005), which allowed for the subsidies from PFRON to be distributed for:
  - (a) Rehabilitating children and young persons;

- (b) Conducting training sessions and courses, workshops and local support groups, and social activity groups;
- (c) Conducting group and individual activities aimed at acquiring, developing and maintaining skills necessary to live independently;
- (d) Organizing cultural, sports and recreation events, and integration events that stimulate the activity of the disabled;

Subsidies from PFRON amounted to 80 per cent of the total costs of the activities. The expenditure of PFRON was 38.5 million PLN in 2003, 45.5 million PLN in 2004, and 56.9 million PLN in 2005.

The programme “Partner 2006” (support for the projects realized by NGOs for the benefit of the disabled) constituted a continuation of the “Partner” programme and was implemented until 31 December 2007. The aim was to increase the vocational and social activity of the disabled through activities undertaken by NGOs. PFRON’s expenditure for the implementation of the programme was 72.5 million PLN in 2006, 98.8 million PLN in 2007, and 149.8 million PLN in 2008.

- The “Partner III” programme, functional since 2007, aims to increase the vocational and social activity of the disabled through activities undertaken by NGOs:
  - (a) Comprehensive rehabilitation of the disabled in various types of establishments;
  - (b) Organizing and conducting training sessions, courses and workshops for the disabled to stimulate them professionally and socially;
  - (c) Organizing and conducting training sessions and workshops for family members of the disabled and for carers, staff and volunteers involved directly in the rehabilitation process of the disabled;
  - (d) Providing psychological counselling and counselling on social, legal and civil matters for the disabled, their carers and persons involved in the vocational and social rehabilitation process;
  - (e) Providing a guide or assistance dog for the disabled and those with a musculoskeletal disability;
  - (f) Organizing and conducting training for sign-language translators;
  - (g) Collecting and disseminating information on entitlements, services, rehabilitation equipment and technical aids;
  - (h) Promoting vocational and social achievements of the disabled;

- (i) Organizing events on a regional level;
- (j) Participation of the disabled in cultural and sports events organized abroad;
- (k) Providing vocational counselling and employment services for the disabled;
- (l) Conducting an information campaign intended to improve social and vocational life of the disabled, and to break psychological and architectural barriers;
- (m) Preparing and/or disseminating publications concerning problems posed by disabilities, also intended for the disabled (available in large print, Braille, as texts easy to read, and on electronic media).

In 2008, PFRON's expenditure for the realization of the programme amounted to 149,878,721 PLN.

The "Papyrus" programme supports the publication and publishers promoting the knowledge of disabilities, including specific needs of the disabled. In 2003, PFRON's expenditure was 3,378,700 PLN, of which 348,100 PLN was spent on publications for disabled children and youth. In 2004, the expenditure was respectively 3,576,300 PLN and 547,600 PLN.

139. Access to information, communication and mobility play a key role in the social and vocational integration of disabled persons. These often necessitate the provision of devices, equipment and technical aids. Aid is granted under special-purpose programmes financed from the PFRON funds.

140. The "Computer for Home" programme, implemented since 1999, offers financial assistance in the purchase of basic and specialist computer and electronic equipment as well as software and its extension elements to the blind and visually impaired, enabling:

- (a) Employment and independent work;
- (b) Education and training:
  - In 2003, 14.6 million PLN was spent and as many as 76 group training sessions in the operation of purchased equipment for 267 persons, as well as individual training sessions for 140 persons were organized. A total of 3,444 persons were assisted in the purchase of equipment (basic and specialist). In 2004, 38.5 million PLN was spent, of which 925,100 PLN was earmarked for computer training sessions for 611 persons. Altogether, 9,356 persons received assistance in the purchase of equipment (basic and specialist).

- In 2005, 39.1 million PLN was spent, of which 1.9 million PLN on training and 37.1 million PLN on the purchase of computer equipment. In 2006, the expenditure amounted to 40.1 million PLN, 1 million PLN and 39.1 million PLN, respectively. In 2007, 40.4 million PLN were spent, 1,137 persons were trained and 10,941 persons received assistance in the purchase of equipment. In 2008, 47.7 million PLN were spent, 11,318 persons received assistance in the purchase of computer equipment and 1,618 persons participated in the subsidized computer training sessions.

141. The “Pegasus” programme has been implemented since 2000 and its purpose is to activate disabled persons, mainly by means of eliminating transport and communication barriers. The programme covers:

- (a) Subsidizing the purchase and assembly of car equipment, purchase of computer equipment and electric wheelchairs;
- (b) Subsidizing the renovation of wheelchairs and other rehabilitation equipment already in use;
- (c) Subsidizing the purchase of vehicles (buses, minibuses or passenger cars) for the transport of participants of occupational therapy workshops.

Between 2000 and 2002, assistance in the purchase of passenger cars for disabled persons was also granted.

**Table 10**

	Expenditure, in millions of PLN	Of which:		
		Eliminating transport and communication barriers, in millions of PLN	Eliminating transport barriers, in millions of PLN	Initiatives implemented under the “Wheelchairs for Poland” programme by the Joni and Friends International Disability Center
2004	79.9	52.8	27.1	
2005	60.0	55.1	4.9*	8.8
2006	64.9	58.7	6.1*	0.019
2007	87.1	81.4	5.5*	0.024

\* For occupational therapy workshop participants.

142. Programme for regional cohesion. The purpose of the programme is to even out opportunities for disabled persons residing in less economically and socially developed regions, with regard to vocational and social rehabilitation. Entities that have established and run educational institutions may apply for subsidies for the purposes of eliminating transport and communication barriers for disabled persons.

**Table 11**

	2005	2006	2007	2008
Total expenditure, in millions of PLN	82.7	110.8	42.5	68.2
Of which:				
Equipping rehabilitation facilities for disabled persons with rehabilitation equipment	1.1	8.9	7.8	10.8
Elimination of barriers in health-care centres and educational institutions	6.3	30.9	-	31.0
Costs of equipping new workplaces for disabled persons	29.9	29.5	32.2	-
Elimination of transport barriers (assistance in the purchase of minibuses and buses as well as adapting buses to carrying disabled persons)	42.2	39.7	-	25.4
Establishing occupational therapy workshops and the workshops' current activities	3.2	1.8	1.4	0.83

### **Flats**

143. Pursuant to the provisions of the Act of 7 July 1994 (the Building Act), the building itself and facilities connected thereto shall be designed and built, taking into account the anticipated period of use, in the manner specified in the relevant provisions, including technical and construction regulations and principles of technical knowledge, in order to secure, among other things, the necessary conditions for use of public utilities and multifamily housing quarters by disabled persons, in particular persons using wheelchairs.

144. The Ordinance of the Ministry of Infrastructure of 12 April 2002 laying down the technical requirements to be met by buildings and their location contains detailed solutions assuring the implementation of the Building Act. In particular:

(a) Each multifamily housing building, multidwelling or public-use building should have at least one entrance allowing disabled persons to access the entire building or the parts of it which are open for use to those persons;

(b) When developing a building lot, parking lots for disabled persons should be provided, taking into account its purpose and type of development. Such spaces should be appropriately marked;

(c) Solid waste disposal facilities near multifamily buildings should be accessible to disabled persons;

(d) Recreational areas accessible to disabled persons should be provided in a complex of multifamily buildings, in accordance with its functional needs;

(e) Gates in fences surrounding multifamily housing buildings and public-use buildings should not hamper the access to those buildings by disabled persons;

(f) In a multifamily housing building, multidwelling or public-use building equipped with lifts, access from the ground level to all the storeys of the building to disabled persons should be provided;

(g) At least one of the lifts providing general access to living quarters in each separate vertical part (segment) of such a building should be adapted to carrying disabled persons;

(h) In a multifamily housing building devoid of lifts, a ramp or a special technical device should be installed to enable disabled persons to access the flats in the first storey above the ground as well as the underground parking area;

(i) The location of the front door to a building as well as the shape and size of the entrance rooms should provide comfortable conditions for movement, also for disabled persons;

(j) Windows, skylights and window ventilators used for airing rooms should be equipped with devices allowing for easy opening and adjusting of the size of opening from the floor level or a platform, also by disabled persons, if no assistance from co-users is expected;

(k) Flats in a multifamily housing building and separate flats in a multidwelling building designed for disabled persons should be equipped with an appropriate alarm and signalling systems for summoning assistance.

145. The ordinance laying down the technical requirements to be met by buildings and their location, as amended in 2004, ensures full accessibility of newly constructed public-use buildings and multifamily housing buildings to disabled persons. Conformity with technical requirements concerning the accessibility of the existing buildings is ensured during renovations and modernizations.

146. The provisions of the Act of 12 March 2004 on Social Assistance serve the support of residence in the local environment. A single person, who due to disability requires assistance of other people and is devoid of such (or who resides with other persons who are not able to provide assistance) is entitled to care services or specialized care services.

147. Care services include assistance in satisfying everyday needs, hygiene care, care prescribed by a physician as well as possible contact with the surroundings. Specialized care services are tailored to particular needs resulting from the type of condition or disability provided by persons who received specialized vocational training. Welfare centres provide care services.

148. Persons who, due to age, illness or disability, require part-time care and assistance in satisfying everyday needs may be granted care services, specialized care services or meals available from support centres (daytime stay).

149. A person who, due to disability, requires support in everyday life but does not require the service of a round-the-clock care unit, especially a person suffering from psychological disorders, may be granted a stay in protected accommodation. Protected accommodation is a form of social aid preparing the persons residing in it, under specialist supervision, to independent living or acting as a substitute for a stay in a round-the-clock care centre. Protected

accommodation provides the conditions for independent living in integration with the local society. Protected accommodation may be run by every organizational welfare unit or public benefit organization.

150. Under the scheme for the poorest (Act of 8 December 2006 on Financial Assistance for Social Accommodation, Protected Accommodation, Night Shelters and Houses for Homeless) a gmina (administrative district), powiat, public benefit organizations or an intercommunal association making an investment in the creation of protected accommodation is entitled to apply for financial support from the State budget-funded Subsidy Fund set up by the Bank Gospodarstwa Krajowego (BGK).

151. Under the social rental housing construction scheme, in the assessment of loan motions preference is given to those enterprises that can rent a flat to a disabled person which has been adapted to his or her needs.

152. A factor that contributes to greater accessibility of flats is the system of housing allowances. A housing allowance is a financial benefit paid by a gmina, aimed at subsidizing the expenses incurred due to occupying a living space. The allowance is granted to families in difficult financial and personal situations, as specified in the appropriate provisions. The amount of housing allowances is set by gminas.

153. The allowance is granted on the basis of income criterion and, if the surface of an apartment per one occupant does not exceed a specific value (standard surface) with one of the occupants being a disabled person in a wheelchair or a disabled person whose disability necessitates living in a separate room, the standard space is increased by 15 metres squared.

#### **Access to education**

154. Pursuant to the Act of 7 September 1991 on the Education System, special education is provided to children and youths requiring special learning and teaching methods throughout their education. Education of disabled children and youths is organized at every stage of education in:

- (a) Public schools;
- (b) Public schools with integration classes;
- (c) Integration schools;
- (d) Special classes;
- (e) Youth education centres;
- (f) Youth sociotherapeutic centres;
- (g) Special educational and pedagogical centres as well as special educational centres for children and youths requiring special learning, teaching methods and education;
- (h) Special schools and centres;

(i) Centres enabling severely disabled children and youths to take part in revalidation and educational classes pursuant to separate provisions;

(j) Centres allowing mentally disabled children and youths with combined disabilities to receive compulsory one-year preschool education in a kindergarten or a kindergarten unit of a primary school.

155. Children and youths receive education tailored to their type of disability and, according to their needs, allowing for learning at a level which is available to them, improvement of disabled functions, revalidation, rehabilitation and receiving specialized assistance and care. Education tailored to disabled children and youths is organized upon a request by the parents/legal guardians of the child holding a document certifying the need for special education or individual teaching of a child issued by a deciding panel of a public psychological and pedagogical counselling centre.

156. A decision on the need for special education specifies, among other things:

(a) The recommended requirements for the satisfaction of educational needs, forms of stimulation, revalidation, therapy, improvement of fitness, development of a child's potential abilities and strengths, as well as other forms of psychological and pedagogical assistance;

(b) The recommended forms of special education most beneficial to the child: in a public school, integrated school or integrated department, special school or special department.

157. A decision on the need for individual teaching specifies, among other things:

(a) The recommended requirements for the satisfaction of educational needs and participation in school life, forms of stimulation, revalidation, therapy, improvement of fitness, development of a child's potential abilities and strengths, as well as other forms of psychological and pedagogical assistance;

(b) In the case of a pupil whose physical condition strongly hampers the possibility of attending classes at school, the extent to which he or she may participate in compulsory classes organized in a school department or in a separate room in a school;

(c) In the case of a student of a vocational school, the possibility of further practical vocational training.

158. The deciding panel comprises the head of the counselling centre, a psychologist, an educational counsellor and a doctor. If needed, other experts may also be included in the panel. It guarantees that the decisions issued are of an appropriate quality. The applicant may take part in the meeting of the panel and present his or her viewpoint.

159. Detailed requirements for organizing education and care for disabled children and youths are specified in:

(a) The Ordinance of the Minister of National Education and Sport of 18 January 2005 laying down the requirements for organizing education and care for disabled children and youths as well as socially maladjusted children and youths in kindergartens, schools, as well as public and integrated classes;

(b) The Ordinance of the Minister of National Education of 18 September 2008 on the manner and mode of organizing individual one-year preschool education and individual teaching of children and youths.

160. The school superintendent exercises pedagogical supervision of the execution of obligations to educate disabled students. If a school, educational institution or school-running authority violates the provisions of the Act on Educational System, the supervisor may:

- (a) Order, upon a decision, the correction of oversights within a specified time;
- (b) Issue recommendations resulting from his supervisory functions.

**Table 12**

**Disabled students in public primary schools and lower secondary schools**

	Number of disabled students						
	Total	In general classes	Percentage	In special classes	Percentage	In integration classes	Percentage
Primary school 2006/07	2 347 921	26 240	1.07	1 290	0.10	14 278	0.58
Primary school 2007/08	2 340 911	27 392	1.17	2 304	0.16	11 084	0.47
Lower secondary school 2006/07	1 494 153	19 570	1.31	1 605	0.10	6 170	0.41
Lower secondary school 2007/08	1 420 188	19 352	1.36	1 613	0.11	5 290	0.37

**Table 13**

**Special schools**

	Total		
	2006/07	2007/08	2008/09
Number of schools	2 114	2 483	2 513
Number of classes	8 950	10 314	10 229
Number of students	88 587	90 121	85 643

	Special primary school			Special lower secondary school			Special secondary school		
	2006/07	2007/08	2008/09	2006/07	2007/08	2008/09	2006/07	2007/08	2008/09
Schools	778	790	776	820	816	824	516	877	913
Classes	3 404	3 624	3 567	3 475	3 454	3 391	2 071	3 236	10 229
Students	31 220	27 284	25 883	34 602	33 042	31 400	22 765	29 795	85 643

161. The total number of students receiving individual teaching on various educational levels holding a certificate which confirms the need for special education (including special educational institutions) in 2007 was as follows:

- 416 at kindergarten level
- 7,291 at primary school level

- 5,107 at lower secondary school level
- 900 at high school level
- 829 at vocational school level

162. Since September 2005, early support of children's development from the identification of the disability to the beginning of school education is provided. The aim of such support is to even out educational opportunities and prepare children to succeed academically. Early development support classes may be organized in public and private educational institutions (kindergartens, primary schools or educational and pedagogical centres).

163. In 2007 the implementation of the Government Pilot Programme 2005-2007 "Early, multispecialized, complex, coordinated and continuous assistance for children threatened with disability, or disabled children and their families" was completed. The programme included elements of medical, educational, organizational and financial support for children in the closest vicinity to their places of residence. It aimed to prevent social isolation as well as establish the basis for the creation of an interdisciplinary and sustainable system of assistance for children and their families.

164. Financed by the PFRON funds, the "Education" programme is aimed at improving the conditions for educating disabled children and the social and living infrastructure in institutions providing round-the-clock care for disabled students/wards. The funds are earmarked for equipping the didactic and rehabilitative base of special educational institutions, equipping or refitting the social and living infrastructure of special institutions providing round-the-clock care for disabled children and youths, eliminating architectural, urbanistic and communication barriers in special institutions as well as eliminating transport barriers hindering or preventing disabled pupils and wards from learning. In 2005, the programme implementation expenditure amounted to 38.8 million PLN, while the number of students and wards receiving assistance from the subsidized institutions was 29,431.

165. In 2006, the expenditure amounted to 58.3 million PLN and 49,435 students and wards received assistance from the subsidized institutions, and in 2007 those figures were 55.9 million PLN and 45,703 students and wards, respectively. In 2007 PFRON paid an additional 33,748,000 PLN to 11,418 disabled persons who studied in 2,277 universities and postgraduate schools.

166. From 1 September 2007 to 30 June 2010, PFRON is implementing a pilot programme "Students in rural areas" (assistance in education of disabled students who live in rural or semi-rural areas). The aim of the programme is to even out educational opportunities of disabled students studying in primary schools, lower secondary schools or secondary schools.

167. The funds are earmarked for the procurement of devices allowing for or facilitating the studies, participation in activities aimed at enhancing physical and mental fitness (including holidays and rehabilitation camps), costs of Internet access (installation and subscription), improvement courses within school curricula and language courses (when courses are organized outside the student's place of residence, the travelling costs, board and lodging can be subsidized), and excursions organized by schools. In the case of students of secondary schools,

the subsidy covers education costs (tuition fees), lodging (if a student receives education outside of his or her place of permanent residence) and costs of travelling to school. In 2007, PFRON spent 54.4 million PLN on these tasks in 948 gminas for more than 21,000 students of different types of schools.

168. The Act of 27 November 2005 (Law on Higher Education) regulates, among other things, the access of disabled persons to public and private universities.

**Table 14**

**Number of disabled students (as of 30 November of a given year)**

	Number of disabled students	Percentage of the total number of students
2004	9 256	0.5
2005	14 510	0.7
2006	19 923	1.03
2007	22 988	1.13
2008	25 265	1.31

169. One of the common means of ensuring access to higher education is providing financial assistance in the form of student loans for persons studying at public and private universities. The offer of financial assistance also applies to extramural studies and may positively influence the decision about taking up studies by persons whose disability prevents them from studying full time. Disabled students may receive social scholarships for disabled persons and other scholarships simultaneously. The criterion of costs borne due to disability in applying for social scholarship for disabled persons has been lifted. At present all students holding certificates of disability are entitled to receive the benefit. Being granted a social scholarship does not prevent a disabled student from receiving other benefits.

170. The new legal provisions also support the education of disabled students who decide to study several courses simultaneously - such a student may receive a social scholarship for each of the attended courses. Additionally, each disabled student who lives away from the university is entitled to lodging in a student house, and board in a student canteen. Students in a difficult financial situation may receive scholarships for board and, in the case of studying full time and being in a difficult financial situation, also a lodging scholarship.

171. The number of students receiving social scholarships in the academic year 2005/06 totalled 14,533, and in the year 2006/07, that number was 21,919.

172. In the framework of provisions concerning the possibility of receiving a student loan with a State budget subsidy for the payment of interests and favourable conditions of paying them back, disabled persons may apply for student loan payment remission:

(a) In part, if they are in a difficult financial situation;

(b) In whole, if they have a certified permanent inability to pay the liabilities and a difficult financial situation.

173. PFRON funds the implementation of programmes aimed at increasing the accessibility of education to disabled persons, especially vocational education:

(a) “Student II”: a lifelong learning programme for disabled persons aimed at preparing them to compete for employment in the open job market by means of continuous professional training. The programme targets persons with a considerable or moderate level of disability who are university students (also abroad), students doing an internship abroad within European Union programmes, postgraduate students, PhD students, attendants of college for social workers, college for teachers or teachers of foreign languages. The subsidy may cover tuition fees, lodging and travelling costs, participation in activities aiming at enhancing physical or mental fitness, procurement of devices allowing for or facilitating the study, including educational computer programmes as well as costs of excursions organized within the school curriculum. In the first semester of 2005, the programme subsidy was granted to 5,585 participants, of whom 5,173 were university students, and in the second semester the number of participants rose to 6,416, of whom 5,768 were university students. In 2006, PFRON supported 11,135 disabled persons who studied in 1,053 universities, colleges and postgraduate schools throughout the country. In 2007, PFRON paid 33,748,000 PLN to 11,418 persons who studied in 2,277 universities and postgraduate schools throughout the country;

(b) “Pitagoras 2007”: an assistance programme for hearing-impaired persons which is aimed at providing deaf students and students with hearing impairments participating in exam preparation courses for higher education schools with the assistance of sign-language translators or the possibility of utilizing hearing aid equipment during classes and exams. In 2005, 2.8 million PLN was spent on the implementation of the programme, in 2006, that figure was 3.6 million PLN (subsidies were granted to various types of high schools, foundations, theatres, and philharmonics), and 2.1 million PLN was spent in 2007;

(c) “Computer for Home”: a programme implemented since 1999, which aims to provide financial assistance in the procurement of standard and specialist computer equipment, specialist electronic Braille equipment, reading equipment and software, enabling the vocational and social rehabilitation of blind and visually impaired persons, as well as subsidies for computer training. In 2005, PFRON spent 39.1 million PLN, 8,967 persons received subsidies for procurement of equipment and 1,225 persons took part in the training. In 2006, PFRON spent 40.1 million PLN on the implementation of the programme, 9,321 persons received subsidies for procurement of equipment and 839 persons took part in the training, and in 2007 PFRON spent 40.4 million PLN, 11,548 persons received subsidies for procurement of equipment and 607 disabled persons took part in the training.

174. From 2005 to 2008, the Sectoral Operational Programme “Human Resources Development 2004-2005”, a programme to purchase modern equipment facilitating the education of students with special educational needs, amounting to 470 million PLN, was implemented. The programme targeted schools and special integration and public educational institutions providing integration classes. The schools and institutions received the following specialist equipment and didactic aids:

- 300 Tomatis method diagnostics and therapeutic sets (auditory and psycholinguistic stimulation); training for experts utilizing the method was organized

- 360 Biofeedback method diagnostics and therapeutic sets; training for experts utilizing the method was organized
- 900 logopaedic sets; training for speech therapists was organized
- 500 thematic classrooms
- 1,350 sets of didactic aids for integrated teaching
- 2,350 sets of didactic aids for subject teaching
- 240 sets of specialist equipment for students with physical disabilities and mute students; training for two experts from the institution was organized
- 500 sets of didactic aids and specialized stands for blind and visually impaired students; training for 10 experts from each institution was organized
- Two sets of didactic aids and specialized stands for blind and visually impaired students; training for 10 experts from each institution was organized
- 392 sets of didactic aids for kindergarten pupils
- 280 Montessori method sets; training for experts was organized
- 500 Sensory Integration method diagnostics and therapeutic sets; training for experts utilizing the method was organized
- 500 multisensory stimulation sets
- 140 sets for students with hearing and visual organ dysfunction
- 300 sets of didactic aids recommended by the competent minister responsible for education and special education

### **Access to public places and services**

175. The adaptation of public utility buildings to the needs of disabled persons was made possible by the Act of 27 March 2003 on Spatial Planning and Development, as well as the Act of 7 July 1994 (the Building Act). These Acts, together with the implementing Acts thereto (in particular the Ordinance of the Ministry of Infrastructure of 12 April 2002 laying down the technical requirements to be met by buildings and their location), lay down the obligation to provide for the needs of disabled persons when carrying out new investments and the modernization of existing buildings.

176. Subsidies from the PFRON funds for the elimination of architectural, urban, communication and technical barriers may be granted to disabled persons and persons with physical disabilities or visual, hearing and speech impairment. The subsidy amounts to up to 80 per cent of the costs, no more than 15 times the average remuneration.

**Table 15**

	2003		2004		2005		2006		2007		2008	
	Expenditure, in millions of PLN	Number of beneficiaries	Expenditure, in millions of PLN	Number of beneficiaries	Expenditure, in millions of PLN	Number of beneficiaries	Expenditure, in millions of PLN	Number of beneficiaries	Expenditure, in millions of PLN	Number of beneficiaries	Expenditure, in millions of PLN	Number of beneficiaries
Total	83.3		116.2		111.3		128.6		130.8		133.5	
In which the elimination of:												
Architectural barriers	60.7	8 713	74.1	10 238	73.8	10 460	77.3	11 027	84.9	11 200	85.6	11 400
Communication barriers	17.6	10 499	33.8	15 935	28.3	14 257	37.2	17 716	30.9	15 200	30.9	16 000
Technical barriers	5.0	2 314	8.3	4 366	9.1	4 910	14	7 219	14.9	7 100	16.8	7 900

177. In 2008, the Government Plenipotentiary for Disabled Persons examined the accessibility of central offices (the ministries, 11 central offices and 4 offices of State administration outside the government administration). The examination demonstrated that the government administration actions aimed at eliminating functional barriers hindering the independent use of departments and offices by disabled persons and the taking up of employment in those places were only fragmentary and focused on the elimination of the most important architectural barriers only. As far as information and communication with disabled persons are concerned, assistance in the offices is organized ad hoc. The most common type of support in dealing with a matter is through the personal assistance of an official. Sufficient communication facilities and adjustments (legible information boards with large font and sharp contrast) are lacking.

178. The Act of 12 June 2003 (the Postal Law) stipulates that letters/parcels, registered letters/parcels and postal orders are, upon request and free of any additional charge, delivered to persons suffering from physical disabilities necessitating the use of a wheelchair, as well as to blind and visually impaired persons, without the use of a postbox and without having to collect them from the operator's office. A disabled person may, at the place of residence, hand over a duly paid letter/parcel, except for registered letters/parcels. Letters/parcels for blind persons are free of charge. The Act establishes an obligation to introduce facilities for disabled persons using the postal service: the adaptation of the organization of work in the offices, adequate placement of postboxes, and the delivering and receiving of letters/packages.

179. An inspection of post offices carried out in 2007 by the President of the Office of Electronic Communications demonstrated that:

- (a) Information for disabled persons is available at 97.9 per cent of offices;
- (b) The counters are correctly and comfortably located in 90.4 per cent of offices;
- (c) An outgoing postbox is available in 82.6 per cent of offices;
- (d) The possibility of entering the building independently by persons using wheelchairs was possible in 46.6 per cent of the offices examined.

180. The Act of 16 July 2004 (the Telecommunications Law) and the Ordinance of 22 January 2004 on the portfolio of general interest services laying down the specific requirements for the provision of general interest services specify the requirements to be met by institutions in order to attend to disabled persons and the facilities to be provided for blind and visually impaired persons (rules of service provision, price lists and invoices in Braille, in large font, in electronic form, or in a text format). The regulations on communications, information and communications, post and subscription fees for using radio and television receivers provide for discounts or payment exemptions for persons suffering from physical disabilities, visual or hearing organ disabilities, persons with a considerable level of disability or people entirely incapable of working and living independently. There is an obligation to provide public devices adapted for disabled persons.

### **Access to information**

181. In order to provide wide access to information made available via information and communication systems, an amendment to the Act of 17 February 2005 on the implementation of information and communication technology into activities of the entities performing public tasks is being prepared. The changes are aimed at the elimination of legal and procedural barriers in accessing services offered by public entities (adaptation of administrative procedures, office instructions). The definition of minimal requirements for information and communication systems will be supplemented with a requirement of access to information systems made available via systems which can also be used by disabled persons. A draft of the amendment was submitted in March 2009 to the Committee of the Council of Ministers. In November 2008 the Minister of Interior and Administration applied to the Minister of National Education in order to include the profession “typhloinformatics engineer” in the classification of vocations for vocational schooling. The goal of establishing the new profession is to prepare graduates suffering from visual impairment to take up employment or further education in computer studies. The new profession will be included in the currently drafted amendment of the Ordinance of the Minister of National Education of 26 June 2007 on classification of vocations for vocational schooling.

182. The Internet services of the ministries facilitate access to information for disabled persons by offering “text versions” with large font and devoid of redundant graphics (for instance [www.kprm.gov.pl](http://www.kprm.gov.pl), [www.mswia.gov.pl](http://www.mswia.gov.pl), [www.mpips.gov.pl](http://www.mpips.gov.pl), or [www.mg.gov.pl](http://www.mg.gov.pl)). The service of the Ministry of Interior and Administration has, additionally, been adapted in a way that allows for the use of the Intelligent Web Reader (IWR) web browser, which reads the website aloud by means of built-in artificial voice. It enables disabled persons to navigate through “talking websites” (audio websites).

### **Access to services**

183. Pursuant to the Act of 21 November 2008 amending the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons, the Act on Local Taxes and Fees and the Act on Food and Nutrition Safety, a disabled person has the right to enter public utility buildings assisted by a guide dog, especially buildings and their surroundings intended for public administration, the judiciary, culture, education, higher education, health care, welfare and public

assistance, banking services, trade, gastronomy services, tourism, sports, passenger services in train stations, roads, aviation, maritime and inland waterways transport, postal or information and communication services, and other public buildings serving similar purposes, including office and social buildings.

### **Participation in cultural life and sports**

184. Increasing the participation of disabled persons in cultural life is one of the priorities in the policy of the Ministry of Culture and National Heritage. The actions focus on promoting the artistic work of disabled persons, art education, developing art therapy, and social integration (art competitions, art exhibitions, occupational therapy workshops, upgrading qualifications of instructors working with disabled persons). Actions carried out by institutions subject to the Minister of Culture and National Heritage, including national museums, are directed at disabled persons receiving support. Under this scheme, the National Museum in Warsaw in 2008 implemented a project: "To see the invisible".

185. Actions aimed at promoting reading among blind and visually impaired persons are especially appreciated. The most important goal in that area is to subsidize the Polish Association of the Blind Central Library under the government programme "Development of the Polish Association of the Blind Central Library" for the period 2005-2010. The programme provides for yearly subsidies for the institution amounting to 2.3 million PLN, of which 700,000 PLN is derived from the budget of the Ministry of Culture and National Heritage, and 1.6 million PLN from a PFRON subsidy. The Polish Association of the Blind Central Library also receives financial support from the programme: Creating Digital National Heritage Resources, run by the Ministry of Culture and National Heritage:

- 2008: creating a digital book collection in text files and processed with the use of artificial speech (80,000 PLN)
- 2009: digitalization of typhological collection of the Polish Association of the Blind Central Library (54,400 PLN), virtual typhological museum (52,000 PLN)

186. A subsidy for the Polish Association of the Blind Central Library from the Development of Museums programme in 2007 amounted to 52,000 PLN. It was earmarked for the exhibition "Practical application of Braille script yesterday and today".

187. In 2007 one blind person received aid from the Creativity Promotion Fund and the publication of a book by a blind author was subsidized.

188. Actions aimed at supporting the participation of disabled persons in cultural life are subsidized by the Minister of Culture and National Heritage under various programmes published each year.

189. Between 2006 and 2009 under the Culture Education programme, 38 initiatives targeting disabled persons were subsidized.

