



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 44 of the Convention

Third and fourth periodic reports of States parties  
due in 2008

**Poland\***

[Date received: 29 October 2012]

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\* The present document is being issued without formal editing.

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## List of abbreviations

Polish Constitution	The Constitution of the Republic of Poland
The Sejm	The Sejm of the Republic of Poland
CPC	Civil Procedure Code
PPC	Penal Procedure Code
PC	Penal Code
CC	Civil Code
LC	Labour Code
EPC	Executive Penal Code
FGC	Family and Guardianship Code
JDPa	Act on Juvenile Delinquency Proceedings
The Convention	Convention on the Rights of the Child
MJ	Ministry of Justice
MIA	Ministry of Interior and Administration
MLSP	Ministry of Labour and Social Policy
MND	Ministry of National Defence
MH	Ministry of Health
MNE	Ministry of National Education
MCNH	Ministry of Culture and National Heritage
MST	Ministry of Sport and Tourism
CSO	Central Statistical Office
NHP	National Headquarters of the Police
NHF	National Health Fund
CCR	Ombudsman for Children (Commissioner for Children Rights Protection)
HRD	Human Rights Defender

## Introduction

1. The initial report on the implementation of the Convention on the Rights of the Child in the Republic of Poland (CRC/C/8/Add.11 published on 31 January 1994), as submitted by Poland on 11 January 1994, contained information about measures applied by Poland with a view to implementing the provisions of the Convention and progress in using the rights in the years 1991-1993. It was adopted during the 208th meeting of the Committee on the Rights of the Child which took place on 26 January 1995.

2. The second periodic report on the implementation of the Convention on the Rights of the Child in the Republic of Poland (CRC/C/70/Add.12 published on 6 February 2002) was submitted by Poland on 2 December 1999. It was adopted during the 833rd meeting of the Committee on the Rights of the Child which took place on 4 October 2002 after the Committee was provided with supplementary information for the years 1999-2001.

3. Based on the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.194 published on 30 October 2002), the main areas were determined which are a matter of concern for the Committee and which have provided the basis for relevant recommendations. The recommendations of the Committee on the Rights of the Child must be implemented by different ministries in accordance with the scope of their competences: Ministry of Justice, Ministry of Interior and Administration, Ministry of Labour and Social Policy, Ministry of National Education, Ministry of Health, Ministry of Culture and National Heritage, Ministry of National Defence, Ministry of Sport and Tourism, Ministry of Environment. Furthermore, they are required to provide the Minister of National Education with information about the status of implementation of the recommendations of the Committee on the Rights of the Child as well as any ongoing activities with a view to implementing the rights of the child in Poland. Based on this information, the Minister of National Education prepares periodic reports on the implementation of the Convention on the Rights of the Child in the Republic of Poland which are then submitted to the Committee on the Rights of the Child. The Ministry of National Education has put forward a draft of this report for consultation purposes to the Ombudsman for Children and Polish National Committee for UNICEF, Helsinki Foundation for Human Rights, Amnesty International Poland, Nobody's Children Foundation, La Strada – Foundation against Trafficking in Persons and Slavery, ITAKA Foundation – Centre for Missing People.

4. This combined third and fourth report presents the status of implementation of the rights of the child in Poland in the years 1999-2010 with respect to the Convention on the Rights of the Child.

5. The report was developed in accordance with the guidelines specified by the United Nations Office in Geneva (CRC/C/58/Rev.1 published on 29 November 2005).

6. Part A of each Chapter I-VIII shows the recommendations of the Committee on the Rights of the Child and how they were implemented. Subsequent parts of these chapters contain information about the ongoing and projected activities of Poland with a view to implementing the rights of the child referred to in the Convention.

7. Poland also ratified the Optional Protocols to the Convention on the Rights of the Child:

1. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
2. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

8. In 2007, Poland submitted initial reports on the implementation of the Optional Protocols referred to above (CRC/C/OPAC/POL/1 and CRC/C/OPSC/POL/1) which were examined by the Committee on the Rights of the Child on 22 September 2009. The concluding observations were provided by the Committee in the documents CRC/C/OPAC/POL/CO/1 and CRC/C/OPSC/POL/CO/1. How the recommendations of the Committee on the Rights of the Child were dealt with is set out in Chapter IX hereof.

## **I. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)**

### **A. Implementation of the recommendations of the Committee on the Rights of the Child**

*CRC/C/15/Add.194 – paragraph 10: In the light of the Vienna Declaration and Programme of Action (1993) the Committee encourages the State party to continue and complete the process of withdrawing all of its reservations and declarations on the Convention.*

9. As a result of interministerial consultations regarding the modification of the scope of application of the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict it was considered legitimate to withdraw the reservation to article 38 of the Convention as well as to submit a declaration to the above-mentioned Optional Protocol to the Convention pursuant to article 3, paragraph 4 of the Protocol. The current legal situation makes it possible and reasonable to withdraw the reservation to the above-named article of the Convention and makes it necessary to submit a declaration to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict to the effect that for compulsory and voluntary basic military service in Poland can only be conscripted persons over the age of eighteen. For more information, see Chapter IX hereof.

10. In the Polish legal system, a regulation which restricts the right of a child to know his/her biological parents is provided for in the Civil Status Registry Act of 29 September 1986. Pursuant to article 48, paragraph 4 of the Act referred to above an adopted child may only request access to the civil status register in so far as it concerns his/her birth certificate after reaching the age of majority. Furthermore, pursuant to article 118 § 3 of the Family and Guardianship Code Act of 25 February 1964 it is possible for a guardianship court to rule in favour of adoption without hearing or requesting the consent of a child to be adopted if the child is unable to give his/her consent or if it follows from the assessment of relations between the adoptive parents and the adopted child that the latter considers himself/herself a child of the adoptive parents, and hearing the child or requesting his/her consent would be contrary to the best interests of the child to be adopted. The above-mentioned regulation of the national law is consistent with the recommendations set out in article 20 of the European Convention on the Adoption of Children of 24 April 1967 wherein it is stated that an adopted child and adoptive parents should have the right to obtain civil status documents confirming the date and place of birth of the adopted child, which nevertheless contain no direct references to the adoption or identity of the child's biological parents, and that civil status certificates shall be kept and their copies shall be issued in such a way as to prevent at least persons without any legitimate interest from finding out that a given person has been adopted or – if it is a generally known fact – from identifying his/her biological parents. At the same it is recommended that appropriate regulations should be laid down in order to enable ruling in favour of adoption without disclosing the identity of the adoptive parents to the family of the adopted child as well as regulation prescribing or allowing adoption proceedings to be held in camera.

11. It should be pointed out that the data concerning biological parents of each and every child are recorded and stored in civil status registers, kept by civil status offices of competent jurisdiction, and every child has free access to such data after reaching the age of majority. Pursuant to the opinion of the Committee on the Rights of the Child as expressed in the recommendation for Luxembourg (CRC/C/15/Add.250, para. 29) the State should ensure that all information concerning biological “parent(s) are registered and filed in order to allow the child to know – as far as possible and at appropriate time – his/her parent(s).”

12. According to the Republic of Poland, the Polish regulations referred to above are consistent with the requirement set out by the Committee as they make it possible for a child to find out in a timely manner, i.e. after reaching the age of majority, the identity of his/her parents. Given the above, appropriate actions have been taken with a view to withdrawing by Poland the reservations to articles 7 and 38 of the Convention on the Rights of the Child.

*CRC/C/15/Add.194 – paragraph 12: The Committee encourages the State party to take all necessary measures to ensure that its domestic legislation conforms fully with the principles and provisions of the Convention, in particular in the area of juvenile justice, unaccompanied asylum-seekers and sexual exploitation of children.*

13. The regulations contained in the national law of Poland aimed at protecting the rights of the child are consistent with the Convention.

14. The first and foremost source of law regulations applicable in Poland is the Polish Constitution which contains the fundamental constitutional principles of family relationship, including the principle of respect for the rights of the child (art. 72, para. 1 of the Polish Constitution). Pursuant to the provisions contained in the Polish Constitution, public authorities are required to provide specific health care for each and every child (art. 68, para. 3 of the Polish Constitution) as well as care and support to children deprived of parental guardianship (art. 72, para. 2 of the Polish Constitution). Additionally, each and every person has the right to demand public authorities to protect children against violence, cruelty, exploitation and moral deprivation (art. 72, para. 1 of the Polish Constitution), and when determining the right of the child both public authorities and persons responsible for the child are required to hear and take into account, as far as possible, the opinion of the child (art. 72, para. 3 of the Polish Constitution).

15. The Family and Guardianship Code continues to be the essential legal act in relation to family law and it gives specific expression to the fundamental rules contained in the Polish Constitution concerning the interests of children and their equal rights, whether or not they are legitimate children.

16. On 29 July 2005, the Sejm of the Republic of Poland passed the Act on Counteracting Domestic Violence. This Act specifies e.g. the obligation of public administration authorities and local governmental units to take measures aimed at combating domestic violence, and also to initiate and support projects designed to raise social awareness of the reasons underlying domestic violence and its effects. For more information about the measures applied with a view to domestic violence, see the response to the recommendation contained in paragraph 35(b) of the concluding observations (paras. 327-334 hereof).

17. On 10 June 2010, the Sejm passed the Act on Amendments to the Act on Counteracting Domestic Violence and Certain Other Acts. The amendments were introduced with a view to: developing preventive measures as actions with the aim of counteracting domestic violence, raising social awareness, ensuring effective assistance to victims of domestic violence, especially children, creating mechanisms which could

facilitate isolating perpetrators from their victims, changing attitudes of people inflicting domestic violence by submitting them to a corrective and educational influence.

18. Based on the act referred to above, the following solutions have been implemented:

1. As provided for in the Act on Counteracting Domestic Violence:

(a) Public administration authorities have been assigned with new tasks aimed at improving the effectiveness of the strategy on the issue of domestic violence:

- Development and implementation of a scheme aimed at counteracting domestic violence and protecting victims of domestic violence;
- Providing counselling and interventions associated with counteracting domestic violence;
- Providing places in support centres for persons affected by domestic violence;
- Creating interdisciplinary teams;

(b) Province governors were given the obligation to appoint a provincial coordinator for the implementation of the National Programme for Counteracting Domestic Violence;

(c) The scope of responsibilities of province governors was extended to include monitoring, controlling and supervising the implementation of tasks related to domestic violence;

(d) The scope of responsibilities of the Minister for Social Security was extended to include developing and financing support programmes related to prevention of domestic violence, providing financial support for programmes implemented by local governmental units or non-governmental organisations; the scope of cases to be subject to regulation by way of ministerial regulation was extended to include the identification of professional qualifications of persons employed in specialist support centres for victims of domestic violence and conducting correctional and educational impact activities;

(e) The scope of forms of support for victims of domestic violence was extended to include a possibility of having a free-of-charge medical examination to determine the causes and types of bodily injuries and obtaining a medical certificate;

(f) Persons who suspect, as a result of their business or professional duties, that an offence subject to official prosecution, involving domestic violence, has been committed, are required to immediately inform the Police or public prosecutor thereof;

(g) Social workers have been assigned the right to take a child away from its family if the child's life and health are at risk due to domestic violence (for more information, see para. 342-343 hereof);

(h) The scope of powers of custodian was extended during the implementation of court decisions towards sentenced persons for offences related to domestic violence, remaining under supervision and procedures were developed for apprehending a sentenced person in order to order the implementation of the penalty of imprisonment or to revoke an early release permit.

2. The Family and Guardianship Code was extended to include a ban on corporal punishments by persons assigned with parental rights who are in charge of a minor.

3. The Penal Code was extended to include a possibility of imposing on a perpetrator of domestic violence an obligation to refrain from staying in specific environments or places, contacting specific persons, a restraining order in relation to



specific persons or an order prohibiting the perpetrator from leaving his/her place of residence without court permission as well as an obligation to undergo therapy, in particular anti-addiction therapy, rehabilitation or participate in therapeutical, correctional and educational impact activities.

4. The catalogue of coercion measures in the Penal Procedure Code was extended to include the right of the Police to detain a suspected person if he/she can be reasonably suspected of a violent crime, order him/her to refrain from contacting the affected person or other persons in a specific manner and to leave the premises occupied together with the affected person.

19. To ensure full implementation of children's rights the institution of the Ombudsman for Children was established pursuant to the Act of 6 January 2000 on the Ombudsman for Children. The Ombudsman for Children may request competent authorities, including also the Human Rights Defender, organisations or institutions to take measures related to children's rights which fall within their scope of competence. The Ombudsman for Children is also authorised to investigate without notice all and any children-related cases, demand public governmental bodies, organisations or institutions to provide explanations or information and to act as a legal representative before courts based on the rights vested in public prosecutor. Additionally, the amendments to the Act referred to above introduced in 2008 and 2010 strengthened the rights vested in the Ombudsman for Children so that he/she can act as a legal representative before the Polish Constitutional Tribunal, Supreme Court and Supreme Administrative Court in cases related to children's interests and rights, taking into account the necessity of protecting public interest. For more information, see paragraphs 69-73 hereof.

20. For the Juvenile justice system, see the response to the recommendation contained in paragraphs 26 and 51 of the concluding observations (paras. 169-217 and 878-890 hereof).

#### **Polish regulations concerning sexual abuse of children**

21. Polish regulations concerning sexual abuse of children are fully compatible with the Convention, in particular article 34 thereof which requires each State Party to protect children from all forms of sexual exploitation and sexual abuse. Compliance with this requirement is achieved by preventing:

- (a) Procuring or forcing children to any illegal sexual activities;
- (b) Exploiting children for prostitution or any other illegal sexual practices;
- (c) Exploiting children in pornographic performances and materials.

22. Chapter XXV "Sexual offences and offences with sexual background" of the Penal Code distinguishes different statuses of victims according to their age and refers to victims as persons under the age of 15 and underage persons in terms of civil law, i.e. persons under the age of 18.

23. According to the Polish legal order all persons under the age of 18 are subject to special treatment when their best interests are at risk due to criminal conduct which constitutes an offence under:

- Article 202 § 3 of the PC, i.e. producing, recording or importing, storing and possessing pornographic content for distribution or distributing and public displaying pornographic content involving a minor;
- Article 202 § 4b of the PC, i.e. producing, distributing, showing, storing or possessing pornographic content which shows a generated or processed image of a minor participating in sexual activities (regulation implemented by the Act of 24 October 2008 on Amendments to the Act – Penal Code and Certain Other Acts).

24. The Act on Counteracting Domestic Violence defines domestic violence as a single or repeated action or omission infringing the rights or personal interests of family members and also other co-habitants or members of the household, in particular exposing these persons to the risk of death, health detriment, offending human dignity, personal physical integrity, freedom, including sexual freedom, causing suffering and non-material damage to victims of violence. Thus all instruments provided for in the Act referred to above are used for combating sexual abuse.

25. In the case of conduct penalised under article 202 § 4 and § 4a of the PC which involves recording pornographic content with a minor, and also importing, storing or possessing such content with no intent to distribute and which remains unrelated to situations defined in article 202 § 4b of the PC, persons under the age of 15 are subject to special protection.

26. Article 199 § 2 of the PC provides for greater liability for offences committed to the detriment of a minor (i.e. each person under the age of 18), which involve bringing another person – by abusing a situation of dependence or taking advantage of a critical situation – to have sexual intercourse or to subject oneself to another sexual activity or to perform such activity, in the form of possible imprisonment from 3 months to 5 years, while the basic form of such offence is subject to 3-year imprisonment.

27. Also causative acts defined under article 199 § 3 of the PC, which involve bringing a minor to have sexual intercourse or to subject himself/herself to another sexual activity or to perform such activity by abusing trust or in exchange for provided or promised financial or person benefits, constitute qualified sexual offences against another person and the essential type thereof is defined under article 199 § 1 of the PC. Pursuant to article 199 of the PC also voluntary teenage prostitution in exchange for financial benefits is subject to penalisation.

28. Article 204 § 3 of the PC criminalises conduct which involves inciting a minor to prostitute himself/herself or facilitating such activities for him/her in order to gain financial benefits and also deriving financial benefits from prostitution of other persons.

29. Article 200 § 1 of the PC penalises sexual intercourse with a person under the age of 15, perpetrating other sexual activities to such person, bringing such person to subject oneself to such activities or to perform them.

#### **Modifications and changes introduced to provide greater protection for children against sexual offences**

30. The following regulations were introduced: article 199 § 2 of the PC (qualified offences – subject to a harsher penalty – offences which involve bringing a person “to have sexual intercourse or to subject oneself to another sexual activity or to perform such activity” by abusing a situation of dependence if it is committed to the detriment of a minor); article 199 § 3 of the PC (underage prostitution); article 200 § 2 of the PC (depicting sexual activities performed to a minor under the age of 15); article 202 § 4 of the PC (recording pornographic content involving a minor under the age of 15); article 202 § 4a of the PC (possessing pornographic content involving a minor under the age of 15); article 202 § 4b of the PC (virtual child pornography); article 202, § 5 of the PC (confiscation of items used for committing offences referred to under article 202 of the PC);

31. Greater liability was defined for offences referred to in the following provisions: article 197 § 1-3 of PC (rape); article 200 § 1 of PC (sexual intercourse with a minor under the age of 15);

32. A longer limitation period was provided for offences involving sexual abuse of a minor (art. 101, § 4 of the PC).

### **Offences related to child pornography in the Polish law**

33. Protection against child pornography in the Polish law is more extensive than that provided for in the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. As provided for under article 3, para. 1 (c) of the Protocol referred to above, article 202 § 3 of the PC states that all persons who produce, record or import, keep or possess for distribution purposes, distribute or display in public pornographic content involving a minor are subject to penalty. However, Polish legal regulations go beyond the protection provided for under the Protocol referred to above by recognising that persons under the age of 15 should be subject to even more extensive protection than that provided for under the Protocol. The penalty referred to in article 202 § 4 of the PC applies to all and any persons recording pornographic content involving a minor under the age of 15. According to the Polish law, recording pornographic content involving a minor under the age of 15 is considered an offence even though the requirements laid down in the Protocol are not satisfied, i.e. it is perpetrated for trafficking in children or child prostitution. In Poland it will be considered an offence even though pornographic content is only recorded for personal use of the perpetrator.

### **Other changes and modifications in the Polish law**

34. In 2005, the PC was amended as regards penalties and protective measures. Article 41 § 1a and 1b were introduced which establish new forms of prohibiting offenders from filling of professional positions or entering professions related to education, teaching, treatment or providing care to minors. Pursuant to article 41 § 1a of the PC the court may forever prohibit an offender from entering all or specific professions or performing all or specific activities related to education, teaching, treatment or providing care to minors if the offender is sentenced to imprisonment for a sexual offence or an offence with sexual background to the detriment of a minor. If the offender is sentenced for such offence more than once, it is obligatory for the court to for ever prohibit him/her from filling professional positions, entering professions or performing activities referred to above (art. 41 § 1b of the PC).

35. Furthermore, if a person is sentenced for a sexual offence or an offence with sexual background to the detriment of a minor, the court may impose on the offender an obligation to refrain from entering and remaining in specific environments or places, prohibit the offender from contacting specific persons or leaving a specific place of residence without court's consent (art. 41a § 1 of the PC). On the other hand, if a person is sentenced for such offence to an unsuspended term of imprisonment, it is obligatory for the court to impose the penalty referred to above (art. 41a § 2 of the PC).

36. At present, article 41 and 41a of the PC read as follows:

“Art. 41. § 1. Court may prohibit an offender from filling a specific professional position or entering a specific profession if the offender abused his/her position or profession to commit the offence or showed that remaining in the position or profession poses risk to significant interests protected by law.

§ 1a. Court may for ever prohibit an offender from filling all or specific positions, entering all or specific professions or performing all or specific activities related to education, teaching, treatment or providing care to minors if the offender is sentenced to imprisonment for sexual offences or offences with sexual background to the detriment of a minor.

§ 1b. Court shall for ever prohibit an offender from performing activities referred to in § 1a if the offender is more than once sentenced according to conditions specified therein.

§ 2. Court may prohibit an offender from carrying out specific business activities if the offender is sentenced for an offence committed in relation to such business activities and if further carrying out of such business activities poses risk to significant interests protected by law.”

“Art. 41a. § 1. Court may impose on an offender an obligation to refrain from entering and remaining in specific environments or places, prohibit the offender from contacting specific persons or leaving a specific place of residence without court’s consent if the offender is sentenced for a sexual offence or an offence with sexual background to the detriment of a minor and if he/she is sentenced for a violent intentional offence, including violence against close relatives; the obligation or prohibition may be imposed concurrently with an obligation to report to the Police or other designated authorities at specific intervals.