**Table 16**  
**Examples of initiatives**

Organizer	Task	Subsidy, in PLN
2006		
The Artistic Culture Foundation for the Disabled in Warsaw	Cultural education of disabled persons by series of music and theatre therapy classes	30 000
Polish Association of the Blind	Art therapy workshop for blind and visually impaired persons, including persons with additional limitations	31 000
The Podlasie Opera and Philharmonic - European Centre of Culture in Białystok	“Otwórzmy Świat Dźwięków” (“Let’s open the world of sounds”): a meeting with art for deaf children under the International Children’s Day in the Podlasie Opera and Philharmonic	29 280
Recreational Club of the Unblazed Trail in Lublin	Artistic workshop for instructors working with disabled persons and the International Art Therapy Conference	55 000
2007		
Association for Special Education in Tczew	V Międzynarodowy Przegląd Teatrów Wspaniałych (Fifth International Review of Great Theatres)	55 000
Polish Association of the Deaf - Łódź branch	Scientific conference “Tożsamość kulturowa głuchych” (“Cultural identity of the deaf”)	25 000
Culture Centre in Jelenia Góra	International conference on educational techniques and art therapy	20 000
Łągów gmina	Counteracting social exclusion by means of cultural education in the Folk Arts Centre in the village of Sądek	25 000
Community Centre in Chorzów Stary	III Festiwal Twórczości Osób Niepełnosprawnych oraz Środowisk Integuracyjnych (Third Festival of Artistic Work of the Disabled and Integrated Environments)	25 000
2008		
Association for Special Education in Tczew	VI Międzynarodowy Przegląd Teatrów Wspaniałych (Sixth International Review of Great Theatres)	50 000
Polish Association of the Deaf - Łódź branch	Painting workshop “Malarstwo w terapii” (“Painting in therapy”)	25 000
Polish Association of the Blind in the Kujawsko-Pomorskie district	Od konkursu do wystawy (From a competition to an exhibition)	25 000
KEN Pedagogical University of Warsaw	“Otwarta przestrzeń teatru” (“Open Space of the Theatre”): training for cultural activity instructors working with disabled persons	25 000
2009		
Foundation for Children “Help on Time”	“Poza ciemnością i ciszą” (“Beyond the darkness and silence”) Cinema	70 000
Association for Special Education in Tczew	VII Międzynarodowy Przegląd Teatrów Wspaniałych (Seventh International Review of Great Theatres)	120 000
Deaf-mute Aid Society in Warsaw	Dialog ze światem (Dialogue with the world)	45 000
Polish Association for Persons with Mental Disability, Gdańsk branch	“Vita Activa”: music classes for children and youths	50 000

190. Under the Culture Education and Propagation of Culture programme (priority: Protection of folk culture heritage) subsidies were granted to the following initiatives.

**Table 17**

Organizer	Task	Subsidy, in PLN
2007		
Gmina Culture Centre: Public Library in Itebna	“Starodawne siplani”: folk art workshop for children, youths and disabled persons from the Itebna gmina	25 000
2008		
Polish Association of the Deaf, Łódź branch	Workshops for deaf persons “Wikliniarstwo i chmielarstwo na ziemiach polskich” (“Wicker and hop cultivation in the territory of Poland”)	25 000

191. Under the Creativity Promotion and the Artistic Event programmes, subsidies were granted to the following initiatives.

**Table 18**

Organizer	Task	Subsidy, in PLN
2006		
Foundation of Disabled People’s Arts	Ninth International Biennial of Disabled People’s Arts	26 700
Social Change Association	DOTYK (TOUCH) International Festival Meetings of Disabled Artists	25 000
PROMYK Integrated Association in Gdańsk	International Review of Disabled Persons’ Orchestras: Gdynia 2006	25 000
2007		
Foundation of Initiatives for the Handicapped “PRO OMNIBUS”	Eleventh Disabled Youth Song Festival: Ciechocińskie Impresje 2007 (Ciechocinek Impressions 2007)	80 000
2008		
Foundation of Initiatives for the Handicapped “PRO OMNIBUS”	Twelfth Disabled Youth Song Festival: “Impresje artystyczne - Ciechocinek 2008” (“Artistic impressions - Ciechocinek 2008”)	25 000
Anna Dymna’s Against the Odds Foundation	“A na tym rynku w Krakowie”: Fourth edition of Marek Grechuta’s Festival of Magical Songs	203 000
2009		
Foundation of Initiatives for the Handicapped “PRO OMNIBUS”	Thirteenth Disabled Youth Song Festival: “Impresje artystyczne - Ciechocinek 2009” (“Artistic impressions - Ciechocinek 2009”)	36 000
Anna Dymna’s Against the Odds Foundation	Marek Grechuta’s Festival of Magical Songs	110 000

192. Under the Reading Promotion programme (priority: Development of the book sector and reading promotion) subsidies were granted to:

**Table 19**

Organizer	Task	Subsidy, in PLN
2006		
Powiat and City Public Library in Zamość	“Niepełnosprawność wyzwaniem dla ludzi zdrowych” (“Disability - a challenge for able people”): integrated cultural and educational action of the Powiat and City Public Library in Zamość for disabled persons from various backgrounds	27 120
Key Foundation for the education and reading promotion among blind and visually impaired persons	Reading promotion among disabled readers by means of publishing and promoting digital multimedia books	34 710
Polish Association of the Deaf - management of the Lublin branch	Subsidies for social actions aimed at reading promotion among the deaf from the branch in Lublin	15 050
2007		
ŚWIATOWID Centre of Culture and International Cooperation in Elbląg	“Cała naprzód ku nowej przygodzie - wyprawa dzieci niewidzących do świata literatury” (“Full speed ahead for a new adventure - a blind children’s journey to the world of literature”)	10 000
Polish Association of the Deaf - Zamość branch	Organization of the CZYTAK’s library for blind and visually impaired persons from the śląskie voivodship	30 000
Stanisław Kostka Zamoyski Powiat and City Public Library in Zamość	“Książka inspiracją dla twórczości czytelników niepełnosprawnych” (“The book as an inspiration for disabled readers’ work”): integrated cultural and educational action of the Powiat and City Public Library in Zamość for development of talents and promotion of disabled artists’ work	25 000
2008		
Henryk Ruszczyc Disabled Persons Aid Society LARIX	Recording and free-of-charge dissemination of 60 cutting-edge digital audio books	140 800
City Public Library in Sochaczew	Popularization of reading among blind and visually impaired persons in the Sochaczew powiat	22 500
Recordings and Publications Unit of the Polish Association of the Blind	Publication and distribution of the “Bomba i inni” book by M. Wojtyszko in large-font format, free-of-charge distribution of the book to 260 libraries and educational institutions	50 000
ŚWIATOWID Centre of Culture and International Cooperation in Elbląg	“Poszukiwanie kamienia filozoficznego - wyprawa dzieci niewidzących i słabowidzących do świata literatury” (“The search for the philosopher’s stone - a blind and visually impaired children’s journey to the world of literature”)	18 600
Polish Association of the Deaf - Zamość branch	Supplementation of the CZYTAK’s library book collection for blind and visually impaired persons from the śląskie voivodship	42 975
2009		
“Biblioteka pod Arkadami” Powiat and City Public Library in Wałbrzych	“Zasłuchaj się w książce - dobrej, bo polskiej” (“Become engrossed in a book - a good one, a Polish one”)	16 666
Powiat and City Public Library in Bochnia	“Nie tylko słuchamy ...” (“We don’t only listen ...”) - reading promotion among blind and visually impaired persons	8 093
CREDO Foundation	“Czytane sercem” (“Read with heart”) - reading promotion among the blind and visually impaired	20 000

193. PFRON funds forwarded to powiat self-governments have been earmarked for subsidizing sport, culture and tourism initiatives for disabled persons.

**Table 20**

	2005	2006	2007
Number of persons	80 813	313 842	364 054
Amount of funds, in PLN	16 486 551	19 629 311	20 921 710

194. One of the programmes aimed at the integration of disabled persons through sport is Partner 2006: Support for Projects Targeting Disabled Persons Implemented by Non-governmental Organizations. Subsidies under the programme were granted to:

- CROSS: Physical Education, Sports and Tourism Association of the Blind and Partially Sighted (1.785 million PLN)
- START: Polish Sports Association of the Disabled (95,940 PLN)
- Succeeding Together: Polish Social and Sports Association (440,929 PLN)
- Special Olympics Poland (1,013,760 PLN)

195. In 2006, PFRON allocated 8,661,000 PLN to tasks related to the organization of events, including sports events, on the supralocal level. A total of 60,191 disabled persons took part in the events; 18,785 of them were disabled children and youths. PFRON paid 1.034 million PLN to cover the expenses resulting from subsidizing cultural and sports events for disabled persons organized abroad. As many as 1,090 persons took part in the events abroad.

**Table 21**

**PFRON funds assigned to powiat self-governments for subsidizing sport, culture, recreation and tourism**

	2005	2006	2007	2008
Number of persons	80 813	313 842	364 054	359 194
Amount, in PLN	16 486 551	19 629 311	20 921 710	20 926 214

196. Funds from the Physical Education Development Fund (managed by the Minister of Sport) are allocated to the implementation of the disabled sports development programme, including disabled sportsmen:

- (a) Participation in sports sections and recreational activities;
- (b) Participation in recreational and sports events;
- (c) Participation in central training, training camps and consultations;

- (d) Participation in the Paralympics, World and European championships, as well as other international and national championship events;
- (e) Provision of counselling, medical consultations and diagnostic examinations;
- (f) Organization of sports classes;
- (g) Participation in summer and winter sports camps;
- (h) Training coaches, instructors, physiotherapists, classifiers and sports volunteers;
- (i) Sports promotion;
- (j) Purchase of sports equipment.

197. Scholarships for disabled members of the national team and the paralympic team, awards for excellent achievements in sport and awards for coaches were financed from the State budget. In 2006 regulations allowing for the granting of paralympic benefits were introduced (Act of 8 September 2006 amending the Act on Physical Education).

**Table 22**

**Benefits awarded in 2007**

	Awards for those participating in competitions	Awards for coaches	Scholarships for those participating in competitions	Paralympic benefits	Total
Amount, in PLN	260 130	238 970	1 057 000	790 269	2 346 369
Number of persons	41	74	122	29	266

**Access to transport**

198. Pursuant to the Act of 15 November 1984 (the Transport Law), disabled persons have the right to free movement and use of public transport: a carrier is obliged to undertake actions facilitating the use of public transport, access to check-in points, stops and platforms by disabled persons, including persons in wheelchairs.

199. Railway infrastructure is undergoing modernization. The investments are financed from the State budget, from the funds of Polish National Railways PKP Polskie Linie Kolejowe S.A., PKP S.A.-controlled companies (Intercity, Przewozy Regionalne), voivodship and local self-governments, and with the participation of international institutions (the World Bank, the European Bank for Reconstruction and Development, the European Investment Bank, Poland and Hungary: Assistance for Restructuring their Economies, and Instrument for Structural Policies for Pre-Accession). In order to facilitate the use of railway facilities by disabled persons, passenger elevators, ramps on passages over rails and leading to platforms have been installed and toilets have been adapted. Intercity and Przewozy Regionalne have railway cars that have been adapted to carrying disabled persons (adapted toilets, corridors, compartments) and equipment facilitating the boarding of trains by disabled persons.

200. Under the Sectoral Operational Programme Transport and the Strategy of using the Cohesion Fund, funds are allocated to actions related to the modernization of trains and the construction of the Warsaw underground so that they are adapted to the needs of disabled passengers, fulfilling the requirements specified in the Act of 7 July 1994 (the Building Act) and ordinances thereto which lay down the obligation to provide for the needs of disabled persons in new and modernized facilities (stations, stops). Projects implemented under the Operational Programme Infrastructure and Environment 2007-2013 must provide for the needs of disabled persons.

201. Pursuant to the Ordinance of the Minister of Infrastructure of 31 December 2002 laying down the technical requirements to be met by vehicles and vehicle obligatory equipment, a bus carrying disabled persons should be constructed in such a way that there is marked space for a disabled passenger in a wheelchair allowing for transporting such a person facing against the direction of travel and equipped with other devices allowing for, and facilitating the transport of, the disabled person.

202. Pursuant to Regulation (EC) No. 1107/2006 of the European Parliament and of the Council concerning the rights of disabled persons and persons with reduced mobility when travelling by air, airport operators provide disabled persons and persons with limited physical abilities with assistance corresponding to their special needs.

203. The Act of 20 June 1997 (the Road Traffic Act) provides for special solutions concerning vehicles carrying disabled persons and disabled persons using roads. A disabled person receives a parking card issued by the district governor (starosta), which entitles that person or a person driving the vehicle carrying the disabled person to certain privileges and facilitations in road traffic. A person driving a vehicle carrying a disabled person is allowed not to obey some of the road signs, in particular the "no vehicles" and "no parking" signs. This principle is also applied to workers of institutions providing care and rehabilitation or education to disabled persons. The issues are further regulated by the Ordinances of the Minister of Infrastructure of 30 March 2004:

(a) On the templates of parking cards for disabled persons and institutions providing care and rehabilitation or education to such persons;

(b) On the types of institutions providing care and rehabilitation or education for disabled persons entitled to receive parking cards and laying down the procedure for issuing such cards to those institutions.

204. The Act of 20 June 1992 on the Entitlement to Reduced Fares in Public Transport provides for various types of fare reductions in public rail and bus transport for disabled persons, as well as reductions for guides and caretakers accompanying blind persons and persons incapable of independent living. Fare reductions in municipal transport are decided by local self-governments.

205. The transport of disabled children is further regulated by the Ordinance of the Minister of Infrastructure of 31 December 2002 laying down the technical requirements to be met by vehicles and obligatory vehicle equipment. Pursuant to the Ordinance, a school bus should have

a marked space for a disabled passenger in a wheelchair, allowing for transporting such a person facing against the direction of travel; a school bus should also be equipped with other devices facilitating transport.

### **Participation of the disabled in democratic procedures**

206. The disabled are entitled to the same rights and freedoms as other citizens, including the right to vote and to stand as candidates in elections.

207. The Act of 27 September 1990 on the Election of the President of the Republic of Poland guarantees the disabled, at the time of casting their vote, the possibility of relying on the assistance of other persons who are not members of the district electoral commission or candidates' persons of trust. The Act of 12 April 2001 on Elections to the Sejm of the Republic of Poland and to the Senate of the Republic of Poland guarantees the following to disabled voters:

(a) Easy access to regional and district electoral commissions;

(b) Inclusion in the list of voters in the constituency chosen among other constituencies, where there is a polling station made accessible for disabled voters (upon request which needs to be filed in the gmina office no later than 10 days before the election day); this refers to the area of the relevant gmina in respect of the permanent residence of the voter;

(c) Access to the polling stations of the district electoral commissions made accessible for disabled voters, which should be provided by the wójt or mayor (president of a city);

(d) When casting a vote, the assistance of another person to the disabled voter, excluding members of the electoral commission and election candidates' persons of trust.

208. Pursuant to the Ordinance of the Minister of Interior and Administration of 31 July 2001 on the district polling stations of electoral commissions made accessible for disabled voters, there should be at least one polling station per 15,000 gmina residents, it should be made accessible, and there should be at least one such polling station in a gmina. In addition:

(a) The disabled should be provided with at least one place guaranteeing the secrecy of voting which would be adapted to their special needs according to their disability;

(b) The official notice and the information of the National Electoral Commission should be put in a place accessible to persons in wheelchairs.

209. The obligation to inform about such rights falls within the remit of local self-government bodies; this is usually done in the form of a notice or information provided on websites. The Act of 16 of July 1998 on Elections to Gmina Councils, Powiat Councils and Sejmik of Voivodships, with regard to the rights of the disabled, provides that a disabled voter, at his request, may be assisted by another person, excluding members of electoral commissions and election candidates' persons of trust.

210. The Act of 23 January 2004 on Elections to the European Parliament guarantees the following rights:

(a) The polling stations of circuit, regional and district electoral commissions should be easily accessible to the disabled;

(b) Polling stations of electoral commissions that are accessible to disabled voters should be provided by the wójt or mayor (president of a city). Executive regulations pursuant to the Act on Elections to the Sejm of the Republic of Poland and to the Senate of the Republic of Poland are applicable;

(c) A disabled voter, upon a request filed with the gmina office no later than 10 days before the election day, is included in the list of voters in the constituency, chosen among other constituencies, where there is a polling station made accessible to disabled voters (this refers to the area of the relevant gmina in respect of the permanent residence of the voter);

(d) When casting a vote, the disabled voter may be assisted by another person, excluding members of the district electoral commission and election candidates' persons of trust.

211. The Act of 14 March 2003 on the Nationwide Referendum refers to the provisions of the Act on Elections to the Sejm of the Republic of Poland and to the Senate of the Republic of Poland.

212. During presidential and parliamentary elections, the elections to the European Parliament as well as referendums, a list of voters is established in hospitals and social assistance institutions.

213. Self-government bodies often ensure free transport to the polling stations for the disabled and persons who have difficulties with moving/walking. However, this is a decision of self-governments.

### **Reasonable accommodation**

214. The concept of "reasonable accommodation" is not defined in Polish law, but the obligations and rights related to "reasonable accommodation" follow from the Labour Code and the Act on Professional and Social Rehabilitation and Employment of Disabled Persons.

215. The Labour Code makes each employer responsible for health and safety at work. In accordance with article 207, paragraph 2, of the Labour Code, an employer is obliged to protect the health and life of his employees, by ensuring safe and hygienic working conditions to his employees by an appropriate use and application of the results of scientific and technical research. The requirements concerning health and safety at work should be met in the buildings where the workplace, machines, technical equipment and tools are situated. Consequently, the employer should strive to adapt, in the best way, the workplace for each worker, including disabled persons, according to their capabilities. Those obligations are clarified in the Ordinance of the Minister of Labour and Social Policy of 26 September 1997 on general regulations on safety and hygiene at work:

(a) Article 45, paragraph 1: “The workplace should be furnished adequately to the type of activities carried out there and the psychophysical qualities of the employees; the free space (without any equipment) in the workplace should guarantee the employee free movement, sufficient for the safe performance of work, taking into account the requirements of ergonomics”;

(b) Article 48: “The employer of disabled workers should make sure that the workplace is adapted to the needs and capabilities of these workers resulting from their disabilities”;

(c) Article 5 of annex 3 to the Ordinance: “The employer of disabled workers should make sure that the sanitary facilities and access to those facilities is adapted to the needs and capabilities of these workers resulting from their disabilities, in compliance with technical and construction regulations”.

216. Pursuant to the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons, an employer who, for 36 months, commits to employ disabled persons who are registered as unemployed in the powiat labour office, or who seek employment while remaining unemployed, is entitled to the reimbursement by PFRON of costs related to the adaptation of the workplace and the employment establishment resulting from the employment of a disabled person. The employer may ask for reimbursement of the costs in the amount equivalent to 20 average salaries for each workplace adapted to the needs of a disabled person. The reimbursement is contingent on the positive evaluation by the National Labour Inspectorate (PIP) of the adaptation of the workplace to the needs of the disabled person who is to work in this place. The employer may also seek the reimbursement of the monthly costs of employment of additional workers who help the disabled worker communicate with co-workers, and carry out the activities that would be impossible or difficult to do by the disabled worker single-handedly.

217. An employer who, for 36 months, commits to employ disabled persons who are registered as unemployed in the powiat labour office, or who seek employment while remaining unemployed, is entitled to the reimbursement of costs for the purchase of equipment to be used at work by a disabled person. The reimbursement may amount to 15 average salaries. This solution is more attractive to employers as they do not have to demonstrate the connection between the disability of the employee and the costs incurred for equipping the workplace for that person.

218. The procedure and the steps to be taken are specified in the Ordinance of the Minister of Social Policy of 17 October 2007 on the reimbursement of the costs incurred in the adaptation of the workplace, conversion of rooms and facilities in order to meet the needs of the disabled as well as the costs of employing a worker assisting a disabled employee.

219. Additional information - point 1 of the replies to this question.

220. The Act on Vocational and Social Rehabilitation and Employment of Disabled Persons, amended on 15 June 2007, provides for subsidies for the creation of new jobs, also in the units of the public finance sector, financed from the State budget.

221. The information on the reasonable accommodation in other regards - see other points of the replies to this question (in particular: services, transport, information, sport and culture).

222. The obligation to adapt the workplace in a reasonable way to the special needs of the disabled is included in the draft Act on the implementation of relevant European Union regulations on equal treatment. Pursuant to article 6 of the draft Act, an infringement of the principle of equal treatment occurs when the employer does not make the necessary adaptations enabling a disabled worker to take up or continue employment in the employer's establishment or to make use of work training or education, provided that those adaptations would not pose an excessive burden on the employer.

223. The draft Act on the implementation of relevant European Union regulations on equal treatment was presented, by a decision of the Committee of the Council of Ministers of 22 January 2009, for evaluation by the Prime Minister's Legislative Council. The draft Act, with the opinion of the Legislative Council of March 2009 and the position of the Minister of Labour and Social Policy, will again be presented to the Committee of the Council of Ministers for discussion.

***Question 12. Please provide detailed information on the legislation and policies of the State party regarding refugees and asylum-seekers, and indicate what measures it has taken to protect the rights of these persons during the status determination process and to facilitate their social integration. Please also indicate the steps taken to overcome the problems faced by persons with "tolerated status" in relation to access to unemployment allowances, legal assistance, interpretation and translation of documents, and access to education for their children.***

224. The basic legal Act concerning applicants for refugee status and refugees is the Act of 13 June 2003 on Granting Protection to Aliens within the Territory of the Republic of Poland. The Act is compliant with the applicable European Union legal acts with regard to displaced persons.

225. The provisions of the following legislation have been transposed into the Act:

(a) Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between member States in receiving such persons and bearing the consequences thereof;

(b) Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum-seekers;

(c) Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

(d) Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in member States for granting and withdrawing refugee status.

226. The Act sets forth the principles, conditions and the procedure with regard to granting protection to foreigners within the territory of Poland and mentions the bodies that are competent in that respect. The Act regulates the following issues:

(a) Criteria for granting, refusing to grant and withdrawing refugee status as well as granting, refusing to grant and withdrawing supplementary protection;

(b) Proceedings for granting refugee status or supplementary protection and withdrawing refugee status or supplementary protection;

(c) Issuing provisional identity certificates to foreigners;

(d) Conducting proceedings which involve unaccompanied minors and foreigners whose psychophysical state allows for the presumption that they have been victims of violence or who are disabled;

(e) Providing assistance to applicants for refugee status;

(f) Detaining foreigners and placing them in guarded centres, or arresting them for the purpose of expulsion within the proceedings for granting refugee status;

(g) Rights and obligations of foreigners who have been granted refugee status or enjoy supplementary protection;

(h) Other types of protection granted to foreigners (asylum, a permit for tolerated stay, temporary protection for foreigners).

227. Poland applies the unified asylum procedure. The legal status of a foreigner is determined in the course of single proceedings, conducted by a single administrative body. The proceedings for granting refugee status are devoted not only to the examination whether a person meets the requirements to be recognized as a refugee, but also, in cases where they are not met, the examination of the circumstances resulting in the protection against deportation.

228. Supplementary protection is granted to the persons who do not meet the requirements to be recognized as refugees, but who, upon their return to their country of origin, may be threatened with the real danger of serious harm, understood as an adjudication of a death sentence or the execution, torture, inhuman or degrading treatment or punishment, or serious and case-specific threat to life and health related to the widespread use of violence towards civilians in the context of international or domestic military conflict.

229. Where neither refugee status nor supplementary protection is granted, the prerequisites for granting a permit for tolerated stay are examined ex officio. These prerequisites are related to the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the principles of the Convention on the Rights of the Child of 20 November 1989. The recognition that an application is not adequate for refugee status or supplementary protection, or a permit for tolerated stay to be granted, results in a deportation order, except for the cases specified in the Act.

230. As of 20 July 2007, the authority competent to grant protection to foreigners is the Head of the Office for Foreigners (previously the Head of the Office for Repatriation and Foreigners). Decisions on statutory issues by the Head of the Office can be appealed against by an appeal to the Refugee Council.

231. Pursuant to the provisions of the Act of 13 June 2003 on Granting Protection to Aliens within the Territory of the Republic of Poland, applicants for refugee status and persons recognized as refugees enjoy a number of guarantees and rights.

232. The applicants for refugee status:

- (a) Have the possibility of applying for refugee status together with their relatives (minor children, a spouse and the minor children of the spouse);
- (b) For the period of the proceedings they receive a document (a foreigner's provisional identity certificate);
- (c) Are entitled to social assistance and medical care and the possibility of assistance with regard to a voluntary departure from the Republic of Poland;
- (d) Are protected from the authorities of their country of origin by means of data protection;
- (e) Are protected against deportation before the end of statutory proceedings (in principle, this protection does not apply to foreigners who have already filed a statutory application once);
- (f) Have access to the dossier of a statutory case at any stage of the proceedings;
- (g) May contact a representative of the United Nations High Commissioner for Refugees and the representatives of organizations whose statutory tasks include refugee affairs;
- (h) May grant their consent to a representative of the United Nations High Commissioner for Refugees to have access to the dossier of the proceedings;
- (i) Are entitled to work if the statutory proceedings take longer than six months in the first instance (based on a certificate issued by the Head of the Office for Foreigners and a foreigner's provisional identity certificate);

(j) Receive, in writing and in a language comprehensible to them, information on the outcome of the proceedings and the remedies to which they are entitled;

(k) Receive, when refugee status or supplementary protection is granted, written information on the rights and obligations resulting from the granted protection.

233. Foreigners who have been granted refugee status or enjoy supplementary protection are provided with assistance for the period of up to 12 months in order to solve problems they face after leaving the centres for foreigners and to support the process of their integration within society, in accordance with the procedure and principles laid down in the Act of 12 March 2004 on Social Assistance. The support aimed at social inclusion consists in: pecuniary benefits, payment of health insurance contributions, social work, specialist counselling, provision of information and support in contacting institutions, and other activities supporting the social integration of foreigners. They also enjoy the rights of foreigners who are granted a permit for a stay of a specified period, unless the Act on Granting Protection to Aliens within the Territory of the Republic of Poland or other Acts provide otherwise. These rights include access to education, access to the job market, the right to protection against unemployment, the freedom to conduct a business activity, the right to social assistance benefits and family benefits, the right to a social pension, and the right to public health care. These rights are the same as the rights of the citizens of the Republic of Poland.

234. Foreigners who have been granted a permit for a tolerated stay have the right to data protection and are protected against deportation; they are entitled to a residence card (valid for one year), but their social rights are limited. They have the right to work without a permit, can be registered as unemployed persons and receive, in accordance with the principles laid down in the Act on the Promotion of Employment and Labour Market Institutions of 19 December 2008, unemployment benefits and other benefits reserved for the unemployed. As regards social assistance, they are entitled to accommodation, meals, basic clothing and special-purpose benefits. Those who are of school age have the right to education and care in a primary school, lower secondary school, secondary school, art school, or an institution providing teacher training.

235. The Ordinance of the Minister of National Education of 4 October 2001 provides a framework for admission of persons with no Polish citizenship in State kindergartens, schools and teacher training institutions. Foreigners' children who, according to the Polish law, are under an obligation to attend school have the right to education and care in State primary and lower secondary schools, on the conditions applicable to Polish citizens. This regulation applies to all foreigners, regardless of their legal status and the grounds of their stay in Poland. It also applies to the children of foreigners who stay in Poland illegally.

236. The data concerning foreigners, on the basis of which it is possible to determine that the proceedings for refugee status have ended, or that refugee status or supplementary protection has been granted cannot be made available to any authorities or public institutions in the foreigners' country of origin. In the case of foreigners who have been granted refugee status or enjoy supplementary protection, no decision obliging them to leave Poland, or to deport them can be

issued without prior withdrawal of that status or protection, except in the circumstances specified in articles 32 and 33, paragraph 2, of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention).

237. The foreigners who have been granted refugee status receive a travel document provided for in the Geneva Convention and a residence card valid for three years. Foreigners who have been granted supplementary protection receive a residence card valid for two years. A travel document provided for in the Geneva Convention and/or a residence card is issued by the Head of the Office for Foreigners. Foreigners with refugee status and those who enjoy supplementary protection may apply for the issuance of a Polish travel document for foreigners and a temporary Polish travel document for foreigners.

238. Representatives of the entities that provide legal support to refugees and the applicants for refugee status also provide foreigners with assistance in administrative matters and in the filling out of documents, as well as translation into a language that is comprehensible to the foreigner.

239. Work is being conducted with regard to the preparation of a draft act regulating access to free legal assistance granted by the State to individuals, including applicants for refugee status. The draft was subject to public and inter-ministerial consultations in the first quarter of 2009, and it will soon be presented to the Council of Ministers for examination.

### **B. Article 3. Equal rights of men and women**

*Question 13. Please provide detailed information, including recent statistical data, on progress made to increase (a) the political participation of women, including representation in Parliament, Government, and other public positions; (b) representation of women in managerial and high-ranking posts in the public service, including the judiciary, the police, and academia; and (c) representation of women in managerial and high-ranking posts in the private sector (E/C.12/POL/5, paras. 138-140).*

**Table 23**

#### **MPs and senators: the sixth term of the Sejm (since 2007)**

Political parties	Women	Men	Total
Lewica i Demokraci	11	42	53
German minority	0	1	1
Prawo i Sprawiedliwość	34	132	166
Platforma Obywatelska	48	161	209
Polskie Stronnictwo Ludowe	1	30	31
Total	94	366	460

There were 92 men and 8 women in the seventh term of the Senate (since 2007).

240. The principle of equality with regard to access to employment in the civil service is guaranteed by the Act of 24 August 2006 on Civil Service, pursuant to which each citizen is entitled to information on vacancies in the civil service, and recruitment into the civil service is open to the public and based on competition procedures. The openness of the recruitment process means that information on recruitment is widely available and anyone who meets the requirements is eligible for employment. The information on the outcome of the recruitment process is public information. Recruitment into the civil service based on competition procedures means that it results in the employment of a person whose knowledge, skills and other competences are the most adequate for the position sought to be filled. As regards senior positions in government administration, vacancies are filled with the persons enlisted in the Public Administration Human Resources Database, provided that the requirements laid down in the Act, being the same to all candidates regardless of their gender, are met.

241. The Act of 21 November 2008 on Civil Service, which entered into force on 24 March 2009 and replaced the Act of 2006, maintains the principles presented here, also in relation to senior positions in the civil service, created on the basis of some former senior positions in government administration.

242. As of 31 December 2007, the percentage of women in the total number of persons employed in the civil service was 68.7 per cent. According to the statistics as of 30 June 2008, this rate was 69.1 per cent. With regard to persons in senior positions in government administration, as of 31 December 2007 the percentage of women was 52.3 per cent, and as of 30 June 2008 was 43.4 per cent.