§ 2. Court shall impose on an offender an obligation to refrain from entering and remaining in specific environments or places, prohibit the offender from contacting specific persons or leaving a specific place of residence without court’s consent if the offender is sentenced to an unsuspended imprisonment for a sexual offence or an offence with sexual background to the detriment of a minor; the obligation or prohibition may be imposed concurrently with an obligation to report to the Police or other designated authorities at specific intervals.

§ 3. Court may for ever impose on an offender an obligation to refrain from entering and remaining in specific environments or places, prohibit the offender from contacting specific persons or leaving a specific place of residence without court’s consent if the offender is more than once sentenced according to conditions specified in § 2.

§ 4. When imposing an injunction prohibiting the offender from approaching specific persons under protection, the court specifies the distance from the protected persons that the sentenced person is obliged to keep.”

37. On 5 November 2009, the Act on Amendments to the Act – Penal Code, the Act – Penal Procedure Code, the Act – Executive Penal Code, the Act – Fiscal Penal Code and Certain Other Acts was adopted with a view to further strengthening protection of children against sexual abuse. It introduced e.g. the following amendments effective from 8 June 2010:

(a) On offences related to disorders of sexual preferences:

- On an injunction related to the placement in a closed institution or referred to treatment in an outpatient clinic – article 93 of the PC:

“The Court may only decide [...] to grant an injunction related to the placement in a closed institution or referral to treatment in an outpatient clinic when such injunction is necessary to prevent the offender from perpetrating a prohibited act related to his/her mental disease, disorders of sexual preferences, mental impairment or addiction to alcohol or other intoxicants; before the injunction is granted, the court hears psychiatrists and a psychologist, and also a sexologist in the case of persons with disorders of sexual preferences.”

- On an injunction related to the placement in a closed institution or referred to treatment in an outpatient clinic – article 95a of the PC:

“§ 1. When sentencing an offender to unsuspended imprisonment for a sexual offence related to disorders of sexual preferences, the court may decide that the offender, following the imprisonment, be placed in a closed

institution or referred to treatment in an outpatient clinic with a view to pharmacological therapy or psychotherapy in order to prevent another perpetration of the offence, including in particular by reducing the disturbance of the sexual drive of the offender. Pharmacological therapy is not applied if it puts the offender's life or health at risk.

§ 1a. The court decides that the offender referred to in § 1, sentenced for an offence referred to in Art. 197 § 3 para. 2 or 3, be placed in a closed institution or referred to treatment in an outpatient clinic.

§ 2. Within up to 6 months before the projected conditional release or execution of the penalty, the court decides:

- 1) the need and manner of implementing the adopted measure referred to in § 1,
- 2) the manner of implementing the adopted measure referred to in § 1a,

§ 2a. The court may decide to change the manner of implementing the preventive measure referred to in § 1 or 1a.

§ 2b. The court orders that the offender be placed in a closed institution if he/she seeks to evade treatment in a outpatient clinic referred to in § or 1a."

- On the possibility of appointing an expert sexologist to participate in issuing an opinion on the mental health of the defendant as regards disorders of sexual preferences – Art. 202 § 3 of the PPC:

"§ 3. The court or the public prosecutor during preliminary proceedings, appoints an expert sexologist to participate in issuing an opinion on the mental health of the defendant as regards disorders of sexual preferences."

(b) On offences against freedom:

- On distributing an image of a naked person without his/her consent – article 191a of the PC:

"§ 1. Whoever records an image of a naked person or person in the process of a sexual activity, using violence towards this person, unlawful threats or deception, or an image of naked persons or person in the process of a sexual activity without his/her consent is subject to imprisonment of 3 months to 5 years.

§ 2. Prosecution is initiated at the request of the victim."

- On the introduction of new qualified (subject to more severe penalty) types of offences involving rape – paedophile rape and incestuous rape – article 197 § 3 of the PC:

"§ 3. If the perpetrator commits rape:

- 1) together with another person,
- 2) on a minor under the age of 15,
- 3) on an antecedent, descendant, adopted child, adoptive parent, brother or sister, is subject to at least 3-year imprisonment."

- On penalisation of seducing children via Internet (so-called grooming) – article 200a of the PC:

“§ 1. Whoever establishes contact with a minor under the age of 15 to commit an offence referred to in Art. 197 § 3 para. 3 or Art. 200, and also to produce or record pornographic content via ICT systems or telecommunication network, attempting to deceive the minor in order to take advantage of his/her misjudgement or incapability to properly assess the situation or to meet him/her by using an unlawful threat, is subject to imprisonment of up to 3 years.

§ 2. Whoever uses an ICT system or a telecommunication network to suggest a sexual intercourse to a minor under the age of 15, to incite him/her to perform or subject himself/herself to a sexual activity or to participate in producing or recording pornographic content and intends to carry out such suggestion, is subject to fine, custodial sentence or imprisonment of up to 2 years.”

- On penalisation of public promotion of paedophilia – article 200b of the PC:

“Whoever publicly promotes or propagates paedophile conduct is subject to fine, custodial sentence or imprisonment of up to 2 years.”

(c) On the amendment of Act of 6 April 1990 on the Police – introduction of the possibility of implementing operational control with respect to offences referred to in article 200a of the PC (so-called grooming).

38. The provisions of article 19 of the Act on the Police state that operational and investigation activities can only be carried out if other measures are ineffective or if there is a high probability that they will be ineffective or unhelpful. Operational control is implemented based on a court decision, at the written request of the Police which should be submitted when the local public prosecutor’s office gives written consent thereto. It should also be noted that despite the above-described amendments to the Penal Code and the Act on the Police there are doubts as to the possibility of their use so that operations of the Police, involving creation of a virtual minor victim who would be acted out by a police officer with a view to finding out persons with paedophile inclinations, are considered legal. Article 200a of the PC refers to a minor under the age of 15, therefore if there is no such minor victim, it cannot be considered an offence and only an inept attempt. Therefore it is necessary to develop new solutions which would provide effective and legal measures to fight soliciting children for sexual purposes (grooming). Such solutions are provided for in the new bill on operational and investigation measures which is under examination by the Administration and Internal Committee of the Sejm.

#### **Team for Counteracting Discrimination Against Minors in Electronic Mass Media**

39. By Decision No. 1 of 11 September 2008 of the Government Plenipotentiary for Equal Treatment the Team for Counteracting Discrimination Against Minors in Electronic Mass Media was established. The Team consists of nearly 70 representatives of public institutions, non-governmental organisations and the private sector.

40. The Team is tasked with developing legislative amendments, agreements between the Polish government and providers of electronic information services, educational campaigns, monitoring actions related to protection of minors against risks existing in electronic media and issuing opinions about the determined cases of violation.

41. Currently, the Team is preparing e.g. amendments to Polish legal regulations with the aim of ratifying the Council of Europe Convention on Cybercrime of 23 November 2001 and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse adopted by the Committee of Ministers on 12 July 2007.

42. Thus far, the Team has developed the Agreement for the Safety of Children in the Internet (signed by providers of Internet services, and also non-governmental organisations protecting children against Internet-related risks) and the Good Practices Code of the Association of Producers and Distributors of Entertainment Software of 26 September 2008. The Code of Good Practices for TV Stations is underway.

#### **Justice system towards unaccompanied minors seeking asylum**

43. Regulations concerning foreigners seeking to be granted the refugee status provide, together with the Family and Guardianship Code and Act of 29 July 2005 on Counteracting Domestic Violence, an additional guarantee protecting the rights of minors. Unaccompanied minors seeking to be granted the refugee status are subject to specific protection in the course of the procedure.

44. As a result of amendments to the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland (by the Act of 18 March 2008) the rights provided for under the Convention on the Rights of the Child form, as of 29 May 2008, an integral part of the uniform asylum procedure applicable in Poland. During the proceedings for granting refugee status not only the compliance with the requirements for refugee status is considered, but also other circumstances underlying protection prior to deportation which involves granting additional protection or tolerated residence permit. One of the prerequisites for granting tolerated residence permit is a situation in which deportation would be contrary to the rights of the child as specified in the Convention on the Rights of the Child to an extent that poses considerable risk to mental and physical development of a foreigner. The Act referred to above shows e.g. that persecution can specifically involve actions against persons on grounds of their minor age.

45. Minor-age foreigners who reside illegally in the Republic of Poland are provided in specific circumstances with health care services on a non-payable basis. Pursuant to article 2, para. 2 of the Act of 27 August 2004 on Health Care Services Financed from Public Funds, persons who are not citizens of Poland, other than beneficiaries, have the right to use health care services financed from public funds in accordance with the rules laid down in separate sets of regulations and international agreements.

46. Pursuant to article 67, paragraph 1 of the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland, an unaccompanied minor, who is refused to be granted refugee status and is to be deported, is placed in education and care facilities until he/she is handed over to the authorities or organisations from his/her country of origin which have a legal duty to deal with cases involving minor-age persons.

47. Pursuant to article 67, paragraph 2 of the Act referred to above under the circumstance referred to in para. 1 the costs of residence of a minor-age person in education and care facilities and the costs of medical care are financed from the national budget. Article 73 of the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland provides for medical care to foreigners seeking to be granted refugee status. It is stated in article 73, paragraph 1 of the Act referred to above that: "Medical care services include health care to the extent that persons subject to obligatory or voluntary health insurance have the right to health care services in accordance with the Act of 27 August 2004 on Health Care Services Financed from Public Funds, excluding treatment or rehabilitation in health resorts."

48. Pursuant to the regulations referred to above, foreigners who reside illegally in the Republic of Poland (including minor-age foreigners) have the right to health care services on a non-payable basis as soon as they make an attempt to legalise their residence. If the right to health care services on a non-payable basis were to apply also to minor-age foreigners whose legal or actual guardians fail to make any efforts aimed at legalising their

residence in the Republic of Poland, implementation of such right would open a possibility of migration also with the aim of being granted health care services on a non-payable basis.

49. Notwithstanding the above, the rules and provisions of the Convention on the Rights of the Child are used for maximum strengthening of the system aimed at protecting children's rights.

50. For more information about the procedures for unaccompanied minors, see the response to the recommendation contained in paragraph 47 of the concluding observations (paras. 784-798 hereof).

*CRC/C/15/Add.194 – paragraph 14: The Committee recommends that the State party ensure that the Ministry of National Education and Sport is provided with adequate financial, human and material resources too effectively carry out its responsibilities in the coordination of policy, and that appropriate mechanisms for consultation and coordination are set up among the ministries and between all levels of government working with or for children.*

51. Coordination of children-related policy in Poland is provided by an interministerial working group for the rights of the child in Poland which consists of representatives of the following ministries: Ministry of National Education, Ministry of Justice, Ministry of Interior and Administration, Ministry of Foreign Affairs, Ministry of Labour and Social Policy, Ministry of National Defence, Ministry of Culture and National Heritage, Ministry of Health, Ministry of Sport and Tourism. The exchange of current information about the effects of children-related actions carried out by individual ministries is ongoing.

52. The government submits to the Sejm a report on the implementation of the rights of the child in Poland, and this assessment of the general situation of children forms the basis for planning further actions and decisions regarding tasks with the aim of providing appropriate conditions for comprehensive development of each and every child.

53. The current children-related policy is also created with the help of actions of a number of interministerial councils, boards and commissions. Their works are participated on a regular basis by representatives of non-governmental organisations, civil society, local governments, such as e.g. Interministerial Coordination Group for Limiting Health Consequences of Smoking in Poland Programme, Council for Combating Racial Discrimination, Xenophobia and Related Intolerance, Monitoring Group for Implementation of the National Programme for Counteracting Domestic Violence, Interministerial Coordination Group for the National Health Programme, Council for Drug Addiction Prevention, Group for International Humanitarian Law, Group for Combating and Counteracting Trafficking in Persons, Joint Commission of the Government and Local Government Authorities, Joint Commission of the Government and National and Ethnic Minorities, Government Plenipotentiary for Equal Treatment, Government Plenipotentiary for Disabled Persons.

*CRC/C/15/Add.194 – paragraph. 16: The Committee recommends that the State party:*

*a) Strengthen the role of the Supreme Audit Office as an internal monitoring for the evaluation of children's issues and establish a comprehensive system for monitoring and self-evaluation of the implementation of the Convention on the Rights of the Child both at the national and local level;*

*b) Provide the Ombudsman for Children with sufficient resources to enable him to fulfil his responsibilities;*

*c) Collaborate with non-governmental and civil society organisations in monitoring children's rights and policies both at the national and local level.*



**Response to the recommendation contained in paragraph 16(a) of the concluding observations**

54. See also the response to the recommendation contained in paragraph 14 of the concluding observations (paras. 51-53 hereof).

55. Each ministry carries out on a regular (quarterly, semi-annual or annual) basis assessment of the effects of their own actions with a view to fulfilling the requirements provided for under the Convention. Reports on the implementation of specific programmes or projects are published on the websites of the respective ministries and thus they are made known to the public.

56. The lines and areas of action for each ministry are selected based on the consultations with social partners and non-governmental organisations. The current tasks are defined and carried out in collaboration with broadly understood civil society.

57. The Supreme Audit Office (NIK) is the chief state audit body. The NIK reports to the Sejm of the Republic of Poland – as specified in the Constitution of the Republic of Poland and the Act of 23 December 1994 on the Supreme Audit Office.

58. The NIK controls each and every authority, institution, enterprise and checks if these organisations fulfil their duties towards citizens in a most effective and financially efficient manner, and not only detects irregularities, but also determines possible solutions with the aim of remedying defective mechanisms.

59. The draft budget of the NIK, as adopted by the Council of the NIK, forms part of the draft national budget. Budgetary expenses of the NIK in the years 2003-2010: in 2003 – PLN 209 260 000, in 2004 – PLN 211 640 000, in 2005 – PLN 219 532 000, in 2006 – PLN 225 165 000, in 2007 – PLN 229 352 000, in 2008 – PLN 233 982 000, in 2009 – PLN 238 982 000, in 2010 – PLN 242 183 000.

60. The Act of 23 December 1994 on the Supreme Audit Office specifies the organisation and working procedures for the NIK. It regulates the process of control proceedings, specifies the scope of duties and responsibilities of employees and their rights. It states which authorities or bodies can request the NIK to initiate control proceedings or submit such recommendation. The NIK can initiate control proceedings at the direction of the Sejm or Sejm bodies, at the direction of the President of the Republic of Poland, the President of the Council of Ministers or on its own initiative.

61. Examples of areas subject to control by the NIK as concerns observance of the rights of the child: functioning of the education system for children and young people with specific educational needs (in the years 2005-2007), functioning capability of the education system for students in educational and school facilities for children with hearing difficulties (in the years 2006-2007), implementation of compulsory schooling for young people at the age of 16-19 (in the year 2007), functioning of educational and care facilities (in the years 2006-2007), professional education of PE teachers (in the years 2007-2009), PE education of students in public schools and providing conditions for school sports activities and education of students majoring in physical education at public universities (in the years 2007-2009), functioning of public schools at penal institutions (in the years 2005-2009), supervision over 24/7 education and care facilities and adoption and care facilities (in the years 2008-2010), dealing with children at Children's Homes with the aim of returning to family upbringing and cooperation between Children's Homes and adoption centres (in the years 2008-2010), control of youth educational centres in terms of education and resocialisation (in the years 2007-2010), compliance with the rules for promotion and movement of students between different types of schools (in the years 2007-2010).

62. Post-control recommendations to be implemented by controlled institutions and bodies contribute to ongoing elimination of irregularities related to actions towards children

at the local level. If the adopted solutions are determined to have large-scale adverse effects, they form the basis for actions aimed at modifying system-wide solutions at the national level.

63. It was noted in the Resolution of the Sejm of the Republic of Poland dated 20 January 2000 on Strengthening of the National Supervision Performed by the Supreme Audit Office that it is necessary to modernise state control which should primarily be aimed at determining reasons for irregularities in functioning of the state. It was pointed out that controls carried out by the NIK should provide basis for an in-depth diagnosis of the state condition and evaluation of mechanisms resulting in irregularities. The Sejm also noted that it is necessary to adopt a total strategy for the NIK and transparent criteria for decisions about the areas to be controlled, also on an ad-hoc basis, and to establish human resources and organisational policy for the NIK laying down rules for employment, remuneration and promotion of persons working as inspectors.

64. In 2000, an international team of experts called SIGMA evaluated controlling activities of the NIK in terms of compliance with the EU requirements. The evaluation showed that the NIK carries out its activities in a professional, independent and reliable manner. It also showed areas which require improvement.

65. In July 2002, the Council of the NIK adopted a multi-annual development programme for the NIK titled “Strategy for the NIK – Mission and Vision”. At the same time controlling standards were under preparation. The standards were to help standardise the process of control from the time of inception to the preparation of post-control documents.

66. In 2003, the works aimed at systematising inspection and controlling methods were brought to an end and an internal document titled “Inspector’s Guide” was approved. The guide contains standards as well as accurate and detailed guidelines for their use. The “Inspector’s Guide” gained wide recognition among EU representatives with good command of audit-related issues.

67. In 2006, the National Audit Office in Denmark carried out a partner review at the NIK. It confirmed high quality of inspections performed by the NIK and showed that the NIK implemented most of the recommendations from the review in 2000 and the quality of inspections held by the NIK conforms to international standards.

68. In January 2010, the Sejm of the Republic of Poland amended the Act of 23 December 1994 on the Supreme Audit Office. The Act was amended to conform to the constitutional provisions. The controlling procedures were totally modified. All the solutions which could pose risk to independence and autonomy of the NIK were rejected in the course of the legislation process. Some of the amended provisions will become effective as of 2 June 2011 and the other provisions – as of 2 June 2012 (Act of 22 January 2010 on Amendments to the Act on the Supreme Audit Office).

69. The Act of 6 January 2000 on the Ombudsman for Children defined precisely professional qualifications and conditions for candidates for the position of the Ombudsman for Children (CCR). This document states also that the CCR is independent from other governmental bodies and reports only to the Sejm. The CCR presents to the Sejm and Senate, on an annual basis, information about its activities and comments on the observance of the rights of the child.

70. The Act referred to above requires the CCR to take action at each and every request of citizens or their organisations in which it is implied that children’s rights or interests are violated and also to work together with associations, civil movements and other voluntary societies and foundations for the protection of children’s rights in order to: acquire full

knowledge about all and any attempts at violating children's rights or non-observance thereof, take any necessary actions, including amending relevant legal regulations.

71. The rights vested in the CCR are set out in article 10, 10a and 10b of the Act of 24 October 2008 on Amendments to the Act on the Ombudsman for Children and to the Act on Remuneration of Persons Holding Public Managerial Positions.

“Art. 10

1. The Ombudsman for Children is entitled to:

- 1) investigate, even without notice, each and every case on-site,
- 2) demand public authorities, organisations or institutions to provide explanations or information and also to provide access to documents and records, including those containing personal data,
- 2a) request the right to participate in proceedings before the Constitutional Tribunal initiated at the request of the Ombudsman for Children or held with regard to constitutional complaints related to children's rights as well as participate in such proceedings,
- 2b) request the Supreme Court to resolve discrepancies in the interpretation of legal regulations related to children's rights,
- 2c) submits appeals to the Supreme Court or cassation complaints against final and binding court decisions according to the procedures and rules laid down in separate sets of provisions,
- 3) demand that civil proceedings be initiated and participate in ongoing proceedings – based on the rights vested in public prosecutor,
- 3a) participate in ongoing proceedings concerning minor-age persons – based on the rights vested in public prosecutor,
- 4) demand that an authorised prosecutor for preliminary investigation in respect of a criminal offence,
- 5) request that administrative proceedings be initiated, submit complaints to administrative courts and also participate in such proceedings – according to the rights vested in public prosecutor,
- 6) request that a penalty be imposed in proceedings in respect of a minor offence according to the procedures and rules laid down in separate sets of regulations,
- 7) request that examinations be held and expert assessments and opinions be drawn up.

2. The Ombudsman for Children may refuse to disclose personal data of the person who provided information about an alleged violation of children's rights or interests as well as personal data of the person concerned, also with respect to public authorities, if it is considered necessary to protect freedom, rights and interests of this person.

Art. 10a

1. The Ombudsman for Children may also request competent authorities, organisations or institutions to take children-related actions which fall within the scope of their competences.

2. The authorities, organisations and institutions referred to in para. 1 take actions on cases submitted by the Ombudsman for Children.

3. The authorities, organisations or institutions requested by the Ombudsman for Children to take children-related actions are required to immediately, however at latest within 30 days, inform the Ombudsman for Children of their actions and position regarding the submitted case.

4. In the event that the authorities, organisations or institutions referred to in section 1 fail to inform the Ombudsman for Children of their actions or position or in the event that the Ombudsman for Children does not agree with their position, it may request a competent superior body to take appropriate actions.

5. In the event that the Ombudsman for Children considers that actions of the authorities, organisations or institutions referred to in section 1 violate children's rights or interests, it may demand that disciplinary proceedings or other official sanction procedures be initiated.

Art. 10b

The authorities, organisations or institutions requested by the Ombudsman for Children are required to assist and cooperate with the Ombudsman for Children, and specifically to:

- 1) provide access to documents and records for the case concerned,
- 2) provide the Ombudsman for Children with any requested information and explanations,
- 3) provide explanations regarding the factual and legal basis for their decisions.”

72. The CCR operates via the Ombudsman for Children Office. Expenses related to operations of the CCR are included in the budget act and paid from the national budget.

73. Financial resources allocated for the CCR from the national budget in the years 2004-2010: in 2004 – PLN 4 141 000, in 2005 – PLN 4 118 000, in 2006 – PLN 4 626 000, in 2007 – PLN 4 645 000, in 2008 – PLN 5 240 000, in 2009 – PLN 6 445 000, in 2010 – PLN 7 490 000.

#### **Response to the recommendation contained in paragraphs 16(c) and 22 of the concluding observations**

74. To ensure compliance with the rights of the child the Government cooperates with non-governmental organisations at the local and national level regarding both legislative and practical issues. The most important forms and areas of cooperation:

- Consulting and issuing opinions on applicable and drafted legal regulations, cooperation in implementing actions related to human rights, exchange of experiences and information, providing advice as part of ongoing actions and measures, organising thematic meetings and conferences (cooperation between the Ministry of Justice and e.g. the Committee for the Protection of Children's Rights, Nobody's Children Foundation, Polish Foster Care Coalition, Helsinki Foundation for Human Rights, associations for fathers and children's rights, La Strada Foundation).

Multifaceted cooperation of the Ministry of Justice with non-governmental organisations supporting victims of crime, including children, for the implementation of the Victims of Crime Support Network project. Non-governmental organisations selected in the course of a competitive bid procedure operate Help Centres for Victims

of Crime where they provide help and assistance to children who are victims of crime – also by appointing a legal guardian. Continuation of such cooperation has been provided for in the draft version of the National Programme for Victims of Crime. For more information on the Victims of Crime Support Network and the National Programme for Victims of Crime, see the response to the recommendation contained in paragraph 35 of the concluding observations.

- Developing guidelines for child-friendly interview rooms and implementing the programme of the Coalition for Child-Friendly Interviewing – Ministry of Justice in collaboration with the Nobody's Children Foundation. For more information, see the response to the recommendation contained in paragraph 35 of the concluding observations.

- Cooperation between the Ministry of Justice and the Nobody's Children Foundation and the City Hall of Warsaw as part of the Polish nation-wide Conferences "Help for Children – Victims of Crime" organised by the Foundation since 2004. During the 2008 edition of the conference, the first certificates for child-friendly interviewing rooms were awarded.
- These actions are also implemented in collaboration with the Team for Counteracting Discrimination Against Minors in Electronic Mass Media. For more information see the response to the recommendation contained in paragraph 12 of the concluding observations.

Cooperation of the public prosecutor's office with civil society institutions for the protection of children in the Internet as part of NASK. See also the response to the recommendation contained in paragraph 49 of the concluding observations.

- Territorial agencies of the public prosecutor's office work together with mass media and non-governmental organisations with respect to social campaigns and trainings.
- As regards trafficking in human beings, there are actions organised together with e.g. Caritas Polska, La Strada – Foundation against Trafficking in Persons and Slavery, Itaka Foundation – Centre for Missing People.
- The Ministry of Justice works together with non-governmental organisation in the field of reporting obligations of the Republic of Poland towards treaty bodies for human rights in the form of e.g. consultations in the course of preparation of governmental reports, specifically those concerning the compliance with the International Covenant on Civil and Political Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Representatives of the Ministry of Justice work together with the *Agreement on the implementation of the OPCAT*. This organisation brings together representatives of the Human Rights Defender (who performs in the Republic of Poland the functions of the National Prevention Mechanism in the Republic of Poland), non-governmental organisations and academic community, and it was established with the aim of preventing tortures and other forms of inhuman, cruel or degrading treatment or punishment at the place of apprehension. The organisation organises inspections of such places, exchange of good practices and other information aimed at increasing their effectiveness.

75. Each year the Ministry of National Education provides financial support in respect of actions requested by non-governmental organisations which specialise in preventive measures and implement appropriate educational and preventive programmes for children and young people at risk of various social pathologies (in collaboration with e.g. "Powrót z U" Association for Families of Addicted Children, Catholic Anti-Drug Movement Association, MARATON Foundation for Prevention of Drug Addiction, ASLAN

Association, OPTA Association, AGAPE Catholic Association of Assistance for Addicted People, POWRÓT Abstinence Club Association. See also the response to the recommendation CRC/C/15/Add.194 – para. 18.

76. The Ministry of Health works together with non-governmental organisations which are allocated with restricted grants for health-related educational actions and health promotion. These actions targeted at children and young people have been organised, inter alia, by: Polish Committee for Cancer Control, Polish Union of Transplantation Medicine, “Akogo?” Ewa Błaszczyk’s Foundation, “Loved More” Association of Parents and Guardians of People with Down Syndrome, Polish Scouting and Guiding Association, Polish ADHD Association, “Pedagogium” Foundation, Children’s Cancer Relief Foundation, “Gajusz” Foundation, Polish Association of the Deaf, “Tęcza” Aid Association for Children and Young People with Motor Disabilities, Polish Red Cross, Caritas Polska, “Krwinka” Foundation for Children with Cancer Diseases, Society for Family Development, Polish Suicidological Society, Polish Association of the Blind, “Usłyszeć Świat” Foundation of Families and Friends for Children and Young People with Hearing Disabilities, “Hej Koniku” Aid Foundation for Children and Young People with Motor Disabilities, “Synapsis” Foundation, Friends of Children Society, “Otwarte Drzwi” Society, Aid Foundation for Children and Young People with Diabetes, Polish Society for Rehabilitation of the Disabled.

77. In 2006, a public task titled “Supporting children and young people at risk of social maladjustment and delinquency, especially in rural areas” was submitted for implementation pursuant to the Act of 24 April 2003 on Public Benefit and Volunteer Activities. The task was related to e.g. actions aimed at supporting children and young people at risk of social maladjustment and delinquency, especially those from rural areas, protecting children against sexual harassment, sexual abuse and violence, taking actions with the aim of providing pro-social and legal education of children and young people.

78. In 2007, the Minister of Interior and Administration requested non-governmental organisations to implement a public task titled “Counteracting aggression and violence among children and youth, especially in the peer environment”. The task involved e.g. actions aimed at improving emotional and social functioning of children and young people in the peer environment, including developing pro-social attitudes, promoting knowledge oriented towards the elimination of using psychoactive substances (alcohol, drugs) among children and young people, increasing accessibility of psychological and pedagogical advice centres, information centres, support lines, rehabilitation centres, psychiatric advice centres, mediation and crisis support institutions, daily support organisations: (community and sociotherapeutic) care centres, community-based educational centres, youth clubs, etc. The essential objective of the task was to develop appropriate social attitudes and enable proper socialisation of children and young people. Implementation of the task was to enable closer cooperation between different organisations for children and young people, especially at the local level.

79. In 2008, non-governmental organisations were requested to implement a public task titled “Counteracting radical conduct among children and youth”. This task involved e.g. actions and campaigns promoting proper attitudes compatible with legal regulations and social norms, to implement projects aimed at creating in the youth environment effective mechanisms of defence and resistance against such negative phenomena as violence, addiction to alcohol and drugs. The task involved actions aimed at developing proper social attitudes, reducing the scale of negative behaviour. Implementation of the task was to enable closer cooperation between different organisations for children and young people, especially at the local level, and developing effective mechanisms to limit negative phenomena among young people.

80. In 2009, following an open competitive bid procedure, a public task titled “Support line for children” was awarded to be implemented by the Nobody’s Children Foundation. This task is oriented towards organisation and maintenance of free pan-Polish support line for children (116 111) as well as information and promotional actions targeted at the Polish society with respect to the existence of support line for children. The objective of the task was to strengthen the feeling of safety and security among children by making it possible for them to call support line as well as to counteracting domestic violence. For more information, see paragraphs 996-1003 hereof.

*CRC/C/15/Add.194 paragraph 18: While recognizing the difficult economic conditions, the Committee recommends the State Party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children “to the maximum extent ... of accessible resources”. Noting the State party’s efforts at administrative reform and the decentralisation of service provision, the Committee recommends that the State party strengthen, to the maximum extent of available resources, the capacity of local governments in rural and urban areas equally to implement economic, social and cultural rights of children.*

81. The costs of the implementation of children-oriented policy are borne by the following ministries: Ministry of Labour and Social Policy, Ministry of National Education, Ministry of Justice, Ministry of Health, Ministry of Interior and Administration. In cases other than implementation of acts or programmes oriented strictly towards children-related actions (e.g. educational, recreational, health care for children) it is not possible to earmark resources allocated to other activities – e.g. social support, family benefits – expenses strictly for children-oriented actions.

82. For more information on holidays for children and young people financed from specific budgetary reserve, see paragraphs 744-748 hereof.

83. The campaign related to the flood of 2009 with a view to organising holidays for children and young people from flood-affected areas was implemented by the Ministry of Health, Chancellery of the Prime Minister, Ministry of National Education and also the Ministry of Sport and Tourism, Ministry of Interior and Administration, Ministry of Environment in collaboration with the Polish Scouting and Guiding Association and education offices. The campaign included the following provinces: Podkarpackie, Dolnośląskie, Opolskie and Małopolskie. A total of 1 036 children from flood-affected areas were sent for summer holiday financed from the national budget. A total of 1 989 flood-affected children and those from flood-affected areas were sent for summer holiday financed by other organisations.

84. Organisation of educational summer holidays for children of Poles living abroad: Pursuant to the objectives of the Government Programme for Cooperation with Polish Diaspora and Poles Living Abroad the Ministry of National Education supported in 2009 the organisation of summer holidays for children and young people from Polish communities abroad in Poland. A total of 1 542 children and young people – Poles living abroad went to summer camps. The task was implemented from public funds in the amount of PLN 1 000 000. More than half of the participants of summer camps included children and young people living in Ukraine (52%), in Belorussia (21%), Lithuania (18%) as well as Russia, Kyrgyzstan and Latvia (3% per each country).

85. Organisation of dedicated language camps: In 2009, a dedicated Spanish language camp was financed from the national budget (allocation of PLN 100 000). A total of 100 students from Polish secondary schools participated in the camp.

86. In 2009, as part of the campaign towards supporting and promoting cooperation between schools and non-governmental organisations, the Ministry of National Education announced the 2nd edition of the “Open School” competition. The objective of the competition was to promote schools which endeavour, based on their educational and teaching activities, to inculcate open-mindedness and pro-social attitudes in their students and to support their civil activeness.

87. The competition was also organised with the aim of promoting cooperation between educational institutions (schools) and their environment, first of all non-governmental organisations, and showing effective and innovative solutions which are in use worldwide.

88. The competition was designed for schools and non-governmental organisations dealing with projects in the following areas: civic education, economic education, global education, pre-school and early-school education, support for gifted students. A total of 82 applications were submitted.

89. In 2009, an open competitive bid was announced for publication of information materials promoting sightseeing and school tourism among young people in Poland. This task was allocated an amount of PLN 100 000 to provide financial support for publication of 20 000 guides and information brochures which were distributed on a non-payable basis among schools, libraries, youth and tourist organisations.

90. Family benefits are provided as part of the non-insurance system financed from the national budget and paid out by community councils at the place of residence of applicants (financial resources are provided at the disposal of regional governors as funds earmarked for family benefits). In the years 2002-2003 there was still a decreasing trend in the amount of funds allocated for family benefits, mainly due to the drop in the number of children entitled for this form of assistance. As of 1 May 2004 a new system of family benefits was introduced in Poland under the Act of 28 November 2003 on Family Benefits. This reform allowed better addressing of benefits and providing greater support for families with children which are in difficult financial situation. For more information on non-insurance benefits, see paragraphs 624-627 hereof.

91. In the social assistance structures the tasks related to children care are implemented by local governmental authorities. This task belongs first of all to the responsibilities of poviats governmental authorities, but also to some extent to those of community councils and some provincial governments. On 1 January 2004, poviats governments assumed full responsibility for financing foster families and on 1 January 2005, they also assumed maintenance of educational and care facilities.

92. Pursuant to article. 16 of the Act on Health Care Services Financed from Public Funds medical certificates necessary for the granting of social assistance, disability certificate, care allowance, childbirth benefit or one-time childbirth allowance are provided on a non-payable basis.

#### **Implementation of the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency (adopted by the Council of Ministers on 13 January 2004)**

##### **Year: 2004**

93. The general costs of the maintenance of different forms of support for children and young people at risk of social maladjustment at the national level amounted to over PLN 214 011 000, including PLN 50 285 000 for children and young people from rural areas.

94. The costs of maintenance of daily support facilities amounted to over PLN 127 375 000 (including PLN 23 566 000 in the rural areas). Most of these costs of the maintenance of different forms of support for children and young people were covered from



poviat and community government's own resources (nearly PLN 100 998 000, including more than PLN 19 283 000 in the rural areas). The maintenance of daily support facilities and other forms of support was allocated in the national budget an amount equal to 29% of the general resources.

95. The costs of equipment for daily support facilities and other forms of support for children and young people totalled more than PLN 15 740 000 (including nearly PLN 4 610 000 in the rural areas). Most of these costs were covered from the local governments' own resources. The financial support from the national budget amounted to 5% of the general costs in this category at the national scale.

96. The general costs of tasks oriented towards providing support for socially maladjusted children and young people amounted to nearly PLN 233 328 000 at the national scale, including over PLN 159 647 000 allocated to rural areas, i.e. 68% of the general expenses at the national scale on the implementation of tasks oriented towards socially maladjusted children and young people. The vast majority of financial resources was provided from budgetary funds of poviat and community governments (13% from the national budget).

#### **Year: 2005**

97. Financial resources for the development of child and family care were increased by special funds for supporting community care for socially maladjusted children. The subsidy totalled PLN 6 696 000. This amount included PLN 2 081 000 at the disposal of the Minister of Social Policy for the implementation of tasks arising from the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency. The majority of co-financed actions were targeted at particularly vulnerable children and young people and their families. Financial support was primarily allocated to projects aimed at creating and developing activities of daily support educational and care facilities and also to those projects which contributed to the development of the network of protected residential facilities and flats to facilitate independence of young people leaving foster families and full-care facilities.

98. The general costs of actions aimed at supporting children and young people at risk of social maladjustment amounted to nearly PLN 206 360 000. The amount of expenditure decreased compared to 2004 due to full-range transfer of childcare financing activities to local governments. The changes to the financing of tasks assigned to local governments were introduced under the Act of 13 November 2003 on Income of Local Government Units.

#### **Year: 2006**

99. The Minister of Labour and Social Policy had at its disposal financial resources in the amount of PLN 2 081 000 to be allocated for the tasks arising from the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency. An amount of PLN 5 615 000 was earmarked in the budget of the Minister of Labour and Social Policy for the implementation of the ministerial Support Programme for Local Governmental Units in the Development of Local Child and Family Care System. The same amounts were also allocated in 2007 and 2008.

100. The Ministry of National Education financed e.g. trainings of specialist interdisciplinary teams, trainings for youth leaders, Polish nation-wide competition for upper-secondary students, Polish nation-wide competition for teachers titled "A Parents' Meeting – a Different Approach", Polish nation-wide conference for managers of sociotherapeutic youth centres, in-service courses for employees of educational youth centres, nation-wide competition for the implementation of programmes aimed at levelling

of educational and cultural opportunities for children and young people at risk of marginalisation from rural areas titled “Janko Muzykant”. Total amount of co-financing – PLN 601 000.

101. The Ministry of Interior and Administration allocated an amount of PLN 100 000 for public tasks related to safety and public order and prevention of social pathologies.

102. Furthermore, non-governmental organisations were requested to implement a public task titled “Supporting children and youth at risk of social maladjustment and juvenile delinquency” (targeted specifically at rural areas). This task was allocated an amount of PLN 37 000.

**Year: 2007**

103. Similarly as in previous years, most of the organisations was implementing the tasks set out in the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency with the help of their own resources:

(a) Organisation of Poland-based holidays for children and youth – nearly PLN 1 466 000;

(b) Financial support for language camps – more than PLN 1 897 000;

(c) Implementation of a public task related to the promotion of healthy lifestyle among children and youth, including in particular the development of life skills – PLN 293 000;

(d) Implementation of a public task related to the prevention of aggression and violence by promoting positive social models and involving children and youth in socially oriented actions – PLN 600 000;

(e) Implementation of a public task related to supporting educational and sociotherapeutic youth centres – more than PLN 12 117 000.

104. The Ministry of Justice earmarked in its budget financial resources for successive implementation of the tasks provided for in the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency, and additionally guaranteed substantial financial means from the EU structural funds allocated for the implementation of the “Human Capital” Operational Programme, including projects aimed at supporting professional and social integration of persons leaving penal facilities and juvenile shelters.

105. The Minister of Interior and Administration requested non-governmental organisations to implement two public tasks related to security and prevention of social pathologies: “Counteracting aggression and violence among children and youth, specifically in the peer environment” and “Counteracting domestic violence towards women, specifically in rural areas” for the total amount of PLN 100 000.

**Year: 2008**

106. Anticipatory, preventive, interventional and resocialisation actions under the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency were strengthened by the Ministry of National Education by way of actions aimed at providing support under the governmental programme for the years 2008-2013 titled “Safe and friendly school” which was adopted on 19 August 2008 by the Resolution of the Council of Ministers No. 172/2008. The programme was allocated with financial resources from the specific reserve No. 54 in the amount of PLN 51 100 000, including PLN 20 000 000 for continued implementation of the governmental programme adopted by the Council of Ministers on 5 September 2007 with the aim of providing in the years 2007-

2009 support for bodies implementing “Video monitoring in schools and facilities” in order to ensure safe conditions for education, teaching and care in public schools and facilities.

107. As part of the preventive measures for problematic behaviours among children and young people the Ministry of National Education earmarked from its budget an amount of PLN 243 000 for Polish nation-wide extra-curricular educational and cultural programmes aimed at developing interests and talents of students and building the capability of spending free time. Also a competitive bid was organised for the implementation of the task titled “Development of social and life skills, building proper interpersonal relations” which forms a module of the governmental programme titled “Development of education in rural areas in the years 2008-2013”. In 2008, the Ministry of National Education allocated from a specific reserve of the national budget for the task referred to above an amount of PLN 4 500 000 under the programme “Financial Support for the National Scholarship Programme”, thus increasing budgetary resources of regional governors by an amount proportional to the number of students from rural areas.

108. Psychological and pedagogical clinics were allocated financial support from specific reserves in the total amount of PLN 14 017 000.

109. The Minister of Labour and Social Policy had at its disposal financial resources in the amount of PLN 2 068 000 earmarked for the implementation of the tasks arising from the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency. This amount was used for providing financial support for 64 projects.

110. One of the priorities of the Support Programme for Local Government Units in the Development of Local Child and Family Care System was to create protected residential facilities for adult children from educational and care establishments and foster families. A total of 25 projects for nearly PLN 1 120 000 were provided with financial support in this respect.

111. The Ministry of Justice earmarked from its budget financial resources for successive implementation of the tasks provided for in the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency, and additionally guaranteed substantial financial means from the EU structural funds allocated for the implementation of the “Human Capital” Operational Programme, including projects aimed at supporting professional integration and activation of persons in penal facilities and juvenile shelters. Currently, the Ministry of Justice uses about 75% of the amount of EUR 30 000 000 granted under the “Human Capital” Operational Programme.

112. The Minister of Interior and Administration requested non-governmental organisations to implement a public task titled “Counteracting radical conduct among children and youth” for a total amount of over PLN 98 000.

#### **Year: 2009**

113. In the State budget, the amount of PLN 3 000 000 was secured for the implementation of the “Safer Together” programme, as part of a specific reserve (for the activation of local communities).