243. In the academic year 2007/08, the number of employed academic teachers was 97,672, including 40,872 women. The number of employees holding the position of professor (profesor zwyczajny) included 1,307 women (16.7 per cent of all persons with that title), 3,742 women held the position of associate professor (25.8 per cent), and the position of visiting professor was held by 41 women (21.2 per cent). The position of assistant professor was held by 213 women (28.2 per cent), whereas the position of a lecturer with a PhD title was held by 16,781 women (42.1 per cent). In 2007, a PhD degree was awarded to 2,760 women (49.1 per cent), a postdoctoral degree (doktor habilitowany) to 248 (32.16 per cent), and the title of professor to 155 women (26.4 per cent). Since 2008 a woman (Rector of the University of Warsaw) has held the position of the President of Conference of Rectors of Academic Schools in Poland.

Table 24

## Number of judges in the first quarter of 2008

Regional courts	Appeal court judges			Regional court judges			District court judges			Total Judges
	Men	Women	Total	Men	Women	Total	Men	Women	Total	
Warsaw	25	49	74	48	174	222	84	246	330	626
Warsaw (Praga district)				20	53	73	43	92	135	208
Białystok	10	21	31	22	32	54	45	67	112	197
Bielsko-Biała				16	22	38	34	49	83	121
Bydgoszcz				27	32	59	44	82	126	185
Częstochowa				18	30	48	29	82	111	159
Elbląg				10	24	34	30	46	76	110
Gdańsk	20	31	51	28	76	104	81	203	284	439
Gliwice				31	55	86	51	153	204	290
Gorzów Wielkopolski				16	16	32	25	41	66	98
Jelenia Góra				17	17	34	35	45	80	114
Kalisz				20	15	35	37	50	87	122
Katowice	24	37	61	44	124	168	83	235	318	547
Kielce				25	41	66	68	102	170	236
Konin				6	13	19	17	33	50	69
Koszalin				23	22	45	36	79	115	160
Kraków	21	22	43	48	81	129	86	193	279	451
Krosno				19	8	27	30	30	60	87
Legnica				22	23	45	30	61	91	136
Lublin	16	15	31	36	69	105	88	156	244	380
Łomża				10	8	18	13	15	28	46
Łódź	13	24	37	48	69	117	71	171	242	396
Nowy Sącz				13	13	26	33	45	78	104
Olsztyn				29	35	64	53	88	141	205
Opole				31	28	59	49	93	142	201
Ostrołęka				5	11	16	19	32	51	67
Piotrków Trybunalski				20	9	29	39	52	91	120
Płock				14	25	39	34	73	107	146
Poznań	23	17	40	53	80	133	134	187	321	494
Przemyśl				10	12	22	17	30	47	69
Radom				15	26	41	37	51	88	129
Rzeszów	12	12	24	24	22	46	40	71	111	181
Siedlce				11	19	30	22	39	61	91
Sieradz				8	9	17	20	25	45	62
Słupsk				14	16	30	29	47	76	106
Suwałki				9	5	14	8	17	25	39
Szczecin	12	13	25	22	57	79	58	127	185	289
Świdnica				23	26	49	50	84	134	183
Tarnobrzeg				13	10	23	27	34	61	84
Tarnów				16	10	26	30	34	64	90
Toruń				14	30	44	52	64	116	160
Włocławek				9	14	23	16	44	60	83
Wrocław	21	23	44	31	67	98	68	154	222	364
Zamość				15	17	32	33	47	80	112
Zielona Góra				21	21	42	35	58	93	135
Total	197	264	461	974	1 566	2 540	1 963	3 727	5 690	8 691
Women (percentage)		57			62			66		64

**Table 25**  
**Judges in courts of general jurisdiction**

	Judges	Women		Total number of judges
		Number of persons	Percentage	
2005	Appeal courts	266	57	463
	Regional courts	1 507	61	2 472
	District courts	3 429	66	5 216
	Total	5 202	64	8 151
2006	Appeal courts	262	58	455
	Regional courts	1 542	61	2 517
	District courts	3 466	66	5 282
	Total	5 270	64	8 254
2007	Appeal courts	259	57	454
	Regional courts	1 546	62	2 506
	District courts	3 700	65	5 671
	Total	5 505	64	8 631

**Table 26**  
**Women holding senior positions in the courts of general jurisdiction  
(as of 4 February 2008)**

Presidents	Women	Percentage	Total
Presidents of appeal courts	3	27	11
Vice-presidents of appeal courts	3	25	12
Presidents of regional courts	20	44	45
Vice-presidents of regional courts	29	41	71
Presidents of district courts	157	49	318

**Table 27**  
**Prosecutors of the general organizational units of the public prosecutor's office**

	Position	Number of prosecutors	Including women		Number of women in senior positions
			Number	Percentage	
2005	National public prosecutor	60	15	25	132
	Appellate prosecutor	383	148	38.64	
	Regional prosecutor	1 516	662	43.67	
	District prosecutor	3 457	2 025	58.58	
	Total	5 416	2 850	52.62	
2006	National public prosecutor	59	14	23.73	149
	Appellate prosecutor	385	145	37.66	
	Regional prosecutor	1 533	666	43.44	
	District prosecutor	3 294	1 955	59.35	
	Total	5 271	2 780	52.74	
2007	National public prosecutor	59	13	22.03	156
	Appellate prosecutor	405	151	37.28	
	Regional prosecutor	1 562	688	44.05	
	District prosecutor	3 330	1 987	59.67	
	Total	5 356	2 839	53.01	

\* Appellate prosecutor, deputy appellate prosecutor, regional prosecutor, deputy regional prosecutor, district prosecutor.

244. The introduction of a gender equality perspective into politics and activities (gender mainstreaming) is a task carried out by the Ministry of Labour and Social Policy. One of the tools for implementing gender mainstreaming is the system of monitoring equal treatment of women and men which encompasses the following areas:

(a) “Life potential” which includes indicators showing the chances for a long life in good health, for starting a lasting and happy family, and for mental and physical stamina, as well as the risk of premature death;

(b) “Personal development” which includes indicators concerning the chances for learning and building up one’s set of skills and competences: the situation and achievements of women and men (girls and boys) in the school education system, their access to lifelong learning, their cultural development, their civil competence and their pro-health behaviour;

(c) “Social status” which refers to the chances for obtaining a high social and professional position, gaining prestige and having influence on decision-making; it includes the indicators showing the position of women and men on the employment market, their situation with regard to entrepreneurship, broadly understood, and income generation, their involvement in governmental bodies and their “cultural position”, i.e. the stereotypes pertaining to the talents and capabilities of women and men;

(d) “Social support” which refers to the chances for harmonious and partner-like relations with other members of society as well as equality with regard to obtaining support from other people and institutions; it includes the indicators of support from parents and relatives, which portray involvement in social life and organizations of civic society, support from informal social networks, support from the family and from institutions;

(e) “Risk of exclusion” which refers to the risk of marginalization, pathology and the loss of control over life in the case of women and men; it includes the indicators concerning loneliness, poverty, risky behaviour, victimization and crime.

245. Gender Monitoring encompasses 200 quantitative indicators (figures), arranged on three levels and presented in a graph form. The figures come from reliable sources, such as the Central Statistical Office. At the first level there is one main indicator that has been regarded as a good “representation” of equality in a given sphere of life. At the second level, there are five areas that are characteristic for a given area, and the third level encompasses detailed indicators for a given area. Each indicator may be viewed in the form of a graph or table. Each one is accompanied by a definition (mode of calculation) and the source of the figures. The indicators may be presented for the whole population, classified by city/rural area and age groups. The details and results are available at the website [www.monitoring.rownystatus.gov.pl](http://www.monitoring.rownystatus.gov.pl).

246. A network of Voivodship Plenipotentiaries for Women and Family has been created. In the period 2005-2007, the plenipotentiaries were active in nine voivodships. After the elections to the Sejm of the Republic of Poland in 2007, a majority of appointed plenipotentiaries did not remain in office. Since the appointment of the Government Plenipotentiary for Equal Treatment (2008), the appointment of voivodship plenipotentiaries falls within his remit.

247. In 2007 the European Union celebrated the European Year of Equal Opportunities for All. As part of the celebrations, Network of East-West Women in Poland carried out a programme entitled ABC of Equality, which consisted in conducting an information and educational campaign in order to enhance the awareness of self-government activists and politicians with regard to the policy of gender equality, combat stereotypes in the perception of female and male roles in professional and private life, and popularize anti-discriminatory regulations. The media campaign was intended to enhance social awareness with regard to equal opportunities for men and women.

248. In 2008, the National Council of the Democratic Women's Union implemented the programme Female Leaders of Social Change: improving social recognition of women, mobilizing women to perform important social roles in public life: mobilizing women to perform public roles in local communities as well as dissemination of knowledge and development of skills with regard to practice and tools of gender equality policy. Training sessions and workshops were organized for local female activists and NGO representatives, and a conference was held at the national level. A guidebook entitled "How to implement gender equality policy at a local level: practical guidance" was published, consultation services were provided and good practices were promoted. In addition, the Institute of Sociology of Łódź University carried out a research project entitled Say "No" to Stereotypes, which dealt with the problem of social inequality and discrimination on the grounds of belonging to a certain social category (gender, age) and living a life which is different from traditional models (voluntary childlessness, being single). Qualitative and quantitative research was carried out, an academic conference was organized, a book was published and a school syllabus was prepared for university students and secondary school pupils.

***Question 14. Has the State party adopted the bill on gender equality? If so, please provide detailed information about its content. If not, when is this bill expected to be adopted? (E/C.12/POL/5, para. 916)***

249. The information on the provisions of the draft Act on the implementation of some of the European Union regulations on equal treatment and the progress with legislative work is contained in the reply to question 9 above.

### **III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)**

#### **A. Article 6. The right to work**

***Question 15. Detailed information on the progress made in the implementation of the different laws and strategies adopted by the State party to provide professional training and employment opportunities for persons belonging to specific vulnerable groups, such as young unemployed persons of up to 25, persons with no or limited professional qualifications, unemployed persons over 50, long-term unemployed persons, and persons with disabilities. Please also provide statistical data on the employment/unemployment ratio of persons belonging to these categories (E/C.12/POL/5, paras. 7-94 and 886-911).***

**Table 28**  
**Basic indicators concerning the labour market**

	2007	2008 <sup>1</sup>
	Employment rate, percentage	
Total number aged 15-64 (productivity age according to the EUROSTAT definition)	57.0	59.2
Total number aged 18-59/64 (productivity age in Poland)	62.3	64.96
By age		
15-24	25.8	27.4
25-34	76.4	78.5
35-44	80.7	83.0
45-54	68.6	71.7
55-59/64	34.5	37.2
60/65 and over	5.8	5.8
By education level		
Higher	76.0	77.0
Vocational secondary and post-secondary	61.0	62.3
Comprehensive secondary	38.7	41.2
Vocational	57.1	59.6
Lower secondary, primary and incomplete	17.8	17.9
Disabled (aged 18-59/64)	19.5	20.5
	Unemployment rate, percentage	
Total number aged 15-64 (productivity age according to the EUROSTAT definition)	9.7	7.2
Total number aged 18-59/64 (productivity age in Poland)	9.8	7.2
By age		
15-24	21.7	17.3
25-34	9.4	7.0
35-44	7.2	5.2
45 and over	7.7	5.5
By education level		
Higher	4.6	3.8
Vocational secondary and post-secondary	8.5	6.7
Comprehensive secondary	12.5	9.4
Vocational	11.4	7.8
Lower secondary, primary and incomplete	15.5	11.9
Disabled (aged 18-59/64)	14.0	13.5
Rate of long-term unemployment*	4.4	2.2

Data for 2007 refer to an annual average.

<sup>1</sup> Data for 2008 refer to the disabled, and the rates of long-term unemployment refer to the average for the three quarters due to the lack of data from the Population Economic Activity Survey for the fourth quarter of 2008.

\* Since the first quarter of 2008, the job search period is counted from the end of the break in the job search, provided that there was a break and that it lasted at least four weeks. These data are not comparable with the results from previous years.

250. Pursuant to the Act of 20 April 2004 on Employment Promotion and Labour Market Institutions, persons in a particularly difficult situation on the labour market, including the unemployed who are aged 25 and under; without any qualifications; over 50; or long-term unemployed or disabled; can rely on various forms of help in order to find employment.

**Table 29**  
**Participation in active programmes, 2007\***

The number of people who:	Total number of unemployed	Including:				
		Aged 25 and under	Long-term unemployed	Over 50	Without any qualifications	Disabled
Started training	175 352	50 007	69 007	17 368	3 647	5 052
Started an internship	172 739	162 056	25 904	x	50 883	1 874
Started work training in the workplace	65 342	10 009	53 495	8 686	20 651	2 274
Started intervention (subsidized) activities	58 761	19 234	35 952	12 992	17 342	2 249
Started public works	40 900	2 020	35 351	16 471	16 647	1 319
Started community work	75 000	3 971	65 073	22 566	36 100	3 680
Used career advisory services	312 772	117 737	107 455	33 879	78 493	10 941
Started training, in a job club, concerning an active job search	8 896	2 408	5 125	1 495	2 240	368
Participated in vocational activation classes	52 713	22 857	20 166	5 498	12 220	2 163

\* The data may not add up, as one person may qualify for one or more groups.

**Table 30**  
**Subsidized work, 2007**

	Unemployed	Including:		
		Aged 25 and under	Over 50	Long-term unemployed
Total	185 766	42 875	36 450	101 596
Including:				
Business activity	45 086	8 877	2 831	15 783
Work provided under the refund of employment costs of the unemployed	36 501	12 196	2 871	12 450

**Table 31**  
**Participation in active programmes, 2008**

Number of people who:	Total number of unemployed	Including:		
		Aged 25 and under	Over 50	Long-term unemployed
Total	668 102	260 617	92 622	262 937
Started subsidized work	186 659	39 283	37 954	79 498
Including:				
Intervention (subsidized) work	46 042	14 222	11 305	22 372
Public works	44 539	2 817	18 145	30 159
Business activity	51 945	9 096	3 592	15 178
Work provided under the refund of employment costs of the unemployed	39 695	12 685	3 392	10 019
Other	4 438	463	1 520	1 770
Started training	168 374	42 172	21 569	62 379
Started internship	169 860	159 457	x	18 436
Started work training in the workplace	79 440	16 691	11 017	48 841
Started community work	63 769	3 014	22 082	53 783

**Table 32**  
**Subsidized work, 2008**

	Unemployed	Including:		
		Aged 25 and under	Over 50	Long-term unemployed
Total	186 659	39 283	37 954	79 498
Including:				
Business activity	51 945	9 096	3 592	15 178
Work provided under the refund of employment costs of the unemployed	39 695	12 685	3 392	10 019

251. In 2008, amendments were made to the Act of 20 April 2004 on Employment Promotion and Labour Market Institutions, which entered into force on 1 February 2009. The amendments were aimed at facilitating the unemployed and job seekers to resume employment or to begin vocational activity.

252. A substantial rise in vocational activation of the unemployed, including the unemployed being in a difficult situation on the labour market, will be achieved by:

(a) Introducing the possibility of providing the persons who are unemployed or seeking employment with an individual action plan and obligatory preparation of such plans for the unemployed who have special difficulties with beginning or resuming employment. Every unemployed person, if he or she has problems in finding work and does not take up employment for at least six months after registering, is to be placed under an individual action plan;

(b) Improving motivation to participate in the activities aimed at activation of the unemployed, by encouraging them to actively cooperate with labour offices and make use of

activation measures: financial incentives in the form of scholarships paid out in relation to participation in training sessions, internships, work training for adults and continued education within the framework of school education;

(c) Introducing the preference for lifelong learning and, broadly, investment in human capital: new regulations enhance the attractiveness of the participation in training sessions organized by labour offices and other forms of education (postgraduate studies, continuation of education at school, educational loans), and also their better accessibility for the persons concerned. A new labour market instrument was introduced, i.e. adult vocational training, which allows unemployed persons to gain new qualifications, confirmed by a certificate of being awarded with a job title, a certificate of a qualified worker or an educational establishment certificate; the certificate follows the completion of hands-on work training for adults or learning of a new job by adults, carried out under agreements made between labour offices and the employers and training institutions. This form of vocational activation is much more beneficial for the unemployed than the participation in internships, and it will also be attractive to employers.

253. The changes introduced are conducive to supporting and increasing the employment of persons aged 50 and over. Therefore, these changes support the implementation of the government programme Solidarity between Generations: activities for enhancing the activation of persons aged 50+. The proposed solutions provide for, inter alia, higher rates of financial support for this age group, allocated for their participation in training sessions financed by the Labour Fund. Employers who employ the unemployed aged 50 and over will be temporarily exempted from payment of contributions to the Labour Fund and the Fund for Guaranteed Employee Benefits, whereas in the case of all persons aged over 60 (men) and 55 (women) this obligation is abolished.

254. The introduced changes enhance access to labour market services. Labour offices will be more “open” to customers than ever before. The amended regulations would allow for the enlargement of the number of beneficiaries of labour market services by enabling those looking for employment (including employed persons over 45, the spouses of farmers who are entitled to the obligatory farmers’ social security and who intend to take up employment or another job or start a business activity outside agriculture, as well as work migrants) to use some of the services of labour offices. The process of registration and obtaining information on persons searching for work has been simplified.

255. The support offered by labour offices has been extended and made more flexible by means of special programmes. New solutions have been introduced in order to identify and activate the unemployed who need special assistance to be able to take up employment. Special support programmes may be targeted at such unemployed persons. The participants of the programmes and the scope of activation measures will be determined at the level of powiat, i.e. at the level where the needs of the unemployed and the labour market are best known.

256. The amended Act on Employment Promotion and Labour Market Institutions has introduced new solutions such as pilot projects, initiated and carried out by the Public Employment Services independently or in collaboration with other institutions of the labour

market; the projects consist in implementing new methods, tools and ways of helping the unemployed, job seekers or employers in order to prepare system solutions. Such endeavours will be aimed at testing the solutions adjusted to the specific conditions of a given (local) labour market, before developing solutions at a national level or system solutions. The implementation of pilot projects should also increase the possibilities for the development of the Public Employment Services and enhance the support provided by them. The Ministry of Labour and Social Policy will allocate 5 million PLN for the activities in this regard.

257. In 2008, the Minister of Labour and Social Policy allocated the reserve from the Labour Fund for the implementation of the programme 45/50 PLUS, aimed at improving the employability of persons over 50 years of age. The projects for vocational activation of persons at the age of limited mobility were prepared and implemented by powiat labour offices. The amount of 51.7 million PLN was spent on the programme. A total of 164 powiat labour offices received the funds; activation measures were used by 8,911 of the unemployed who were over 45.

#### **B. Article 7. The right to just and favourable conditions of work**

***Question 16. Please provide detailed information on the implementation of the legislation and policies aimed at eliminating gender discrimination in the field of employment, and indicate which measures the State party intends to adopt to address the persistent gap in wages between men and women and the overrepresentation of women in part-time and temporary jobs. Why is the right of women and men to equal pay for work of equal value not expressly recognized in article 18<sup>3c</sup> of the Labour Code? Has the State party adopted any temporary special measures pursuant to article 18<sup>3b</sup>, paragraph 3, of the Labour Code to promote equalization of opportunities for women in the field of employment (E/C.12/POL/5, paras. 121-159, 182-193 and 912-916).***

258. Pursuant to article 18<sup>3c</sup> of the Labour Code, employees have the right to the same remuneration for the same work or for the work of the same value. This provision does not directly refer to the discriminatory criterion of gender.

259. In the previous wording, the provision referred to workers “regardless of their gender”. This was due to the fact that, previously, chapter IIa of section I of the Labour Code regulated equal treatment of men and women. In the course of adjusting the labour law to the European Union legislation, by means of the Act of 14 November 2003 amending the Act - Labour Code and certain other Acts, the scope of those provisions was extended to all the criteria which may be grounds for discrimination; the title of chapter IIa of section I of the Labour Code was appropriately changed to “Equal Treatment in the Workplace”. At present, the provisions of chapter IIa refer to equal treatment with regard to employment, regardless of any grounds (article 18<sup>3a</sup>, paragraph 1, of the Labour Code: Employees shall be treated equally as regards the establishment and termination of employment relationships, the conditions of employment, promotion and access to training in order to raise occupational qualifications, particularly regardless of gender, age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, religion, sexual orientation or due to employment for a definite or

an indefinite period or on a full-time or part-time basis). Creating separate regulations with regard to each criterion of discrimination would be irrational, illegible, and also non-compliant with the legislative technique.

260. In the period 2006-2007, the National Labour Inspectorate received 88 complaints about discrimination on the grounds of gender; 40 of them concerned discrimination with regard to commencing or terminating the employment relationship; 38 complaints dealt with discrimination when establishing remuneration or other employment conditions; 8 concerned discrimination with regard to promotion or other work-related benefits; and 2 complaints referred to discrimination when selecting for training intended to raise qualifications. As a result of the complaints, 75 inspections were carried out. They revealed that six complaints were justified (three referred to discrimination with regard to commencing or terminating the employment relationship and the other three dealt with discrimination when establishing remuneration or other employment conditions). A total of 45 complaints were deemed to be partly justified (19 referred to discrimination with regard to commencing or terminating the employment relationship; 19 dealt with discrimination when establishing remuneration or other employment conditions; and 7 referred to discrimination with regard to promotion or other work-related benefits). As a result of the inspections, the employers received letters in which labour inspectors made seven demands with regard to compliance with the regulations on non-discrimination regarding gender. Overall, as a result of the inspections carried out by the National Labour Inspectorate in the years 2006-2007, the employers received 12 such demands.

261. In 2008, the National Labour Inspectorate received 28 complaints about discrimination on the grounds of gender. Eleven of them concerned discrimination with regard to commencing or terminating the employment relationship, 14 complaints dealt with discrimination when establishing remuneration or other employment conditions, 2 referred to discrimination with regard to promotion or other work-related benefits, and 1 complaint referred to discrimination when selecting for training intended to raise qualifications. As a result of the inspections, the employers received letters in which labour inspectors made two demands with regard to compliance with the regulations on non-discrimination regarding gender. In one case, a petition was filed in court, calling for a penalty for the infringement laid down in article 123 of the Act of 20 April 2004 on Employment Promotion and Labour Market Institutions.

262. Apart from taking action after receiving complaints about discrimination, the National Labour Inspectorate carries out information activities in order to make widely known the regulations on equal treatment, including employees' rights and employers' obligations with regard to the ban on discrimination. As part of such activity, leaflets regarding this subject matter were printed ([www.pip.gov.pl](http://www.pip.gov.pl)). Moreover, the National Labour Inspectorate provides legal advice on equal treatment to employees, candidates for employment and employers. The telephone numbers which could be called to receive legal advice concerning the regulations on equal treatment, from regional labour inspectorates and the National Labour Inspectorate, are available on the website [www.pip.gov.pl](http://www.pip.gov.pl).

263. For information on the ongoing programmes, see also the reply to question 13 above.

**Table 33**  
**Claims for compensation for the infringement of principles of equal treatment of men  
and women - article 18<sup>3d</sup> of the Labour Code**

**District courts**

Complaint lodged by	Cases to be resolved	Resolved	Of which				Remaining for the next period	
			Allowed or partially allowed	Agreement reached	Dismissed	Return of claim/motion		Rejection
2002								
Men or women*	1	-	-	-	-	-	-	1
2003								
Women	15	10	1	-	2	-	-	5
Men	5	3	1	-	1	-	-	2
2004								
Women	128	58	1	2	5	-	-	70
Men	109	75	1	1	6	1	-	34
2005								
Women	139	87	13	5	20	3	-	52
Men	81	58	8	3	16	1	-	23
2006								
Women	95	62	7		18		1	33
Men	100	70	7		39	3		30
2007								
Women	190	126	9	6	26	-	-	64
Men	129	83	17	7	21	2	2	46
2008								
Women	698	603	25	4	37	6	1	95
Men	291	221	22	8	38	4	1	70

\* No identification of the claimants' gender is submitted due to the registration methods in use at that time.

**Table 33 (continued)**

**Regional courts**

Complaint lodged by	Cases to be resolved	Resolved	Of which				Remaining for the next period	
			Allowed or partially allowed	Agreement reached	Dismissed	Return		Rejection
		of claim/motion						
2002								
Men or women	-	-	-	-	-	-	-	-
2003								
Women	-	-	-	-	-	-	-	-
Men	1	1	-	-	-	-	-	-
2004								
Women	17	6	-	-	1	-	-	11
Men	19	5	-	-	1	-	-	14
2005								
Women	23	15	1	-	8	-	-	8
Men	23	13	-	-	6	-	-	10
2006								
Women	14	11	3	-	3	-	-	3
Men	20	12	2	-	7	-	-	8
2007								
Women	16	2	-	-	-	-	-	14
Men	20	12	-	-	5	-	-	8
2008								
Women	20	9	2	-	3	1	-	11
Men	19	6	-	-	2	-	1	13

**Table 34**  
**Claims for compensation and redress as a result of specific forms of discrimination**  
**2005**  
**District courts**

		Cases to be resolved	Resolved	Of which						Adjudged	Remaining for the next period	
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court			
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	4	3	1	-	-	-	-	1	2	1	
	Men	-	-	-	-	-	-	-	-	-	-	
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code	Women	50	20	1	-	3	4	-	6	29	30
		Men	30	13	1	-	1	-	1	5	17	17
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code	Women	33	11	1	-	3	-	-	2	38	22
		Men	22	15	-	-	5	1	-	4	18	7
	Article 94 <sup>3</sup> , paragraph 4, of the Labour Code	Women	12	5	-	-	-	-	-	3	2	7
		Men	12	10	-	-	-	-	-	2	2	2
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		53	32	2		2	1	1	5	26	21	

**Table 34 (continued)**

**Regional courts**

		Cases to be resolved	Resolved	Of which						Adjourned	Remaining for the next period
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court		
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	1	1	-	-	-	-	-	-	-	-
	Men	5	2	-	-	-	-	-	2	2	3
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code										
	Women	21	2	-	-	1	-	-	1	10	19
	Men	24	14	-	-	6	-	-	4	16	10
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code										
	Women	7	1	-	-	-	-	-	1	8	6
	Men	12	4	-	-	1	-	1	1	10	8
Article 94 <sup>3</sup> , paragraph 4, of the Labour Code	Women	3	-	-	-	-	-	-	-	2	3
	Men	1	-	-	-	-	-	-	-	3	1
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		7	1	-	-	-	-	-	1	7	6

**Table 34 (continued)**

**2006**

**District courts**

		Cases to be resolved	Resolved	Of which						Adjourned	Remaining for the next period
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court		
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	7	6	-	-	1	-	-	-	5	1
	Men	2	1	-	-	1	-	-	-	1	1
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code										
	Women	119	61	3	-	22	4	-	11	153	58
	Men	100	65	1	-	25	4	3	13	128	35
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code										
	Women	85	49	2	-	15	2	-	10	131	36
	Men	72	37	2	-	13	-	1	6	73	35
Article 94 <sup>3</sup> , paragraph 4, of the Labour Code	Women	11	5	1	-	1	-	-	1	17	6
	Men	16	8	-	-	3	1	-	1	14	8
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		126	99	4	-	28	4	2	35	97	27

**Table 34 (continued)**

**Regional courts**

		Cases to be resolved	Resolved	Of which						Adjudged	Remaining for the next period
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court		
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	2	2	-	-	1	1	-	-	-	-
	Men	-	-	-	-	-	-	-	-	-	-
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code	Women	10	10	-	-	7	-	1	-	1
		Men	9	6	-	-	5	1	-	-	3
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code	Women	10	8	-	7	-	1	-	-	3
		Men	5	3	1	1	-	-	-	-	-
	Article 94 <sup>3</sup> , paragraph 4, of the Labour Code	Women	-	-	-	-	-	-	-	-	-
		Men	1	1	-	-	1	-	-	-	-
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		5	3	-	-	2	-	-	-	1	2

**Table 34 (continued)**

**2007**

**District courts**

		Cases to be resolved	Resolved	Of which						Adjourned	Remaining for the next period
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court		
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	6	5	1	-	-	-	-	2	1	1
	Men	3	2	-	-	1	1	-	-	1	1
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code										
	Women	143	90	10	5	33	3	4	11	227	53
	Men	106	76	7	5	25	5	1	9	139	30
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code										
	Women	122	63	8	2	18	1	1	7	193	59
	Men	91	61	5	1	24	1	2	8	142	30
Article 94 <sup>3</sup> , paragraph 4 of the Labour Code	Women	22	13	2	1	6	1	-	1	46	12
	Men	22	16	2	2	5	-	-	2	35	6
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		63	46	7	5	11	3	1	6	63	17

**Table 34 (continued)**

**Regional courts**

		Cases to be resolved	Resolved	Of which						Adjourned	Remaining for the next period	
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court			
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	1	1	-	-	-	-	-	-	1	-	
	Men	2	-	-	-	-	-	-	-	7	2	
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code	Women	48	25	1	1	9	4	-	4	71	23
		Men	48	34	-	-	11	1	2	13	61	14
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code	Women	30	17	-	1	2	1	-	4	48	13
		Men	31	13	-	-	7	2	-	2	44	18
	Article 94 <sup>3</sup> , paragraph 4, of the Labour Code	Women	10	3	-	-	-	1	-	-	9	7
		Men	6	1	-	-	1	-	-	-	6	5
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		13	7	-	-	-	1	-	-	2	7	6

**Table 34 (continued)**

**2008**

**District courts**

		Cases to be resolved	Resolved	Of which						Adjourned	Remaining for the next period
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court		
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	10	9	-	4	2	-	-	-	14	1
	Men	3	2	-	8	-	-	-	2	-	1
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code										
	Women	149	80	5	-	28	6	3	8	253	69
	Men	93	49	5	-	13	1	1	7	113	44
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code										
	Women	161	88	4	12	30	2	2	11	290	73
	Men	89	54	1	4	20	5	2	7	134	35
Article 94 <sup>3</sup> , paragraph 4, of the Labour Code	Women	26	17	1	12	5	2	-	5	47	9
	Men	18	13	1	5	3	-	-	2	8	5
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		103	75	3	-	16	4	2	3	94	28

**Table 34 (continued)**

**Regional courts**

		Cases to be resolved	Resolved	Of which						Adjourned	Remaining for the next period	
				Allowed or partially allowed	Agreement reached	Dismissed	Returned	Rejected	Forwarded to another court			
For compensation for sexual harassment as one of the forms of discrimination at work, articles 18 <sup>3a</sup> , paragraph 6, and 18 <sup>3d</sup> , of the Labour Code	Women	2	1	-	-	-	-	-	-	3	1	
	Men	3	1	-	-	-	-	-	-	4	2	
For compensation and redress for mobbing	Article 94 <sup>3</sup> , paragraph 2, of the Labour Code	Women	44	23	1	1	9	1	1	4	55	21
		Men	31	15	2	-	5	2	-	6	48	16
	Article 94 <sup>3</sup> , paragraph 3, of the Labour Code	Women	32	14	1	-	3	1	-	5	57	18
		Men	28	11	1	1	2	2	1	2	24	17
	Article 94 <sup>3</sup> , paragraph 4, of the Labour Code	Women	13	4	-	-	-	-	1	1	16	9
		Men	7	3	-	-	2	1	-	-	14	4
Discrimination in employment: article 11 <sup>3</sup> of the Labour Code		13	7	-	-	-	-	-	-	3	20	6

264. While assessing the differences in remuneration of men and women in Poland, the results of surveys conducted by the European Commission regarding differences in remuneration of men and women in the European Union should be considered:

“As a result of all above mentioned gender inequalities on the labour market, there is a persisting gender pay gap in the EU. The gender pay gap (defined as the difference between men’s and women’s average gross hourly earnings as a percentage of men’s average gross hourly earnings) is estimated in 2007 at 17.4% on average in the EU. It exceeds 25% in two countries (EE and AT) and 20% in seven countries (SK, NL, CZ, CY, DE, UK and EL). However, it is below 10% in IT, MT, PL, SI and BE.