114. The Ministry of National Education allocated a total of more than PLN 5 540 000 for the performance of tasks connected with resocialisation, including more than PLN 5 448 000 from specific reserve No. 45 of the Government Programme for the years 2008-2013 “Safe and Friendly School”, and more than PLN 92 000 from the task budget, part 30 – Education and Upbringing.

115. The amount of PLN 200 000 was allocated for the implementation of the public task in the area of safety and security and public order, as well as counteraction of social pathologies, titled “Helpline for Children”.

116. It is planned to allocate the amount of PLN 250 000 for the implementation of public tasks in the area of safety and security and public order, as well as counteraction of social pathologies in 2010.

*CRC/C/15/Add.194 – paragraph 20: The Committee recommends that the State party:*

*a) Ensure that the current system of data collection and the indicators are disaggregated by gender and, where appropriate, by minority and ethnic group, and urban and rural area. The current system of data collection should be expanded, with the assistance of relevant ministries and authorities, to include all areas covered by the Convention, including all aspects of juvenile justice system and assistance provided to child victims of sexual exploitation or abuse. The system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect or ill-treatment, children with disabilities, children belonging to ethnic groups, refugee and asylum-seeking children, children in conflict with the law, working children, children living in the streets, children involved in commercial sexual exploitation and trafficking, and children in rural and children economically depressed areas;*

*b) Use these data and indicators for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.*

**Response to the recommendation contained in – paragraph 20 (a) in the concluding observations**

117. The recommendation of the Committee on the Rights of the Child is implemented in the Republic of Poland to the extent possible, mainly owing to the necessity to adhere to the principle of non-discrimination.

118. The Department of Statistics of the Ministry of Justice collects, inter alia, data on:

- Final and valid court decisions concerning minors in connection with moral corruption of the minor or the commitment of a punishable act by the minor; adjudicated educational and corrective measures foreseen in the Act on Juvenile Delinquency Proceedings, classified according to sex, age and place of residence of the minor. These data are collected, stored and processed annually;
- Final and valid sentences concerning adults who committed prohibited acts, according to type of crime, with a specification of the number of juvenile affected parties, the punishment, age, sex and citizenship of the convict, the location of the crime divided into such categories as urban/rural area and province. These data are collected, stored and processed annually;
- The number of persons on whom judgement was pronounced in the first instance at district and regional courts, categorised according to, inter alia, types of committed crimes, adjudicated punishments, juvenile affected parties, as well as female affected parties. This information is obtained from interim and annual reports;
- Civil cases concerning minors, including, inter alia, cases on alimony, establishment of parental authority over minors, placement at foster families or education and care facilities, adoption, appointment of a custodian to perform legal activities on behalf of the minor, however, without indicating the age of these persons. This information is obtained from interim and annual reports;
- Juvenile injured parties in relation to of all types of crime (for the method of identification and examination of cases involving juvenile injured parties, see paragraph s 993-994 hereof);

- Information on children of divorced parents.

119. Upon the implementation of the recommendation of, inter alia, the Committee on the Rights of the Child, “Statistical Cards on a penal case for an indictable offence under a legally binding decision” are collected. This allows for the collection of additional (on the basis of voluntary consent for the purposes indicated below) detailed information on, inter alia, crimes of intolerance, xenophobia, human trafficking and paedophilia.

120. The above and other statistical data are obtained in compliance with the Act of 29 June 1995 on Public Statistics and the executory acts thereof. It is not possible to collect full information on the victims and perpetrators of crime, especially their nationality, belonging to an ethnic group, etc. Providing judiciary bodies with information on the race, religion, private life and philosophical and political opinions by the victim or perpetrator of the crime is optional, in accordance with the Act on Personal Data Protection and the Act on Public Statistics. The introduction of an obligation to disclose such information could be interpreted as discriminatory.

121. Currently, ministerial and interministerial talks are being held. The objective of these talks is to develop assumptions for Polish nation-wide and international IT systems that will enable fast collection of detailed statistical data directly from registers maintained at common courts and common organisational units of the prosecutor’s office. The implementation of the systems will enable more efficient isolation of data on the areas covered by the Convention on the Rights of the Child.

122. Collection of data and drafting of analyses and forecasts concerning disabled children are based on quarterly reports on the implementation of tasks by poviats and province teams for adjudicating disability. Analyses used to prepare forecasts and allowing for the monitoring of the structure of disability of children in Poland are drafted on the basis of collected data that contain, inter alia, information on the number of issued decisions, causes of disability, age, and sex of the adjudicated children.

123. In 2006, the Ministry of Labour and Social Policy completed the implementation of the project PHARE No. PL2003/004-379.01.06 “Social and professional activation of disabled persons”, whose strategic aim was to enhance the functioning of the non-pension system of adjudicating disability.

124. As part of the above-mentioned project, inter alia, the National System of Monitoring Persons with Adjudicated Disability (KSMOON) that contains the database on the structure and scope of disability of the persons subjected to the adjudication procedure, especially: personal data, data on the place of residence and stay, education, date of issue of the decision and type of issued decision, the term of the decision, causes of disability and indications concerning the necessity of permanent assistance or care/support of another person in connection with the notably increased possibility of individual existence, as well as the necessity of ever-day support of a caretaker of the child in the process of its treatment, rehabilitation and education.

125. The KSMOON system encompasses all organisational units of non-pension adjudication, and particular users, i.e. poviats- and province-level adjudicating teams and the Office of the Government Plenipotentiary for the Disabled Persons, have varied access rights to the database. Moreover, a legal solution that is indispensable for the functioning of the system was prepared.

126. The expanded scope of collected data will allow for the monitoring of decisions and usage of data on the population of disabled children for purposes of developing a local and national policy for the solution of social problems.

127. Collection of data on persons using the social assistance system is based on the system of annual, interim and quarterly reports on the implementation of tasks, including

especially the granting of benefits within the Government Programme “State Assistance in the Scope of Meal Sponsoring”, using the assistance made available under the National Programme for Counteracting Domestic Violence, as well as other benefits accessible for families with children.

128. In the years 2006-2008, significant changes in reporting of the execution of family benefits occurred, information on the financing of family funds and costs of their servicing was made more detailed, and data on the structure of families with disabled children and family type – two-parent/single-parent family.

129. Under the Resolution of the Council of Ministers of 23 May 2006 on the procedure of conveying funds for family benefits and the manner of preparation substantive and financial reports, province governors send quarterly reports via IT statistical applications to the minister competent for social security issues.

130. Parallel to the implementation of the recommendation of the Committee on the Rights of the Child, the Head of the Office for Foreigners, in accordance with the Act of 13 June 2003 on Foreigners, maintains, at national level, a file containing registers, lists and specifications concerning foreigners titled “System Pobyt” (“System Stay”) in the IT system. The personal data processed in the “System Stay” meet the criteria indicated in the recommendation of the Committee on the Rights of the Child. This system is composed of, inter alia, a register of cases concerning the granting of refugee status and supplementary protection, as well as providing a foreigner that applies for the granting of refugee status with assistance. The register contains such details of the foreigner as: name and surname, sex, father’s name, mother’s name and family name, date of birth or age, place and country of birth, citizenship, nationality and marital status.

131. The “System Stay” also serves the purpose of collecting data on Polish identification documents of the foreigner, documents issued to a juvenile foreigner born in the territory of the Republic of Poland, a juvenile foreigner staying in the territory of Poland without parental care, as the parents do not hold valid travel documents. Such documents are issued when it is beneficial for the child, and if obtaining a travel document to the country of origin of the child encounters hindrances that are difficult to overcome. Starting from 1 October 2005, data are collected on juvenile children of foreigners born in the territory of the Republic of Poland, staying in Poland without care, applying for a permit for temporary residence in the territory of Poland and decisions issued in such cases.

132. The category “nationality” was included into the national census of population and housing performed in 2002. The results of the national census in the scope of the declarations of nationality were published by the CSO in May 2007 and were made available on the Internet website of the CSO at: [www.stat.gov.pl](http://www.stat.gov.pl).

133. Programmes of statistical studies of public statistics – in relation to all studies where it is possible – to the extent that it involves a given study and type of resulting statistical information and dates of their accessibility, contain provisions regulating gathering and publishing data according to sex and they are obligatory.

134. The Police, within their scope of competence, maintains in this respect the following databases:

(a) TEMIDA – Police Statistics and Crime System which contains information about minors suspected of punishable acts. Data can be arranged according to age, sex and citizenship of offenders under the Penal Code and specific acts, number of affected minors in the registered offences. With these data, it is possible to search the system and generate statistical indicators;

(b) National Police Information System (KSIP) which contains information about minors suspected of punishable acts. Data can be arranged according to age, sex,

nationality, place of residence of offenders under the Penal Code and specific acts, affected minors, including names, in the registered offences. The other data about affected minors are gathered on an optional basis and include age, sex, nationality, place of residence and degree of disability.

135. The data gathered in police databases form the basis for diagnosing adverse phenomena, crime and moral corruption of minors. They allow observing the dynamics of the phenomenon, and thus the necessity for taking preventive measures. Depending on the level of risk for a given type of crime, preventive programmes are created and preventive measures and educational are taken with respect to children, youth, pedagogues, parents and local communities.

**Response to the recommendation contained in paragraph 20 (b) of the concluding observations**

136. Annual reports on the functioning of the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency show that both bodies of governmental administration and local governmental units have diagnosed the risk of crime and social maladjustment in a given area. The activities suggested in this Programme cover primary, secondary and tertiary preventive measures. Also the target group to which the Programme is addressed is very extensive, i.e. children, youths, parents, teachers, social workers, employees of the justice system and local communities.

137. The subsequent reports from the implementation of the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency the parties involved in the activities submitted a wide range of proposals on priorities and new actions to be implemented in the following years. These include e.g.:

- (a) Extension of financing for actions provided for under the Programme;
- (b) Activating non-governmental organisations, including in particular voluntary organisations, to include additional forms of cooperation with children and families;
- (c) Annual acceptance for implementation of priority tasks with a plan for their monitoring and evaluation;
- (d) Extension of methodic assistance for people working with youth at risk of social maladjustment;
- (e) Creating new clubs and community-based daily care centres;
- (f) More extensive use by family judges of the existing regulations under the Act on Juvenile Delinquency Proceedings by e.g. issuing decisions requiring minors and their parents to participate in activities organised by daily support centres;
- (g) Supporting and inspiring schools and establishments to organise free time of students and children-in-care by creating interests circles, school daily care facilities, sports activities, etc.;
- (h) Activating local communities;
- (i) Actions aimed at preventing social maladjustment of the youngest children, starting at pre-school age;
- (j) Developing a system of educational and psychotherapeutic support for children and families when one of the parents goes to work abroad.

138. The Ministry of Justice initiated a range of legislative changes related to the implementation of the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency, specifically with regard to the Act of 26 October 1982 on Juvenile

Delinquency Proceedings and the Act of 25 February 1964 – Family and Guardianship Code and the Act of 19 August 1994 on Protection of Mental Health.

139. Actions aimed at preventing pathologies among juveniles are also carried out on an ongoing basis by custodians which perform educational and resocialisation, diagnostic, preventive and control measures related to the implementation of court decisions. To improve the effectiveness of their work, by improving the level of professionalism among course participants, is the objective of the ministry of justice based on the implementation of professional and social model of custodianship. Each year, there are financial resources allocated in the budget of the Ministry of Justice for opening new positions for custodians.

140. Annual reports on the implementation of the programme show that the financing of the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency has contributed to:

- (a) Greater awareness among students, parents, teachers and other persons as concerns broadly understood pathological phenomena and the possibility of their prevention;
- (b) Better effectiveness of educational impact in schools by all types of information and training actions;
- (c) Better accessibility of specialist psychological and pedagogical help;
- (d) Improvement of social skills among students;
- (e) Improvement of methods of organising free time for children and youth;
- (f) Greater safety of students in schools as a result of the development and implementation of detailed procedures for crisis situations;
- (g) Greater interest of parents in their children's problems.

141. It is recommended that in the following years particular attention should be focused on actions discouraging children and youth from risky behaviours, supporting their general development and also showing how to organise one's free time.

*CRC/C/15/Add.194 – paragraph 22: The Committee emphasises the important role of civil society plays as a partner in the implementation of the Convention, and recommends that the State Party involve non-governmental organisations in a more systematic and coordinated manner throughout all stages of the implementation of the Convention, including policy formulation, at the national and local level.*

142. See the response to the recommendation contained in paragraph 16 of the concluding observations.

143. As regards cooperation with the civil society for the implementation of the Convention on the Rights of the Child the Government works closely together on a consistent basis with non-governmental organisations. To facilitate mutual contacts the Ministry of National Education established the Department for Youth and Non-Governmental Organisations. The scope of responsibilities of this Department includes e.g. issues and questions related to the cooperation with youth organisations and non-governmental organisations active in the field of education and child raising, including implementation of public tasks aimed at developing non-formal education of children and youth, organising heritage and nature tourism and holidays for children and youth. Examples of actions as part of this cooperation: submission for evaluation of draft regulations concerning education, child raising and care-giving to disabled students, early developmental support for children, functioning and rules for educational establishments, evaluation of the implementation by public and non-public establishments of the objectives



of governmental programmes concerning adaptation of educational forms and curricula to the needs and capabilities of children with different physical and mental disabilities, providing assistance to non-governmental organisations in organising trainings for parents about the rights of disabled children and youth to be provided with education and raising according to their capabilities and interests in all types of schools.

144. As concerns providing equal educational opportunities for Roma children, the objectives of the educational policy for the Roma community and their implementation in individual local communities throughout Poland are consulted with Roma organisations and associations in Poland. Representatives of these organisations participate also in preparing requests submitted by local governments under the Programme for the Roma Community in Poland coordinated by the Minister of Interior and Administration. Requests submitted under the Programme referred to above are related to e.g. actions oriented towards education of Roma children. As part of the cooperation various Roma organisations were entrusted with organising a scholarship system for particularly gifted Roma children and a scholarship system for Roma students.

145. Representatives of non-governmental organisations participated as an advisory body in the works on the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency which contains proposals for tasks to be implemented by non-governmental organisations. As part of this Programme non-governmental organisations will be included as far as possible both in consultations regarding draft legal acts and other governmental documents and in specific practical actions. It should be pointed out here that the Programme recommends “tested” preventive programmes of non-governmental organisations and scientific establishments. At the same time the list of recommendations is regularly extended and supplemented with new initiatives.

146. The development of permanent cooperation between the Government and civil society takes place by way of cooperation agreements, e.g. Agreement between the Minister of National Education and the Polish Scouting and Guiding Association which was signed on 23 May 2010 and pursuant to which the Polish Scouting and Guiding Association (ZHP) declares e.g. a possibility of holding education and care activities, participation of instructors in meetings of councils of teachers on educational problems, cooperation with education offices and directors of schools and establishments, while MNE declares e.g. promoting good practices of ZHP regarding educational activities and consulting with ZHP draft legal acts concerning education and raising of children and youth; Agreement of the Police Commander-in-Chief and Head of the Polish Scouting and Guiding Association of 12 July 2008 on the cooperation between organisational units of the Police and the Polish Scouting and Guiding Association aimed at improving public order and providing better safety of children and youth as well as preventing negative social phenomena.

147. The Ministry of National Education supports the process of creating the Polish Council of Youth Organisations (PROM), however, giving organisations full freedom in shaping the form of the Council which is to be independent from governmental structures. These actions show the involvement of MNE in the creation of European standards for social dialogue.

148. Consultations regarding the need to establish a national youth council were initiated by MNE by inviting (in February 2009) the largest Polish youth organisations for talks. In March 2010, MNE organised public consultations regarding the development of basis for actions of the Polish Council of Youth Organisations. In May 2010, the Action Group which brought together more than forty youth and youth-oriented organisations. Subsequently the Sejm Standing Subcommittee for Youth organised a meeting with participation of representatives of several organisations involved in earlier consultations. Both the deputies to the Sejm and representatives of MNE expressed interest in continuing cooperation with youth organisations as stable and organised forms of youth cooperation. In

October 2010, more than fifty young representatives of Polish and international youth organisations participated in “Networking Days” in Zakopane. This meeting was organised by the European Youth Forum, Polish Scouting and Guiding Association and Action Group, with support of the Ministry of National Education, with the aim of exchanging experience with representatives of national councils from other countries in the field of creating structures of youth representations and deepening cooperation between Polish youth organisation in the course of formation of the PROM.

149. The Polish Council of Youth Organisations will be registered in accordance with the Polish regulations as a group of associations. The Polish law provides for no other forms for legal persons organising an association for non-profit purposes. As a result the PROM will be independent from governmental structures and a self-governing organisations functioning based on democratic regulations. This legal form is conventionally called a federation.

150. The objectives of the organisations involved in the formation of the PROM include e.g.: participation in the creation of youth policy, popularising the idea of youth participation in public life, supporting cooperation, exchange of information and experiences between youth and youth-oriented organisations, facilitating contacts between Polish youth and youth-oriented organisations and their foreign partners, supporting the development of Polish youth and youth-oriented organisations and informing the public about the situation of youth in Poland.

*CRC/C/15/Add.194 – paragraph 24: The Committee recommends that the State party strengthen its awareness-raising efforts and encourages the State party to undertake systematic education and training in the principles and provisions of the Convention, in particular for parliamentarians, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, health personnel, including psychologists, social workers and religious leaders, as well as children and their parents.*

151. As part of the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency a standing task titled “General Social Education” based on information strategies and involving e.g.:

- (a) Preparation of different information and educational programmes oriented towards the general public;
- (b) Extending educational curricula for persons working with children and youth or for their benefit to include content related to prevention of social maladjustment;
- (c) Implementation of methodic assistance for people working with juveniles at risk of social maladjustment, moral corruption and delinquency;
- (d) Extending teaching curricula for all types of schools and textbooks approved for use in schools to include content and programmes related to social prevention;
- (e) Implementation of social and legal education as part of compulsory school education at all levels.

152. Given the general need for education for safety of children and youth, the Minister of Interior and Administration announced an open competitive bid for a 2006 public task which was to involve actions aimed at pro-social and legal education of children and youth. The objective of this task is to promote knowledge on prevention measures and so-called safe behaviours by e.g. implementation of programmes related to creating safe developmental environment for children and youth as well as developing awareness and competences related to the anticipation and prevention of dangers existing in the modern world, organising campaigns and actions promoting proper attitudes compatible with the

law and social norms, education of children and youth with respect to the capability of taking proper choices and developing proper attitudes, including the development of a capability to resist pressure from people around them (in particular peers), implementation of information programmes concerning e.g. general safety and traffic safety, and prevention of aggression and peer violence.

#### **Trainings for the Police employees**

153. In December 2004, at the request of the Police Commander-in-Chief, each Provincial Police Headquarters and Police School appointed Representative Commanders for Protection of Human Rights. Their responsibilities include e.g. monitoring and coordinating actions of the Police oriented towards respecting human rights, children's rights provided for under the Convention on the Rights of the Child and preventing discrimination.

154. A person responsible for coordinating Police actions in the field of human rights throughout Poland and representing Poland before institutions and authorities in the international forum is the Representative of the Police Commander-in-Chief for Protection of Human Rights appointed by the Decision No. 96 of the Police Commander-in-Chief dated 3 March 2005.

155. Police actions oriented towards promoting the rules and provisions of the Convention were first and foremost concentrated on isolation centres – the police emergency centres for children. Policemen serving in these centres are trained on a regular basis e.g. in respecting the rights of detained minors as well as the rules and provisions of the Convention. Placement in an emergency youth shelter is a measure which should not be associated with additional difficulties, apart from isolation.

156. In 2007, a study was carried out with regard to respecting the rights of persons placed in the police emergency centres for children. They showed that there were no cases of violation of the rights of minors. Furthermore, the analysis of documentation for persons detained, showed that personnel of the police emergency centres for children are extensively involved in solving individual cases of minors.

157. Information about the rights of the child is distributed among Police officers by way of the system of trainings and professional improvement.

158. In the years 2004-2006 police officers received by way of courses complex knowledge about the Convention, international and national system of protection of children's rights and had a capability training to prepare them to have meetings with different types of audience, including children, parents and teachers. Early 2007, a new programme of professional improvement was implemented for policemen at the crime prevention department specialising in juvenile delinquency proceedings in which these issues are of major importance. In police education problems related to the rights of the child are discussed during programme trainings at all levels of basic, specialist training and higher education, improvement courses for teaching staff and bachelor-degree studies.

#### **Trainings for employees of the justice system**

159. The rights of the child, including how to handle children-participants of the proceedings, especially children who are victims of crime, are a key component of trainings for public prosecutors and judges. These courses are and will continue to be included in the schedule of the Polish National School of Judiciary and Prosecution (former National Centre for Education of Judiciary and Prosecution) which is tasked with e.g. providing trainings and courses of professional improvement for judges and public prosecutors.