Following the communication adopted by the Commission in 2007, Eurostat, in collaboration with Member States, improved the methodology used to calculate the gender pay gap in the EU. Instead of a mix of various national sources, it is now an EU harmonized source (Structure of Earnings Survey) which is used, with the support of comparable national sources for the yearly estimates. It is to be noted that the apparent increase (from 15% in 2004, 2005 and 2006 with the old methodology to 17.4% in 2007 with the new one) does not correspond to a real increase of the indicator and is the result of the change in methodology.”<sup>5</sup>

265. Information on the average wage according to gender can be found in a sample survey on the structure of wages according to profession, conducted every two years. The most recent data were gathered in 2006. Data as of October 2008 will be available in December 2009.

**Table 35**

**Average wage according to gender and the profession group, in PLN**

	Sex	
	Men	Women
Average	2 903.68	2 385.68
Public authority representatives, senior officials and management	6 747.37	4 692.73
Specialists	3 977.82	2 977.55
Technicians and associate professionals	3 185.56	2 541.81
Office workers	2 222.34	2 140.52
Personal services and sales workers	1 641.77	1 390.85
Agriculture, gardening, forestry and fishery workers	1 840.59	1 601.58
Industrial workers and craftsmen	2 350.01	1 419.14
Plant and machine operators and assemblers	2 302.13	1 824.66
Workers performing easy tasks	1 666.44	1 415.00

<sup>5</sup> Commission staff working document accompanying document to the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Equality between women and men - 2009”, COM(2009) 77, p. 4.

**Table 36**

**Average wage according to gender, level of education, age,  
work experience and type of business activity, 2006**

A: in PLN; B: average = 100.0		Men	Women
Average of which according to:	A	2 903.68	2 385.68
	B	100.0	100.0
<b>Level of education</b>			
Higher education with at least PhD degree and Master's or physician's degree or equivalent	A	4 828.78	3 322.74
	B	166.3	139.3
Higher education with an engineer's, bachelor's, qualified economist's degree or equivalent	A	4 432.51	2 934.25
	B	152.7	123.0
Post-secondary	A	2 678.78	2 265.18
	B	92.3	94.9
Secondary vocational	A	2 623.10	2 110.24
	B	90.3	88.5
General secondary	A	2 492.55	2 124.54
	B	85.8	89.1
Vocational	A	2 165.93	1 463.54
	B	74.6	61.3
Lower secondary	A	1 795.05	1 355.47
	B	61.8	56.8
Primary and incomplete primary	A	2 087.52	1 509.67
	B	71.9	63.3
<b>Age</b>			
Up to 24 years	A	1 703.45	1 472.82
	B	58.7	61.7
25-34	A	2 665.77	2 235.76
	B	91.8	93.7
35-44	A	3 175.33	2 444.48
	B	109.4	102.5
45-54	A	3 024.93	2 505.73
	B	104.2	105.0
55-59	A	3 281.18	3 005.60
	B	113.0	126.0
60-64	A	3 754.57	3 210.95
	B	129.3	134.6
65 years and over	A	3 930.69	3 037.04
	B	135.4	127.3
Including in mobile age (18-44 years)	A	2 752.56	2 257.14
	B	94.8	94.6
<b>Work experience</b>			
Up to 1.9 years	A	1 921.56	1 624.55
	B	66.2	68.1
2-4.9 years	A	2 381.41	1 976.68
	B	82.0	82.9

**Table 36 (continued)**

A: in PLN; B: average = 100.0		Men	Women
5-9.9 years	A	2 920.91	2 351.82
	B	100.6	98.6
10-14.9 years	A	3 131.16	2 440.54
	B	107.8	102.3
15-19.9 years	A	3 041.02	2 438.03
	B	104.7	102.2
20 years and over	A	3 100.00	2 589.84
	B	106.8	108.6
<b>Polish Classification of Activity</b>			
Agriculture, hunting and forestry (A)	A	2 825.11	2 486.91
	B	97.3	104.2
Fishing (B)	A	2 285.38	1 961.65
	B	78.7	82.2
Industry (C+D+E)	A	2 890.94	2 108.21
	B	99.6	88.4
Mining (C)	A	4 533.41	3 101.48
	B	156.1	130.0
Manufacturing (D)	A	2 673.31	2 026.80
	B	92.1	85.0
Electricity, gas and water supply (E)	A	3 352.14	3 100.81
	B	115.4	130.0
Construction (F)	A	2 473.47	2 543.37
	B	85.2	106.6
Wholesale and retail trade, repair of motor vehicles, motorcycles and personal and household goods (G)	A	2 634.73	1 856.21
	B	90.7	77.8
Hotels and restaurants (H)	A	1 968.53	1 678.62
	B	67.8	70.4
Transport, storage and communication (I)	A	2 865.76	2 728.22
	B	98.7	114.4
Financial intermediation (J)	A	6 443.60	3 915.42
	B	221.9	164.1
Real estate, renting and business activities (K)	A	2 810.62	2 433.34
	B	96.8	102.0
Public administration and defence; compulsory social security and health insurance (L)	A	3 772.56	3 153.03
	B	129.9	132.2
Education (M)	A	2 948.86	2 499.30
	B	101.6	104.8
Health and social work (N)	A	2 972.81	2 288.07
	B	102.4	95.9
Other community, social and personal service activities (O)	A	2 589.14	2 260.04
	B	89.2	94.7

266. Below is a summary of the projects implemented in 2005-2008 and their objectives:

(a) Dissemination of knowledge about flexible forms of employment for women and increasing their motivation to actively participate in the labour market (Flexible Forms of Employment: Combining Career and Motherhood - media campaign, book publications and a website: [www.kobieta.gov.pl](http://www.kobieta.gov.pl));

(b) Creating positive attitudes among employers and women re-entering the labour market after giving birth or after maternity or childcare leave, presenting such women as good and efficient employees, as well as improving self-esteem in this group and increasing their motivation to enter and re-enter the labour market (Between Family and Work: How to Reconcile the Social and Professional Roles of Women - media campaign, TV commercials and billboards, book publications and a website: [www.kobieta.gov.pl](http://www.kobieta.gov.pl));

(c) Raising public awareness of the fact that women aged 45 and over are discriminated against on the labour market (45+ Wanted: Reliability, Involvement, Experience - media campaign, TV commercials and billboards, book publications and a website: [www.kobieta.gov.pl](http://www.kobieta.gov.pl));

(d) Promoting an entrepreneurial spirit among women, more active participation in society and the labour market, and motivating women to take action which will enable them to create jobs for themselves: providing knowledge on how to establish a business, where to find the finances to start it, and how to advertise the business (It Feels Great to Be a Resourceful Woman! - media campaign, television programme, TV commercials, book publications and a website: [www.kobieta.gov.pl](http://www.kobieta.gov.pl));

(e) Professional, educational and personal activation by creating local leaders who could stimulate activity in rural areas (Stereotypes Versus Equal Opportunities for Women and Men in Rural Areas - seminars, book publication and a website: [www.akademiakobiet.pl](http://www.akademiakobiet.pl));

(f) Improving awareness of the amended Labour Code - provisions on counteracting discrimination on the ground of gender (Promotion of Anti-Discrimination Provisions of the Labour Code - brochures, articles on the website: [www.kobieta.gov.pl](http://www.kobieta.gov.pl));

(g) Raising awareness with regard to the reconciliation of professional and family/private functions of women and men (Partnership within a Family: a Chance for Women on the Labour Market - workshops, conferences, a brochure): promoting the co-responsibility of women and men for their families and professional lives and a partner model of performing parental and home duties;

(h) Dissemination of study results of a study on aspects of life such as: violence, health, education, the labour market (Different Roles, Same Chances. Monitoring the Implementation of Gender Equality). The implementation of this project supported the redevelopment of the website [www.monitoring.rownystatus.gov.pl](http://www.monitoring.rownystatus.gov.pl) which offers information on various aspects of social life;

(i) Raising awareness as concerns the situation of women on the labour market (Woman - Family - Work - media campaign, television programme, a website [www.kobietawpracy.eu](http://www.kobietawpracy.eu), publications regarding the situation of women on the labour market;

(j) Analysing the situation of women in the following aspects: (a) diagnosis of the social and professional situation of women living in rural areas of Poland; (b) a multifaceted diagnosis of women on the labour market. The results gave a perspective on the different aspects of the position of women in the labour market and contributed to a modification of strategies focused on the development of their participation in the labour market.

267. The implementation of projects enabled the dissemination of knowledge on the most effective strategies and practices of combating phenomena on the labour market which are unfavourable to women and contributed to gaining social approval for the prepared systemic solutions, including further modernization of the Labour Code and the so-called family policy package.

268. Currently, two major systemic projects are being implemented (for 2008-2001).

269. The project Socio-economic Activation of Women on a Local and Regional Level aims to promote the idea of equal opportunities for women and men in access to employment as well as methods for its implementation among officers of labour market institutions and society as a whole, thereby improving the situation of women on the labour market.

Specific objectives:

- (a) Promoting a modern model of society in which women and men participate on equal terms;
- (b) Improving the position of women in socio-economic life, resulting in equal opportunities within the labour market, including equal remuneration;
- (c) Promoting issues related to equal opportunities on the labour market, reconciling professional and private life;

Planned measures:

- (a) Development of a training model regarding the implementation of an equal opportunities policy for labour market institutions partly based on the United Nations Development Programme "Gender mainstreaming in practice: a handbook";
- (b) Seminars for the key officers of all voivodship and powiat labour offices and other labour market institutions; 1,000 persons in total. Themes: gender mainstreaming, gender budgeting, counteracting gender and age discrimination, methods of improving professional activation of women, networking with social partners, possibilities for using funds of the European Social Fund in order to provide equal opportunities, strategies and international programmes;

- (c) Campaign Equal Opportunities on the Labour Market - identification and promotion of issues connected with women's three stages of functioning on the labour market: entering the market, remaining in it and leaving it. Within the framework of the campaign (press, radio, TV, Internet, contacts, networking with specific entities and publications), qualitative research will be conducted, the results of which will constitute a basis for promotional activities;
- (d) Analysis of the situation of women on the labour market, labour market institutions' activities, including their ways of managing the labour market, employers' and employees' attitudes, development of opportunities for social dialogue on equal opportunities in the labour market;
- (e) Internet portal - an information and promotional tool for equal opportunities, which will include the following elements:
  - Information regarding activation and equality of chances on the labour market: development of socio-economic activity, gender mainstreaming, gender budgeting, results and analyses of studies on functioning in socio-economic life and the resourcefulness of women, including women aged 50 and over, counteracting the discrimination of women in the labour market, Polish and European Union legislation regarding the provision of equal opportunities in the labour market
  - Database of good practices of institutions active in the field of equal opportunities on the labour market, inter alia, through counteracting unemployment and discrimination and facilitating professional activation
  - Forum enabling exchange of opinions, experiences, knowledge, best practices and needs as regards supporting the presence of women in the labour market; the forum will help labour market institutions to network and cooperate concerning the improvement of the situation on the labour market

Expected results:

- (a) Fighting stereotyped roles of women and men in society;
- (b) Achieving higher rates of professional activity among women;
- (c) Decreasing differences in remuneration;
- (d) Disseminating specialist knowledge on improving equal opportunities in the labour market;
- (e) Promoting training models regarding the implementation of the gender equality principle;
- (f) Raising awareness among officers of labour market institutions regarding issues related to gender equality on the labour market;

- (g) Creating a positive atmosphere for women, including those over 50 years old;
- (h) Networking of labour market institutions regarding their activities for the benefit of women;
- (i) Creating a knowledge base for institutional changes with regard to supporting women on the labour market, including those who are over 50 years of age.

270. The objective of the project Reconciliation of Work and Family Roles of Women and Men is to reduce the scale of the unwillingness to employ women with children, by developing models for reconciling these roles in order to establish legislation, regional policy and a policy encompassing the local labour market and enterprises (divided into small, medium and large enterprises). The review and promotion of good national and international practices, as well as a partner family model, is also planned through nationwide media campaigns. Another aim is to improve the qualifications of the officers of labour market institutions as regards negotiating and cooperating with clients in the local labour market to facilitate the professional activation of women.

Planned measures:

- (a) Studies and analyses:
  - (i) Of legal provision, including barriers and opportunities for reconciling professional and family roles in Poland and particular European Union countries as well as their implementation;
  - (ii) Of good practices as regards reconciling roles as one of the key elements leading to an equality of chances for women and men on the labour market, including a cost and profitability analysis divided by Poland and European Union countries, central, regional and local levels and enterprises; and the role of labour market institutions;
  - (iii) (Qualitative and quantitative) of employers and employees with regard to reconciling roles in order to determine expectations and legal and mental barriers in terms of introducing mechanisms of role reconciliation at the enterprise level;
  - (iv) Of households in terms of cultural and economic barriers for the implementation of role reconciliation policy, in order to develop guidelines for a nationwide promotional and educational campaign as well as guidelines for the development of a training module for employers and employees' organizations;
- (b) Feasibility analysis for good international practices regarding the reconciliation of roles and large-scale implementation of good national practices in accordance with Polish law; and the development of legislative proposals;

- (c) National and international study visits in enterprises implementing a role reconciliation policy, with the aim of improving good practice analyses;
- (d) Development of a National Road Map - recommendation package for successful implementation of the role reconciliation model for central, regional and local bodies, as well as labour market institutions. A nationwide conference promoting the National Road Map;
- (e) Database of good national and international practices in terms of implementation of role reconciliation, divided into central, regional and local levels, as well as enterprises (small, medium and large);
- (f) Information and educational activities in terms of role reconciliation: training for officers of public labour offices and representatives of employers and employees' organizations;
- (g) Promotional activities regarding the reconciliation of professional and family roles:
  - (i) Campaign promoting a partnership family model and mechanisms for role reconciliation. The campaign will include different promotional activities, such as a series of articles, printed in a nationwide newspaper devoted to socio-economic issues, presenting role reconciliation mechanisms, 2,000 posters and 14,000 brochures regarding a partnership family model which facilitates role reconciliation, TV commercials emitted in nationwide and regional TV networks, and regional information and educational programmes;
  - (ii) Sixteen conferences, one in each voivodship, promoting developed solutions and networking for public employment services and other labour market institutions;

Expected results:

- (a) Achieving higher rates of professionally active women;
- (b) Including role reconciliation issues in at least 80 per cent of local partnerships initiated by labour market institutions, resulting in increased financial and territorial access to institutionalized forms of childcare;
- (c) Implementing role reconciliation models in at least 200 workplaces as a benchmark for employer organizations;
- (d) Raising awareness as regards the opportunities for reconciliation of professional and family roles;
- (e) Developing a support model for reconciliation of professional and family roles at the central, regional, local and enterprise levels;

- (f) Initiating cooperation among public employment services and labour market institutions;
- (g) Increasing the general awareness of legislation, good practices and possible solutions;
- (h) Combating stereotypes regarding professional and family roles;
- (i) Initiating international cooperation.

271. A number of European Social Fund-supported projects supporting women on the labour market have been implemented. Examples of projects are as follows:

**2007**

- (a) Civil Initiatives Development Centre (CRIS), the Everyday Dad - Paternity Models in a Contemporary Silesian Family project: media campaign directed at young men and fathers with the aim of changing the stereotypes regarding male roles in private, family and professional lives; the project included radio broadcasts, TV commercials, interviews in the press and special CDs for local organizations dealing with those issues;

**2008**

- (a) Polish Association of the Deaf, Podkarpackie branch, the Professional Activation and Self-Esteem Improvement of Deaf and Hearing-Impaired Women over 50 programme: organization of professional training for deaf and hearing-impaired women, creation of support groups, provision of interpersonal training, individual professional counselling and a publication devoted to social and professional education. All materials were also prepared in an electronic version;
- (b) Fuga Mundi Foundation, Roadmap for Employment of Active Women programme, directed at disabled women over 50. Its aim was to improve their self-esteem as well as the labour market situation. Activation training was organized and conducted, an action plan was developed for each participant, home-care training and a job fair were organized, and an Internet site containing all respective information about the project was launched.

272. The following measures, among others, were undertaken in the framework of the European Year of Equal Opportunities for All (2007):

- (a) Equal Opportunities at Work project, European Meeting Centre - Nowy Staw Foundation. The research part of the project was focused on discrimination of the disabled in the labour market and the promotional part was directed at employers who support families and specifically the role of maternity. The aims of the project included: raising awareness of discrimination at work and the ways of counteracting it, creating an atmosphere of tolerance and

acceptance of diversity in the labour market among employees and employers and introducing good practices - examples of enterprises where employers represent a positive approach towards the disabled;

(b) Dissemination of Knowledge of Legal Provisions on Discrimination in the Context of Creating Interpersonal Relations at a Workplace, Śląsko-Dąbrowski division of NSZZ, "Solidarność". Its aim was to raise awareness of the law regarding discrimination, including discrimination on grounds of gender in the workplace, and the practical aspects of its implementation (conference, a series of seminars for social partners). A similar project (Employers Against Discrimination) was implemented by the Polish Confederation of Private Employers "Lewiatan";

(c) Training for Employers and Employees programme, Human Rights Centre of Jagiellonian University, drawing the participants' attention to the possibility of discrimination at work, including discrimination on grounds of gender, and training on how an employer should react to eliminate it. Information on employees' rights and equal treatment at work, regardless of gender, race or ethnic origin, religion, disability, age or sexual orientation. Legal consultation concerning counteracting discrimination was also offered.

273. The aim of the 2004-2008 Gender Index project was to improve the situation of women in the labour market by developing and popularizing an effective model of diversity management in a company, in particular taking into account gender equality policy. A tool has been developed under the project that can be used as an indicator of equal opportunities for women and men in the workplace and proper implementation of equal opportunities policies by an enterprise, and indicate areas in which equal opportunities policies have positive outcomes as well as those which still need improvement. Seven areas have been evaluated: employee recruitment, access to promotions and training, protection against severance, remuneration, protection against sexual harassment and mobbing and the possibility of reconciling professional and family duties. The project was directed at employers, managers, business representatives and human resources specialists, as well as women and men on the labour market. Other results: publication of the "Equal opportunities company good practice guide", research report and the first edition of the competition report "Equal opportunities company", the second research report and the second competition report, "Standards for the quality of training on gender diversity and diversity management in the European Union and on equal opportunities policy for women and men", "How to gain and maintain an employee in an organization" and the Gender Index's Trainer's Manual. Forty-two conferences, seminars and meetings were held as a part of the project.

***Question 17. Please indicate whether the national monthly minimum wage provides an adequate standard of living for workers and their families. Please provide recent statistical data on the number of workers receiving wages equal to or lower than the minimum level (E/C.12/POL/5, paras. 166-181 and 924-927).***

274. The principles for setting a minimum wage are laid down in the Act of 10 October 2002 on the Minimum Wage, which sets the minimum obligatory limit of annual growth of the minimum wage. The decision on maximum growth is made at the discretion of the Tripartite Commission for Socio-economic Affairs, which defines the growth by reaching an agreement. A guaranteed

minimum growth means a growth at least equal to the forecasted inflation rate for a given year increased by two thirds of the index of forecasted real GDP growth, if the minimum wage for the first quarter of the year in which the minimum wage for the following year is negotiated is lower than half of the average wage. The trade union side of the Tripartite Commission has been opting for the solution which would make the minimum wage dependent on the average wage in the national economy, the appropriate proportion being 40 per cent and ultimately not lower than 50 per cent.

275. The minimum wage for 2008 and 2009 was determined as 40 per cent of the forecasted average wage for the following year. It led to a substantial growth of the minimum wage: in 2008 it rose by 20.3 per cent (from 936 PLN to 1,126 PLN) and in 2009 it grew by 13.3 per cent (to 1,276 PLN).

276. The Government, while submitting a proposition for the minimum wage for the following year to be negotiated by the Tripartite Commission, also submits information on the economic situation of the country considering the situation of the national budget, requirements for the economic growth policy, work productivity rate and the necessity to maintain a high level of employment. The Government also submits various statistical data regarding changes of prices of consumer products and services, levels of remuneration, household spending, as well as macroeconomic indicator forecasts for the following year.

277. As a result of a significant increase in the minimum wage, the relation between the minimum net wage and the social minimum level has improved. While in 2006 the minimum net wage constituted 81 per cent of the social minimum for one person, in 2008 this relation increased to 99 per cent. The minimum wage for 2009 is estimated to exceed the social minimum for one person.

278. In December 2006, 2.3 per cent of employees received remuneration equal to the minimum wage. Among these, 21.6 per cent were paid at the sub-minimum level.

279. A biannual survey carried out by Central Statistical Office provides detailed information on employees receiving the minimum wage. The 2006 survey results indicated that the group receiving the minimum wage is almost equally divided into men and women, and consists mainly of industry workers, craft workers, service workers and sales persons, a vast majority of whom (98.2 per cent) are employed in the private sector, in small companies (up to 49 persons) in the areas of manufacturing, wholesale and retail trade, repair of motor vehicles and personal and household goods, are 39 years of age or under, have secondary education and 14 years of work experience.

***Question 18. Please comment on the effectiveness of the State Labour Inspectorate (PIP) in monitoring the implementation of the health and safety legislation, especially in the field of agriculture, construction industry and mining, where the majority of fatal accidents occur. Please also provide recent statistical data, disaggregated by branch of activity, on the number of fatal and serious accidents at work (E/C.12/POL/5, paras. 195-209 and 928-933).***

280. PIP is the authority competent for the supervision of compliance with the Labour Code, in particular the regulations regarding health and safety at work. Until 30 June 2007 its

organization, tasks and competences were laid down in the Act of 6 March 1981 on the National Labour Inspectorate; however, on 1 July 2007 the Act of 13 April 2007 on the National Labour Inspectorate came into force that adjusts the forms and scope of PIP responsibilities to new requirements resulting from the development and differentiation of legal and organization forms of employing entities. At the same time, PIP's control competence was broadened, control and supervision procedures were improved and sanctions against employers infringing the rights of persons in paid employment were tightened. PIP remains under the jurisdiction of the Sejm of the Republic of Poland.

**Table 37 (a)**

**Inspections conducted by PIP**

**2007**

	Total	Public sector	Private sector
Number of inspections	80 525	9 417	70 671
Number of inspected entities	61 289	6 975	53 822
Number of employees in the inspected entities, including: - women - juveniles	4 461 333 1 392 964 21 704	1 663 570 587 415 1 570	2 789 551 799 585 20 131
Number of decisions	369 483	36 049	333 336
Number of motions	50 606	5 996	44 600
Number of identified infringements of which from article 283 of the Labour Code	76 508 44 017	4 488 2 075	71 972 41 910
Number of imposed fines	21 468	1 188	20 269
Number of petitions for punishment filed to courts	3 608	235	3 368
Number of educational measures applied	4 809	635	4 173

**2008**

	Total	Public sector	Private sector
Number of inspections	80 515	9 174	70 064
Number of inspected entities	59 355	6 113	52 979
Number of employees in the inspected entities, including: - women - juveniles	3 803 376 1 692 745 24 408	1 317 742 730 017 2 373	2 479 921 979 537 22 030
Number of decisions	364 237	33 780	330 353
Number of motions	53 692	6 089	47 522
Number of identified infringements of which from article 283 of the Labour Code	79 161 43 873	4 530 1 926	74 585 41 918
Number of imposed fines	19 629	981	18 639
Number of petitions for punishment filed to courts	5 074	272	4 796
Number of corrective measures	7 312	818	6 490

**Table 37 (b)**

**Employees injured in work-related accidents, broken down  
by national economy sections<sup>1</sup>**

a = 2006 b = 2007 c = 2008 - initial estimates	Total number of injured		Injured in accidents			Total number includes		Number of days of work incapacity	
	In absolute numbers	Percentage	Fatal	Serious	Minor	Women	Juveniles		
Total	a	95 462	100.0	493	976	93 993	26 737	141	4 147 170
	b	99 171	100.0	479	975	97 717	27 582	165	4 084 929
	c	104 402	100.0	523	902	102 977	29 717	172	3 638 805
A. Agriculture, hunting and forestry	a	1 785	1.9	16	26	1 743	353	3	86 295
	b	1 682	1.7	23	26	1 633	341	-	79 442
	c	1 870	1.8	28	18	1 824	395	-	75 394
B. Fishing	a	55	0.1	-	1	54	4	-	2 682
	b	38	-	-	1	37	8	-	1 798
	c	35	-	1	-	34	2	-	989
C. Mining and quarrying	a	2 928	3.1	29	21	2 878	60	-	193 749
	b	3 173	3.2	26	32	3 115	57	-	133 250
	c	3 180	3.0	30	26	3 124	35	-	183 997
D. Manufacturing	a	37 841	39.6	127	426	37 288	6 621	68	1 602 534
	b	40 753	41.1	122	388	40 243	7 700	79	1 671 820
	c	42 047	40.3	107	385	41 555	8 223	71	1 426 468
E. Electricity, gas and water supply	a	2 102	2.2	12	16	2 074	221	1	94 587
	b	2 025	2.0	22	19	1 984	181	1	87 355
	c	1 850	1.8	15	16	1 819	185	1	67 775
F. Construction	a	7 883	8.3	113	170	7 600	180	9	442 410
	b	8 895	9.0	92	206	8 597	189	23	466 065
	c	9 937	9.5	122	164	9 651	240	24	427 286
G. Wholesale and retail trade, repair	a	9 758	10.2	43	99	9 616	3 542	43	388 826
	b	10 489	10.6	54	95	10 340	3 935	43	395 404
	c	11 925	11.4	58	82	11 785	4 520	44	369 773
H. Hotels and restaurants	a	997	1.0	-	5	992	563	6	35 101
	b	1 171	1.2	1	9	1 161	661	15	37 804
	c	1 245	1.2	2	11	1 232	699	17	35 161
I. Transport, storage and communication	a	6 471	6.8	72	57	6 342	1 086	4	312 785
	b	6 512	6.6	61	44	6 407	1 107	4	295 124
	c	6 778	6.5	80	67	6 631	1 220	2	247 625
J. Financial intermediation	a	947	1.0	4	4	939	640	-	30 118
	b	874	0.9	4	8	862	588	-	26 175
	c	972	0.9	7	2	963	657	-	25 752
K. Real estate, renting and business activities	a	5 952	6.2	30	49	5 873	1 965	3	244 422
	b	5 709	5.8	30	47	5 632	1 887	-	232 305
	c	6 063	5.8	27	43	5 993	2 245	4	204 673
L. Public administration and defence, compulsory social security and health insurance	a	3 608	3.8	14	25	3 569	1 732	-	139 636
	b	3 652	3.7	9	24	3 619	1 771	-	136 474
	c	3 820	3.7	9	29	3 782	1 904	3	120 318
M. Education	a	4 078	4.3	10	19	4 049	2 795	2	156 942
	b	3 943	4.0	11	18	3 914	2 698	-	142 444
	c	4 296	4.1	10	16	4 270	2 941	1	134 450
N. Health and social assistance	a	8 485	8.9	10	24	8 451	6 265	-	301 896
	b	7 797	7.9	4	27	7 766	5 808	-	276 270
	c	7 640	7.3	8	17	7 615	5 656	1	225 399
O. Other community, social and personal service activities	a	2 572	2.7	13	34	2 525	710	2	115 187
	b	2 458	2.5	20	31	2 407	651	-	103 199
	c	2 744	2.6	19	26	2 699	795	4	93 745

<sup>1</sup> Excluding persons employed in individual agricultural households.

281. Accident information should be interpreted in the context of data regarding the economic situation. According to the Central Statistical Office, real GDP growth for 2007 was 5.8 per cent as compared to 5.2 per cent in 2006. The output of industry in 2008 was 3.3 per cent higher than in the previous year. The output of enterprises employing more than nine employees was 3.5 per cent higher when compared to 2007. Construction and assembly output including investments and renovations carried out by enterprises employing more than nine employees was 12.9 per cent higher in comparison to 2007. In 2008, the output in all construction businesses increased by 11 per cent. At the same time, labour migration led to a deficiency of highly qualified and experienced employees in the economy. This resulted in the phenomenon of employing “random”, inexperienced and not properly qualified employees. All the above factors contributed greatly to the increase in the number of accidents in 2008.

282. In 2004, PIP implemented a pilot campaign regarding safety in construction work that encompassed 2,500 small and medium establishments. The number of small establishments inspected was increased and an information campaign and training for employers, construction engineers and construction site managers was launched. The campaign was also directed at vocational construction schools, trade unions, professional associations and employers’ organizations. Those activities were followed by PIP in 2005 in the framework of a nationwide campaign in the construction sector - Safety of Work in the Construction Sector 2005. In 2006, the undertaken measures were reviewed. There has been noticeable technological progress in the construction sector, as well as an improvement in the level of vocational training of employees (including the level of knowledge on safe working methods). Results of the PIP campaign also indicate that, in larger establishments employing over 50 employees and developing large investment projects, safety at work is ensured to a greater extent than in small establishments. Large companies were also more willing to participate in the part of the campaign devoted to prevention, and scoring good results in terms of improvement of health and safety conditions at work.

283. Preventive actions of PIP, focused on improving the situation in the construction sector, are planned for 2009-2011. Accident analyses of construction sites indicate that the reduction of accidents connected with working at height (over 50 per cent of fatal accidents in construction and almost 10 per cent in the national economy) is of great importance. Therefore, the 2009 information campaign, in conjunction with inspections, is focused on the risks of falling from a height. Work on roofs and external walls of buildings is inspected in every detail. Inspections are preceded by sending information about a possible visit of a PIP officer with a survey - a tool for self-inspection for the employer. Employers have the opportunity to participate in a preventive programme by assessing, together with a PIP officer, the working conditions in their company and undertaking appropriate corrective measures. All groups participating in the construction process (investors, designers, employers, construction site managers, foremen, employees) will receive information that will be complemented by an extensive social campaign.

284. In 2004-2006, 92 establishments, in which a serious violation of standards for harmful factors had been ascertained, and at which a considerable number of occupational diseases and a high rate of accidents had been discovered, were included by PIP in an intensified supervision programme. In 2006, 76 establishments employing 81,700 employees (including 15,700 women and 62 juveniles) were included in the intensified supervision programme. In the case of 16 establishments, the intensified supervision was terminated as a result of bankruptcy (2 establishments), organizational structural changes and outsourcing of the production abroad

(2 establishments), or improvement of working conditions (12 establishments). The officers' findings indicate that, in 2006, 40 per cent of employees in those establishments (37 per cent in 2005, and 43 per cent in 2004) were working in hazardous conditions as a result of environmental factors, strenuous work and mechanical factors (particularly dangerous machinery). In most companies, employees were exposed to a number of harmful factors at the same time.

**Table 38**

**Work accidents in establishments under intensified supervision**

	2004	2005	2006
Total	2 087	2 053	1 981
Fatal	6	10	8
Serious	23	17	10
Frequency index	21.8	23.4	24.2

285. A total of 144 occupational diseases were diagnosed in those establishments. The most frequent diseases were, as in the previous years, pneumoconiosis (76 cases) and hearing loss (33 cases). The incidence rate (number of occupational diseases per 100,000 employees) amounted to 177. The structure of occupational diseases proves that excessive noise and industrial dust remain the most serious occupational hazards in many establishments.

**Table 39**

**Occupational diseases in establishments under intensified supervision**

	2004	2005	2006
Total	201	125	144
Hearing loss	61	33	33
Vibration white finger	7	7	5
Pneumoconioses	105	65	76
Skin diseases	1	3	3
Incidence rate	210	143	177
Number of diseases diagnosed in retired persons and pensioners	159	81	87

286. The analysis of the inspection results indicates that, over a period of three years, the following were improved: employing employees in conditions exposing them to harmful factors, maintaining and organizing an internal transport system, ventilation, air conditioning and lighting maintenance and operation of energy appliances and installations; nevertheless, the scale of irregularities is still considerable. Several positive trends were also acknowledged in warehousing and storage of materials, as well as in pre-service training. No improvement has been achieved as regards the adjustment of machinery and technical equipment to health and safety requirements, the most frequently noticed reasons including lack of shields, inoperative or improperly located safety switches and no technical or operational documentation. The main reason for this lies in insufficient funds for modernization or the purchase of new, safer machines and equipment.

287. All employers inspected in 2006 had conducted an occupational risk assessment and in only 10 cases was this analysis incomplete. In 98 per cent of establishments, employees were informed about the occupational risk connected with their work. Where the assessment revealed an unacceptable risk, the employers undertook corrective or preventive measures at the working posts (75 per cent of establishments). A total of 74 establishments had services for health and safety at work, and 50 had a social labour inspection. Commissions on health and safety at work were created in 56 establishments, although the employment conditions in some of them did not oblige the employers to do so. Altogether, 80 per cent of the inspected establishments underwent work post-assessment and periodical health and safety inspections.

288. PIP officers advised employers on the most hazardous factors and instructed them on how to improve working conditions. They were also promoting safe work management systems, since a systematic approach to management of health and safety at work has been proved to be the most effective method of improving safety at work. Enterprises that were awarded a certificate of safety management at work, such as the Murcki coal mine in Katowice, are the best examples. Other plants have also begun implementing such systems, such as the Bielszowice coal mine in Ruda Śląska, the Pokój coal mine in Ruda Śląska, and the Piekary mining plant in Piekary Śląskie. The reasons for the existing irregularities, according to the PIP officers, result not only from insufficient funds for renovations (modernizations), but also from the lack of legal solutions encouraging employers to invest in health and safety at work (tax advantages, social insurance credits and lower social insurance premiums), as well as from a lack of knowledge, or sometimes negligence, as regards the regulations for health and safety at work. Insufficient employment also leads to organizational problems.

289. In the programme for 2007-2009, 76 establishments, including 37 establishments covered by the 2004-2006 programme, were under intensified supervision. They operate in different sectors and are characterized by serious violations of harmful factors standards, a considerable number of occupational diseases and high accident rates. Over 24,100 employees were working in hazardous conditions, exposed to environmental risk factors, strenuous work and particularly dangerous machinery. In most companies they were exposed to a number of harmful factors at the same time. In 2007, 1,274 accidents were registered in the establishments under intensified supervision, 1 of which was fatal and 14 led to grievous bodily harm. The accident frequency index in those establishments was more than three times greater than that of the entire economy, and in 2007 amounted to 28 cases. In the case of three employers who recorded an increase in the number of accidents and who failed to comply with the decisions to decrease the impact of harmful factors on their employees, the PIP officers submitted motions to the Social Insurance Institution to raise the accident insurance premiums by 100 per cent. A total of 108 occupational diseases were registered in the establishments under intensified supervision. The most frequent ones include: 61 cases of pneumoconiosis (out of which 53 were in coal mines), 21 cases of hearing loss, 7 cases of vibration white finger, and 2 cases of chronic bronchial diseases. The annual incidence rate (number of occupational diseases per 100,000 employees) was 176 and surpassed the rate for the entire economy.

290. Altogether, 71 establishments had services for health and safety at work, and 41 had social labour inspections. Commissions on health and safety were created in all establishments that were obliged to do so, although in four, the commission failed even to inspect the work posts.

291. All inspected employers conducted an occupational risk assessment; in 16 cases, however, this analysis was incomplete. Assessment updates pose a particular problem, especially after accidents at work and modernization or exchange of machinery, as well as after measurement of harmful factors that indicate exceeded Threshold Limit Values (noise, vibrations, fibrosis-inducing industrial dusts). The principle that assessment should be verified every time an accident takes place and following each introduction of a new technology was often ignored. Five establishments failed to implement preventive measures included in post-accident reports, and nine did not conduct workplace accident analyses. The proposed preventive measures were very often inadequate to the cause and circumstances of the accidents.

292. Employers' non-compliance with the obligation to adjust the machinery to minimum requirements was a problem in the inspected establishments. Frequently, the dangerous zones are not restricted in any way, leading to an increase in the number of accidents at work. Financial limitations declared by the employers, the main cause of irregularities connected with non-compliance of machinery and equipment with the health and safety requirements at work, also influence the condition of the premises, both inside and outside. Certain irregularities also stem from improper work organization, incorrect working methods, negligence of hazardous conditions, lack of supervision and a low level of knowledge and awareness of hazards among the management and employees, despite conducted training.

293. Intensified and more frequent inspections will ensure the elimination of those irregularities and force employers to pay more attention to employees' safety; this result can be observed in the companies that were under intensified supervision for a number of years. Inspections supported by preventive and promotional activities will be continued in this group of establishments.

294. In 2008, mining inspectorates supervised and controlled the following establishments (as regards basic minerals): 42 sub-surface mining plants, 10 sub-surface mining plants applying underground mining techniques, 108 open-pit plants, 66 borehole plants, 337 divisions conducting geological works, 4,881 common minerals mining plants, and 1,461 branches of service providers for mining plants. The number of employees in those establishments was 201,080.

**Table 40**  
**Accidents in basic minerals mining, 2008**

	Fatal accidents		Serious accidents		Total	
	2008	2007	2008	2007	2008	2007
Coal mining plants	24	16	19	18	2 551	2 505
Copper ore mining plants	4	7	1	6	635	651
Zinc and lead ore mining plants	1	1	0	1	21	24
Salt mining plants	0	0	0	0	29	
Lignite mining plants	0	0	1	1	58	62
Open-pit mining plants (except for lignite)	0	0	0	0	12	
Borehole mining plants	0	0	0	0	3	
Others	1	0	1	1	28	50
Total	30	24	22	27	3 337	3 343

295. In common minerals mining, a total of 31 accidents were registered, including 2 fatal and 5 serious ones, as opposed to 37 accidents registered in 2007, including 5 fatal and 2 serious ones.

**Table 41**

**Occupational diseases in mining**

	2004	2005	2006	2007	2008
Number of occupational diseases	655	532	569	608	610
Number of occupational diseases per 100,000 employees	328.9	281.7	309.1	336.61	N/A

**Table 42**

**Occupational incidence structure in mining, 2008**

	Number of diseases	Percentage
Pneumoconiosis	466	76.4
Permanent hearing loss	75	12.3
Vibration white finger	34	5.6
Chronic bronchitis	2	0.3
Other occupational diseases	33	5.4
Total	610	100

296. While assessing the state of health and safety at work, which is still insufficient, it should be remembered that mining, quite naturally, involves working in an exceptionally harmful environment. Work-related hazards in mining are common and particularly serious. Most of the employees in this sector work in hazardous conditions and, as a result, the occupational incidence rate is high.

**C. Article 8. Trade union rights**

***Question 19. Please indicate whether there are any restrictions to the right to form or join trade unions, including for workers on individual contracts. Please also provide information on restrictions to the right to organize for civil servants and explain why civil servants cannot perform functions within trade unions (E/C.12/POL/5, paras. 227-228 and 258).***

297. In accordance with article 86 of the Act of 23 December 1994 on the Supreme Chamber of Control (NIK), employees supervising or performing control activities can join trade unions open to NIK employees only. Only one trade union can be active in the NIK. The president of the NIK, vice-presidents, director-general, department directors and deputy directors as well as the NIK president's advisers have no right to participate in trade unions.

298. In accordance with article 178 of the Constitution, judges have no right to participate in trade unions.

299. The President of the National Bank of Poland is not allowed to join a trade union in accordance with article 227, paragraph 4, of the Constitution.
300. In accordance with article 209, paragraph 3, of the Constitution, the Commissioner for Civil Rights Protection cannot join a trade union.
301. The members of the National Council of Radio Broadcasting and Television cannot participate in trade unions in accordance with article 214, paragraph 2, of the Constitution.
302. In accordance with article 10, paragraph 2, of the Act of 29 August 1997 on Personal Data Protection, the General Inspector for the Protection of Personal Data cannot join a trade union.
303. Internal Security Agency and Intelligence Agency officers cannot join a trade union in accordance with article 81, paragraph 2, of the Act of 24 May 2002 on the Internal Security Agency and Intelligence Agency.
304. In accordance with article 58 of the Act of 16 March 2001 on the Government Protection Bureau, its officers cannot join a trade union.
305. Soldiers in active service cannot form or join trade unions or participate in the activities of trade unions that they were members of at the time of their enrolment (article 65, paragraph 5, of the Act of 21 November 1967 on the Common Duty to Protect the Republic of Poland).
306. In accordance with article 108 of the Act of 11 September 2003 on the Military Service of Professional Soldiers, professional soldiers cannot form or join trade unions and any hitherto membership in a trade union is terminated on the day of commencement of the professional military service.
307. Military Counterintelligence Service and Military Intelligence Service officers cannot form or join a trade union (article 40, paragraph 2, of the Act of 9 June 2006 on Military Counterintelligence Service and Military Intelligence Service).
308. In accordance with article 73, paragraph 3, of the Act of 3 March 2006 on the Central Anticorruption Bureau, Bureau officers have no right to join a trade union.
309. In accordance with article 67 of the Act of 6 April 1990 on the Police, police officers have the right to form a police trade union. The provisions of the Act on Trade Unions apply accordingly, with the reservation that there can be only one trade union in the police and it does not have the right to go on strike.
310. The Act of 26 April 1996 on Prison Service stipulates that Prison Service officers can join the Prison Service officers' trade union (art. 14) and the provisions of the Act on Trade Unions apply accordingly, with the reservation that there can be only one trade union in the Prison Service and it does not have the right to go on strike.
311. Article 72 of the Act of 12 October 1990 on the Border Guard stipulates that border guard officers can join the border guard officers' trade union and the provisions of the Act on Trade Unions apply accordingly, with the reservation that there can be only one trade union in the border guard and it does not have the right to go on strike.

312. In accordance with article 58, paragraph 2, of the Act of 24 August 1991 on the State Fire Service, fire fighters occupying posts on the basis of a nomination (enlisted in the Act) cannot perform any functions in trade unions and are not protected in the way referred to in article 32 of the Act on Trade Unions.

313. A new Act on Civil Service was passed on 21 November 2008 according to which only civil service members occupying a high civil service post cannot perform any trade union function (article 78, paragraph 6, of the Act). High civil service posts include:

(a) The director-general of the office;

(b) The person in charge of a department or unit of equal status in the Chancellery of the Prime Minister, in a ministerial office, an office serving the head of a committee being a member of the Council of Ministers, a government administration central office, as well as a person in charge of a department and unit of equal status in a voivodship office and the deputies thereof;

(c) The voivodship veterinary officer and the deputies thereof;

(d) The person in charge of organizational units in the Office for Registration of Medicinal Products, Medical Devices and Biocide Products and Office for Forest Seed Production, and the deputies thereof.

***Question 20. Please provide additional information on the possibility of employers in extreme financial difficulties to suspend, with the consent of the enterprise-level trade union, the application of a collective agreement for a period of up to three years, and indicate how the rights of workers under articles 6, 7 and 8 of the Covenant are protected during the suspension of such agreements.***

314. The possibility of suspending the application of a collective labour agreement does not reduce the extent of the protection of the workers' rights resulting from the Covenant. In case of suspending the application of an agreement concluded on the company level, the right to work, possibility of maintaining oneself and the right to just conditions of work are protected by generally binding provisions of the Labour Code and other Acts, including the Act on the Minimum Wage. The suspension of the application of the agreement does not influence the right to form and join trade unions.

315. Article 241<sup>27</sup> of the Labour Code provides for the possibility of concluding an understanding to suspend, in part or in whole, for a period no longer than three years, the application of a company agreement and supracompany agreement or one of them at a given employer's establishment, due to the employer's financial situation. The understanding on suspension is subject to the register of company collective agreements or the register of supracompany collective agreements, respectively. The parties to the understanding provide the parties to the supracompany collective agreement with information on the application to suspend such agreement. The provision refers to the "financial situation of the employer" without specifying its nature. However, the wording of these provisions suggests that it refers to a difficult situation. Both parties to the agreement have to decide whether the situation should be qualified as subject to article 241<sup>27</sup> of the Labour Code (thus, the employer may not decide by himself).

316. Pursuant to article 241<sup>27</sup>, paragraph 3, of the Labour Code, the terms of employment contracts and other legal instruments under which an employment relationship is established, resulting from a supracompany agreement and company agreement, do not apply within the scope and in the period provided for in the understanding. Therefore, the suspension application refers only to the negotiated sources of the Labour Code (in this case - sources regarding the arrangement). Article 9<sup>1</sup>, paragraph 1, of the Labour Code excludes the possibility of suspending the application of generally binding legal provisions (the Labour Code, other Acts or executory provisions). The provisions of employment contracts and other Acts, which have no basis in the agreement, are not subject to the suspension.

317. The understanding may not lead to the violation of article 9 of the Labour Code, thus, it may not limit the statutory rights of employees, or infringe the principle of equal treatment in the field of employment. Pursuant to article 9, paragraph 2, of the Labour Code, the provisions of collective labour agreements and collective arrangements may not be less favourable to employees than the provisions of the Labour Code and other Acts and executory provisions. It appears that as a result of excluding the binding force of more favourable provisions contained in the collective agreements, the provisions and guarantees resulting from the Labour Code, Acts and executory provisions “enter” in their place.

318. When the period of the agreement suspension expires, the suspended provisions automatically become binding.

319. So far, the possibility of suspending the agreement has not been widely applied. In cases where the possibility was explored, the agreement provisions regarding the benefits related to work, for example jubilee awards, were suspended.

#### **D. Article 9. The right to social security**

***Question 21. Please provide information on the steps taken by the State party to ensure equal access to social security benefits without any discrimination based on grounds other than those indicated in the 1998 Act on the Social Security System (gender, marital status and family status).***

320. The protection against discrimination provided for in article 2a of the Act of 13 December 1998 on the Social Security System has its origin in the Constitution. Pursuant to article 32 of the Constitution, all persons are equal before the law, all persons have the right to equal treatment by public authorities and no one can be discriminated against in political, social or economic life for any reason whatsoever.

321. The equality principle also means the right to equal treatment by public authorities. There are no deviations or exemptions from the equality principle set out in the Constitution, and the equality of rights refers not only to its formal meaning, but also its material meaning, which means that persons in the same or similar factual situation are treated equally or similarly by the law. Within the framework of the pensions authority activity, this means connecting adequate elements of the factual situation with the nature of the regulated legal relations, taking into account criteria which are the basis for differentiating the insured or the basis for the prohibition of such differentiation. It is prohibited to differentiate the insured on the basis of the so-called rigid criteria, especially race, skin colour, gender, language, religion, political or other views,

national or social origins, material situation and birth. Consequently, when meeting with the same or similar situations, the pensions authority interprets the law in the same way and afterwards subsumes in the same way the facts relevant for a particular case. Thus, Polish authorities ensure equal access to social security benefits, thereby fulfilling the requirements provided for in article 9 of the Covenant.

**Question 22. Please indicate what measures the State party has taken to review the minimum amount of unemployment benefits so as to ensure that it provides an adequate standard of living to beneficiaries who are not entitled to other social security benefits (E/C.12/POL/5, para. 316).**

322. When amending the Act of 20 April 2004 on Employment Promotion and Labour Market Institutions, which entered into force on 1 February 2009, the payment system for unemployment benefits was modified. The amount of unemployment benefit was raised, which led to a decrease in the difference between the levels of unemployment benefit and the minimum wage. A degressive principle has been also introduced: in the first phase of unemployment a person receives 100 per cent of the benefit, i.e. 717 PLN monthly. After three months, the benefit is decreased to 563 PLN monthly.

323. The new solution aims to rationalize the expenses from the Labour Fund for the so-called passive support forms and should encourage the unemployed to look for work and undertake adequate activities.

324. Regulations on unemployment benefits will enter into force on 1 January 2010.

**Question 23. Bearing in mind the Committee's general comment No. 19 (2007) on the right to social security, please provide disaggregated data on the number of persons and families who are not covered by the social security system, for example persons working in the informal economy, and on the measures adopted by the State party to ensure, to the maximum of its available resources, an adequate protection from social risks and contingencies.**

### **Health insurance**

325. It should be noted that 99 per cent of persons are covered by the general health insurance. There is no data on persons and families who are not covered by the social insurance system, including those who work in the so-called informal sector.

326. The obligatory health insurance guarantees general access to health care financed from public resources. For some of the insured, the contribution is paid from public resources. Persons who are not covered by the obligatory health insurance are provided with:

- (a) Voluntary insurance within the general health insurance;
- (b) Periodical access to services - persons living in poverty;
- (c) Access to services - some social groups;
- (d) Access to services for persons suffering from certain diseases.

327. Persons who are not covered by the obligatory health insurance may insure themselves on a voluntary basis, if they are resident in Poland. Members of their families are covered by voluntary insurance as well. In 2006, voluntary insurance covered 33,336 persons, including 5,276 family members. The voluntary insurance covers also volunteers, i.e. persons who willingly and without any remuneration perform services in accordance with the principles specified in separate provisions. The entity enjoying the volunteer's work (for example an NGO) may register that person for health insurance, provided that they are not covered by health insurance on other account. The basis for calculating the contribution level is the amount equivalent to the minimum wage; the contribution is paid by the submitting entity.

328. Since 2004, Polish citizens who are not covered by the obligatory or voluntary health insurance and whose income does not amount to the income criterion specified in the provisions have access to health care on the basis of the decision made by a local authority. The decision entitles a person to make use of the services for 90 days from the day it was issued. If the treatment lasts for more than 90 days, the person concerned may make use of the services on the basis of the decision that follows. The local authority may issue the decision on the interested person's application, ex officio or on the application of the National Health Fund. The Minister of Health covers the cost of services.

329. In 2006, the number of persons who were not insured and lived in poverty and who made use of health-care services financed from public resources amounted to 3,634. The cost of services came to 11.038 million PLN.

330. All children with Polish citizenship have access to health care financed from public resources. In cases where they are covered by the general health insurance, the services they are provided with are financed by the National Health Fund; in the case of children not covered by the insurance, the costs of services are covered by the State budget. Similar solutions are applied in the case of Polish female citizens during the pregnancy and post-natal period.

331. Persons without insurance can make use of health-care services related to the treatment of alcohol or drug addiction, particular infectious diseases (a list of 59 diseases) and psychiatric illnesses.

### **Disability and retirement pension insurance**

332. Pursuant to article 83 of the Act on the Social Security System, in case the pensions authority becomes aware that the contribution payer failed to comply with the obligation of filing social insurance notification, it issues a decision on the insurance liability. The decision of the pensions authority may be appealed in the common court.

333. Actions were taken to increase and rationalize insurance protection, due to the dynamically changing economic situation, the increasing diversity of work performance forms and methods of gaining income, but also in order to ensure adequate protection against risks and contingencies. The draft amendment of the Act on the Social Security System is currently being examined by the Sejm of the Republic of Poland (April 2009 - the amendment was passed by the Sejm and is being examined by the Senate of the Republic of Poland).

334. The draft submitted to the Sejm included the following amendment propositions:

- (a) Amendments with regard to social insurance liability during the period of receiving maternity benefit or a benefit in the amount equal to maternity benefit in case it coincided with another insurance

So far, persons receiving maternity benefit or benefit in the amount equal to maternity benefit were subject to disability and retirement pension benefits financed from the national budget, provided that they were not performing other activities entitling them to social insurance and were not entitled to the disability or retirement pension. According to the amendments, during the period of receiving maternity benefit or the benefit in the amount equal to maternity benefit, persons engaged in outwork, persons working on the basis of an agency or contract job agreement, persons performing non-agricultural business activities (and cooperating with them), persons performing paid work on the basis of the work assignment while serving a prison sentence, and members of the clergy will be subject to the obligatory disability and retirement pension insurance for receiving maternity benefit (benefit in the amount equal to maternity benefit), regardless of the established right to disability or retirement pension. On request, the above persons will be covered by the disability and retirement pension insurance. Persons who are subject to the obligatory disability and retirement pension insurance for receiving maternity benefit (benefit in the amount equal to the maternity benefit) and who became employees, cooperative members, and officers of the Customs Service, will not lose this insurance. They will, however, be subject to the insurance on both accounts. This regulation refers to situations in which women take up employment in the period of receiving the maternity benefit;

The Sejm of the Republic of Poland adopted the proposed amendments;

- (b) Extending the obligatory accidents at work and professional diseases insurance also to contractors performing their work outside the premises of their employer

The draft amendment aimed to include contractors performing their work outside the premises of their employer in the obligatory insurance for accidents at work and occupational diseases. As a result, all contractors were supposed to be covered by the insurance, in the same way as employees are covered, regardless of the place at which the work is performed. Hitherto, contractors were subject to compensation insurance if they performed their work at the premises of their employer;

The Sejm of the Republic of Poland rejected the proposed amendments;

- (c) Repealing the time limit for submitting the application for disability and retirement pension insurance when a given person intends to continue the insurance

The aim of the draft is to repeal the provision limiting the possibility of submitting an effective application for a voluntary continuation of disability and retirement pension

insurance to 30 days from the termination of the obligatory insurance. Taking into consideration the diversity of methods of gaining income and the nature of the labour market as well as the future benefits for the insured, it is justified to enable persons without any other right to disability or retirement pension insurance to obtain such insurance on the basis of a voluntary continuation at any time;

The Sejm of the Republic of Poland adopted the proposed amendments.

## **Family benefits**

335. Granting access to family benefits is not related to the right to social insurance, but to the situation of a particular family (the income criterion). Both insured and non-insured persons as well as working and unemployed persons have the same right to family and alimony fund benefits.

### **E. Article 10. Protection of the family, mothers and children**

*Question 24. Please indicate whether domestic violence is criminalized under the legislation of the State party. Please provide detailed information on progress made in implementing the various legislative and policy measures aimed at combating domestic violence, especially against women and children, including recent statistical data concerning the number of complaints recorded, civil or criminal investigations conducted, penalties imposed, and compensation granted to the victims or their families (E/C.12/POL/5, paras. 443-446 and 937-979).*

336. The fifth periodic report (para. 400) contains the following information:

“Physical and psychical violence in the family is forbidden under the Polish law. The Penal Code contains a separate provision concerning the cruelty towards the family (chapter ‘Criminal offences against the family and care’):

Article 207, paragraph 1. Whoever mentally or physically mistreats a person close to him, or another person being in a permanent or temporary state of dependence to the perpetrator, a minor or a person who is vulnerable because of his mental or physical condition shall be subject to the penalty of imprisonment the term of which shall not be less than three months and more than five years.

Paragraph 2. If the act specified in paragraph 1 is compounded with particular cruelty, the perpetrator shall be subject to the penalty of imprisonment the term of which shall not be less than one year and more than ten years.

Paragraph 3. If the consequence of the act referred to in paragraphs 1 or 2 is a suicide attempt by the injured person on his or her life, the perpetrator shall be subject to the penalty of imprisonment the term of which shall not be less than one year and more than 12 years.”

337. Mistreatment is understood as every kind of behaviour aimed at hurting, physically or mentally, a person who is in a state of dependence to the perpetrator or who is vulnerable. This behaviour may be active (punching, beating), as well as passive (neglect, deprivation of food). The fact that offences of mistreating family members are prosecuted ex officio allows for the initiation of the proceedings without any need for the victim's motion for prosecuting: in the case of receiving information which may only suggest that an offence was committed, the police may carry out an examination of the case.

338. For data on proceedings initiated, concluded and found to have been committed, see annex I, items 48-49.

339. Sanctions for crimes endangering health or life are provided for by the Penal Code and constitute general provisions, which refer to all victims, including children. These provisions are contained in articles 156, 157, 160 and 207 of the Penal Code.

340. On 3 February 2009, the Council of Ministers adopted the draft Act on the amendments to the Act on Counteracting Domestic Violence and several other Acts. The first reading of the draft Act in the Social Policy Commission of the Sejm as well as a public hearing have taken place (April 2009). A special subcommittee was appointed for further work on the draft Act.

341. The aims of the proposed amendments include:

- (a) Development of proactive measures as a form of actions aimed at preventing domestic violence;
- (b) Change in society's attitudes;
- (c) Effective protection of the victims of violence, especially children;
- (d) Development of mechanisms which will facilitate the isolation of perpetrators from their victims;
- (e) Change in the attitude of persons who resort to domestic violence by submitting them to corrective and educational actions.

342. The amendments will include:

1. The Act on Counteracting Domestic Violence:
  - (a) Entrusting the public administration with new tasks, which aim at increasing the effectiveness of combating domestic violence, including:
    - The need for the preparation and realization of a programme for counteracting domestic violence at the level of gminas
    - The obligation to establish interdisciplinary teams

- (b) Imposing on the voivod an obligation to appoint a Voivodship Coordinator for implementation of the National Programme for Counteracting Domestic Violence;
  - (c) Extending the tasks of voivods to encompass control tasks regarding domestic violence;
  - (d) Extending the tasks of the minister in charge of social security to include:
    - (i) The obligation to prepare and finance protective programmes within the framework of counteracting domestic violence;
    - (ii) Financial support of the programmes on counteracting domestic violence implemented by the local government units or NGOs;
    - (iii) Defining the principles of the interdisciplinary teams;
    - (iv) Expanding the authorization for issuing a regulation on the standards of services performed by specialist support centres for victims of domestic violence as well as special corrective and educational actions to specify the qualifications of the employed staff;
    - (v) Defining principles of implementing the “Blue cards” procedure;
    - (vi) Extending the form of support for the victims of violence to the possibility of a free-of-charge medical examination in order to determine the reasons for and the type of the injury as well as to issue a medical certificate;
    - (vii) Establishing legal conditions for reporting cases of domestic violence by witnesses of the event and by services;
    - (viii) Enabling social workers with the relevant competence to take a child away from the family when the child’s life or health is endangered; social workers shall perform the activities related to this power accompanied by police officers or medical staff;
    - (ix) Extending the probation officer’s powers to carry out decisions towards persons convicted for crimes related to domestic violence, who remain under supervision, as well as specifying the procedures for arresting the convict so as to order execution of the imprisonment penalty or revoke the early release;
2. The Family and Guardianship Code: introducing the prohibition of corporal punishment and any forms of disciplinary measures inflicting mental suffering, which infringe upon the child’s dignity;

3. The Penal Code: imposing on the perpetrator of domestic violence the obligation to participate in corrective and educational actions, without the need for the perpetrator's consent;
4. The Code of Penal Procedure: extending the range of preventive measures to include the order to refrain from contacting the victim or other persons in a particular way as well as the order to leave the premises occupied together with the victim.

343. A draft amendment of the Code of Civil Procedure and the Act on Counteracting Domestic Violence has been prepared in order to transfer the text of article 14 of the Act on Counteracting Domestic Violence<sup>6</sup> to article 275 of the Code of Civil Procedure. The amendment will increase the efficiency in respect of voluntary eviction of the perpetrator of domestic violence from the premises occupied with the victim, by ensuring that eviction gains the procedural rank of a preventive measure in criminal proceedings as well as by extending the range of persons entitled to decide on eviction procedures to prosecutors. The draft is currently in the phase of legislative procedures in the Sejm.

344. In 2008, the Government Plenipotentiary for Equal Treatment appointed a Sub-team for counteracting domestic violence as part of the Team for counteracting the discrimination of women. The tasks of the Sub-team include:

- (a) Analysing the situation in respect of counteracting domestic violence;
- (b) Monitoring the implementation of amendments to the Act on Counteracting Domestic Violence;
- (c) Preparing proposals regarding the formation of interdisciplinary activities strategies for counteracting domestic violence;
- (d) Preparing proposals regarding social, educational and information campaigns on counteracting domestic violence, which shall be presented to the competent ministries.

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<sup>6</sup> Article 14 of the Act on Counteracting Domestic Violence:

“1. In case when there are grounds for a temporary arrest of the accused charged for the crime referred to in article 13, the court may decide to apply Police supervision instead of a temporary arrest, provided that the accused shall leave the premises occupied together with the victim within a period specified by the court and shall inform about the place of his stay.

2. Should the accused leave the premises referred to in paragraph 1, the restriction provided for in article 275, paragraph 2, of the Act of 6 June 1997 - the Code of Criminal Procedure - may also mean refraining from contacting the victim in a specified way.”

345. The Team, in cooperation with a group of NGOs dealing with counteracting domestic violence, has prepared an amendment to the Act on Counteracting Domestic Violence. The proposals were submitted to the Sejm's Social Policy and Family Commission. The proposed amendments, inter alia, aim at: establishing effective mechanisms which facilitate isolating perpetrators from their victims; protecting victims of violence, especially children; establishing adequate conduct procedures when it is necessary for the social worker to take the children away; securing the child's best interests; developing anti-violence prevention, including change of social awareness in regard to the phenomenon of violence; better protection of victim's personal data, effective corrective and educational actions and conferring appropriate powers to interdisciplinary teams acting at the level of gminas.

346. Currently, the Ministry of Labour and Social Policy is working on establishing a system that will enable the flow of information between institutions, thus accompanying the child in its development. The question whether the system should be formed on the central or local level is currently under consideration. Monitoring children from their birth until the age of 18 will provide a complete picture of the childhood of our citizens. Insight into the process of children growing up will make it possible to determine their needs and, indirectly, the needs of their families, as well as to identify situations endangering children in dysfunctional families. For the State authorities, observing the course of childhood is a crucial element of family policy planning. Creating a database of children will allow coherent actions in terms of social policy to be planned.

347. The "Blue cards" procedure, implemented by the police since 1998, provides support for families affected by domestic violence and specifies the methods and forms of performing tasks related to counteracting domestic violence. Currently, these issues are regulated by Order No. 162 of 18 February 2008 of the Chief of Police on methods and forms of performing by the police tasks related to domestic violence in the framework of the "Blue cards" procedure. The Order extended the scope of implementation of this procedure in comparison with the previously binding regulations.