160. These trainings involving the rights of the child (and human rights in general) are often interdisciplinary courses covering legal, psychological, pedagogical, sociological, etc. and are aimed at better preparing persons in contact with children for providing necessary help and assistance to children-victims of crime.

161. For examples of specialist trainings regarding wholly or partially compliance with the rights of the child, see the response to the recommendation contained in paragraph 35 (a) of the concluding observations); (paras. 290-291 hereof).

162. For the guidelines of the General Public Prosecutor on the way of handling proceedings with participation of minors, see the response to the recommendation contained in paragraph 35 of the concluding observations; (para. 308 hereof).

#### **Educational activities on the rights of the child addressed to children and youth**

163. Pursuant to the new core curriculum, established by Regulation of the Minister of National Education dated 23 December 2008 on the core curriculum for pre-school upbringing and general education in individual school types, the content of teaching should cover human rights and the rights of the child. The issues related to the rights of the child are given extra emphasis in the teaching content of such subjects as history and social studies, personal health and social education, ethics, civics, ethics, science, biology and physical education.

164. Building a system of values begins during pre-school education, and then it is developed and strengthened at subsequent educational stages. Educational curricula accepted for use in schools are compatible with the basic curriculum for general education, thus they also cover issues related to human rights and children's rights. The task of school is to respect the tri-person educational and teaching impacts on the axis student-school-home. The obligation of school is to respect children's dignity, ensure them with friendly, safe and healthy conditions for learning and playing, individual and team activities.

165. Educational activities related to the rights of pregnant minors are implemented by the Ministry of Health. Pursuant to the Act of 27 August 2004 on Healthcare Services Financed from Public Funds and the Act of 7 January 1993 on Family Planning, Protection of Human Foetus and Conditions of Admissibility of Abortion, pregnant women – regardless of their age – are entitled to:

(a) Use public health care services according to the rules specified in the Act, all pregnant women, during the delivery and post-delivery period, regardless of their age and entitlements according to health insurance;

(b) Access to preventive tests for pregnant women, including prenatal tests and stomatological preventive treatment.

See also paragraphs 629-633 hereof.

### **B. Planned governmental actions**

166. As a result of the work of the Interministerial Team for education of children of other races and cultures, established by the Government Plenipotentiary for Equal Treatment, it is planned to prepare educational materials for schools with a view to improving the quality of education and promoting wider access to publications relating to problems in educating this group of students throughout Poland.

167. There are legislative, procurement and implementation projects underway with a view to starting the "Judiciary Statistics" and "Information Exchange and Management" IT Systems designed by the Ministry of Justice. These systems will make it possible, via the

ministerial ICT network, to collect statistical data in an efficient and detailed manner directly from registration devices maintained by common courts of law and general organisational units of the public prosecutor's office. Their implementation will enable more extensive separation in databases of information concerning the areas subject to the Convention on the Rights of the Child.

168. Analysis of the recommendations of the Committee on the Rights of the Child brought a number of questions related to the degree of detail of gathered information, e.g. how detailed the statistical data concerning The Hague Convention of 1993 on the Protection of Children and Co-operation in Respect of Inter-Country Adoption should be. Since 2001, information concerning final and binding decisions concerning minors is gathered to a limited extent. This is due to the Act on National Criminal Register and the Act on Personal Data Protection. For four years the data concerning e.g. alcohol and drug abuse by minors-offenders, have not been collected. It would be recommended to create mechanisms which would allow collecting such information. A public procurement procedure is underway for software enabling such statistical summaries in accordance with prescribed parameters and monitoring the quality of input data.

## II. Definition of the child (art. 1 of the Convention)

### Implementation of the recommendations of the Committee on the Rights of the Child

*CRC/C/15/Add.194 – paragraph 26: The Committee recommends that, as the 1982 Law on Procedures in Cases Involving Juveniles to be between the ages of 13 and 17, the State party establish 13 years as the minimum age for criminal responsibility in all cases, below which children cannot be sentenced to either correctional or educational measures.*

169. Pursuant to article 10 § 1 of the Penal Code, all persons over the age of 17 who commit a punishable act bear criminal responsibility. However, pursuant to article 10 § 2 thereof, persons over the age of 15 who committed most serious crimes (enumerated in § 2 hereof, i.e. e.g. murder, murder with specific cruelty, causing serious bodily injury, rape together with another person, taking a hostage, hijacking an air vessel or a ship) can be liable to a penalty in accordance with the PC, however only if the circumstances of the case and the stage of development of the offender, his personal traits and conditions, give good reasons for such penalty, and in particular if the previously applied educational or correctional measures were futile. It means that under no circumstance does a person under the age of 15 bear criminal responsibility and no penalty can be applied to such person.

170. The cases of application of article 10 § 2 of the PC – bringing to criminal responsibility of persons between the age of 15 and 17 are rare, and so in 2005 – 21 persons, in 2006 – 15, in 2007 – 21, in 2008 – 9, in 2009 – 19, in 2010 – 11, while the number of adults sentenced under final and binding decisions was: in 2005 – 504 281, in 2006 – 462 937, in 2007 – 426 377, in 2008 – 420 729, in 2009 – 415 272, in 2010 – 432 891.

171. Pursuant to article 54 of the PC, when applying a penalty to a minor or juvenile, the first and foremost objective of the court is to educate the person.

172. In relation to offenders between the age of 17 and 18 the court applies educational, therapeutic or correctional measures designed for minors if the circumstances of the case and the degree of development of the offender, his/her personal traits and conditions give good reasons for such approach (art. 10 § 4 of the PC).

173. In principle, pursuant to article 15 of the Act on Juvenile Delinquency Proceedings, the cases of persons under the age of 17 fall within the competence of family courts, unless stated otherwise therein. The family court applies in such cases the provisions of the Act referred to above.

174. Pursuant to the Act on Juvenile Delinquency Proceedings the family court can apply towards a minor who shows to be morally corrupted or committed a punishable act, educational or correctional measures based first and foremost on the interests of the minor. The applied measure is not considered a penalty – it is a truthful acknowledgment that a person under the age of 17 (in exceptional circumstances referred to above – a person under the age of 15) can be sentenced. The preamble to the Act on Juvenile Delinquency Proceedings states that the objective of the Act is to prevent moral corruption and crime among minors and to create conditions which enable to return to normal life for minors in trouble with the law or good social behaviour and to strengthen the education and care functions and sense of responsibility of families for raising their minors to be members of society aware of their obligations.

175. The application of measures provided for under the Act on Juvenile Delinquency Proceedings is always aimed at achieving favourable changes in personality and behaviour of a minor and to strive as necessary for proper compliance of his/her parents or legal guardians towards a minor, taking into accounts social interests (art. 3 of the JDPA).

176. The Act on Juvenile Delinquency Proceedings provides a wide range of measures which can be applied by family court towards a minor on a case-by-case basis. The proceedings towards a minor are handled taking into account his/her personality, and in particular age, health condition, degree of mental and physical development, character traits and also behaviour and reasons for and degree of moral corruption, community factors and conditions in which the minor was raised.

177. Before the court decides to apply a specific measure, each time it considers the results of community interview which includes information about behaviour and educational conditions of a minor, material conditions of his/her family, education of a minor and way of spending free time, his/her community-based contacts, relations with parents or legal guardians, educational impact, health condition and addictions known to exist in the minor's environment. Furthermore, the court can (and before a minor is placed in an educational or correction centre – must) request a family diagnostic and consultation centre to give an opinion on the minor. This opinion is a complex diagnosis of the minor's personality, requiring pedagogical, psychological or medical knowledge, aimed at describing proper lines of impact on the minor. Furthermore, the court hears the minor. The hearing takes place in conditions similar to natural and strives to ensure full freedom of speech (art. 19 of the JDPA). The family court strives to obtain such extensive information in order to enable the court to select the most appropriate way of exerting an impact on a given minor.

### **Imprisonment of a person under the age of 18**

178. A child in trouble with the law can be imprisoned only in circumstances provided for in specific acts. These acts specify that when issuing a decision to place a minor in a correction centre, the court should take into consideration the interests of the child (art. 3 of the JDPA referred to above), and when sentencing a juvenile to imprisonment – the objective of education such person (art. 54 of the PC).

### **Police Emergency centres for children**

179. The legal basis for emergency youth shelters is set out below:

- Act of 26 October 1982 on Juvenile Delinquency Proceedings;

- Regulation of the Minister of Interior and Administration dated 21 January 2002 on detailed principles of stay of minors in the police emergency centres for children;
- Resolution No. 346 of the Police Commander-in-Chief dated 9 August 2004 on duty of policemen at the police emergency centres for children.

180. The Act on Juvenile Delinquency Proceedings is applied to proceedings concerning punishable acts – in the case of persons who committed such act between the age of 13 and 17. Pursuant to article 10 of JDPA, if it is necessary due to the circumstances of the case, the Police can detain and then send to the police emergency centre for children, a minor who is reasonably suspected of a punishable act and if there is a reasonable concern that the minor could hide or cover up the traces of such act or when it is impossible to determine his/her identity. Furthermore, pursuant to article 40 § 7 of this Act, also an unaccompanied minor, while being on his/her own outside the juvenile shelter or correction centre, can be placed in an emergency youth shelter for the time necessary to hand him/her over to an appropriate establishment, however for 5 days at maximum. A detained minor is immediately informed of the reasons for his/her detention, the right to submit a complaint referred to in article 38 and his/her other rights. The detention is reported in the form of a protocol and the Police immediately inform the minor's parents or legal guardians. The detention of a minor must be immediately, however at latest within 24 hours from the time of detention, reported to the competent family court. The detained minor must be immediately released and handed over to parents or legal guardian if the reasons for detention cease to exist or if ordered by the family court or if the Police failed to comply with the 24-hour time limit to inform the competent family court of the detention or if within 72 hours from the time of detention no decision is issued to place the minor in a juvenile shelter or temporarily in a juvenile educational centre, juvenile socio-therapeutic centre or another establishment or centre referred to in article. 12 of the JDPA.

181. The Regulation of the Minister of Interior and Administration on detailed principles of stay of minors in the police emergency centres for children regulated e.g. that minors detained in the police emergency centres for children have the right to be visited by their attorney, respect for their personal dignity, protection against physical or mental violence and all manifestations of cruelty, receive food packages, be visited by parents or legal guardians with consent of the Police unit in charge of the case or the manager of the shelter, submit requests, complaints and proposals to the manager of the shelter. Furthermore, a minor staying at the centre should also be provided with access to everyday papers, audiovisual media, books, sports and daily care equipment, showers, medical care to the extent provided for in the general health insurance regulations. The centre organises for minors educational and care-giving, cultural and teaching, sports and recreational activities and cleaning works in the centre.

182. There are 27 police emergency centres for children at present. The determination of the number of minors present at a given day in the police emergency centres for children is not possible, first of all given the fact that minors are sent in and released on to and from the centres on an ongoing basis. According to the information obtained from provincial police departments and the Police Headquarters in Warsaw, there were 6 982 minors in the police emergency centres for children in 2009 throughout Poland.

183. The draft amendment to the Act of 6 April 1990 on the Police proposed an addition of the following statutory delegation for the Minister of Interior and Administration: "The Minister competent for internal affairs shall determine by way of a regulation the requirements for the rooms in emergency youth shelters" (the amendment is included in the bill on the Police – currently at the stage of interministerial discussions). This amendment will enable preparation of an appropriate regulation governing these issues.

184. Legislative works are underway to amend the Act on Juvenile Delinquency Proceedings with respect to e.g. providing a possibility to place minors in emergency youth shelters during the break in convoy – currently at the stage of interministerial discussions at the Ministry of Justice. The legislative works are projected to be completed in the first half of 2011 (for more information, see para. 480 hereof).

#### **Correction centres and juvenile shelters**

185. The most important measure provided for in the Act on Juvenile Delinquency Proceedings, covering the imprisonment or custody of minors – is placement in a correction centre. This measure is applied in exceptional circumstances, when other measures would not be sufficient. Pursuant to article 1 § 1 para. 3 of the JDPA, the correctional and educational measures are applied to minors up to the age of 21 and pursuant to article 86 § 2 thereof they cannot last less than 6 months.

186. Statistical data on measures other than placement in correction centres are set out below:

- In 2006, measures other than placement in a correction centre were applied 43 322 times, placement in such centre – 1 075 times, including 621 times suspended placement;
- In 2007, measures other than placement in a correction centre were applied 46 265 times, placement in such centre – 1 026 times, including 604 times suspended placement;
- In 2008, measures other than placement in a correction centre were applied 46 116 times, placement in such centre – 921 times, including 536 times suspended placement.

187. Placement in a correction centre can be applied towards a minor over the age of 13 who not only committed a punishable act, but also shows a high degree of moral corruption and the circumstances and the nature of the act provide good reasons for such placement, and in particular when other educational measures are ineffective or do not hold promise of resocialisation of the minor. Furthermore, the Act on Juvenile Delinquency Proceedings provides a possibility of suspending a decision about placement in a correction centre if personal and community character and conditions of the offender as well as the circumstance and the nature of the offence provide good reasons for suspecting that despite the non-application of correctional measure the educational objectives will be achieved (art. 11 of the JDPA).

188. There are several types of correction centres in Poland. A resocialisation correction centre where a minor is to be placed (and thus the extent of his/her imprisonment) is selected based on the degree of his/her moral corruption.

189. Pursuant to the Regulation of the Minister of Justice dated 17 October 2001 on correction centres and shelters for juveniles a minor can be placed in an open resocialisation establishment, i.e. social adaptation centre for juveniles, if he/she e.g. has not committed a punishable act referred to in the Penal Code (e.g. murder, including murder with specific cruelty, intentional bodily injury, including injury resulting in death, rape on a minor under the age of 15, theft with assault, including armed theft) and agrees to participate in the resocialisation process and does not identify himself/herself with criminal subculture.

190. A juvenile is placed in an establishment with greater extent of imprisonment if the specific prerequisites set out in the Regulation referred to above are satisfied, i.e.:



- Semi-open centres – juveniles whose punishable acts and adverse behavioural changes provide no basis for placing them in open resocialisation establishments;
- Closed centres – juveniles who have frequently escaped from open or semi-open resocialisation centres;
- Centres with increased educational supervision – juveniles disorganising operations in other centres, juveniles under the age of 16 (in exceptional cases – under the age of 15).

191. A juvenile is placed in a correction centre to be raised as an aware and honest citizen in accordance with the current knowledge and pedagogical experience (art. 65 of the JDPa). The resocialisation process is based on an individual plan of resocialisation developed by a pedagogue together with the interested juvenile, psychologist and other employees of the establishment. The plan should be adapted in the course of resocialisation, and the resocialisation progress is reported to the juvenile's parents (legal guardians). Correction centres and juvenile shelters provide in particular general and vocational education, cultural, educational and sports activities, activities aimed at developing social activeness of juveniles and accustoming them to socially useful work, and also provide access to health care services (art. 66 § 2 of the JDPa). In juvenile shelters there are educational impact activities oriented towards initiating the process of resocialisation, taking into consideration psychological and pedagogical as well as psychiatric help to juveniles and their families.

#### **Rights of juveniles in correction centres and juvenile shelters**

192. Pursuant to the Regulation of the Minister of Justice on correction centres and shelters for juveniles (§ 57 and 86) juvenile delinquents and juveniles residing in correction centres are provided with: respect for their personal dignity, protection against violence, exploitation and abuse and all manifestations of cruelty, access to information about the applicable internal regulations, awards and disciplinary measures, resocialisation activities of the establishment, resocialisation process, food adapted to their developmental needs, clothes, underwear, shoes, school materials and textbooks, personal care products, access to health care and rehabilitation services, including in particular pregnant juveniles, during and after the delivery, protection of family relations, sending and delivering correspondence, subject to limitations provided for in the law (see below), possibility of contacting a juvenile's attorney or legal representative at the establishment and without the presence of any other people, psychological care and help, procedures for submitting complaints, requests and proposals.

193. Correspondence of a juvenile placed in a correction centre or juvenile shelter, except for correspondence with public and governmental authorities, in particular with the Human Rights Defender or Ombudsman for Children and authorities established on the basis of international agreements concerning the protection of human rights, ratified by the Republic of Poland by way of a legislative act, can be controlled by a manager of a correction centre, establishment or juvenile shelter or an authorised pedagogue, solely in the case of reasonable suspicion that it contains information against the legal order, safety and security of the centre, establishment or shelter, public moral rules or can have an adverse impact on the conduct or resocialisation of a juvenile. If it is determined that correspondence contains such information, it is not delivered, while the juvenile concerned and the family court in charge of the case are notified thereof and of the reasons for such decision. The juvenile is informed that he/she has the right to submit a complaint. The non-delivered correspondence is included in the personal records of the juvenile.

194. The juvenile has the right to e.g. practise his/her religion, participate in service held in correction centres and juvenile shelters, use religious services and have individual

meetings with priests as well as to have books, magazines and items necessary for religious practices. He/she has also the right to participate in religion classes organised by correction centres and juvenile shelters. Religious freedom cannot be contrary to the principles of tolerance or disturb the order at the correction centre or juvenile shelter (art. 66a of the JDPa).

195. Each and every employee of such establishment has the obligation to respect the rights of minors and, accordingly to their position, participate in the resocialisation and provide a positive example (§ 16 para. 2 of the Regulation on correction centres and juvenile shelters).

196. The basic rule is to provide minors with all and any information about their rights – compliance with this requirement is checked as part of supervision activities. Each and every juvenile establishment has, in a generally accessible place, a list of institutions and their addresses where juveniles can submit their requests, proposals and complaints without being controlled by the staff of the establishment. These institutions include: Director of the respective Correction Centre/Juvenile Shelter, President of the respective Regional Court, District Pedagogical Supervision Team at the respective Regional Court, Department of Common Courts and Department of Decision Implementation and Probation at the Ministry of Justice, Office of the Ombudsman for Children, Office of the Human Rights Defender. Additionally, during each visitation of the establishment juveniles are provided with an opportunity to personally submit complaints and requests.

197. Furthermore, the staff are on a regular basis provided with materials concerning the rights of the child, issued by the Human Rights Defender, Ombudsman for Children and Helsinki Foundation for Human Rights. Supervision activities include also trainings for pedagogues and non-pedagogues with respect to compliance with the Convention on the Rights of the Child.

198. The rules governing the application of direct compulsion in correction centres and juvenile centres were discussed in the previous report.

#### **Inspections of establishments for minors or juveniles**

199. To ensure that the rights of persons placed in appropriate establishments are respected and complied with, such establishments are subject to regular inspections.

200. Pedagogical supervision over establishments and shelters falls within the competences of the Minister of Justice via auditors holding positions which require pedagogical qualifications, district educational supervision teams, managers of such establishments and shelters. This supervision involves e.g. supporting establishments and shelters in their educational, care-giving and teaching activities, carrying out analyses and assessments of the status, conditions and effectiveness of such activities, inspiring teachers for pedagogical, methodological and organisational innovativeness, preparing annual and current educational supervision scope reports containing numerical data, description of substantive activities, together with conclusions on the line of development of such juvenile establishments and shelters and possible ways of improving the quality of educational impact, assessing the activities of the manager of such establishments or shelters and providing him/her with recommendations, organising trainings, conferences and meetings providing conclusions or arrangements, cooperation with foundations, associations and other organisations and institutions, establishments and shelters with respect to new programmes for juveniles and modern educational impact methods, examination of the documentation concerning the process of education, care-giving and teaching as well as compliance with documentation requirements.

201. The highest-level supervision over juvenile establishments and shelters falls within the competence of the Minister of Justice, e.g. via presidents of district courts (§ 100 of the

Regulation of the Minister of Justice on correction centres and shelters for juveniles) through: supervising the activities of juvenile establishments and shelters, issuing guidelines and orders concerning the implementation of activities and tasks assigned to them, determining lines of supervision with respect to pedagogical, administrative and organisational activities, auditing compliance with the rights and obligations of juveniles, performing analysis of application of legal regulations, carrying out visitations and inspections covering selected areas of activities of such establishments or all such activities, organising trainings and examining complaints and requests. Visitations are carried out at least once per five years. Visitations or inspections are reported, together with respective recommendations, to the Minister of Justice and managers of specific juvenile establishments or shelters. Within the time limit prescribed for the implementation of post-visitation or post-inspection recommendations managers of juvenile establishments or shelters provide the Minister of Justice with information about the scope and methods of their implementation.