348. The police have a duty to inform victims about their rights, and indicate the subjects which may provide victims with social, legal, psychological and therapeutic assistance. The "Blue cards" procedure also provides for the cooperation and flow of information between the subjects, which support the victims of domestic violence. Police intervention sets in motion the mechanism of monitoring the phenomenon by district constables and leads to the undertaking of actions which aim to prevent its escalation.

349. In 2007, 718,819 interventions at home were carried out, including 81,403 interventions related to domestic violence. In comparison with 2006, a decrease of over 15 per cent has been noted in regard to interventions due to domestic violence. In the framework of these interventions, 130,682 victims of domestic violence were identified (76,162 women, 8,556 men, 31,001 juveniles up to the age of 13 and 14,963 juveniles from 13 to 18 years of age) and 81,743 perpetrators of violence were noted (77,939 men, 3,632 women and 171 juveniles). Among the perpetrators, 63,303 were under the influence of alcohol (over 77 per cent of perpetrators). Police arrested 36,877 persons (45 per cent of the perpetrators of domestic violence identified in the course of house interventions). Police officers submitted 74,921 notes to institutions, organizations and facilities informing them about the detected cases of domestic violence and the need to undertake supportive actions.

350. In the first six months of 2008, the number of interventions at home, including those related to domestic violence, increased. It should be noted that the increase applied to rural areas, while in the cities a slight decrease has been observed. The increased number of interventions may be a result of, inter alia, the obligation of police officers, under the Order of the Chief of Police on methods and forms of performing by the police tasks related to domestic violence in the framework of the “Blue cards” procedure, to undertake actions related to the procedure, not only during interventions at home ordered by the duty officer or other authorized person, but also on the officer’s own initiative (for example, the officer is notified about the case of domestic violence while performing other duties or when he or she suspects that this phenomenon is occurring).

351. From the point of view of the victims of violence, the Polish Charter of Victims’ Rights is a very important document. This publication also includes comments on several of its provisions as well as extracts of the most significant acts of Polish and international law, which form the situation of crime victims. The document also contains a list of subjects supporting the victims of crime.

352. On the basis of the National Programme for Counteracting Domestic Violence, since 2007 actions are realized in order to enhance society’s sensitivity to the problem of domestic violence. The priority for the campaign in 2007 was making accessible information on the possibility of supporting persons who are victims or witnesses of domestic violence. The posters and leaflets (4,000 posters and 400,000 leaflets) contain information about a telephone number and e-mail address of the “Blue line”, the national emergency service for the victims of domestic violence. The national emergency service “Blue line” functions on the commission of, and is financed by, the State Agency for Prevention of Alcohol-Related Problems. It is a national, free-of-charge intervention and information line for victims abused by persons close to them and a helpline for the members of the families in which violence occurs. The social policy departments of the voivodship offices received the information materials and forwarded them to the public services, organization units for social assistance, specialist support centres for victims of domestic violence, NGOs and churches. The poster and leaflet design is available on the website of the Ministry of Labour and Social Policy at [www.mpips.gov.pl](http://www.mpips.gov.pl).

353. The specialist support centre for victims of domestic violence in Świętokrzyskie voivodship organized a conference “Together against violence - together we can achieve more” and prepared promotional materials. A “white ribbon” campaign was organized and took place under the title “Stop violence against women”. The aim was to open a public discussion on the issue of domestic violence, to support actions for preventing it and, most importantly, to include men in counteracting violence against women. In Śląskie voivodship, an information campaign was organized by the specialist support centres for victims of domestic violence aimed at disseminating information on the facility’s activities. For the victims of domestic violence, the centre prepared leaflets indicating relevant telephone numbers and addresses as well as the offer of the specialist centre in Świętochłowice. The materials were forwarded to the personnel of the social support centre in Świętochłowice and to the police. The recipients are obliged to make them accessible to the victims of domestic violence. Information on the activity of a specialist support centre for the victims of domestic violence was also presented on the local cable television.

354. On 5 December 2007 a conference on counteracting violence against women took place in the Ministry of Labour and Social Policy. It was organized within the framework of a Council of Europe campaign on combating violence against women, including domestic violence and within the framework of a campaign “16 days of activism against gender violence”.

355. At present, Poland is implementing the United Nations campaign “UNite to End Violence against Women”, 2008-2015.

356. Examples of the projects on counteracting violence, co-financed by the European Social Fund, include:

### **2006**

- (a) The Family Development Association - “Between the lines”: an education and therapeutic programme on counteracting and minimizing the consequences of domestic violence against women, aimed at the victims of violence and police officers;
- (b) The Association of Crisis Intervention - “Men’s support for change”: a programme with the aim of developing positive models of conflict resolution among the youth. The main objective was to use the experiences of the feminist movement to build a model of working with male youth on changing aggressive behaviour. There have been organized workshops on overcoming the male aggression model as well as workshops for trainers. Qualitative research and moderated meetings, which have been carried out, were the basis for the prepared report and guidelines for running the white ribbon campaign. The participants in the initiative established the Men for Equality association.

### **2007**

- (a) The Noworudzki Association “Pro Publico Bono” - “Return to oneself - women’s dialogues: training in self-development and counteracting violence against women and girls”, a programme carried out in rural areas;
- (b) The Association of Friends of Children in Strzegom - “Stop violence: take care of yourself”: a programme aimed at raising qualifications and enhancing social awareness in respect of violence against women and girls, increasing social involvement in counteracting violence, educating in respect of carrying out interventions and cooperating in the process of supporting the victim and his or her family, fighting stereotypes and presenting correct relations between partners, defining the powers of services concerned with domestic violence as well as supporting families in their performance of basic functions. In this framework, meetings for women and girls facing the risk of violence, behaviour workshops and training, as well as relaxation travel workshops were organized. Educators’ and psychologists’ duties have also been activated;

- (c) The Education Support Association “Abakus” - “Conjuring up dreams - classes for girls facing the risk of violence”: a programme directed at girls from pathological families and families that were not providing them with an appropriate upbringing. The main objective was to raise the girls’ social and life skills, which would enable them to function in their peers’ environment and improve their relations with adults. It was carried out through workshops;
- (d) The Association for Youth and Children “Chance” - “Youngster’s Dad” programme. The programme was aimed at children with attention-deficit hyperactivity disorder. Its main objective was to change men’s attitudes through workshops, which provided them with skills to work with their children and improve family relations by means of strengthening and developing appropriate bonds between fathers and children. In this respect, psychological and legal assistance was provided and classes on using the Internet as well as meetings with celebrities were organized;
- (e) The Union of Polish Roma - the “Your chance: use it” project: an initiative intended to counteract violence against women and girls in Roma communities, through the promotion of gender equality and an education campaign against domestic violence. Within this framework, training sessions in the form of workshops were organized, a model of cooperation between the Roma women groups was established and good practices were disseminated;
- (f) The Association of Friends of Children of a city and gmina department - “Stop violence: take care of yourself”, an educational and promotional programme for girls and women facing the risk of violence in the area of Strzegom and the gmina. Its main objectives are to enhance social awareness and sensitivity in respect of violence against women, increase social involvement in counteracting violence, fight stereotypes and present correct relations between partners as well as to define the powers of the services concerned with domestic violence;
- (g) The Network of East-West Women in Poland (NEWW) - a programme entitled “How to make closure with the past and open oneself to the future after a divorce?”, psychology workshops for women who decided to divorce because of domestic violence. The main objective was to work through the issue of divorce, enhance defence skills and belief in one’s own strength, fight stereotypes, establish support groups and educate single mothers;
- (h) The Active Women Association - Eyes Wide Open, a programme for counteracting violence against women and girls. The project included enhancing the feeling of safety, promoting and raising awareness with regard to anti-violent attitudes and assertive behaviours through a campaign, which included: newspaper articles, commercials, issuance of a pamphlet distributed by social support centres, as well as those presented during the assertiveness training for women facing the risk of violence.

**2008**

- (a) The Fuga Mundi Foundation - “Roadmap for employment of active women”, a programme directed at disabled women over 50 years of age. Its main objective was to improve the self-esteem and labour market situation of those women. Activation training in the form of workshops was organized, an action plan was developed for each of the participants, vocational home care training and a job fair were organized, and an Internet site containing all the respective information about the project was launched;
- (b) “Our Chance” - the Association of Bieszczady Women, a programme entitled “It helps if you know the law: partnership for combating domestic violence against women”. The objective of the programme was to train various professional groups (police officers, teachers, doctors, nurses, social workers) in respect of counteracting domestic violence, to prepare and distribute leaflets, publications and articles in the local press on the issue of protection against violence as well as to promote a newly established support centre for victims of violence;
- (c) The Independent Students Association: a programme entitled “Mind your language”. The programme was aimed at female students of all the universities in Warsaw. Workshops on self-defence and assertiveness were organized and leaflets on threats were prepared and published. A series of articles on violence against women was printed in the student press, and a website was launched with information on violence and harassment as well as other information on the project.

357. The national campaign on counteracting violence, implemented in 2008 and 2009 by the Ministry of Labour and Social Policy in collaboration with the National Competence Centre and the Nobody’s Children Foundation, was divided into three stages.

358. The campaign “I love. I don’t beat.” was the first stage of the national campaign, directed at victims of violence, children, youth, perpetrators of violence and representatives of the institutions specializing in the prevention of domestic violence. The campaign used TV commercials, in which well-known celebrities participated by demonstrating the proper way of taking care of a child.

359. The second part of the campaign, “I love. I react.”, was directed at society as a whole, encouraging people to react on instances of children violence. The campaign made use of TV and radio commercials, posters, leaflets, pamphlets, a website and an intervention line of the National Competence Centre. The website of the Ministry of Labour and Social Policy contains models of materials (leaflets, posters, pamphlets for professionals) for local governments.

360. The third part of the campaign under the working title “Good parent” is directed at parents and guardians of little children (0 to 3 years of age). Its main objective is to inform about methods of dealing with stress related to the process of bringing up a child as well as to make those persons realize that smacking as an educational method is ineffective. This campaign will make use of TV and radio commercials as well.

361. Posters, leaflets and pamphlets prepared by the National Competence Centre and the Nobody's Children Foundation and published by the Ministry of Labour and Social Policy were forwarded to the marshals of voivodships for further distribution among local governments of gminas and powiats.

362. The last stage of the campaign, entitled "Childhood without violence", is scheduled for autumn 2009, and its objective will be to inform about the inefficiency of resorting to physical violence as an educational method towards children. The informative aspect of this part of the campaign will include TV commercials as well as information leaflets and pamphlets on alternative education methods to using violence.

363. The campaign results should be the following:

- (a) Reducing the scope of the phenomenon of domestic violence;
- (b) Changing attitudes towards domestic violence;
- (c) Preparing the young generation for performing responsible family roles.

364. On the local level, voivodship campaigns are realized and guides for the victims of violence are prepared and distributed. Voivodship governments also organize interdisciplinary training for professional groups dealing with the issue of violence against children.

**Table 43**

**Proceedings in cases of domestic violence**

Legal qualification (of the Penal Code)	Proceedings		Crimes		Finalized with indictment
	Initiated	Concluded	Ascertained	Detected	
2003					
Article 207, paragraph 1	38 159	38 896	23 166	23 205	22 556
Article 207, paragraphs 2-3	219	307	222	225	214
2004					
Article 207, paragraph 1	37 247	38 926	22 399	22 448	21 739
Article 207, paragraphs 2-3	260	300	211	211	197
2005					
Article 207, paragraph 1	37 457	38 956	22 450	22 479	21 644
Article 207, paragraphs 2-3	249	298	202	202	199
2006					
Article 207, paragraph 1	39 431	40 831	24 238	24 262	22 954
Article 207, paragraphs 2-3	292	399	305	307	292
2007					
Article 207, paragraph 1	34 687	37 468	22 561	22 600	21 229
Article 207, paragraphs 2-3	264	323	239	238	225
2008					
Article 207, paragraph 1	33 992	36 141	20 998	21 023	19 744
Article 207, paragraphs 2-3	214	254	169	169	158

**Table 44**  
**Validly sentenced adults<sup>7</sup>**  
**2005**

Offences (of the Penal Code of 1969)	Total number of persons sentenced	Including									
		Solely imposed fine		Restriction of liberty							
		Total	Including suspended sentences	Total	Including suspended sentences	Sentencing					
						1-3 months	4-6 months	7-12 months	>1 year-2 years	Work for the community	Deduction from the fee
Article 184, paragraph 2	-	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 1	16 029	226	38	832	82	16	142	674	-	811	21
Article 207 (aggrieved minor)	45	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 2	71	1	-	-	-	-	-	-	-	-	-
Article 207, paragraph 2 (aggrieved minor)	1	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 3	55	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 1	30	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 1 (aggrieved minor)	1	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 2	1	-	-	-	-	-	-	-	-	-	-

<sup>7</sup> Data includes persons on whom sentences have been imposed; it does not include persons on whom only a sentence of a solely imposed penalty, provided for in the Penal Code, has been imposed.

**Table 44 (continued)**

Offences (of the Penal Code of 1969)	Including															
	Imprisonment															
	Total	Including suspended sentences	Sentencing													
1 month			2 months	3 months	4-5 months	6 months	7-11 months	1 year	>1 year-<2 years	2 years	>2-<3 years	3 years	>3-5 years	>5-8 years	>8-10 years	>10-15 years
Article 184, paragraph 2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 1	14 934	13 601	8	9	155	399	1 683	3 519	5 395	2 846	878	22	14	6	-	-
Article 207, paragraph 1 (aggrieved minor)	45	40	-	-	-	1	4	11	21	7	-	-	-	1	-	-
Article 207, paragraph 2	70	29	-	-	-	-	-	5	8	21	16	4	6	5	2	3
Article 207, paragraph 2 (aggrieved minor)	1	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-
Article 207, paragraph 3	55	39	-	-	-	-	1	1	1	3	41	1	6	1	-	-
Article 207, paragraph 3, in conjunction with paragraph 1	30	20	-	-	-	-	-	-	-	1	21	4	1	3	-	-
Article 207, paragraph 3, in conjunction with paragraph 1 (aggrieved minor)	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 2	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-



**Table 44 (continued)**

Offences (of the Penal Code of 1969)	Including																
	Imprisonment																
	Total	Including suspended sentences	Sentencing														
1 month			2 months	3 months	4-5 months	6 months	7-11 months	1 year	>1 year-<2 years	2 years	>2-<3 years	3 years	>3-5 years	>5-8 years	>8-10 years	>10-15 years	
Article 184, paragraph 2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Article 207, paragraph 1	15 190	13 539	6	5	157	373	1 630	3 489	5 306	3 180	965	38	27	11	2	-	1
Article 207, paragraph 1 (aggrieved minor)	38	27	-	-	-	2	2	8	12	9	4	-	1	-	-	-	-
Article 207, paragraph 2	40	20	-	-	-	-	-	2	9	3	15	1	7	3	-	-	-
Article 207, paragraph 2 (aggrieved minor)	2		-	-	-	-	-	-	-	-	-	1	-	1	-	-	-
Article 207, paragraph 3	68	56	-	-	-	-	1	-	-	1	56	5	3	1	1	-	-
Article 207, paragraph 3 (aggrieved minor)	1	-	-	-	-	-	-	-	-				1	-	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 1	35	24	-	-	-	-	-	-	-	1	29	1	3	1	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 1 (aggrieved minor)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-



**Table 44 (continued)**

Offences (of the Penal Code of 1969)	Including																
	Imprisonment																
	Total	Including suspended sentences	Sentencing														
1 month			2 months	3 months	4-5 months	6 months	7-11 months	1 year	>1 year- <2 years	2 years	>2-<3 years	3 years	>3-5 years	>5-8 years	>8-10 years	>10-15 years	
Article 207, paragraph 1	14 386	12 809	4	6	156	385	1 657	3 427	4 925	2 857	904	30	24	9	1	1	-
Article 207, paragraph 1 (aggrieved minor)	47	39	-	-	-	1	2	13	11	15	5	-	-	-	-	-	-
Article 207, paragraph 2	51	21	-	-	-	1	2	4	4	7	15	3	5	7	2	1	-
Article 207, paragraph 2 (aggrieved minor)	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-
Article 207, paragraph 3	42	34	-	-	-	-	-	1	-	2	36	3	-	-	-	-	-
Article 207, paragraph 3 (aggrieved minor)	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 1	27	18	-	-	-	-	-	-	2	1	21	2	-	1	-	-	-
Article 207, paragraph 3, in conjunction with paragraph 1 (aggrieved minor)	1	1	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-

**Table 45**  
**Adults sentenced in the first instance in district courts**  
**2005**

Legal qualification*/ (of the Penal Code)	Total number of persons sentenced	Imprisonment									Restriction of liberty		Solely imposed fine		Temporarily arrested before the decision	Discontinuance of proceedings			
		Total	Including conditionally suspended sentences	1 month	From 2 to 5 months	From 6 months to 1 year	From 1 to 2 years	From 2 to 5 years	From 5 to 8 years	Over 8 years	Total	Including conditionally suspended sentences	Total	Including conditionally suspended sentences		Total	Including proceedings pursuant to the Code of Penal Procedure		
																	Article 11, paragraph 1	Article 17, paragraph 1	
																		Paragraphs 3 and 4	Paragraph 6
Article 207, paragraph 1	16 922	15 785	14 253	15	629	10 999	4 022	118	1	1	877	79	259	25	649	1 364	36	774	16
Article 207, paragraph 2	62	62	32	-	2	14	32	12	2	-	-	-	-	-	25	2	-	2	-
Article 207, paragraph 3	83	81	52	-	3	6	58	12	1	1	2	-	-	-	18	2	-	1	-

**Table 45 (continued)**

**2006**

Legal qualification*/ (of the Penal Code)	Total number of persons sentenced	Imprisonment									Restriction of liberty		Solely imposed fine		Temporarily arrested before the decision	Discontinuance of proceedings			
		Total	Including conditionally suspended sentences	1 month	From 2 to 5 months	From 6 months to 1 year	From 1 to 2 years	From 2 to 5 years	From 5 to 8 years	Over 8 years	Total	Including conditionally suspended sentences	Total	Including conditionally suspended sentences from the total		Total	Including proceedings pursuant to the Code of Penal Procedure		
																	Article 11, paragraph 1	Article 17, paragraph 1	
																Paragraphs 3 and 4	Paragraph 6		
Article 207, paragraph 1	17 171	16 191	14 359	7	650	10 878	4 523	129	3	1	758	59	215	25	950	1 167	30	580	10
Article 207, paragraph 2	54	54	23	-	1	13	19	21	-	-	-	-	-	-	25	3	-	-	-
Article 207, paragraph 3	109	108	74	-	3	7	72	22	3	1	1	1	-	-	23	2	-	1	-

**Table 45 (continued)**

**2007**

Legal qualification*/ (of the Penal Code)	Total number of persons sentenced	Imprisonment									Restriction of liberty		Solely imposed fine		Temporarily arrested before the decision	Discontinuance of proceedings			
		Total	Including conditionally suspended sentences	1 month	From 2 to 5 months	From 6 months to 1 year	From 1 to 2 years	From 2 to 5 years	From 5 to 8 years	Over 8 years	Total	Including conditionally suspended sentences	Total	Including conditionally suspended sentences		Total	Including proceedings pursuant to the Code of Penal Procedure		
																	Article 11, paragraph 1	Article 17, paragraph 1	
																Paragraphs 3 and 4		Paragraph 6	
Article 207, paragraph 1	16 850	15 934	14 045	4	632	10 922	4 243	130	1	2	701	44	211	25	1 000	1 112	27	547	13
Article 207, paragraph 2	46	45	14	-	-	6	16	19	3	1	-	-	1	-	24	3	-	-	-
Article 207, paragraph 3	121	120	88	-	1	29	72	17	-	1	1	-	-	-	21	2	-	1	-

**Table 45 (continued)**

**2008**

Legal qualification*/ (of the Penal Code)	Total number of persons sentenced	Imprisonment									Restriction of liberty		Solely imposed fine		Temporarily arrested before the decision	Discontinuance of proceedings			
		Total	Including conditionally suspended sentences	1 month	From 2 to 5 months	From 6 months to 1 year	From 1 to 2 years	From 2 to 5 years	From 5 to 8 years	Over 8 years	Total	Including conditionally suspended sentences	Total	Including conditionally suspended sentences from the total		Total	Including proceedings pursuant to the Code of Penal Procedure		
																	Article 11, paragraph 1	Article 17, paragraph 1	
																Paragraphs 3 and 4		Paragraph 6	
Article 207, paragraph 1	15 046	14 103	12 461	4	699	10 000	3 299	98	2	1	729	46	214	24	739	1 060	11	504	7
Article 207, paragraph 2	53	53	25	-	3	10	23	15	2	-	-	-	-	-	15	5	-	2	-
Article 207, paragraph 3	96	96	66	1	4	11	66	14	-	-	-	-	-	-	18	5	-	5	-

**Table 46**  
**Aggrieved persons**

**2005**

Legal qualification (of the Penal Code)	Number of aggrieved persons*	
	Minors	Women
Article 207, paragraph 1	4 427	15 097
Article 207, paragraph 2	24	94
Article 207, paragraph 3	32	50

**2006**

Legal qualification (of the Penal Code)	Number of aggrieved persons*	
	Minors	Women
Article 207, paragraph 1	4 374	15 174
Article 207, paragraph 2	12	33
Article 207, paragraph 3	29	68

**2007**

Legal qualification (of the Penal Code)	Number of aggrieved persons*	
	Minors	Women
Article 207, paragraph 1	4 352	14 123
Article 207, paragraph 2	29	61
Article 207, paragraph 3	31	71

**2008**

Legal qualification (of the Penal Code)	Number of aggrieved persons*	
	Minors	Women
Article 207, paragraph 1	3 771	12 702
Article 207, paragraph 2	17	32
Article 207, paragraph 3	36	56

\* Number of minors and women aggrieved by adult persons adjudicated on the basis of the legal qualification indicated above. If the adjudicated person (sentenced) aggrieved several persons, each of those persons should be demonstrated separately. There is no data available on aggrieved persons: men as well as other degrees of blood relation or affinity.

**Question 25. Please provide additional information, including disaggregated statistical data, on the steps taken by the State party to protect children against all forms of exploitation and to prevent them from being employed in work that is likely to be hazardous or to be harmful to their health and development (E/C.12/POL/5, points 443-446 and 937-979).**

365. One of the stages of adjusting legislation to the European Union standards on the protection of young people at work, specified in Directive 94/33, was the introduction of article 304<sup>5</sup> in the Labour Code, regarding the exception to the principle that the minimum age for employment is 16 (article 65, paragraph 3, of the Constitution and article 190, paragraph 2, of the Labour Code). Article 304<sup>5</sup> of the Labour Code allows a child who has not attained 16 years of age to perform work in the framework of an employment relationship and in the framework of civil law relations of providing services.

366. A child is allowed to undertake activity in the field of culture, art, sport or advertising, upon a prior consent of the child's statutory representative or guardian and a permit given by the labour inspector. Therefore, before the undertaking of work or other profit-gaining occupation (entering into an employment relation or a civil law contract) may take place, the competent labour inspector needs to issue a permit for the entity that will employ a child. The entity pursuing activity in the field of culture, art, sport or advertising submits the application for the permit. The application shall include:

(a) Written consent from the child's statutory representative or guardian for the performance of work or other profit-gaining occupation by that child;

(b) An opinion from the psychological and pedagogical consultation centre on the lack of contraindications as to the performance of work or other profit-gaining occupation by that child;

(c) A medical certificate confirming the lack of contraindications as to the performance of work or other profit-gaining occupation by that child;

(d) If the child is subject to school duty - an opinion of the headmaster of the school the child attends on the possibility of the child's fulfilment of this duty during the performance of work or other profit-gaining occupation.

367. If, on the basis of the submitted documentation, the competent labour inspector arrives at the conclusion that the performance of work or other profit-gaining occupation by the child may threaten the child's life, health as well as his or her psychological and physical development, or threatens the fulfilment of school duty, he shall refuse to issue the permit. The permit issuance or its refusal requires an administrative decision, which may be appealed to the district labour inspector.

368. The permit issued by the labour inspector specifies personal data of the child and his statutory representative or guardian as well as the entity pursuing a particular activity. The labour inspector specifies in the permit types of work or other profit-gaining occupation which may be performed by the child. The labour inspector also specifies the period of work performance or other profit-gaining occupation. The possibility of entering into the contract for an unspecified period of time is excluded due to the wording of article 304<sup>5</sup>, paragraphs 5 and 4, of the Labour Code. According to article 65, paragraph 3, of the Constitution, the permanent employment of children under 16 years of age is prohibited.

369. Contrary to section IX of the Labour Code, which defines the conditions for the employment of young adults in general, the legislator orders that each case of child employment should be strictly determined on an individual basis. The specifications regarding an admissible daily amount of working time or other profit-gaining occupation as well as other conditions required in view of the child's interest or the type, nature or conditions of performance of work or other profit-gaining occupation should be determined individually for each child and indicated in the permit issued by the labour inspector. This applies in particular to the issues related to the child's working time, other than the daily amount, such as vacation time, health care as well as health and safety work. Other provisions of the Labour Code apply to employment contracts concluded with children that are unspecified in the permit by the inspector. Provisions of the Civil Code, especially on mandate (article 750 of the Civil Code) apply to civil law agreements.

370. Unless the inspector specifies otherwise in the permit, the provisions of section II, chapter II of the Labour Code apply to the termination of an employment contract with a child, while the relevant provisions of the Civil Code apply to the termination of a civil law contract. Apart from the case indicated therein, it should be assumed that the contract with a child is terminated when the inspector withdraws the permit. The labour inspector shall always withdraw the permit upon request of the child's statutory representative or guardian as well as ex officio, when he finds that the child's working conditions do not conform to the conditions specified in the permit issued. In this case, the entity employing a child is obliged to terminate without delay the contract with the child and pay compensation equivalent to the remuneration for the period of notice required to terminate the contract.

371. In 2005-2008, 1,049 applications for the issuance of a permit for the performance of work or other profit-gaining occupation by a child (under the age of 16) were submitted to regional labour inspectorates. Inspectors issued 1,655 positive decisions. No cases of permit withdrawals were noted. The vast majority of applications concerned employment in the theatre and opera performances, on set, occasionally in commercials and publishing houses. In 2005-2008, 10 applications for the issuance of a permit for the performance of a profit-gaining occupation by young sportsmen were submitted.

**Table 47**

	Applications	Decisions	Positive decisions	Negative decisions
2005	389	417	410	7
2006	245	398	392	6
2007	201	376	376	0
2008	214	464	464	0
Total	1 049	1 655	1 642	13

372. The National Labour Inspectorate's experience shows that not all of the entities pursuing activity in the field of culture, art, sport or advertising, for which children under 16 perform work or another profit-gaining occupation, apply to the labour inspector for issuing the permit. In such cases it is likely that children perform the work in inappropriate conditions.

373. Article 5, paragraph 1, of the Ordinance of the Minister of National Education and Sports of 1 July 2002 on practical vocational training states that practical vocational training classes may not exceed six hours a day and eight hours a day in the case of pupils over 16 years of age. Pursuant to article 5, paragraph 2, of the Ordinance, it is admissible to extend the practical vocational training classes for pupils over 18 years of age in justified cases, provided that the classes last for no longer than 12 hours a day and the weekly time specified in the curricula is maintained. Extending the time of practical vocational training classes is possible only in the case of employers or individual agricultural holdings, in which the extended daily working time results from the type of work or the facility's organization. Furthermore, article 5, paragraph 3, of the Ordinance states that practical vocational training may be organized in a shift system, but in the case of pupils under 18 years of age, it may not take place at night-time.

374. In 2006-2008, within the framework of the "Programme for preventing social maladjustment and crime among children and youth" numerous actions were organized. In 2007 local governments received 2.1 million PLN and in 2008 they received 2,068,705 PLN for the implementation of local initiatives directed at children and youth (in 2007, there were projects in 39 gminas and 71 powiats, and in 2008, respectively, in 38 gminas and 26 powiats). As regards gminas, the projects focused on providing support for families endangered by social pathologies and for child day care. In powiats, projects were directed at youth undergoing the process of becoming independent and pupils in care and education centres.

***Question 26. Please provide updated information on whether the State party has adopted a definition of trafficking in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Please also provide recent statistical data on persons trafficked for the purpose of sexual exploitation, as well as information on prosecutions and convictions, and on the sanctions imposed on perpetrators. What measures have been taken to protect victims of trafficking and provide assistance and material support to them? (E/C.12/POL/5, paras. 980-993).***

375. Legislative work is carried out with the aim of amending the Criminal Code and Acts (the introductory provisions to the Criminal Code), by implementing the definition of "trafficking in

persons” defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children as well as introducing a definition of “slavery” and imposing penalties on these criminal behaviours.

376. It is expected that the following amendments to the Criminal Code shall be implemented:

It has been proposed to add the following wording after paragraphs 21, 22, 23 and 24:

“(22) Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of:

- (1) Threat or use of force or other form of coercion;
- (2) Abduction;
- (3) Fraud;
- (4) Deception or taking advantage of a mistake or inability to properly comprehend the undertaken actions;
- (5) Abuse of power or taking advantage of a critical situation or a position of vulnerability;
- (6) Giving or receiving material or personal benefits or promising them to a person having control over another person, for the purpose of exploitation, including in particular prostitution, pornography or other forms of sexual exploitation, forced labour or services, begging, slavery or other forms of exploitation degrading dignity of a human person or for the purpose of acquiring cells, tissues or organs contrary to the provisions of the act.

(23) In case of a juvenile the application of the methods and measures indicated in (22) (1)-(6) does not constitute a condition to treat the perpetrator’s behaviour as trafficking in persons.

(24) Slavery is a relation of dependency, in which a person is treated as a property.”

It has been proposed to add article 189a after article 189, consisting of the following wording:

“Article 189a

- (1) Any person who commits trafficking in persons, even with those persons’ consent, shall be subject to the penalty of imprisonment for a period no shorter than 3 years.

- (2) Any person who makes preparations to commit the crime specified in (1) of this Article, shall be subject to the penalty of imprisonment for a period from 3 months to 5 years.
- (3) Any person who in order to gain material benefits deals with organizing adoption of children contrarily to the provisions of the Act, shall be subject to the penalty of imprisonment for a period from 3 months to 5 years.”

It has been proposed to repeal paragraph 4 of article 204.

It has been proposed to repeal article 253.

377. It has also been proposed to repeal article 8 of the Act of 6 June 1997 on Introductory Provisions to the Criminal Code.

378. It has been proposed to amend article 25, paragraphs 1 and 2, of the Code of Penal Procedure to the following wording:

“(2) on misdemeanours specified in Chapters XVI and XVII as well as in Articles 140-142, Article 148 (4), Article 149, Article 150 (1), Articles 151-154, Article 156 (3), Article 158 (3), Article 163 (3) and (4), Article 165 (1), (3) and (4), Article 166 (1), Article 173 (3) and (4), Article 185 (2), Article 189a (2), Article 210 (2), Article 252, Article 253 (2), Article 258 (1)-(3), Article 265 (1) and (2), Article 269, Article 278 (1) and (2) in conjunction with Article 294, Article 284 (1) and (2) in conjunction with Article 294, Article 286 (1) in conjunction with Article 294, Article 287 (1) in conjunction with Article 294, Article 296 (3) as well as Article 299 of the Criminal Code.”