202. During each comprehensive visitation it is specifically investigated whether the rights of juveniles residing in such establishments or shelters are sufficiently respected. The juveniles and staff of such establishments are interviewed with the help of questionnaires. The resulting findings are analysed and discussed in the establishments and published in post-visitation or post-inspection reports, and – if necessary – formulated as recommendations. Each time when inspectors visit the establishments, they hold pedagogical structured interviews aimed at finding out information about non-compliant treatment of juveniles by the staff of the establishments. This analysis covers also documentation concerning the award and disciplinary procedures by checking compliance with proper proportions in this respect as the evaluation, award and disciplinary systems used in juvenile establishments should be based on the system aimed at strengthening positive aspects (awards).

203. In the years 2007-2008, the Ministry of Justice requested presidents of courts to examine the available educational and resocialisation offer at the local level and to revive institutions in charge of children's placement in different community-based daily care centres for educational measures or based on care-giving recommendations, also at the stage of enforcement proceedings. The supervision by the Minister of Justice over activities of courts of law in the course of implementation of juvenile decisions in the years 2008-2009 covers the issue of respecting the rights of juveniles in all types of juvenile establishments, including the efficiency and punctuality of the implementation of court decisions regarding their placement in establishments other than correction centres and juvenile shelters. Also the activity of court and custodians are examined in the case of enforcement proceedings lasting more than 5 years with a view to checking if they respond to both the worsening of a child's situation and its improvement in an adequate and dynamic manner.

204. As a result of the cooperation between managers of establishments with pedagogical supervision and coordination by the Ministry of Justice, a system was developed to prevent non-compliance with the rules laid down in the Convention on the Rights of the Child. The system involves e.g.: interviews with juvenile residents and staff, observations, questionnaires and interviews with parents or legal guardians of juveniles. Inspectors of the District Pedagogical Supervision Teams carry out on a regular basis inspections and controls, participate in board meetings in such establishments or shelters, educational meetings in schools. On average, there are two planned inspections or controls per semester, and additional inspections to check the implementation of provided recommendations. In establishments which require in their opinion particular attention additional or extraordinary measures are implemented.

205. Places for minors and juveniles are visited by the National Prevention Mechanism, established in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, i.e. in Poland – by the Human Rights Defender.

206. In the relevant reporting period there were no major cases of violation of juveniles' rights as a result of inspection activities held on a regular basis, and in particular activities aimed at: raising awareness of juveniles and staff of the establishments regarding the need to comply with the Convention on the Rights of the Child, extensive system for monitoring and preventing non-compliance with the Convention, staff trainings in e.g. communication with juveniles and aggression management.

207. The Ministry of Justice has 26 correction centres and 18 juvenile shelters. As at 10 September 2009, there were 1 277 places in correction centres and 646 in juvenile shelters. The recorded number of residents was 1 297 and 524 respectively, and the actual number of residents – 857 and 497.

208. The application of the penalty of imprisonment for persons under the age of 18, the death penalty and also protective measures against torture, inhuman treatment and punishment, have been discussed in the previous report.

209. Pursuant to the amendment to article 83 § 1 of the Act of 26 October 1982 on Juvenile Delinquency Proceedings, amended under article 2 of the Act of 2 December 2009 on Amendments to Certain Acts Connected with the Performance of Tasks by the Police, the highest-level supervision over emergency youth shelters falls within the competence of the Minister of Interior and Administration as of 1 January 2010. Until the amendment referred to above became effective, there had been no legal regulations governing the supervision over emergency youth shelters.

210. However, pursuant to § 1 of the Decision No. 346 of 9 August 2004 of the Police Commander-in-Chief on duty of policemen at the police emergency centres for children, the police emergency centres for children form an organisational unit of and are subject directly to the crime prevention department of the provincial, municipal or poviats Police headquarters. Policemen participate in annual meetings organised by competent local penitentiary courts on the functioning of the police emergency centres for children. In the Polish National Police Headquarters, questions related to emergency youth shelters are the responsibility of the Convoy Department at the Crime Prevention Bureau to which all information about the functioning of the police emergency centres for children, e.g. from the Human Rights Defender and penitentiary courts, are reported. This bureau receives also all information about exceptional occurrences to have taken place in the police emergency centres for children which are further reported to the Human Rights Defender.

211. Pursuant to article 41 of the Act on Juvenile Delinquency Proceedings activities aimed at finding out if there are circumstances implying moral corruption of a juvenile, and in the case of a punishable act, if it actually has been committed by a juvenile (e.g. gathering and recording evidence for punishable acts committed by a minor, interrogating a minor) are supervised by a family judge. As mentioned above (para. 180 hereof), it is article 40 that regulates questions related to detaining a juvenile in a police emergency centre for children.

#### **Juveniles in correctional institutions**

212. The Executive Penal Code and implementation acts thereto contain a number of provisions aimed at protecting the rights of prisoners under the age of 18, such as e.g.:

- Sending juvenile prisoners to have their sentence executed in correctional institutions for juveniles: Article 84 § 1 of the EPC states as follows: "Correctional

institutions for juveniles are designed for prisoners under the age of 21; prisoners over the age of 21 can have their sentence executed therein in justified circumstances”;

- In order to create conditions conducive to individual treatment of prisoners, prevent harmful influence of morally corrupted prisoners and to ensure personal safety of prisoners, selection of an appropriate execution of the sentence, type and kind of correctional institution and to ensure that they are assigned prison cells inside the correctional institution according to their sex, age, previous custodial sentences, if any, intentionality or non-intentionality and type of the offence, time remaining to serve, physical and mental condition, including the degree of addiction to alcohol, intoxicants or psychoactive agents and the degree of moral corruption of prisoners and risk posed to the society (art. 82 of the EPC);
- It has been provided for the possibility of placing in one residential prison cell, if it is justified by the need to exert influence on juveniles, an adult prisoner or temporary arrested adult who has not served a principal penalty of imprisonment or penalty of military arrest, who has shown exceptionally good conduct, with his/her consent, together with a juvenile prisoner or prisoners (§ 13 (1) of the Regulation of the Minister of Justice dated 25 August 2003 on organisational and regulatory rules of the execution of deprivation of liberty and § 12 para. 1 of the Regulation of the Minister of Justice dated 25 August 2003 on the organisational and regulatory rules of the execution of pretrial detention);
- Additional rights for juvenile prisoners compared to adult prisoners, e.g. additional visit per month (art. 91a of the EPC).

213. The situation of juveniles is subject to specific supervision by the management and personnel of penitentiary facilities, and also to statutory supervision by penitentiary judges.

214. Problems related to the impact exerted on juveniles, is a priority issue for Prison Officers. Given the above, prison personnel works together with families of juveniles with a view to developing a common education strategy towards juveniles as well as with representatives of non-governmental organisations of the general community.

215. Persons under the age of 18 in correctional institutions are given an opportunity of fulfilling the obligation of compulsory education up to the age of 18 in terms of elementary, lower-secondary, upper-secondary and vocational education. Furthermore, correctional institutions for juveniles are required to develop teaching, cultural, educational or sports programmes for a group of prisoners selected on grounds of their common problems or needs, including in particular professional activation, training courses, creativity-oriented or sports and recreational activities. The objective of such programmes is to emphasise the role of culture in human life, and thus deepening humanistic motivation of behaviours, helping in choosing values and responsible taking the consequences of one's own acts as well as showing attention to health and proper physical and mental development (§ 2 and § 3 of the Ordinance No. 2/04 of the General Head of Prison Service dated 24 February 2004 on detailed principles of maintaining and organisation of penitentiary operation and the scope of operations of officers and employees at penitentiary and therapeutic departments). The system of education in correctional institutions is supervised by the Minister of Justice and the Minister of National Education.

#### **Term of residence in juvenile shelters**

216. The circumstances under which a minor can be placed in a juvenile shelter have been discussed in the previous report.

217. The term of residence of a juvenile in a juvenile shelter is regulated by the JDPA (art. 27 § 3, 4, 5 and 6). The pretrial term of residence of a juvenile in a juvenile shelter must not exceed three months. If it is necessary to extend this term of residence due to specific circumstances related to the case (e.g. it is impossible to obtain an expert opinion within this period of time), it can be extended to include three more months at maximum and such extension of the term of residence in a juvenile shelter is decided by family court. The total term of residence of a juvenile in a juvenile shelter must not exceed one year as from the date when a first-instance ruling is given. In specifically justified cases, at the request of the court in charge of the case, the district court (court of higher instance in relation to the court in charge of the case) can extend the term of residence for a definite period of time.

#### **New model of legal regulations for juvenile delinquency proceedings**

218. To ensure greater effectiveness of actions towards juveniles in trouble with the law or good social behaviour, the Minister of Justice established an appropriate team which has now started works with a view to assessing the currently applicable regulations concerning juvenile delinquency proceedings and developing a new model for legal solutions to juvenile problems, including in particular resocialisation activities aimed at achieving the educational objective.

### **III. General principles (arts. 2, 3, 6 and 12 of the Convention)**

#### **Implementation of the recommendations of the Committee on the Rights of the Child**

*CRC/C/15/Add.194 – paragraph 28: The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.*

*CRC/C/15/Add.194 – paragraph 29: The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State Party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's general comment No. 1 on article 29, paragraph 1 of the Convention (aims of education).*

219. In respect to the opinion of the Committee, it ought to be underlined that children belonging to national and ethnic minorities and children who use regional languages exercise full rights to which citizens of the Republic of Poland are entitled, including the constitutional freedom to preserve and develop one's language, preserve one's customs and traditions and develop one's culture. In order to provide these freedoms, the Polish law provides the following in the area of education: organisation of teaching the national, ethnic or regional minority's language at schools or holding classes in the minority language, as well as teaching about the history and culture of the minority's homeland. All the above mentioned activities are financed from the State budget.

220. Moreover, the education of Roma children is one of the priorities of the government programme that has been implemented since 2004 and which is titled Programme for the

Roma community in Poland and the Pilot government programme for the Roma community in the Małopolskie Province for the years 2001-2003 that preceded it.

221. The basic objective of the Programme for the Roma community in Poland is to obtain full participation of the Roma in the life of the civil society and bridge the gap between this group and the remaining part of the society. The tasks aimed at achieving this goal concern: education, adaptation within the civil society, counteracting unemployment, health, living conditions, safety, preventing crimes related to ethnic background, culture and maintenance of Roma ethnic identity, knowledge of the Roma community.

222. The educational goals specified in the Programme for the Roma community in Poland outline activities to the benefit of the integration of Roma children into the school environment, supporting pre-school education and the didactic and educational process at all levels of school teaching, levelling educational opportunities of Roma students and maintaining their ethnic identity, as well as the preparation of a didactic base for classes on the history and culture of the Roma in the Polish society.

223. The educational activities undertaken within the Programme for the Roma community in Poland focused especially on the project that involved Roma education assistants and teachers supporting the education of Roma students.

224. During the 2004/2005 school year, 91 Roma education assistants and 119 supporting teachers worked at educational facilities in Poland. In the 2005/2006 school year – 108 and 56 respectively, in the 2006/2007 school year – 89 and 63, in the 2007/2008 school year – 87 and 138, in 2008/2009 – 92 and 119, and in the 2009/2010 school year – 96 and 141.

225. During the 2004/2005 school year, 3 259 Roma children were subject to compulsory education. In the 2005/2006 school year – 3 424, in the 2006/2007 school year – 2 936 and 63, in the 2007/2008 school year – 3 191, in 2008/2009 – 3 297, and in the 2009/2010 school year – 3 369.

226. The scholarship system for Roma students and particularly talented Roma students was implemented. Roma students also receive support in the form of free schoolbooks and school aids.

227. The Programme for the Roma community in Poland also involves tasks aimed at developing appropriate social and living conditions for the Roma community. These tasks cover, inter alia, investments in the infrastructure of housing estates and Roma houses (renovation, construction, water supply and sewage treatment networks), as well as financing the work of community nurses who – by working with the Roma – provide basic medical care and information. Courses enhancing qualifications are organised for the unemployed Roma, and job openings are created by means of subsidised employment. Moreover, books and multimedia publications presenting the history and culture of the Roma are published, and cultural events are organised.

228. Financial resources in the following amounts were allocated for the performance of the tasks specified in the Programme for the Roma Community in Poland: In 2004 – PLN 6 000 000, in 2005 – more than PLN 7 982 000, in 2006 – more than PLN 9 274 000, in 2007 – PLN 13 995 000, in 2008 – more than PLN 14 615 000, in 2009 – PLN 12 785 000, in 2010 – more than 12 825 000.<sup>1</sup>

<sup>1</sup> The basic source of financing of activities undertaken within the Programme for the Roma society in Poland is the specific reserve of the State budget (until 17 November 2011 at the disposal of the Minister of Interior and Administration – from 18 November 2011 at the disposal of the Minister of Administration and Digitalisation), which comprised the above-mentioned amounts, the value of which amounted to PLN 5 000 000 per annum in the years 2004-2006, and PLN 10 000 000 per

229. The Ministry of National Education cooperates on the implementation of the educational module Programme for the Roma community in Poland by providing local government units and Roma non-governmental organisation with financial resources for the execution of part of the submitted applications in the area of education (in 2004 – PLN 1 000 000, in 2005 – PLN 700 000, in 2006 – PLN 700 000, in 2007 – PLN 500 000, in 2008 – PLN 700 000, in 2009 – PLN 700 000, and in 2010 – PLN 700 000).

230. Additional educational tasks undertaken by schools to the benefit of Roma students are currently financed in a systemic manner from funds transferred to local government units as part of the general educational subsidy – the amount transferred to this end to local government units equalled more than PLN 8 780 000 in 2006, more than PLN 10 103 000 in 2007, PLN 12 457 000 in 2008 and PLN 12 861 000 in 2009.

231. The following documents constitute tasks that have features of strategic activities and are developed by the Ministry of National Education and the Ministry of Interior and Administration, in cooperation with local governments and national minority communities: Strategy for the Development of Education of the Lithuanian Minority in Poland (adopted in 2001) and the Strategy for the Development of Education of the German Minority in Poland (adopted in 2007). Works on the Strategy for the Development of Education of the Ukrainian Minority in Poland are pending.

232. In connection with the recommendations contained in the final documents of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance convened by the United Nations General Assembly on 31 August-7 September 2001, on 18 May 2004 the Council of Ministers adopted the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, which was implemented in the years 2004-2007 by public institutions, including first and foremost governmental administration bodies, in cooperation with local government units and non-governmental organisations. The beneficiaries of the above-mentioned Programme were, inter alia, national and ethnic minorities. Special attention was devoted to the Roma minority, which is a group especially exposed to symptoms of intolerance. The objective of the Programme was to combat xenophobia and racism, including anti-Semitism, and providing the Polish society with education in the culture of tolerance in the broad sense. Within the Programme, activities in the following areas were undertaken: education and culture, means of mass communication, health, labour market, social and economic situation, and public administration activities.

233. Within the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, in November 2004, the Team on Monitoring Racism and Xenophobia was established. The scope of the Team's works:

(a) Maintenance of a database on occurrences of ethnic discrimination, racism and xenophobia;

(b) Development and implementation, in cooperation with other government administration offices, of a system for collecting and analysing social and demographic data for the purpose of monitoring racism, racial discrimination and xenophobia;

(c) Development and updating of didactic materials for the Police, Polish Border Guard and government administration bodies of provinces, shaping anti-racist approaches and counteracting xenophobia and intolerance;

(d) Performance of analyses and drafting of reports on racism, racial discrimination and xenophobia in Poland;

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annum in the years 2007-2010.



(e) Processing of cases in the scope of monitoring racism, ethnic discrimination and xenophobia, and undertaking activities aimed at counteracting such phenomena;

(f) Undertaking – in the scope of implementing the principle of equal treatment of persons irrespective of their ethnic background – activities to the benefit of national and ethnic minorities and communities using regional languages;

(g) Initiation and implementation of programmes and strategies for counteracting and eradicating racism, ethnic discrimination and xenophobia;

The Team also monitors those cases of racial discrimination whose victims are children and youth by intervening in such cases.

234. The Team undertakes the above activities in close cooperation with national institutions and non-governmental organisations that are active in the area of counteracting and combating racism, anti-Semitism, racial discrimination and xenophobia. Moreover, a member of the Team performs the function of the National Contact Point of the Organisation for Safety and Cooperation in Europe.

235. In order to enhance the effectiveness of investigations of racial crimes, training is organised for Police officers in the scope of hate crimes. Since 2006, the Law Enforcement Officers Programme on Combating Hate Crimes (LEOP) has been implemented. It is coordinated by the Ministry of Interior and Administration and is implemented within Police structures in cooperation with the OSCE Office for Democratic Institutions and Human Rights (ODIHR OSCE). As part of the pilot programme, in 2008 a training seminar titled Police Forum against Discrimination was organised. The Forum was attended not only by Police officers, but also by national, ethnic and religious minorities and non-governmental organisations concerned with discrimination. The main training titled Specialist course on preventing and combating hate crime was commenced in November 2009 and is being continued both at central (national) and regional (province) level. The thematic scope of training covers issues connected with identifying hate crimes, appropriate reactions and prevention of such occurrences.

236. Moreover, training for police officers employed at poviat/municipal police offices in the procedures applicable in the case of reporting an act of violence resulting from prejudices and discrimination is held. Issues connected with racial and ethnic discrimination, anti-Semitism and xenophobia were introduced into programmes of vocational training directed at police officers.

237. As part of supporting victims of discrimination, in 2005, the Ministry of Interior and Administration signed an Agreement with the Union of Citizens Advice Bureaux (non-governmental organisation), under which the Union undertook to provide free-of-charge support to victims of racial or ethnic crimes and to provide the Ministry of Interior and Administration with reports and statistical analyses within this scope.

238. In the years 2006-2008, the Ministry of Interior and Administration annually ordered the performance of a public task, inter alia, as part of the Citizens Advice on issues concerning ethnic or national discrimination. The objective of this task was to provide free-of-charge and widely available citizens advice for natural persons who are victims of racial, ethnic or national discrimination, as well as the organisation of training and seminars aimed at raising social awareness in the scope of anti-racist approaches.

239. Within the system of education, activities conducive to the implementation of the principle of non-discrimination of disabled students are undertaken. Since 2005, the system of education has been organising early support of children's development from the moment of diagnosing the disability (which in practice might mean: from birth) to commencement of school education. Parents are involved in the programme of child development early support.

240. In 2005, the implementation of the government programme “Early, specialist, comprehensive, coordinated and constant support of children exposed to disability or of the disabled and his/her family” was launched. This programme was adopted by the Council of Ministers on 14 September 2004 and is part of the National Programme of Action for Children and the Social Integration Strategy.

241. The main objectives of the programme “Early, specialist, comprehensive, coordinated and constant support of children exposed to disability or of the disabled and his/her family” are, inter alia: supporting the child with full use of its development potential, support in gradual achievement of constantly increasing autonomy, gradual striving at enhancing the quality of life of the child, its social competences allowing for working in a peer group, independent usage of educational classes organised at generally accessible or special schools.

242. The listed activities are of major significance for raising social awareness connected with the rights and needs of disabled children and adults in order to ensure social non-discrimination, levelling educational opportunities and developing a system of supporting the disabled in local environments, a system based on a reliable diagnosis of the needs of disabled children and adults performed by local authorities. For more on activities to the benefit of disabled children and youth, see paragraphs 522-569 hereof.

243. The Act of 13 June 2003 on Foreigners, which entered into force on 1 September 2003, introduced the provision that foresees the possibility of issuing a Polish ID to a foreigner who is a minor foreigner born in the Republic of Poland, staying in Poland without parental care, who does not hold a travel document, if it is not contradictory to the interest of the Republic of Poland and if it is for the good of the child, and obtaining a travel document by the foreigner meets with difficulties that are difficult to overcome.

244. As of 1 October 2005, the provision that foresees granting a permit for temporary residence in Poland to underage children of foreigners born in the Republic of Poland and residing in Poland without parental care was introduced.

245. On 29 May 2008, a new provision was introduced to the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland. This provision foresees granting foreigners tolerated residence permits in the territory of the Republic of Poland, if the deportation of the foreigner would infringe on the right to family life within the understanding of the Convention on the Protection of Human Rights and Fundamental Freedoms drafted in Rome on 4 November 1950 or if it would infringe on the rights of the child specified in the Convention on the Rights of the Child to an extent significantly threatening its psychophysical development.

*CRC/C/15/Add.194 – paragraph 31: The Committee recommends that the State party:*

*a) Take effective measures, including legislation, to promote and facilitate the respect for the view of children, by courts and all administrative bodies and the participation of children in all matters affecting them, in accordance with article 12 of the Convention;*

*b) Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary, the Roman Catholic Church and other religious groups, and society at large, on children’s right to have their views taken into account and to participate in matters affecting them.*

246. Article 72, paragraph 3 of the Polish Constitution requires that the child be heard, and if possible, that its opinion be taken into account by public authority bodies and the persons responsible for the child. This provision is implemented by means of provisions of statutory rank of various branches of legislation.

247. Information concerning the right of children of refugees to have their opinions taken into account can be found in educational materials developed by, inter alia, the Centre for Teacher Development in Warsaw – currently part of the Centre for Education Development (materials for teachers and educators), the Representative Office of the United Nations High Commissioner for Refugees (brochure “My Day – Young Refugees about Themselves, Educational Pack for Students”, “When You Have to Run”), Polska Akcja Humanitarna (PAH) (inter alia, the brochure “We Help People Live with Dignity”), as well as in informational materials developed by CARITAS Polska – Centres of Support for Migrants and Refugees, Russian Orthodox Centre of Mercy “Eleos” in Białystok.

248. The Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland, revised by the Act of 18 March 2008 on Amendments to the Act on the Protection Granted to Foreigners in the Territory of the Republic of Poland and Certain other Acts, was amended as regards dealing with juvenile foreigners applying for refugee status. The definition of an unaccompanied minor was added to the Act, and a special procedure for dealing with minors was distinguished (Part II, Chapter 4). Under the Act, unaccompanied underage foreigners without care are placed at an unrelated professional foster family operating as a family emergency shelter or at an education and care institution. In practice, these foreigners are placed solely at education and care facilities. Placing underage foreigners at facilities for persons applying for the granting of refugee status, and, as a result, for the appointment of an actual guardian, has been abandoned. The function of guardian is performed by educators employed at education and care facilities.

249. The body that accepts the application for the granting of refugee status submitted by an unaccompanied minor immediately submits an application for the appointment of a custodian who would represent the minor during the proceedings on granting refugee status and placing the minor at an education and care facility to the guardianship court with jurisdiction over the minor’s place of residence. If it is discovered during the proceedings that the applicant is an unaccompanied minor, the above-mentioned application is submitted by the body of first instance (currently the Head of the Office for Foreigners). The body that receives the application directs the unaccompanied minor to a professional unrelated foster family serving as family emergency shelter or an education and care facility, where the unaccompanied minor stays until a decision is issued by the guardianship court. The costs of the stay of the unaccompanied minor at a professional unrelated foster family serving as an emergency family shelter or at an education and care facility are financed from the State budget from the funds managed by the minister competent for internal affairs, from the funds at the disposal of the Head of the Office for Foreigners.

250. The duties of the Head of the Office involve informing the minor of the actual and legal circumstances which might influence the outcome of the proceedings regarding the granting of refugee status, as well as the possibility of submitting a request for the hearing to be held in the presence of an adult indicated by the minor. The hearing is held in a language understood by the minor, in a manner appropriate for the age of the minor, as well as its level of maturity and psychological development, with the consideration of the fact that the minor might have limited knowledge of the actual situation in its country of origin. Moreover, the minor is examined in the presence of: a custodian, an adult indicated by a minor, on condition that this does not make the hearing more difficult, a psychologist or pedagogue who drafts an opinion on the psychophysical condition of the minor.

251. The person undertaking activities connected with the proceedings on the granting of refugee status with the participation of the minor must meet at least one of the statutory requirements:

- (a) Be a graduate of higher MA studies at a faculty of law and have 2 years of experience in working at institutions whose scope of activity involves childcare;

(b) Be a graduate of higher MA studies or a vocational degree course and have 2 years of experience in working at public administration, and complete training in proceedings on the granting of refugee status with the participation of minors;

(c) Be a graduate of higher MA studies at the following faculties: pedagogy, psychology or sociology and have two years of experience of working for public administration.

252. If the decision on the refusal of the granting of refugee status also adjudicates deportation of the unaccompanied minor, the minor is placed at the education and care facility at which it previously stayed until the minor is handed over to the bodies or organisations operating in its country of residence whose statutory activities involve handling affairs connected with minors.

253. Educators and other employees of education and care facilities are obliged to respect the subjectivity of the child, acknowledge its opinion and, to the extent possible, take into account its opinions in all matters concerning the child and to inform the child of the activities undertaken in connection with its case. Also persons supervising education and care facilities on behalf of the province governor are obliged to hear out the child's opinion on issues concerning its interests.

254. Education and care facilities are obliged to create conditions enabling respecting the religious needs of the child, teaching it respect for tradition and making it aware of the need to maintain the culture it grew up in.

255. Pupil self-governments function at education and care facilities. The children staying at the facility are entitled to adopt the rules and regulations of the self-government. The self-government, as representative of all pupils staying at the facility, is entitled to present the director with comments and opinions on all issues connected with the functioning of the facility.

### **Hearing out the minor**

256. The amendment of the Civil Procedure Code, which entered into force on 13 June 2009, is of utmost importance for the implementation of the principle of acknowledging the opinions of the child in cases concerning the child. Pursuant to the newly introduced article 2161 § 1 of the CPC: "In cases concerning a minor, the court will hear the child out, on condition that its physiological development, health condition and level of maturity allows for this. The hearing will not be held in the courtroom." Pursuant to article 2161 § 2 of the CPC: "With the expedience reasonably required by the circumstances, psychological development, health condition and level of development of the child, the court will take the child's opinion and reasonable wishes into account." The provision of article 2161 of the CPC concerns establishing non-property rights in the course of the proceedings, especially in connection with: determining parental authority in divorce proceedings, annulment of marriage, separation (art. 425 of the CPC); establishing or denying the origin of the child, annulment of declaration of parentage and dissolution of adoption (art. 453 of the CPC). Pursuant to article. 576 § 2 of the CPC: "In cases concerning a child or a child's property, the court will hear the child out, on condition that its physiological development, health condition and level of maturity allows for this, and, to the extent possible, will take its reasonable wishes into account. The hearing will not be held in the courtroom."

257. Article 70, paragraph 3 of the Act of 12 March 2004 on Social Welfare, in the wording valid as at 31 December 2010, orders that while providing a child with assistance, it is necessary to take into consideration the subjectivity of the child and the family and the right of the child to, inter alia: have access to information, and voice its opinions in issues concerning the child.

258. As the provisions of the Act of 5 December 1996 on Professions of Physician and Dentist define the principles of including patients in the decision-making process concerning their treatment, this Act specifies in a special manner the possibility of including minors over 16 in the decision-making process.

259. Doctors are obliged to inform patients over 16 about their health condition and proposed diagnostic and medical activities in an understandable manner. If the patient is over 16, it is necessary to obtain his/her consent to the performance of therapeutic and medicinal activities together with the consent of his/her legal representative. If the juvenile patient objects to the commencement of medical treatment, then despite the consent of the actual guardians to the provision of the health service, it is necessary to obtain the consent of the guardianship court.

260. Only in exceptional cases, strictly defined in the Act on the Protection of Mental Health, forced hospitalisation is acceptable, i.e. hospitalisation without the patient's consent or despite the patient's refusal. In such situations, the guardianship court decides on the acceptability of hospitalisation, and in emergency cases, a psychiatrist after consultation with another psychiatrist or psychologist, at the same time notifying the guardianship court which issues the consent to admission to hospital. If there are doubts whether the hospitalised person has a psychological disorder, the hospitalisation period is limited to the time necessary for eliminating these doubts and is not longer than 10 days.

#### **Rights of minors in criminal and civil proceedings**

261. Article 49 § 1 of the Penal Procedure Code states that the injured party is a natural person or legal entity whose legal interest was directly violated or threatened by a crime. Obtaining the status of injured party and related rights is not dependent on the coming of a certain age. The injured party might also be a child. However, the age of the child determines whether the child will be entitled to personally exercise its rights as injured party. Pursuant to article 51 § 2 of the PPC, if the injured party is a minor, then its rights are exercised by its statutory representative or the person under whose permanent care the injured party remains. Such a representative can exercise all the rights to which the injured party that he/she represents is entitled. If the accused is a minor, its statutory representative or the person under whose permanent care the accused remains can undertake any and all proceedings-related activities to the benefit of the accused, first and foremost to submit means of challenge, submit applications and appoint a defender (art. 76 of the PPC).

262. Article 65 § 1 of the PPC states that the capacity to perform proceedings-related activities (capacity for action) is held by natural persons with full legal capacity – i.e. persons who have come of age (are over 18). Paragraph 2 of this article states that a natural person with limited legal capacity (i.e. a person over 13 but below 18) has capacity for action in cases resulting from the legal activities that it is capable of performing individually. A minor who can sign an employment agreement (i.e. a minor over 16), can also appear before court in cases resulting from this contractual relation. Pursuant to article 66 of the PPC, a natural person without capacity for action can undertake proceedings-related activities only through its statutory representative.

263. The statutory representatives of the minor are his/her parents (art. 98 of the FGC in connection with art. 92 of the FGC). If none of the parents can represent the minor (e.g. if the crime was committed to the detriment of the minor by its parent or if the interests of the minor could prove contradictory to the interests of its parents for other reasons), the guardianship appoints a custodian (art. 99 of the FGC). The parents cannot represent the child, inter alia, in the following cases: denial of fatherhood, denial of motherhood, annulment of declaration of parentage, adoption.

264. In the course of the criminal proceedings, protection of privacy is guaranteed to the children – if necessary, information provided to the media, e.g. concerning the sex and age of the victim or witness and the circumstances of the event are modified so as to hinder the identification of the child. The Polish penal procedure ensures that proceedings held before court with the participation of children are usually closed to the public, and the hearings of such witnesses are usually held in the absence of the accused (art. 360 § 3 of the PPC: “The court can close the hearing in its entirety or in part to the public, if at least one of the accused is a minor or the court can close the hearing of a witness under 15 to the public”). The right of the child to privacy is always the supreme right over the right to information.

265. Pursuant to article 573 of the CPC, the minor remaining under parental authority, care or guardianship is capable for action in a guardianship proceeding concerning the minor, unless it does not have legal capacity, whereby the court can limit or exclude the personal participation of the minor in the proceedings, if educational concerns indicate that such a solution is conducive to the minor.

266. Children have capacity for action also in the following cases:

- Adoption, on condition that the child is at least 13 years of age; in such cases, a special provision not only grants children the right to voice opinions, but also subjects the outcome of the procedure to their opinion (consent to adoption);
- Adoption of the father’s surname by an extramarital child over 13, also in this case a special provision states that the outcome of the procedure is subject to the opinion of the child;
- Granting permission to contract marriage to a female child over 16.

267. Cases within the scope of solving significant issues regarding the child in situations where the parents fail to reach an agreement (art. 97 § 2 of the FGC), especially those whose subject is contact with the child, as well as issues within the scope of care (over the child), belong to the group of cases where the child has capacity for action and should be a participant of the proceedings.

268. The following provision was added to article 185a of the Penal Procedure Code under the amending act of 2003 – establishing a one-off hearing during the criminal proceedings concerning the witness – injured party, who was under 15 at the time that the act was committed, however, this applies only to cases regarding the crime specified in Chapter XXV of the Penal Code – “Crimes against Sexual Liberty and Decency” (art. 197-205). As a result of the next amendment of the PPC, article 185a also applies to cases on crimes specified in chapter XXVI of the PC – “Crimes against Family and Guardianship” (art. 206-211a). Since 29 August 2005, this article has been worded as follows:

“§ 1. In cases concerning the crimes specified in Chapters XXV and XXVI of the Penal Code regarding the injured party who at the time of the hearing is under 15 years of age, the injured party is examined as witness only once, unless significant circumstances are revealed and their explanation requires holding the hearing once again, or if the accused did not have a defender during the first hearing of the injured party and requires another hearing of the witness.

§ 2. The hearing is held by the court at a sitting attended by an expert psychologist. The prosecutor, defender and authorised representative of the injured party are entitled to participate in the hearing. The person specified in article 51 § 2 is also entitled to be present at the hearing, if his/her presence does not limit the freedom of expression of the party being heard.

§ 3. The protocol of the hearing is read out at the main hearing; if a recording of sound and images was made during the hearing, it is necessary to play the recording.”

269. Pursuant to article 147 § 2 point 2 and § 3 of the PPC, the hearing of the injured party specified in article 185a, and the witness who at the time of the hearing is under 15 years of age (in cases on crimes involving violence or unlawful threat or the crimes specified in Chapter XXV of the PC) are recorded by means of a device registering image and sound, and the protocol can be limited to the registering of the most important statements of the participants. The recording of image and sound and the translation of the audio file constitute appendices to the protocol.

270. Since April 2007, the Ministry of Justice has been cooperating with the Nobody’s Children Foundation within the Coalition for Child-friendly Interviewing, promoting the establishment of Child-Friendly Interview Rooms (see also information in paras. 282-284 hereof). During the meeting of the members of the Coalition held at the Office of the Human Rights Defender in 2007, it was indicated that a child-witness cannot be interviewed at court buildings, prosecutor’s offices or police offices. It was underlined that entering such institutions by a juvenile witness suffices to evoke fear and render a correct interview impossible. It ought to be indicated that although most Child-friendly Interview Rooms are located at police offices and courts, the construction of new interview rooms adheres to the recommendations of the Ministry of Justice. As a result, more and more newly constructed interview rooms can be entered by separate halls and corridors that protect the child from contacting the accused or uniformed police officers at the court or police office building.

271. At the same time, some of the judges decide not to interview the child in a child-friendly room located outside of the court, e.g. at a facility operated by a non-governmental organisation, and interview the underage witness in the courtroom or judge room. Representatives of the Minister of Justice pay special attention to this fact while instructing presidents of courts to eliminate this practice.

272. According to the legal status as at 31 December 2010, the warranties indicated above do not apply to a party injured by a prohibited act committed by an underage perpetrator. It is necessary to pay attention to the fact that in cases regarding minors, hearings are generally closed to the public, unless the openness of the hearing is justified for educational purposes (art. 45 of the JDPA). This solution was adopted for educational reasons, but it also allows for providing protection to underage witnesses during proceedings of this type.

273. In guardianship cases involving minors, the following principles oblige the court to routinely close to public the entire hearing or part of the hearing, if the public examination of the case might be detrimental to the good of the child. Additionally, within the understanding of article 390 § 2 of the PPC, the chair might order that the underage perpetrator leave the courtroom during the hearing of the underage witness. This might occur in a situation where it ought to be feared that the presence of the underage perpetrator might make the witness feel uneasy. Also the civil procedure allows for interviewing witnesses in the absence of other participants of the proceedings (arts. 515 and 216<sup>1</sup> of the CPC). Also article 576 § 2 of the CPC plays an important guarantee role, as it states that “in cases concerning a child or a child’s property, the court will hear the child out, on condition that its physiological development, health condition and level of maturity allows for this, and, to the extent possible, will take its reasonable wishes into account. The hearing will not be held in the courtroom.”

274. The above regulations provide children with the minimum level of protection in proceedings involving minors and in guardianship proceedings. However, they do not guarantee the same rights in criminal proceedings involving juvenile witnesses.

275. The Ministry of Justice has been appealing to the presidents of courts to encourage family judges, who work with minors-injured parties and minors-perpetrators every day, to use the Child-friendly Interview Rooms

276. Such interviews are held more and more often in Poland. The possibility of providing penal and family judges with access to the Child-friendly Interview Rooms located within their units depends solely on the appropriate organisation of work of the chairs of court departments and their appropriate cooperation with entities responsible for the management of the Child-friendly Interview Rooms.

277. Moreover, the amendment of article 185 of the PPC should be considered, as well as the extension of the one-off interview of underage victims of all crimes committed when they were under 18 and the extension of protection over the injured parties suffering due to prohibited acts committed by minors in accordance to the procedure specified in the Act on Juvenile Delinquency Proceedings.

**Juvenile Delinquency Proceedings** (the definition of a minor has been presented in the previous report in Chapter X)

278. Pursuant to article 35 § 1 of the JDPA, the court is obliged to acknowledge the opinions of the minor in explanatory proceedings. Whereas article 19 of the JDPA indicates that during an interview of a minor, one should strive to ensure full freedom of speech. The hearing should be held in conditions similar to natural conditions, if necessary at the place of residence of the minor, whereby one should avoid multiple hearings of the minor on the same circumstances or circumstances established by means of other evidence and not evoking doubts.

279. The court also hears the explanations of the minor during the recovery proceedings. Apart from that, the minor remains in the courtroom, if the court considers this purposeful, especially for educational purposes or in order to protect the minor and explain circumstances connected with the case (art. 53 § 2 of the JDPA). The minor acquires the status of a party to the recovery proceedings. In reference to the above, the minor is entitled to the same procedural rights as the party: As a result, the minor can voice comments and submit explanations to each item of evidence presented in its presence (art. 54 of the JDPA). The minor, its parents or guardian can submit means of appeal in appeal proceedings. The minor is interviewed during enforcement proceedings, if the court decides that it is necessary (art. 75 § 4 of the JDPA).

280. For more information on juvenile delinquency proceedings, see response to the recommendation contained in paragraphs 26 and 51 of the concluding observations (paras. 169-217 and 878-890 hereof).

#### **Child-friendly interview rooms**

281. Principles of conduct in relation to children participating in criminal proceedings, to victims of rape and domestic violence were adopted. The priorities within this scope are as follows: protection of the victim's dignity, respect, ensuring safety and security, medical and psychological assistance, notification of the victim of his/her rights and institutions providing victims of crime with support, support of the guardian appointed by a non-governmental organisation.

282. The Ministry of Justice cooperates with the Nobody's Children Foundation within the Coalition for Child-friendly Interviewing. This initiative, established in April 2007, is



aimed at ensuring appropriate interview conditions for children-victims and children-witnesses involved in criminal proceedings and proceedings involving minors, ensuring respect for the dignity of the child and taking into account the special needs of the child. The main objective of the initiative is to protect children against secondary victimisation by way of eliminating the necessity to repeat the interview. The task of the Coalition is to develop uniform legal and psychological standards for the interviewing of children and to equip the interview rooms with appropriate audio-visual equipment enabling appropriate securing of evidence, and, as a result, eliminating the necessity to repeat the evidence collection procedure at successive stages of court proceedings.

283. Interview rooms for children are located not only in courts, prosecutor's offices or police offices, but also in non-governmental organisations' facilities and local government units. Interview rooms for children, registered by institutions that declare the intent to submit themselves to the procedure of certifying the location of interviewing children, are subject to inspections carried out by the team of lawyers and psychologists appointed by the Ministry of Justice and the Nobody's Children Foundation. Room equipment (ensuring physical and psychological safety and security of the child during the interview), efficiency of audio-visual devices (enabling the recording of the interview, as well as communication between participants of the interview with the judge and a psychologist in order to present them with the questions that will be asked the child), and adherence to the principles of interviewing children are verified to determine whether they meet the standards established by the Coalition. One of the necessary elements of the offer of the Child-friendly Interview Room is the provision of comprehensive information on the possibilities of obtaining specialist psychological, therapeutic, medical and legal assistance to the caretakers of the child. The caretaker of each and every interviewed child receives written information on this offer.

284. If the results of the above-mentioned inspection are positive, then the room acquires a certificate of compliance with the standards of the Coalition. As at October 2010, 46 certificates had been issued.

#### **Training for judiciary representatives**

285. The issue of interviewing minors – as persons of exceptional sensitivity – remains a permanent element of training directed at prosecutors and judges.

286. For examples of training have been presented in response to the recommendation contained in paragraph 35 of the concluding observations; (para. 324-326 hereof).

## **IV. Civil rights and freedoms (arts. 7, 8, 13-17 and 37 (a) of the Convention)**

### **A. Implementation of the recommendations of the Committee on the Rights of the Child**

*CRC/C/15/Add.194 – paragraph 33: The Committee recommends that the State party ensure that all public schools permit children, in practice, to choose freely whether to attend religion or ethics with parental direction provided in a manner consistent with the level of the child's evolving capacities.*

287. The provisions of the Polish law on education adopted under article 12, paragraph 2 of the Act of 7 September 1991 on Education System provide each and every student with the possibility of making a free choice between attending classes on religion in compliance with the child's religious affiliation and classes on ethics.