379. The draft amendment is currently at the stage of inter-ministerial consultations.

380. In cases regarding trafficking in women, after having testified, the victims usually return to their country of origin and there is no guarantee that they would appear during trial in order to testify in the court. Therefore, article 316, paragraph 3, of the Code of Penal Procedure is of utmost importance. It states that the court may interrogate the witness at the stage of preparatory proceedings. The Code also provides for the possibility of interrogating witnesses from a distance by means of technical devices. The solutions that are implemented in order to ensure the victims’ protection include the possibility for the victim to testify before the court in the defendant’s absence as well as the institution of an anonymous witness.

381. As of 1 January 2009, the reflection period (time for reflection, during which the victim of trafficking in persons makes a decision on the cooperation with law enforcement authorities) has been extended from two to three months.

382. Programmes on actions undertaken by government administration units and NGOs have been developed since 2003. The Inter-ministerial Team for Combating and Preventing Trafficking in Human Beings adopted a draft of the fourth National Programme for Actions against Trafficking in Human Beings for 2009-2010. A need for the programme resulted

from the escalation of the phenomenon of trafficking in human beings for the purpose of forced labour, trafficking in human beings for the purpose of criminal activity and the increased number of cases regarding trafficking in children, also for the purpose of begging. In previous years the main issue was the international trafficking in human beings as well as providing support and protection of the third-country citizens who were the victims of trafficking in human beings. Currently, issues related to the internal trafficking of victims from Poland as well as trafficking in human beings within the European Union are equally important. The latter phenomenon gained importance in connection with the entry of Romania and Bulgaria to the European Union.

383. The particular objectives of the National Programme include:

(a) Disseminating information on the phenomenon among potential victims, representatives of institutions providing victims with support as well as institutions responsible for prosecuting the crime of trafficking in human beings: carrying out information campaigns directed at youth (trafficking in human beings), persons going abroad in search of a job as well as persons residing in Poland in order to undertake work (trafficking in human beings for the purpose of forced labour);

(b) Improving the efficiency of the actions of institutions responsible for prosecuting the crime of trafficking in human beings by improving structures and legal tools and implementing best practices: strengthening the structures within the criminal departments of the voivodship police headquarters and the capital city police headquarters, which deal with trafficking in human beings; piloting voivodship teams for trafficking human beings, appointed to carry out the exchange of information between institutions involved in combating the trafficking in human beings; training border guard and police officers as well as labour inspectors in the field of combating the trafficking in human beings for the purpose of forced labour;

(c) Extending the offer and raising the standards of activities which support the victims of trafficking in human beings: developing and implementing a concept of comprehensive fulfilment of needs of victims and victims/witnesses of trafficking in human beings (National Intervention and Consultation Centre for the Victims of Trafficking in Human Beings), preparing a model of child support/protection for the victims of trafficking in human beings.

384. The system of combat and prevention in respect of trafficking in human beings is based on structures existing in the police, border guard and prosecutor's office. Special teams were appointed at the Polish police headquarters and border guard headquarters. Their tasks include coordinating and supervising activities of the coordinators and teams in police headquarters and border guard units. They include:

(a) The National Team for Combating Trafficking in Human Beings, Human Organs, Child Pornography and Paedophilia;

(b) The Team for Continuous Monitoring and Coordination of the Border Guard Activities regarding Preventing and Combating the Crime of Trafficking in Human Beings.

385. In June 2007 prosecutors who function as advisers in cases on trafficking in human beings were appointed in the appellate prosecutor's offices and in the field units of the Office for Organized Crime of the State prosecutor's office. The prosecutors are part of the system for ensuring the efficient prosecution of the said crime and providing assistance to the victims. As of 1 April 2009 prosecutors, who function as advisers in cases on trafficking in human beings, work in appellate prosecutors' offices (field units of the Office for Organized Crime were closed down).

386. The Inter-ministerial Team for Combating and Preventing Trafficking in Human Beings prepared "An algorithm of the procedure to be followed by law enforcement officers in case of revealing a crime of trafficking in human beings". After two years of using the algorithm, its new version has been developed and implemented.

387. From January to December 2008, officers of the National Team for Combating Trafficking in Human Beings participated in 12 national and 7 international training programmes, educational seminars and conferences on combating and preventing the crime of trafficking in human beings.

388. In 2008 the National Team for Combating Trafficking in Human Beings prepared "A concept of combating trafficking in human beings in respect of forcing the victims to beg", which is used in establishing diagnosis and counteracting the phenomenon. The document contains, inter alia, recommendations regarding the identification of the phenomenon of begging by the prevention authorities, information on the necessity to gather statistical data on the actions specified in articles 58 and 104 of the Code of Petty Offences (begging, inducing to beg) as well as the need of the voivodship teams for combating trafficking in human beings to direct the issue of forcing the victims of trafficking in human beings to beg, especially children.

389. On the basis of a commission contract for a public task concluded between the Minister of Interior and Administration and the "La Strada" Foundation Against Trafficking in Human Beings, a "Support and protection programme for the victim/witness of trafficking in human beings" addressed to foreigners has been implemented since 1 January 2006. The implemented tasks include: crisis intervention, assisting the victim during the contact with law enforcement authorities and administration of justice - legal consultation, organizing legalization of the stay, and organizing the safe return to the victim's country of origin.

390. From April 2009, the Centre for Crisis Intervention for Polish and foreign victims will be run by an NGO selected via an open bidding process for the realization of a public task. The Centre will be responsible for the following tasks:

- (a) Running a 24/7 helpline for victims and witnesses of trafficking in human beings;
- (b) Providing support to victims of trafficking in human beings in respect of identification;
- (c) Crisis intervention;

- (d) Providing consultations to national and self-government institutions in respect of work with victims of trafficking in human beings;
- (e) Providing prevention counselling to both individuals and institutions;
- (f) Running shelters for victims of trafficking in human beings;
- (g) Developing and implementing a concept to comprehensively fulfil the needs of victims and victims/witnesses of trafficking in human beings.

391. The police undertake actions in order to reveal the phenomenon of homelessness and the accompanying social risks, and to counteract this social pathology. They carry out their tasks through the identification of lonely and vulnerable persons, intensified inspection of places of residence and places of gathering of the homeless and beggars, and the detection of related offences and violations of law. According to the observations, both foreigners (especially of the Romanian nationality) and Polish citizens practise begging; however, these are often disabled persons, unable to cope with their own lives, and those for whom begging has become a way of life and an easy way of earning a living.

392. The exploitation of children and vulnerable persons for begging by persons obliged to take care of them is one of the most drastic forms of exploitation and moral corruption. The police undertake comprehensive actions with the aim of identifying the scale and types of begging practices, as well as activities to counteract them. There is a systematic review carried out, which aims especially at the identification of any case of exploitation of children, vulnerable persons and the disabled. The actions are carried out in cooperation with city guards, railway security guards and social assistance workers.

393. With the aim of identifying the scale of the phenomenon of homelessness and increasing the effectiveness of the preventive measures undertaken, in each voivodship police headquarters and powiat police headquarters coordinators have been designated to take up responsibilities for the implementation of activities concerning the problem of homelessness and begging. The coordinators have to initiate and carry out actions aimed at identifying the phenomenon of homelessness and begging, developing and updating maps of places of gathering of the homeless and places of begging. Their task is also to set up a databank of aid, government and social institutions, to enter into cooperation with these, to determine (especially during the autumn and winter period) the number of places available in night shelters, and, in the case that there are none, to undertake actions to locate other facilities with free places. They should cooperate with persons on duty at those units in order to update the information about aid facilities for the homeless and to inform social assistance centres if the police discover persons who have taken up begging because of their difficult financial situation.

394. While performing the tasks of combating the problem of begging and homelessness, the police remain in close cooperation with national institutions, self-government organizations and NGOs, such as family courts, city councils, gmina councils, district councils, powiat starostas social assistance centres and centres for addiction prevention, town/city guards, accommodation centres for the homeless, housing managers and housing cooperatives.

**Table 48**

**Trafficking in human beings, article 253, paragraph 1,  
of the Penal Code**

**Detectability rate, percentage**

2004	95.5
2005	89.5
2006	83.3
2007	100
2008	98.3

**Perpetrators**

	Suspects			Perpetrators of foreign citizenship
	Total	Women	Men	
2004	21	2	19	-
2005	9	2	7	-
2006	9	4	5	3
2007	23	7	16	4
2008	17	3	14	4

**Victims**

	Total	Of whom	
		Foreigners	Minors
2004	35	3	3
2005	17	12	-
2006	16	-	-
2007	859	-	-
2008	62	14	-

**Table 49**

**Trafficking in human beings (illegal adoption), article 253,  
paragraph 2, of the Penal Code**

**Detectability rate, percentage**

2004	-
2005	100
2006	-
2007	-
2008	-

**Perpetrators**

	Suspects			Perpetrators of foreign citizenship
	Total	Women	Men	
2004	-	-	-	-
2005	1	-	1	-
2006	-	-	-	-
2007	-	-	-	-
2008	-	-	-	-

**Victims**

	Total	Of whom	
		Foreigners	Minors
2004	-	-	-
2005	-	-	-
2006	-	-	-
2007	-	-	-
2008	-	-	-

**Table 50**

**Subjecting another person to practise prostitution,  
article 203 of the Penal Code**

**Detectability rate, percentage**

2004	93.5
2005	91.4
2006	100
2007	92.7
2008	97.1

**Perpetrators**

	Suspects			Perpetrators of foreign citizenship
	Total	Women	Men	
2004	29	5	24	7
2005	17	3	14	4
2006	31	6	25	2
2007	26	11	15	1
2008	23	4	19	6

**Victims**

	Total	Of whom	
		Foreigners	Minors
2004	47	2	5
2005	34	-	5
2006	44	4	2
2007	38	-	11
2008	28	2	-

**Table 51**

**Deriving material benefit from prostitution, article 204,  
paragraphs 1 and 2, of the Penal Code**

**Detectability rate, percentage**

2004	97.6
2005	97.6
2006	98.1
2007	98.5
2008	98.6

**Perpetrators**

	Suspects			Perpetrators of foreign citizenship
	Total	Women	Men	
2004	186	44	142	19
2005	196	52	144	15
2006	104	31	73	5
2007	122	39	83	3
2008	138	41	97	2

**Victims**

	Total	Of whom	
		Foreigners	Minors
2004	-	-	-
2005	-	-	-
2006	-	-	-
2007	-	-	-
2008	-	-	-

**Table 52**

**Deriving material benefit from prostitution practised by a minor,  
article 204, paragraph 3, of the Penal Code**

**Detectability rate, percentage**

2004	97.7
2005	100
2006	93.1
2007	99.7
2008	100

**Perpetrators**

	Suspects			Perpetrators of foreign citizenship
	Total	Men	Woman	
2004	18	5	13	-
2005	42	17	25	1
2006	27	10	17	-
2007	23	7	16	-
2008	18	9	9	-

**Victims**

	Total	Of whom	
		Foreigners	Minors
2004	67	-	55
2005	78	1	67
2006	46	-	45
2007	242	1	242
2008	28	-	28

**Table 53**

**Abducting another person with the aim of having him or her engage in prostitution abroad, article 204, paragraph 4, of the Penal Code**

**Detectability rate, percentage**

2004	100
2005	66.7
2006	100
2007	100
2008	66.7

**Perpetrators**

	Suspects			Perpetrators of foreign citizenship
	Total	Women	Men	
2004	4	2	2	-
2005	1	1	-	-
2006	2	-	2	-
2007	2	-	2	-
2008	4	1	3	2

**Victims**

	Total	Of whom	
		Foreigners	Minors
2004	9	-	-
2005	5	-	-
2006	2	-	-
2007	1	-	-
2008	4	-	-

**Table 54**

**Prostitution: number of persons engaged in prostitution**

Citizenship	Roadside prostitution						Prostitution at escort agencies and other places						Total
	Age						Age						
	Under 15		15-18		Over 18		Under 15		15-18		Over 18		
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	
Polish	2		7		517	3	1		23		1 928	15	2 496
Belarusian					7						112		119
Lithuanian					1						3		4
Ukrainian					18						401		419
Bulgarian			1		190						21		212
Russian											12		12
Czech					1								1
Romanian					4						1		5
Mongolian											1		1
Kazakh											2		2
Total	2	-	8	-	738	3	1	-	23	-	2 481	15	3 271
	751						2 520						

**Proceedings**

1999							
Legal qualification (of the Penal Code)	Ascertained crimes	A bill of indictment	Finalized with a motion for				
			Discontinuance of legal proceedings				Due to
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Lack of evidence of guilt	
Article 203	24	23	-	-	-	-	1
Article 204, paragraphs 1 and 2	156	155	-	-	-	-	-
Article 204, paragraph 3	20	20	-	-	-	-	-
Article 204, paragraph 4	3	3	-	-	-	-	-
Article 253, paragraph 1	5	1	-	-	-	-	3
Article 253, paragraph 2	3	2	-	-	-	-	1

2000							
Legal qualification (of the Penal Code)	Ascertained crimes	A bill of indictment	Finalized with a motion for				
			Discontinuance of legal proceedings				Due to
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Lack of evidence of guilt	
Article 203	26	24	-	-	-	-	2
Article 204, paragraphs 1 and 2	168	162	-	-	-	2	3
Article 204, paragraph 3	30	30	-	-	-	-	-
Article 204, paragraph 4	6	6	-	-	-	-	-
Article 253, paragraph 1	19	13	-	-	1	1	4
Article 253, paragraph 2	-	-	-	-	-	-	-

**Table 54 (continued)**

2001							
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for					
		A bill of indictment	Discontinuance of legal proceedings				
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Due to	
					Lack of evidence of guilt	Failure to detect perpetrators	
Article 203	48	43	-	-	-	-	3
Article 204, paragraphs 1 and 2	436	423	-	-	1	1	6
Article 204, paragraph 3	43	42	-	-	-	-	-
Article 204, paragraph 4	10	8	-	-	-	-	2
Article 253, paragraph 1	24	23	-	-	-	-	1
Article 253, paragraph 2	1	1	-	-	-	-	-

2002							
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for					
		A bill of indictment	Discontinuance of legal proceedings				
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Due to	
					Lack of evidence of guilt	Failure to detect perpetrators	
Article 203	63	59	-	-	-	-	4
Article 204, paragraphs 1 and 2	317	312	-	-	1	1	3
Article 204, paragraph 3	45	42	-	-	-	2	1
Article 204, paragraph 4	2	2	-	-	-	-	-
Article 253, paragraph 1	8	6	-	-	-	-	2
Article 253, paragraph 2	-	-	-	-	-	-	-

2003							
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for					
		A bill of indictment	Discontinuance of legal proceedings				
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Due to	
					Lack of evidence of guilt	Failure to detect perpetrators	
Article 203	47	42	-	-	-	-	5
Article 204, paragraphs 1 and 2	250	246	-	-	-	-	2
Article 204, paragraph 3	34	33	-	-	1	-	-
Article 204, paragraph 4	3	3	-	-	-	-	-
Article 253, paragraph 1	21	11	-	-	-	-	10
Article 253, paragraph 2	-	-	-	-	-	-	-

2004							
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for					
		A bill of indictment	Discontinuance of legal proceedings				
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Due to	
					Lack of evidence of guilt	Failure to detect perpetrators	
Article 203	46	43	-	-	-	-	3
Article 204, paragraphs 1 and 2	376	367	-	-	-	-	9
Article 204, paragraph 3	43	42	-	-	-	-	1
Article 204, paragraph 4	6	6	-	-	-	-	-
Article 253, paragraph 1	44	42	-	-	-	-	2
Article 253, paragraph 2	-	-	-	-	-	-	-

**Table 54 (continued)**

2005								
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for						
		A bill of indictment	Discontinuance of legal proceedings				Due to	
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Lack of evidence of guilt	Failure to detect perpetrators	
Article 203, paragraph 3	35	32	-	-	-	-	3	
Article 204, paragraphs 1 and 2	422	395	1	16	-	4	6	
Article 204, paragraph 3	59	57	-	1	-	-	-	
Article 204, paragraph 4	3	2	-	-	-	-	1	
Article 253, paragraph 1	19	17	-	-	-	-	2	
Article 253, paragraph 2	1	1	-	-	-	-	-	

2006								
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for						
		A bill of indictment	Discontinuance of legal proceedings				Due to	
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Lack of evidence of guilt	Failure to detect perpetrators	
Article 203	42	41	-	-	-	-	-	
Article 204, paragraphs 1 and 2	205	201	-	-	-	2	2	
Article 204, paragraph 3	29	23	-	-	-	-	2	
Article 204, paragraph 4	3	3	-	-	-	-	-	
Article 253, paragraph 1	18	14	-	-	-	-	3	
Article 253, paragraph 2	-	-	-	-	-	-	-	

2007								
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for						
		A bill of indictment	Discontinuance of legal proceedings				Due to	
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Lack of evidence of guilt	Failure to detect perpetrators	
Article 203	55	43	-	-	-	-	4	
Article 204, paragraphs 1 and 2	271	266	-	-	-	-	4	
Article 204, paragraph 3	44	43	-	-	-	-	1	
Article 204, paragraph 4	1	1	-	-	-	-	-	
Article 253, paragraph 1	22	21	-	-	-	-	-	
Article 253, paragraph 2	-	-	-	-	-	-	-	

2008								
Legal qualification (of the Penal Code)	Ascertained crimes	Finalized with a motion for						
		A bill of indictment	Discontinuance of legal proceedings				Due to	
			From article 11, paragraph 1, of the Code of Penal Procedure	Conditionally	On the grounds barring prosecution	Lack of evidence of guilt	Failure to detect perpetrators	
Article 203	19	35	34	-	-	-	1	
Article 204, paragraphs 1 and 2	85	214	211	-	-	-	3	
Article 204, paragraph 3	10	21	20	-	-	-	-	
Article 204, paragraph 4	6	3	2	-	-	-	1	
Article 253, paragraph 1	18	60	59	-	-	-	1	
Article 253, paragraph 2	3	-	-	-	-	-	-	

**Table 55**  
**Adult persons sentenced validly in law**

Types of offences (of the Penal Code)	1999	2000	2001	2002	2003	2004*	2005	2006	2007
	In absolute numbers								
Total	207 492	222 815	315 013	365 326	415 933	513 410	504 281	462 937	426 377
Of which:									
Offences against sexual freedom and decency									
Total	1 530	1 406	1 639	1 682	1 807	2 538	2 315	2 032	1 851
Article 203	18	12	14	13	14	28	21	24	14
Article 204, paragraph 1	23	17	38	40	37	62	70	46	24
Article 204, paragraph 2	47	45	43	55	62	108	134	108	81
Article 204, paragraph 3	14	10	10	15	14	20	20	29	12
Article 204, paragraph 3 (aggrieved minor)					1				
Article 204, paragraph 3, in conjunction with paragraph 1			3	4	5	10	8	3	4
Article 204, paragraph 3, in conjunction with paragraph 2			6	3	9	11	9	15	7
Article 204, paragraph 4	8	4	3	3	1		7	1	1
Offences against public order									
Total	2 544	2 915	3 516	3 468	3 895	5 523	6 102	4 802	4 321
Article 253, paragraph 1	2	3	7	20	5	16	9	13	3
Article 253, paragraph 2	3	1			1				

**Table 56**

**Adult persons sentenced pursuant to a valid in law court judgement upon public accusation**

**1998**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	7	-	1	-	1	-	5	-	3	-	1	-
Article 204, paragraph 1	29	2	8	-	-	-	21	2	14	2	-	-
Article 204, paragraph 2	40	8	9	2	-	-	31	6	27	4	3	-
Article 204, paragraph 3	8	1	2	-	-	-	6	1	3	1	-	-
Article 204, paragraph 3 (aggrieved minor)	-	-	-	-	-	-	-	-	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 1	-	-	-	-	-	-	-	-	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 2	-	-	-	-	-	-	-	-	-	-	-	-
Article 204, paragraph 4	6	1	-	-	-	-	6	1	4	1	2	-
Article 253, paragraph 1	2	-	-	-	-	-	2	-	1	-	1	-
Article 253, paragraph 2	-	-	-	-	-	-	-	-	-	-	-	-

**1999**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	18	4	2	1	3	-	13	3	8	2	2	Bulgarian
Article 204, paragraph 1	23	3	2	-	-	-	21	3	20	3	-	-
Article 204, paragraph 2	47	10	10	1	-	-	37	9	33	9	-	-
Article 204, paragraph 3	14	6	3	2	1	1	10	3	8	3	-	-
Article 204, paragraph 3 (aggrieved minor)	-	-	-	-	-	-	-	-	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 1	-	-	-	-	-	-	-	-	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 2	-	-	-	-	-	-	-	-	-	-	-	-
Article 204, paragraph 4	8	2	-	-	-	-	8	2	5	1	1	Turkish
Article 253, paragraph 1	2	-	-	-	-	-	2	-	-	-	1	Romanian
Article 253, paragraph 2	3	2	-	-	-	-	3	2	3	2	-	-



**Table 56 (continued)**

**2002**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	13	2	-	-	-	-	13	2	8	2	5	Armenian, Bulgarian
Article 204, paragraph 1	40	7	3	-	1	-	36	7	35	7	3	Bulgarian, German, Ukrainian
Article 204, paragraph 2	55	12	8	5	-	-	47	7	43	7	1	Bulgarian
Article 204, paragraph 3	15	2	-	-	-	-	15	2	7	2	-	-
Article 204, paragraph 3 (aggrieved minor)	-	-	-	-	-	-	-	-	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 1	4	-	-	-	-	-	4	-	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 2	3	1	-	-	-	-	3	1	1	1	-	-
Article 204, paragraph 4	3	-	-	-	-	-	3	-	2	-	-	-
Article 253, paragraph 1	20	4	-	-	-	-	20	4	5	2	3	Bulgarian, Ukrainian
Article 253, paragraph 2	-	-	-	-	-	-	-	-	-	-	-	-

**2003**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	14	3	1	-	-	-	13	3	6	3	4	Bulgarian
Article 204, paragraph 1	37	7	5	2	1	-	31	5	27	5	1	Ukrainian
Article 204, paragraph 2	62	13	4	-	-	-	58	13	46	13	1	Macedonian
Article 204, paragraph 3	14	4	-	-	-	-	14	4	12	4	-	-
Article 204, paragraph 3 (aggrieved minor)	1	1	-	-	-	-	1	1	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 1	5	1	-	-	-	-	5	1	2	1	1	Belarusian
Article 204, paragraph 3, in conjunction with paragraph 2	9	-	-	-	-	-	9	-	8	-	1	Bulgarian
Article 204, paragraph 4	1	1	-	-	-	-	1	1	1	1	-	-
Article 253, paragraph 1	5	1	-	-	-	-	5	1	1	-	1	Bulgarian
Article 253, paragraph 2	1	-	1	-	-	-	-	-	-	-	-	-

**Table 56 (continued)**

**2004**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	28	7	-	-	-	-	28	7	13	4	10	Bulgarian, Russian
Article 204, paragraph 1	62	12	6	1	-	-	56	11	43	8	5	Bulgarian, Ukrainian
Article 204, paragraph 2	108	27	18	9	-	-	90	18	72	18	7	Vietnamese, Ukrainian
Article 204, paragraph 3	20	7	-	-	-	-	20	7	14	5	-	-
Article 204, paragraph 3, in conjunction with paragraph 1	10	1	1	-	-	-	9	1	6	1	1	Bulgarian
Article 204, paragraph 3, in conjunction with paragraph 2	11	1	-	-	-	-	11	1	5	1	-	-
Article 253, paragraph 1	16	3	-	-	-	-	16	3	3	1	4	Bulgarian, Ukrainian

**2005**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	21	2	-	-	-	-	21	2	8	2	4	Bulgarian, Ukrainian
Article 204, paragraph 1	70	13	5	-	1	1	64	12	59	11	3	Bulgarian, Ukrainian, Armenian
Article 204, paragraph 2	134	31	10	-	-	-	122	27	99	27	5	Bulgarian, German
Article 204, paragraph 3	20	4	-	-	-	-	20	4	11	2	2	Bulgarian, Ukrainian
Article 204, paragraph 3, in conjunction with paragraph 1	8	3	-	-	-	-	8	3	2	2	-	-
Article 204, paragraph 3, in conjunction with paragraph 2	9	3	-	-	-	-	9	3	4	3	1	Bulgarian
Article 204, paragraph 4	7	4	-	-	-	-	7	4	6	3	-	-
Article 253, paragraph 1	9	1	-	-	-	-	9	1	5	1	1	Vietnamese

**Table 56 (continued)**

**2006**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	24	4	-	-	-	-	24	4	10	3	3	Bulgarian, Armenian
Article 203 (aggrieved minor)	1	-	-	-	-	-	1	-	1	-	-	-
Article 204, paragraph 1	46	10	1	-	-	-	44	10	35	10	2	Bulgarian
Article 204, paragraph 2	108	31	6	1	-	-	100	30	82	30	3	Bulgarian, Ukrainian, German
Article 204, paragraph 3	29	7	-	-	-	-	29	7	16	7	2	Russian, Romanian
Article 204, paragraph 3, in conjunction with paragraph 1	3	-	-	-	-	-	3	-	1	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 2	15	8	-	-	-	-	15	8	8	8	1	Georgian
Article 204, paragraph 4	1	-	-	-	-	-	1	-	1	-	-	-
Article 253, paragraph 1	13	2	-	-	-	-	13	2	2	-	4	Bulgarian

**2007**

Legal qualification (of the Penal Code)	Persons sentenced											
	Total	Women	To the penalty of								Foreigners	
			A solely imposed fine	Women	Restriction of liberty	Women	Imprisonment				Total	Nationality
							Total	Women	With sentence suspended	Women		
Article 203	14	2	-	-	-	-	14	2	1	1	1	Belarusian
Article 203 (aggrieved minor)	1	-	-	-	-	-	1	-	-	-	-	-
Article 204, paragraph 1	24	5	-	-	-	-	24	5	5	-	-	-
Article 204, paragraph 2	81	22	3	-	3	1	74	20	18	4	4	Bulgarian, Russian, Ukrainian
Article 204, paragraph 3	12	5	-	-	-	-	12	5	5	1	1	Ukrainian
Article 204, paragraph 3, in conjunction with paragraph 1	4	2	-	-	-	-	4	2	-	-	-	-
Article 204, paragraph 3, in conjunction with paragraph 2	7	3	-	-	-	-	7	3	3	-	-	-
Article 204, paragraph 4	1	-	-	-	-	-	1	-	-	-	-	-
Article 253, paragraph 1	3	1	-	-	-	-	3	1	1	1	1	Moldavian

395. Under the Act of 16 February 2007 Amending the Act on Social Assistance, new provisions have been introduced establishing a basis for providing support for victims/witnesses of trafficking in human beings. They allow for more efficient and comprehensive support provided by social assistance units on various levels of local administration, and for coordination of support provided to victims of trafficking in human beings under the social assistance system.

396. In 2007, the staff of the social policy departments of the voivodship offices and of regional social policy centres (total of 32 persons, 2 from each voivodship) was trained on the identification of victims of trafficking in human beings, crisis intervention and principles of cooperation with other institutions. The objective of the training was to create a network of voivodship consultants in the field of support provided to victims of trafficking in human beings. Those trained are responsible for maintaining contact and cooperation with social assistance organizational units in voivodships, as well as with the Ministry of Labour and Social Policy and other partners providing support to victims of trafficking in human beings. In 2008, two training sessions were organized for social assistance workers (60 persons), mainly from crisis intervention centres. The emphasis was on work with victims of trafficking in human beings and providing them with support in accordance with new regulations of the Act on Social Assistance. Educational materials on combating and preventing trafficking in human beings were distributed: in 2008, materials of the Ministry of Interior and Administration were forwarded to the officers of the social assistance organizational units.

397. Activities within the framework of the Development Partnership “IRIS: Social and Vocational Reintegration of Women - Victims of Human Trafficking”:

(a) Training (providing support to victims of trafficking in human beings - legal framework) for social assistance workers was organized in six voivodships: Małopolskie, Łódzkie, Podlaskie, Pomorskie, Dolnośląskie and Zachodniopomorskie (2007-2008);

(b) A textbook has been developed for persons working with victims of trafficking in human beings “Comprehensive system of support and vocational training preparing victims of human trafficking to actively enter the labour market”; it has been distributed to social assistance workers who received training to provide support to victims of trafficking in human beings, as well as to social policy departments of voivodship offices, regional social assistance centres and crisis prevention centres (2008).

398. A special-purpose reserve fund intended to subsidize activities of existing crisis intervention centres and to establish new facilities: in 2007, the amount of 4.36 million PLN was spent, and in 2008, 4.42 million PLN.

399. Poland is a party to the following international agreements on combating trafficking in human beings:

#### **United Nations**

(a) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;

- (b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
- (c) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;
- (d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;

#### **European Union**

- (a) The Treaty on European Union;
- (b) The Treaty of Amsterdam;
- (c) The Council Framework Decision on combating trafficking in human beings (2002/629/JHA);
- (d) The Council Framework Decision on combating the sexual exploitation of children and child pornography (2002/68/JHA);
- (e) Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

#### **International Labour Organization**

- (a) ILO Convention No. 29 concerning Forced or Compulsory Labour (1930);
- (b) ILO Convention No. 105 concerning the Abolition of Forced Labour (1957);
- (c) ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999);

#### **Council of Europe**

- (a) Council of Europe Convention on Action against Trafficking in Human Beings.

#### **F. Article 11. The right to an adequate standard of living**

*Question 27. Please provide additional information on the implementation of the measures undertaken to combat poverty and social exclusion among vulnerable groups and individuals, including unemployed persons, large and single-parent*

***families, unskilled young persons, retired persons, inhabitants of rural areas and small towns, persons with disabilities and persons belonging to national and ethnic minorities. Please also provide recent statistical data on the number of persons living below the poverty line (E/C.12/POL/5, paras. 505-523 and 996).***

400. Financial support available to families since 1 May 2004 under the system of family benefits has had an important impact on families' budgets. In 2007, the number of children who had a family benefit paid for them was 4.26 million, and the expenses on benefits amounted to 8.16 billion PLN. In 2008, family benefit was paid out for 3.77 million children, and the expenses on benefits amounted to 7.61 billion PLN. The support provided under the system of family benefits was most important for single-parent families. Entitlement to family benefits depends on the income criterion, which amounts to 504 PLN per person after deduction of income tax and social and health insurance contributions or, for a family with a disabled child, 583 PLN per person. The level of income entitling one to receive family benefits is higher than the statutory poverty threshold (351 PLN per person) and higher than the relative poverty threshold (387 PLN per person for a family household of four with two children). Therefore, recipients of family benefits are both poor families and those slightly more well off.

401. The set of family benefits contains family allowance and allowances related to disability (a family allowance supplement for education and rehabilitation of a disabled child, nursing benefit, nursing allowance), education (a family allowance supplement for the start of a school year, for a child taking up education outside its place of residence), childbirth (a family allowance supplement for childbirth, for care of a child during childcare leave, one-off childbirth aid, childbirth aid paid by gminas), and allowances available to large families (a family allowance supplement for raising a child in a large family). Single parents are entitled to a family allowance supplement for single parents and allowances from the State Alimony Fund in replacement for maintenance payments that are not enforceable.

402. Improvement in the situation of families can also be attributed to changes in the tax system. In 2007, a family tax deduction was introduced to support families, which is particularly advantageous for families with children.

403. In the years 2006-2008, the Government collaborated with local self-government bodies in the implementation of a series of programmes that aimed to provide support to children from poor families. By the end of 2007, 117 new sociotherapeutic day rooms had been established, in which activities were organized for nearly 2,000 children from dysfunctional families. Local self-government units received support of 12.3 million PLN and 7.7 million PLN, in 2007 and 2008 respectively, for the development of a system of childcare and family care, including the prevention of social maladjustment and crime among children and youths. In 2007, 338 local and regional projects were carried out within the framework of the programme, and in 2008, 322 were carried out. In 2007, 1.7 million children and youths in primary, lower secondary and secondary schools (including 600,000 in rural areas) were covered with the extra meals programme. More than 9,000 children benefited from the pilot "Programme of early, multispecialist, comprehensive, coordinated and continuous assistance for children at risk of disability or disabled children and for their families".

404. Between 2006 and 2008, programmes aimed at providing financial support to children and youths at school were continued. In 2007, 439 million PLN was spent from the special-purpose State budget reserve “Subsidies for the National Scholarship Scheme” towards subsidies for gminas providing financial support to pupils to bridge the gap in the access to education, and 16 million PLN for the provision of equal education opportunities of children of former employees of State-owned farms. In recent years, on average 1.3 million pupils annually received social benefits and scholarships. In 2006, 25 per cent of the total number of pupils in primary education received social scholarships; in the case of children attending schools in rural gminas this percentage was 42.5 per cent.

405. In the school year 2006-2007, 120,500 pupils (32.1 per cent of the population) received free sets of textbooks. In 2006, 11 million PLN was allocated for the realization of the programme. In 2007, an amount of 41 million PLN was spent from the special-purpose State budget reserve “Subsidies for the National Scholarship Scheme” on the purchase of textbooks for pupils in the preparatory class and pupils in years one to three from families on a low income, and 11 million PLN from the special-purpose State budget reserve “School Set”. For subsidies towards the purchase of homogeneous uniforms for pupils from low-income families, 41 million PLN was spent from the special-purpose State budget reserve “Subsidies for the National Scholarship Scheme”.

406. An improvement of the situation of persons facing social risks is, to a large extent, a result of an ever more active and responsible social policy in respect of the provision of social assistance by local authorities. Gmina self-governments have also increased funds for the realization of their statutory responsibilities in respect of social assistance. Their expenditure in 2005 was 1.76 billion PLN, including 554 million PLN for pecuniary and in-kind benefits and 356 million PLN for the provision of meals. In 2006, the expenditure was 2.05 billion PLN, including 701 million PLN for pecuniary and in-kind benefits and 411.5 million PLN for the provision of meals.

407. In July 2007, the Act on Social Employment was amended. Several important new provisions have been introduced to the vocational and social reintegration programmes undertaken by social integration centres and clubs. A set of policy instruments has been expanded: a motivation bonus has been introduced, and discipline among participants has been increased (a limit on the number of days allowed for sick leave). The amendment to the Act has allowed for the inclusion of the disabled in the group of persons allowed to participate in activities organized by social integration centres, and enabled social integration clubs to organize local community service programmes.

408. At the end of 2007, there were 55 social integration centres, 60 per cent of which were established by NGOs and 40 per cent by local self-governments. In 2007, approximately 2,500 persons participated in vocational and social reintegration activities. More than 300 social integration clubs were established in 2006 and 2007. The development of social cooperatives was slower than expected, which was caused by the difficulties in the process of reintegration of the long-term unemployed (lack of trained re-education and advisory personnel), as well as only partially introduced proper institutional and legislative solutions, including local public-private partnerships (with the participation of businesses and gmina and regional social economy centres).

409. The social economy sector received support from national funds within the framework of the programmes of the Ministry of Labour and Social Policy, the Civic Initiatives Fund and the European Social Fund. Planned legislative changes in acts on employment promotion and labour market institutions, on social cooperatives and on social employment, as well as an increase in financial support to the sector from State and structural funds should contribute to the popularization of forms of social and vocational integration and continuing education, prepared in social centres, clubs and cooperatives. The draft amendment of the Act on Public Benefit and Volunteer Work was submitted to the Sejm of the Republic of Poland in February 2009.

410. Actions for the benefit of the homeless and those at risk of homelessness have been continued. In the years 2006-2007, over 80,000 persons participated in the Government programme "Return of the homeless to society"; of those, 2,500 persons were covered with individual programmes of social inclusion.

411. The operational programmes implemented by the Ministry of Agriculture and Rural Development in the years 2004-2006 improve the social situation and living conditions of families in rural areas. Farmers benefited from the actions undertaken within the framework of the Sectoral Operational Programme "Restructuring and Modernization of the Food Sector and Rural Areas Development", the Sectoral Operational Programme "Fisheries and Fish-Processing" and the Rural Development Plan. Actions within the framework of the Sectoral Operational Programme "Restructuring and Modernization of the Food Sector and Rural Areas Development" allowed the improvement of the social situation and living conditions of families through the support provided for training, agricultural advisory services, diversification of agricultural activities and agricultural-like activities in order to assure the variety of activities or alternative sources of income, rural renewal and preservation and protection of cultural heritage, enabling an easier start for young farmers. This support has resulted in the extension of agricultural activity onto secondary activities, such as small-scale services, agrotourism, and the enhancement of qualifications of farmers and other persons employed in agriculture or forestry. It has also enabled farmers to receive support under the financial instruments of the Common Agricultural Policy, facilitated access to knowledge and information and stimulated agricultural activity and a pro-development approach among the rural population.

412. One of the actions under the Rural Development Plan was the introduction of a structural pension, which, apart from the acceleration of the process of generational succession in farming that aims to increase the profitability and competitiveness of farms, has also had a social impact, since, for 54,000 elderly farmers it has meant a stable monthly income. Other activities under the programme that have influenced the family situation, include providing support to semi-subsistence farms, agricultural activities in areas of unfavourable agricultural conditions and groups of agricultural producers.

413. The majority of activities carried out between 2004 and 2006 have been continued as part of the "Rural Development Programme 2007-2013".

414. Other actions are planned or implemented in order to support families:

- (a) Food aid programme for Europe's poorest people;

(b) Action “Glass of Milk”: promotion of milk and dairy product consumption among children who attend educational establishments. The Agricultural Market Agency subsidizes milk and dairy products delivered to educational establishments;

(c) Subsidized system of social insurance for farmers - a subsidy from the State budget currently amounts to 90 per cent of its expenses. It is currently planned to decrease this subsidy by increasing the level of contributions made by farmers;

(d) State budget subsidies towards insurance contributions for farming and farm animals;

(e) Direct payments to agricultural lands are granted under the Act of 18 December 2003 on Direct Payments to Agricultural Land.

415. Of all the national and ethnic minorities in Poland, the problems of poverty and social exclusion concern only the Roma minority. Activities aimed at the vocational and social integration of this minority are undertaken as a part of the governmental “Programme for the Roma Community in Poland 2004-2013” and under the Human Capital Operational Programme, implemented since 2008. Activities realized aim, among other things, to provide support (legal, organizational, educational and financial) for the creation and running of social integration establishments, the organization of courses and training enabling the acquisition, the enhancement or change of qualifications and vocational skills, the development of new forms and methods for the provision of individual and community support to aid vocational and social integration, providing support for the establishment and the functioning of forms of social integration of youths outside of schools (community common rooms and community after-school clubs), the organization of promotional and information events and campaigns on the equality of opportunities, mobility and vocational flexibility, the development of dialogue and public-private partnerships, and conducting, publishing and disseminating surveys and analyses on social policy.

416. In addition, activities are undertaken to improve the living standards of the Roma minority. Investments aimed at improving the housing and sanitary conditions (renovating housing and support to housing construction, connecting houses to sewage and water supply systems, providing running water and electricity) are top priorities.

***Question 28. Please provide detailed information on the measures adopted by the State party to increase the present supply of available accommodation, in particular social housing, and to improve the quality of the existing housing facilities, which is reportedly of a poor quality, especially in rural areas (E/C.12/POL/5, paras. 555-569).***

417. In 1999-2006, the system of supporting housing underwent reform - the well-developed system of tax exemptions and tax relief, introduced in the early 1990s, was replaced by precise measures directed at people not able to solve their housing problems on their own.

418. After Poland’s accession to the European Union, the reduced VAT rate of 7 per cent was maintained (base rate - 22 per cent) on providing new housing and on construction and

renovation-related services, while investors building on their own (mainly rural construction) were granted the possibility of obtaining repayment of the 15 percentage point difference in the VAT rate for the purchase of construction materials.

419. In 2006, two programmes were introduced to increase the availability of housing for poor and low-income persons. The housing programme for the poorest is financed by gminas and supported by the State budget (the aid provided ranging from 30 per cent to 50 per cent of the investment costs). The supported undertakings include construction, purchase and refurbishment of housing on the secondary market, as well as conversion of non-residential buildings into residential ones. The programme, which makes it easier for families to buy modest housing, if they make the effort to repay the loan, results from the Act of 8 September 2006 on Financial Support for Families Purchasing Their Own Flat. State aid in the form of a subsidy towards the interest of the loan is granted in the first eight years of repayment, in the amount of 50 per cent of the interest.

420. The Social Housing Construction Programme is aimed at providing housing for low-income persons, but it also helps gminas to satisfy the local community housing needs. The programme was developed in 1995 with the objective of granting low interest rate and long repayment term preferential loans by the National Housing Fund. Loans are given to social housing construction associations - entities formed on the model of Western European housing companies, acting as non-profit organizations and housing cooperatives. The loan granted can cover up to 70 per cent of the investment and the remaining costs may be covered, for example, by gmina self-government (mainly through ground contributions) and tenants/participants. In 1999-2006, social housing construction associations built and put into service 55,000 new flats.

421. In December 1998, a programme for the improvement of energy quality in housing was launched. The Bank Gospodarstwa Krajowego created a Thermo Modernization Fund to aid investors implementing thermo modernization projects on loans granted by commercial banks. The loans are granted at market rates, and are preferential due to a thermo modernization bonus amounting to 25 per cent of the loan.

422. In 1999-2008, social housing construction associations built and put into service 65,000 new flats.

423. The social housing construction system reform is currently being developed in collaboration with experts from the World Bank. The aim of this reform is to increase the financing effectiveness of the system, as well as to improve tenants' selection criteria.

424. The housing benefit system, introduced in 1994, is an important factor for improving the availability of housing. Housing benefit is a financial contribution paid out by a gmina, aimed at subsidizing costs incurred in relation to housing. The subsidy is granted to families in a difficult financial and life situation, in cases defined in appropriate regulations. The amount of benefits paid out depends on the rental policy at the gmina level. In 2007, 1.05 billion PLN was spent on housing benefits. The average monthly subsidy amounts to 150 PLN.

425. Since 2007, the minister responsible for social security has been supporting local initiatives of gmina self-governments and NGOs that make use of such professional activation tools as community service and public works (the Active Forms of Counteracting Social Exclusion programme). Recipients of social benefits, including homeless persons and persons at risk of homelessness, take part in works in selected social housing facilities (shelters for the homeless, social housing). Fifty such projects were implemented in 2006-2008.

426. On 11 March 2009, the Minister of Labour and Social Policy submitted a motion to the Head of the Prime Minister's Chancellery to establish a multiannual programme entitled National Programme for Overcoming Homelessness and for Development of Social Housing for the years 2009-2015. Initial assumptions of the programme were submitted alongside the motion. Standards for rendering services for the homeless will be developed in the course of this programme; mechanisms coordinating activities of different institutions for the benefit of the homeless and persons at risk of homelessness will be implemented together with undertakings in development of social housing.

### **G. Article 12. The right to physical and mental health**

***Question 29. Please provide additional information, including recent statistical data, on situations in which abortion is admissible pursuant to the Act on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion of 7 January 1993, and on the use of the conscientious objection clause by medical practitioners who refuse to carry out abortions in compliance with the Act. What steps has the State party taken to protect women from pregnancy-related death and morbidity due to clandestine and unsafe abortion? (E/C.12/POL/5, paras. 1015-1044).***

427. Abortion is permissible under three conditions. In accordance with article 4a, paragraph 1, of the Act on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion, abortion can be carried out only by a doctor, if:

- (a) Pregnancy poses a threat to the woman's life or health;
- (b) Prenatal examination or other medical indications suggest a serious possibility of an irreversible disability of the foetus or untreatable disease endangering its life;
- (c) There is a reasonable suspicion that the pregnancy is a result of a criminal offence.

428. If a pregnancy poses a threat to the woman's life or health, or a prenatal examination or other indications suggest a serious possibility of an irreversible disability of the foetus or untreatable disease endangering its life, an abortion can be carried out, in a hospital only. However, if there is a reasonable suspicion that the pregnancy is a result of a criminal offence, abortion can be carried out also in a clinic or in private treatment rooms (individual medical practice).

**Table 57**

**Abortions**

	Total	Broken down into		
		Resulting from the threat to women's life or health	Resulting from medical indications regarding the foetus	Resulting from pregnancy in effect of a criminal offence
2004	193	62	128	3
2005	225	54	168	3
2006	340	82	246	12
2007	322	37	282	3

429. The number of miscarriages is stable: in 2005, 40,754 cases were registered in public health-care institutions, and in 2002 there were 41,707. The number of registered miscarriages in recent years is slightly lower in comparison to the 1990s (in 1996 there were 45,054). In 2007, 43,327 miscarriages were registered.

430. During the work on the government report on the implementation of the Act on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion in the years 2006 and 2007, no irregularities in implementing the Act were found; there was also no important or statistically significant data indicating that the health-care system did not grant the right to terminate pregnancy in cases permitted by the Act, or that access to prenatal examination and contraceptives was restricted.

431. Patients' rights are protected by regulations specifying the duties and obligations of medical self-governments. Pursuant to the Act of 17 May 1989 on Chambers of Physicians and Dentists, the Regional Screener for Professional Liability conducts proceedings in cases involving professional liability. The number of cases examined in 2004 by professional liability screeners regarding care of a pregnant woman, pre- and post-natal care, and pregnancy termination decreased in comparison to 2003 - from 58 cases regarding care of a pregnant woman in 2003 to 40 in 2004 and, respectively, from 126 cases regarding pre- and post-natal care to 74. There were no cases regarding genetic examination of the foetus, and only one abortion case was examined. In 2003, as well as in 2004, regional medical courts did not examine any cases regarding genetic examination of the foetus. Similarly, no cases regarding pregnancy termination were examined.

432. In 2007, professional liability screeners examined:

- 39 cases regarding care of a pregnant woman
- 102 cases regarding pre- and post-natal care
- 1 case regarding genetic examination of the foetus
- 14 cases regarding pregnancy termination

In 2007, regional medical courts examined:

- 1 case regarding care of a pregnant woman
- 14 cases regarding pre- and post-natal care
- No cases regarding genetic examination of the foetus
- 1 case regarding pregnancy termination

433. The right of access to reproductive health (including abortion pursuant to the Act) in relation to the conscience clause which can be called upon by a doctor (the right to refuse to provide the service in situations determined in article 39 of the Act of 5 December 1996 on Physicians and Dentists) does not, in accordance with the regulations, pose a threat for the patient. Doctors are obliged to provide information about another doctor or another institution where such a service can be rendered, and give account of this situation in the medical record. Doctors performing their profession on the basis of a work agreement, or who are in service, are obliged to notify their supervisor in writing about exercising the conscience clause. Nevertheless, in accordance with article 30 of the Act on Physicians and Dentists, doctors are obliged to provide medical assistance in all cases where a delay in its rendering could expose the patient to danger of loss of life, grievous bodily injury or serious mental harm, as well as in other urgent cases. The Ordinance of the Minister of Health of 6 October 2005 on general terms of agreements on providing health services, specifying that a hospital in which all the employed doctors call upon the conscience clause must conclude an agreement with another institution which provides such treatment, is no longer in force. The Ordinance of the Minister of Health of 6 May 2008 on general terms of agreements on providing health services, which is currently in force, does not include the obligation to find a subcontractor to provide such services.

434. In 2006, no complaints were filed to the National Consultant on Obstetrics and Gynaecology regarding refusal to perform an abortion in accordance with the Act. Similarly, the Patients Rights Bureau registered no complaints.

435. In March 2003 and March 2005, the Minister of Health instructed the voivods on the unconditional obligation to implement the provisions of the Act. He pointed out that the conscience clause may be called upon by a given doctor in a given situation, and may not be used by the entire institution as a collective act supported by general declarations by the management of the institution. In accordance with the law in force, the conscience clause cannot be exercised in an informal way; appropriate medical records must always be developed in each case and the supervisor must be informed.

**Table 58**

**Adult persons sentenced pursuant to a court judgement valid in law<sup>8</sup>**

Types of offences	2001	2002	2003	2004	2005	2006	2007
Offences against life and health (of the Penal Code)	23 445	26 055	31 285	43 313	45 340	43 156	41 190
Of which							
Article 149	9	12	11	17	9	9	6
Article 152, paragraph 1	2	7	5	9	14	10	6
Article 152, paragraph 2	5	2	3	15	11	15	6
Article 152, paragraph 3		2					
Article 153, paragraph 1	2	1	2	3	7		2
Article 153, paragraph 2			1				
Article 154, paragraph 1	2			2	1		
Article 154, paragraph 1, and article 152, paragraph 1				1			

<sup>8</sup> “Article 149. A mother who kills her child in the post-natal period in result of the course of delivery shall be subject to the penalty of imprisonment for a period from 3 months to 5 years.

Article 152 (1). A person, who with the woman’s consent terminates her pregnancy in contravention of the Act, shall be subject to the penalty of imprisonment up to 3 years.

Article 152 (2). A person, who helps a pregnant woman terminate her pregnancy or encourages her to do so, shall be subject to the same penalty.

Article 152 (3). A person guilty of the offence referred to in paragraphs 1 and 2, after the conceived child became able to live independently outside the woman’s organism, shall be subject to the penalty of imprisonment for a period from 6 months to 8 years.

Article 153 (1). A person who terminates a woman’s pregnancy by applying violence or in any other way without her consent, or by violence, illegal duress or deception drives a pregnant woman to terminate her pregnancy, shall be subject to the penalty of imprisonment for a period from 6 months to 8 years.

Article 152 (2). A person who is guilty of the offence referred to in paragraph 1 after the conceived child became able to live independently outside the woman’s organism shall be subject to the penalty of imprisonment up to 10 years.

Article 154 (1). If a pregnant woman dies as a consequence of the offences referred to in Article 152 (1) and (2), the offender shall be subject to the penalty of imprisonment for a period from 1 year to 10 years.

Article 2 (152). If a pregnant woman dies as a consequence of the offences referred to in Article 152 (3) or Article 153, the offender shall be subject to the penalty of imprisonment for a period from 2 to 12 years.”

**Question 30. Please explain what targeted measures the State party has adopted to enhance access to family planning services and to artificial methods of contraception, as well as to raise awareness about sexual and reproductive health, including the use of contraceptives, in particular among adolescents (E/C.12/POL/5, paras. 997-1014).**

436. According to the data obtained during the study “State of Health of the Polish Society” carried out in 2004, over 65 per cent of women between 15 and 49 years of age who declared that they are having sex use contraceptives. Since 1996, there has been a fundamental change in the methods used. Natural, chemical and mechanical methods have become far less frequent. The choice of a contraceptive is influenced by the age of a woman - the younger usually decide to use condoms and contraceptive pills, whereas women over 40 years of age prefer the calendar method and interrupted sex.

**Table 59**

**Birth control methods, as a percentage of women using contraceptives**

	1996	2004
Measuring body temperature or observing cervical mucus	9.7	4.7
Calendar method	42.5	21.2
Interrupted intercourse	35.1	19.5
Condoms	22	36.9
Contraceptive pills and other hormonal contraceptives	7.9	26.9
Intrauterine device	6.9	5.6
Chemical and other mechanical contraceptives	3.8	1.8
Other	5	4.5

437. The selection and access to modern contraception methods have increased in the last 20 years. Low-dose contraceptive pills have been introduced and new progestogens have been developed. New kinds of therapy have also been implemented, including progestogen implants, intrauterine devices with gestogens and first transdermal or intravaginal contraceptives utilizing oestroprogestogens. The study of women’s expectations towards contraceptives indicates that their most important features include effectiveness, lack of side effects, reversibility, acceptance and other benefits resulting from their usage. In 2006, 38 medical products applied as contraceptives (gestogens and oestrogens, including two progestogens) were authorized.

438. Health care and counselling are realized in terms of:

- (a) Basic health care;
- (b) Specialist treatment in clinics (gynaecology clinics, obstetrics-gynaecology clinics and pregnancy pathology clinics);

- (c) Hospital treatment (general and gynaecological, obstetrics-gynaecological, pregnancy pathology);
- (d) Birth schools;
- (e) Infertility treatment (non-refundable);
- (f) Family planning;
- (g) Prenatal and genetic examination;
- (h) Paediatric gynaecology;
- (i) Health promotion programmes (e.g. screenings aimed at early detection of tumours);
- (j) Health resort treatment.

439. Services regarding pregnancy care, birth care and confinement care are free of charge. In the case of women not covered by health insurance, the Minister of Health finances the services; in 2001, 1.975 million PLN was spent on such services, in 2007, 1.12 million PLN.

440. No restrictions in access to services were found. As the number of births decreased, so did the number of beds in obstetrician wards, and the rural birth clinics were replaced by hospitals. In 2000, medical care of mother and child once again came under the supervision of Voivodship Public Health Centres, and of the Institute of Mother and Child on the central level.

441. All women in Poland are under prenatal care. According to a survey carried out by the Institute of Mother and Child, only 1 per cent of women do not contact a doctor when they are pregnant.

442. Progress has been observed in recent years in prenatal diagnostics, in particular due to the fact that early detection of foetus defects and diseases makes it possible to implement proper treatment and optimum therapeutic activities in the pre- and post-natal period. Prenatal tests are carried out, in accordance with the suggestions of clinical genetics, in women who run a risk of a disease or a defect higher than average. Health services, including prenatal tests, are provided to pregnant women by health-care institutions as well as by individual and group private practices. The number of prenatal tests carried out constantly rises, which is the effect, among others, of increased health awareness. In 2002, 3,800 invasive prenatal examinations were carried out, in 2003 there were 3,228, and in 2004 there were 3,420; 242 foetus pathologies were found and 18,163 genetic consultations were conducted. In 2007, 21,945 genetic consultations were conducted, 5,165 invasive prenatal tests were carried out, and, as a result, 550 foetus pathologies were found.

443. In 2004, 16 public genetic centres were active.

## H. Articles 13 and 14. The right to education

**Question 31. Please provide detailed information, including recent statistical data, on progress made by the State party to eliminate the practice of enrolling Roma pupils in special classes attended only by Roma (often referred to as “Roma classes”) and in ensuring their equal access to integrated schools and educational programmes. Please also provide information on measures adopted to improve school attendance and performance among Roma children and to help them continue their studies into higher education (E/C.12/POL/5, paras. 877-879).**

444. A low level of education, illiteracy and non-fulfilment of school duty are frequently the basic problems of the Roma community in Poland. According to the representatives of Roma organizations, as well as experts and government administration, those problems are the main cause for the social marginalization of the Roma.

445. Activities in the field of education are given priority in the Programme for the Roma Community in Poland. Education of Roma students is supported, for example, by:

- (a) Employment of Roma teachers’ assistants and supporting teachers in schools;
- (b) Compensatory classes;
- (c) Speech therapy and corrective classes;
- (d) Equipping Roma students with teaching materials and books;
- (e) Scholarship system for particularly talented children and youth;
- (f) Classes in after-school facilities;
- (g) Summer camps, school trips, art contests.

446. Particular attention was paid to the programme concerning Roma teachers’ assistants and supporting teachers in Roma education. A total of 100 assistants and 100 supporting teachers are currently employed. Assistants are responsible for providing comprehensive assistance, at school and outside it, to children and youth learning in integrated classes. Assistants are also obliged to work with the parents of Roma children. Supporting teachers are especially focused on Roma children, treating them, at the earliest levels of education, as foreign-language and bicultural children. They supervise children’s progress in education, conduct compensatory classes, help children in their homework, and remain in contact with their families.

447. The work of assistants and teachers is supported by complementary activities, including the organization of compensatory and extra-curricular activities, ensuring financial aid to Roma children, helping them to attend kindergartens and preschool classes regularly, buying books and

other additional educational materials, paying for the transportation to school and for injuries insurance. Organization of summer camps, winter trips, scout camps, trips, and sport and leisure time activities is also subsidized.

448. Every year, a number of NGOs are assigned by the Minister of the Interior and Administration with implementation of a scholarship system for talented students and pupils as a way of implementing educational activities under the Programme. In the last three years, scholarship was granted to about 100 students and about 50 pupils with an artistic predisposition.

449. Focusing the funds and activities on the education of children and youth led to significant achievements. The number of children fulfilling their school duty has increased considerably (in certain voivodships all school-age Roma children attend school); the attendance and results have also improved.

450. A steadily decreasing number of "Roma classes" is also the result of activities carried out under the Programme and the implementation of a new educational model for Roma children. Moreover, in 2008, the Minister of the Interior and Administration obliged voivods to take measures encouraging authorities in schools with "Roma classes" to dissolve them and fully integrate children. In 2008, the Minister of National Education sent a letter regarding this matter to the education offices.

451. In the school year 2008/09, three educational institutions (namely, primary schools in Elk, Maszkowice and Nowy Sącz) have six special classes for Roma children (in 2007 - 10). Those classes include students who should be in higher grades because of their age, pupils who were granted lower educational requirements or who are repeating the class because of lack of progress resulting from low attendance or educational negligence. As the reasons for creating Roma classes vary, it was agreed that every school would develop a unique strategy aimed at the gradual integration of Roma students into the school system.

452. In November 2008, the Ministry of the Interior and Administration organized a conference, during which recommendations regarding consistent dissolving of "Roma classes" were formulated. It is presumed that, thanks to the work performed by Roma education assistants and supporting teachers, as well as due to other Programme-related activities for the Roma community in Poland (after-school facilities, providing kindergarten education and compensatory classes for Roma children), in the school year 2010/11 all Roma children will attend regular classes. Roma organizations are expected to increase their activity to encourage Roma families to let their children attend school regularly, especially in places where the Roma children are often not promoted to the next class, because of their frequent absence from school.

453. Local government units responsible for the schools that undertake additional educational tasks for Roma students are entitled to an increased educational subsidy.

**Table 60**  
**Expenditure in education, in PLN**

	Specific grants from the Ministry of Internal Affairs and Administration	From the budget of the Ministry of National Education
2004	5 000 000	1 000 000
2005	5 000 000	700 000
2006	5 000 000	701 000
2007	10 000 000	600 000
2008	10 000 000	700 000

**I. Article 15. The right to participate in cultural events**

**Question 32.** *Please provide additional information on the measures taken by the State party to implement the Act on National and Ethnic Minorities and the Regional Language, in particular as to the possibility of persons belonging to linguistic minorities to use their own languages as “auxiliary languages” in dealing with public authorities (E/C.12/POL/5, paras. 795-801). Please also provide additional information on the measures taken by the State party pursuant to the Act on Broadcasting to promote the access of persons belonging to national or linguistic minorities to radio and television broadcasts in their languages (E/C.12/POL/5, paras. 803-806).*

454. In accordance with article 35 of the Constitution, Polish citizens belonging to a national or ethnic minority shall have the freedom to preserve and develop their own language, to preserve customs and traditions, and to develop their own culture. Poland is also implementing the provisions of the Council of Europe’s 1995 Framework Convention for the Protection of National Minorities.

455. The provisions regarding the presence of minorities’ representatives in mass media are implemented by the Act of 6 January 2005 on National and Ethnic Minorities and the Regional Language. The Act makes it compulsory for public radio broadcasters and televisions to account for the needs of national and ethnic minorities and communities using a regional language, by, among other things, broadcasting information programmes in national and ethnic minority languages and in a regional language. Principles for establishing Programme Boards in field offices of public television companies are also favourable for the needs of national and ethnic minorities - directors are obliged to consider candidates proposed by social organizations of national and ethnic minorities and by communities using a regional language.

456. The public radio and television Telewizja Polska SA, as well as regional broadcasters, account for the needs of national and ethnic minorities and communities using a regional language by broadcasting in national languages and in a regional language. Such programmes are broadcast in areas inhabited by national minorities and ethnic groups or communities using a regional language. Telewizja Polska SA broadcasts its programmes on the common frequency and on the frequencies of regional programmes. Programmes broadcast on regional frequencies are produced by field offices and are targeted at Belarusians, Russians, Lithuanians, Ukrainians,

Germans and Kashubians. The Ukrainian, Belarusian, Lithuanian, Russian and German minorities broadcast cyclic programmes in national languages. National minorities' representatives present the programmes. A cyclic programme for the Ukrainian minority is broadcast on the common frequency of regional programmes.

457. Programmes for national minorities and ethnic groups are broadcast in their national languages and for community using a regional language.

**Table 61**

Field offices of Telewizja Polska SA	1999	2000	2001	2002	2003	2004	2005	2006
	Hours							
OTV Białystok	35.3	35.3	43.4	43.1	52.1	33.2	33.2	38.4
OTV Gdańsk	8	7.3	3.8	39.8	36.8	38	41.6	43.3
OTV Katowice	12	8.3	12	12	4.8	9.6	3.5	11
OTV Olsztyn*	x	x	x	x	x	x	11.4	11.7
OTV Opole*	x	x	x	x	x	x	15.2	15.7
Common frequency of the regional programmes	0	0	9.5	25.7	37.2	32	12.4	18.1

\* The division was launched in 2005.

458. Programmes targeted at Belarusians, Russians, Lithuanians, Ukrainians, Germans and Kashubians are broadcast on regional frequencies. Teams including representatives of national minorities create programmes.

**Table 62**

**Programmes for national minorities and ethnic groups in national languages and for communities using a regional language in the Regional Broadcasting Station PR SA**

Regional Broadcasting Station	1999	2000	2001	2002	2003	2004	2005	2006
	Hours							
Białystok	295	N/A	286	286	274	286	286	286
Gdańsk	47	N/A	47	47	43	90	92	108
Katowice	23	N/A	24	23.5	24.5	23.3	24	46.3
Koszalin	17	N/A	33	41	47.5	38.3	34	75
Kraków	0	N/A	0	0	11	11	23	32
Olsztyn	26	N/A	168	182	190	190	190	188
Opole	78	N/A	64	86	117.7	116.9	115	126.4
Rzeszów	37	N/A	37	43	45	52	54	68
Warszawa	0	N/A	0	0	0	0	0	347
Wrocław	0	N/A	0	0	0	0	10	10

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