288. Each public school is obliged, at the request of parents or students, to organise religion classes compliant with their religious affiliation (if the religion is represented in Poland by a church or religious association of acknowledged legal status) or an ethics course. The decision-making procedure in such cases has been specified in a manner acknowledging the advice given by parents in accordance with the child's level of development. Adult students have the right to take decisions on attending religion or ethics classes individually (art. 12, para. 1 of the Act on Education System: "Public pre-schools, primary schools and lower secondary schools organise religion classes at the request of parents, public higher secondary schools do so at the request of either parents or the students; after reaching majority, the students take decisions on attending religion classes.").

289. In order to respect the rights of persons residing in Poland and belonging to so-called religious minorities, as well as persons with a different worldview, the provisions of the law on the education system introduce the possibility of organising religion or ethics classes within the public education system in various forms (school or non-school), in a manner which is as convenient as possible for all the persons interested in attending the given class. In order to facilitate participation in religions or ethics classes, the provisions of the law on the education system introduce the possibility of organising such courses in class, as well as in inter-class or inter-school groups. In practice, the manner and scope of the organisation of religion classes for students of various religious affiliations or ethics classes depends on the number of students enrolled for the given course. Participation or non-participation in pre-school or school religion or ethics classes cannot be the reason for discrimination by any other person in any form.

*CRC/C/15/Add.194 – paragraph 35: The Committee recommends that the State party:*

- a) Establish a national system for receiving, monitoring and investigating complaints, and when necessary prosecuting cases, in a child-sensitive manner, and provide training for law enforcement officials, social workers and prosecutors in this regard;*
- b) Set up a comprehensive and nation-wide response system designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than only intervention or punishment, and which ensures that all victims of violence have access to counselling and assistance with recovery and reintegration, particularly in communities where the local administration does not have sufficient resources to set up a family crisis centre;*
- c) Establish a mechanism to collect data on the perpetrators and victims of abuse, disaggregated by gender and age, in order to properly assess the extent of the problem, and design policies and programmes to address it;*
- d) Expressly prohibit corporal punishment in the home, schools, and all other institutions;*
- e) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.*

**Response to the recommendation contained in paragraph para. 35(a) of the concluding observations** (also concerns the recommendation contained in paragraph 49)

290. The Police have been educating specialist staff to work with children and youth for years. The programme offer of the police education system includes:

(a) *Basic vocational training.* Issues concerning the eradication of domestic violence are included in courses regarding: the specific part of substantive criminal law, identification and prevention of social pathology, performance of domestic interventions, “Blue Card” procedures, and procedure in cases, in which it is necessary to provide a minor with care;

(b) *Vocational training for graduates of universities.* The training covers the following topics: disfunctionality of the family (causes of violence), relations between the victim and the perpetrator, alcoholism and crime, prostitution as a criminogenic factor, crimes against the family and guardianship, crimes against body dignity and integrity, selected family law institutions, intervention of the court into family issues, crimes related to sexual life – paedophilia, rape, sexual deviations, the specific features of child interviews;

(c) *Professional development in the form of centrally organised courses held at Police training units.* Programmes for police community support officers, duty managers, criminal service, experts in issues related to minors, involve discussing the issues covered by the recommendations as part of the following topics, inter alia: providing assistance to victims of domestic violence, using the “Blue Card” procedure, code of conduct in relation to a child-injured party, the Polish Victim’s Rights Card, code of conduct in relation to victims of crime (rape, domestic violence, child abuse), human trafficking, social pathologies, the role of the Police in the National Programme for the Prevention of Social Maladjustment and Child and Youth Delinquency. At the Police Training Centre, workshops on “Violence against the Child” (thirty, 45-minute classes) are organised by psychologists from the Nobody’s Children Foundation for experts in issues connected with minors since 2000.

291. The Programme for Specialist Training of Prevention Police Officers Specialising in Minor-related Issues is being implemented. This programme covers, inter alia, the topics listed below:

(a) Within the scope of disseminating knowledge and raising awareness of the rights of the child among representatives of investigation bodies – the system of protecting the rights of the child in the light of the provisions of international and Polish law;

(b) In the area of non-discrimination – the conduct of police officers in relation to refugees and minors and juvenile foreigners, human rights and ethics binding for police officers working with minors;

(c) In the area of respect for opinions and active participation of the child in issues that concern it – listeners are acquainted with the code of conduct in cases involving minors, selected civil law institutions (including family and guardianship law), regulating the principles of the child’s participation in explanatory, preparatory and court proceedings, and representation of the child by its parents or a legal guardian before court and offices;

(d) The programme also foresees practical courses at schools and pre-schools;

(e) As regards maltreatment and violence, the training programme involves preparing police officers to react appropriately to crimes against the child and social pathologies;

(f) As regards sexual abuse and human trafficking – prostitution of minors and human trafficking, violence against the child (programme of the Nobody’s Children Foundation);

(g) As part of the implementation of the recommendations formulated by the Commissioner for Human Rights of the Council of Europe in the Memorandum of 2007 in

the scope of “providing specialist training on domestic violence at a broader rate and eliciting the involvement of more police officers in cooperation with non-governmental organisations”, a programme of a specialist course in counteracting domestic violence was developed, and then implemented at the Police under Decision No. 54 of the Police Commander-in-Chief of 11 February 2009. The main objective of the training is to prepare police officers to perform tasks connected with counteracting domestic violence, coordinating activities within the scope of the procedure of preventing domestic violence and professional development at local Police units. The course covers fifty-six 45-minute classes, i.e. seven days;

(h) Moreover, a Polish nation-wide “Guide to facilities, centres and institutions that provide various forms of assistance to victims of crime” was prepared and distributed to Police officers performing activities connected with victims. In line with the above-mentioned Guide, many Province Police Headquarters developed local guides containing procedures and registers of facilities providing support and assistance to victims of crime, also to minors.

292. Police units in the whole country are undertaking varied activities to the benefit of victims of crime (especially violence) and are continuing the implementation of the assumptions of the Polish Victim’s Rights Card, inter alia, by way of:

- Propagating the assumptions of the Polish Victim’s Rights Card, and leaflets and information materials aimed at persons against whom a crime was committed);
- Informing victims of crime about their rights, making available the telephone numbers and addresses of institutions and organisations providing assistance, as well as providing documents containing instructions for the injured party;
- Providing information and accepting reports via police helplines which function at all Province Police Headquarters and in many municipal and poviát Police units in the whole state;
- Active participation of police officers in various activities undertaken in connection with the “Day of Victims of Crime” celebrated annually on 22 February;
- Enhancement of existing reception points and developing new ones at Police units to increase the quality of contact between the injured party and the police officer;
- Taking up the issue of the rights of victims of crime and respect for their dignity by police officers during meetings with the local community, visits at schools or other facilities;
- Continuation of activities undertaken in various regions of the state as part of programmes and initiatives directed at supporting victims of crime (prevention programme “How to avoid Becoming a Victim of Crime”, prevention activities aimed at victims of crime in the form of “Student Information Points for Victims of Domestic Violence and Juvenile Family Members Threatened by Social Pathologies”, the social campaign “Masovian Blue Week”).

293. When undertaking activities to the benefit of minors who are victims of crime, the Police cooperate with social organisations and state institutions at the central level, and at the local level with support organisations, foundations, educational facilities, local government bodies, prosecutor’s offices, courts and the local community.

#### **Response to recommendation contained in paragraphs 35(a) and 35(b) of the concluding observations**

294. The “Police Programme for the Support of Victims of Crime” was developed and implemented at Police units. The main objective of the programme is to, inter alia,

minimise the negative effects of participation in penal procedures involving victims of crime (so-called “secondary victimisation”). The Police also conduct information activities to the benefit of victims of crime concerning the rights they are entitled to during criminal proceedings and methods of avoiding dangerous situations in which one might become the victim of a crime. These activities are carried out in cooperation with non-governmental organisations (inter alia, “The Polish Nation-wide Forum for Victims of Crime” and the Nobody’s Children Foundation) and state institutions that undertake activities in favour of the victims of crime, e.g. the Ministry of Justice, local government bodies, prosecutor’s offices, courts, etc.

295. The implementation of the Government Programme for the Reduction of Crime and Antisocial Behaviours “Safer Together” is aimed at reducing violence. The programme covers the years 2007-2015 and covers such issues as prevention of domestic violence and activities for safety in schools.

296. In 2007, thematic guides containing current information and knowledge in the area of victimology and reasons for the occurrence of most common threats was developed at the Ministry of Interior and Administration in cooperation with the Police, the Polish Border Guard and the State Fire Fighting Office. The contents of the guides were made available on the Internet website of the “Safer Together” programme – these publications discuss the threats to which children and youth are exposed.

297. Under Resolution No. 162/2006 of 25 September 2006, the Council of Ministers established the National Programme for Prevention of Domestic Violence, which is implemented at the central level by: the Ministry of Labour and Social Policy, the Ministry of Interior and Administration, the Ministry of National Education, the Ministry of Justice and the Ministry of Health. The Programme also assumes particular tasks for province governors, province marshals, the poviats local government and the commune local government.

298. The five priorities of the Programme are as follows:

- (a) Systematic diagnosis of domestic violence;
- (b) Increasing social sensitivity to domestic violence;
- (c) Enhancing competences of services concerned with domestic violence;
- (d) Providing professional assistance to victims of domestic violence;
- (e) Influencing perpetrators of domestic violence.

299. On 10 June 2010, the Act on Amendments to the Act on Counteracting Domestic Violence and Certain Other Acts was adopted. The act foresees that the National Programme for Prevention of Domestic Violence should mainly focus on ensuring protection and assistance to persons suffering from domestic violence, undertaking corrective and educational activities towards persons committing acts of domestic violence, raising social awareness of the causes and effects of domestic violence and promoting educational methods devoid of violence, disseminating information on the possibilities and forms of support for persons suffering from violence and those committing acts of domestic violence. Under article 10a, paragraph 1 of the above-mentioned Act, the Monitoring Team for Prevention of Domestic Violence was established as an advisory and consultative body to the minister competent for social security issues. The tasks of the Team involve, inter alia:

- Initiating, supporting and monitoring activities within the scope of counteracting domestic violence;

- Giving opinions on issues connected with the application of the Act and initiating changes to the provisions within the scope of domestic violence;
- Developing standards for supporting victims of domestic violence and working with persons engaging in domestic violence;
- Developing, in cooperation with the competent entities, mechanisms for informing about the standards for supporting victims of domestic violence and working with persons engaging in domestic violence;

300. Victims of domestic violence can find shelter at support centres functioning in communes and poviats, as well as emergency intervention centres. In accordance with the Regulation of the Minister of Labour and Social Policy of 6 July 2006 on the standard of basic services provided by specialist support centres to victims of domestic violence, and also detailed directions of corrective and educational interactions, specialist support centres for victims of domestic violence were established. These centres provide professional medical, psychological, legal, social and financial advice.

301. Children who were traumatised, both physically and psychologically, are entitled to medical care provided under the provisions of the Act on Health Care Services Financed from Public Funds. On the basis of the examination of the child, the doctor gives an opinion on the health condition of the child and classes the case accordingly to the International Classification of Diseases ICD-10. This classification includes the battered child syndrome (T74) covering physical, emotional and sexual abuse, and child neglect. Such a diagnosis is tantamount to entering it into the medical record sheet and the necessity to report this fact to investigation bodies. In cases in which it is suspected that the child is the victim of violence, the doctor is not obliged to keep this confidential, in compliance with the provisions of article 40, paragraph 2, point 3 of the Act of 5 December 1996 on Professions of Physician and Dentist. The decision on reporting the suspicion that the child is being abused is taken by the doctor after the examination and interview of the person who registered the child to the examination in accordance with the “Blue Card” procedure (Act of 29 July 2005 on Counteracting Domestic Violence and the Regulation of the Minister of Social Policy of 19 April 2005 on Social Enquiry Report – appendix to the social enquiry questionnaire “Blue Card”).

302. Accordingly to the recommendations resulting from international documents (Framework Decision of the European Union on the standing of victims of crime in criminal proceedings of 15 March 2011), special Police procedures for specific categories of victims of crime, i.e. children and victims of sexual crimes, are being developed.

303. In 2006, the Minister of Labour and Social Policy issued a Regulation on the standard of basic services provided by specialist centres to victims of domestic violence, and also detailed directions of applying corrective and educational interactions. Under the provisions of this Regulation, persons engaging in domestic violence are subjected to corrective and educational activities in order to:

- (a) Stop the person engaging in domestic violence from further violence;
- (b) Develop self-control skills and skills connected with functioning within a family;
- (c) Develop skills in the area of raising children without domestic violence;
- (d) make the perpetrator acknowledge that he/she engages in domestic violence;
- (e) Acquire and enhance knowledge of mechanisms leading to domestic violence.

304. Corrective and educational activities for persons engaging in domestic violence are aimed especially at:

(a) Persons convicted for acts connected with domestic violence, serving a prison sentence at penal facilities or with conditionally suspended sentences. These persons are obliged to participate in a corrective and educational programme,

(b) Persons engaging in domestic violence who participate in alcohol or drug addiction treatment therapies – in such cases corrective and educational activities can constitute a supplement to the basic therapy,

(c) Persons who due to other circumstances enrol for participation in the corrective and educational programme.

305. Pursuant to article 63 of the Polish Constitution, each and every person has the right to submit complaints, inter alia, in one's own interest or in the interest of another person at that person's consent, to public authority bodies and social organisations and institutions in connection with the tasks performed by those institutions within the scope of public administration. Everyone has this right – also children. If the child is not capable of exercising this right, it is represented by its statutory representatives – the parents. If the child suffered from the commitment of an act bearing the features of a crime, the proceedings can be instigated (depending on the committed crime) routinely or at the request of the statutory representative.

306. Children are a special category of injured parties. It is necessary to apply different measures than in the case of adults during the criminal proceedings. Principles of interviewing children during proceedings, see response to the recommendation contained in paragraph 31 of the concluding observations (paras. 263-284 hereof).

307. Pursuant to articles 185a and 185b of the PPC, it is a rule that crimes against sexual liberty and decency and against the family and guardianship of the injured party who was under 15 at the time of the interview is interviewed as witness only once. The interview is held by the court at a sitting attended by an expert psychologist. The prosecutor, defender and authorised representative of the injured party are entitled to participate in the interview. In exceptional situations, such a person can be interviewed once again, if new, previously unknown circumstances that require explanation are revealed (see also para. 268-277 hereof). The Ministry of Justice and the Nobody's Children Foundation initiated the campaign for issuing certificates to child-friendly interview rooms. For more information, see response to the recommendation contained in paragraph 31 of the concluding observations (paras. 282-284 hereof).

308. In recent years, a series of guidelines concerning, inter alia, the rights of the child participating in proceedings was developed and distributed among the prosecutor's offices, i.e.:

- Guidelines on human trafficking, including children (amendments to the Penal Code – see paras. 463-464 hereof).
- In 2001, the General Prosecutor published guidelines on measures concerning victims of crime during criminal proceedings, aimed at appellate, district and regional prosecutors.
- In accordance with the above-mentioned guidelines, women- and children-victims of domestic violence or sexual harassment should be treated in a special manner. Women and children should be interviewed only once, unless another interview is absolutely necessary. The time and place of the interview should not expose the victim to contact with the alleged perpetrator. Moreover, the guidelines contain the requirement that the victims of rape or sexual abuse undergo comprehensive medical

examinations (gynaecological and other examinations aimed at determining the form and type of injuries). Unless the victim decides otherwise, the presentation of the perpetrator should be performed with the use of a one-way mirror. Moreover, victims of such crimes should not be interviewed in the presence of the alleged perpetrator.

- In accordance with the Act of 20 June 1985 *on Prosecution Office*, the guidelines of the General Prosecutor apply not only to the prosecution office, but to all institutions involved in the preparatory proceedings.
- In 2005, the resolution of the United Nations Economic and Social Council of 2005 “Guidelines on Justice in Matters involving Child Victims and Witness of Crime” was distributed to prosecutor’s offices of various levels.
- In February 2009, the General Prosecutor published the detailed “Guidelines on Activities for the Injured Party”, ordering subordinate bodies to undertake activities aimed at the implementation of the principle specified in the Penal Procedure Code of taking into account the legally protected interests of the injured party during the criminal proceeding and ensuring that injured parties can exercise their procedural rights and existing forms of financial, psychological, therapeutic and social support, as well as any other form of support necessary for their protection and personal safety and security.

**Coordination of activities for providing victims of crime with assistance, including children-victims as persons most exposed to becoming a victim of crime**

309. In 2004, the Ministry of Justice appointed an Officer for Victims of Crime, and in April 2006, a separate Department for Victims of Crime (currently: Department for Victims Suffering from Crime). The task of this Department is to develop systemic solutions aimed at strengthening the protection of the injured party and creating a Polish nation-wide structure of granting interdisciplinary support to injured parties, including victims of domestic violence. The Department cooperates with EU Member States within this scope.

310. In Poland, the programme “Assistance Network for Victims of Crime” is being implemented. The programme is part of the programme of the European Commission titled “Preventing and Combating Crime 2007”. Sixteen Local Support Centres for Victims of Crime were created under the programme. The task of the Local Support Centres is to provide victims of crime with free-of-charge legal and psychological assistance. All Local Support Centres operate in accordance with uniform standards concerning work with victims of crime drafted by the Ministry of Justice.

311. The implementation of the programme involves establishing a network of information exchange between the above-mentioned 16 Local Support Centres located in 16 provinces. It is also their task to coordinate activities aimed at supporting victims undertaken by non-governmental organisations, the Police, judiciary institutions, social care, schools and hospitals.

312. Moreover, 10 interdisciplinary training sessions for 1 000 persons have been planned. The training is directed at judges, prosecutors and persons responsible for providing assistance to victims of crime. The training programme was implemented in 2009 and 2010. Issues covered during the training focused on victimology and adjusting the work of various professional groups to the needs of victims of crime. The aim of the training is to enhance professional qualifications of persons responsible for providing assistance to victims of crime and their families and to introduce good practices to the Polish judiciary in the area of working with victims of crime that are already employed in EU Member States.



313. The Department for Victims Suffering from Crime is, inter alia, responsible for the development of a method of implementing the National Programme for Victims of Crime for the years 2009-2013 that was adopted in October 2008 by the Interministerial Team for the Development of the National Programme for Victims of Crime. The Programme includes the creation of a Polish nation-wide structure of providing comprehensive and interdisciplinary assistance to victims of all types of crimes. The structure should become embedded in the national system of providing assistance to victims of crime which meets basic EU standards (regarding the content-related aspects and the premises). These standards will allow for the coordination, monitoring and evaluation of activities undertaken by central and local governmental institutions, non-governmental organisation, churches and organisations concerned with broadly understood interdisciplinary assistance for victims of crime. The National Programme for Victims of Crime for the years 2009-2013 is based on experiences accrued during the implementation of the pilot programme “Assistance Network for Victims of Crime”, which was implemented from September 2007 to June 2008. The Programme assumes the introduction of a new institution of victim guardian, i.e. a volunteer who helps the victim overcome all the effects of the crime not only during the court proceedings, but also after the announcement of the verdict. This concerns especially victims of emotional and physical violence.

314. Moreover, it is planned to launch the Polish nation-wide free helpline for victims of crime providing victims of crime with advice and psychological assistance.

315. Since December 2004, victims of crime can avail themselves of the assistance provided by the Psychological Centre for the Prevention of Domestic Violence (individual and group therapy, psychological assistance, legal and social advisory). Moreover, professional custodians provide victims with assistance.

316. The database of institutions and organisations providing victims of crime with assistance, the list of acts of law regulating the legal situation of persons suffering from crime and information on legal instruments (e.g. mediation) serving the purpose of compensation for victims of crime are available at the website of the Ministry of Justice and the Human Rights Defender.

317. On 22 February 2009, on the occasion of the International Day of Victims of Crime, the Ministry of Justice launched the website [www.pokrzywdzeni.gov.pl](http://www.pokrzywdzeni.gov.pl), where one can find information on the Polish judicial system and available forms of assistance for victims of crime. The “Victim’s Brochure” and data concerning the “Assistance Network for Victims of Crime” were published on the website.

318. Moreover, the Ministry of Justice undertook activities aimed at creating a list of entities providing victims of crime with assistance. The list and a search engine are available on the above-mentioned website. Currently in Poland, as part of the 5th Priority of the Human Capital Operational Programme “Increasing the accessibility of services rendered by judiciary”, the project aimed at disseminating information on the rights of victims of crime and access to institutions providing such victims with assistance is being implemented. The project involves, inter alia, the organisation of a social campaign on alternative methods of solving conflicts consisting of a billboard campaign, distribution of information leaflets and dissemination of audio-visual materials through the media. Moreover, in 2009, the Ministry of Justice developed the “Guide for the Injured Party” that contains basic information on the possibilities of obtaining assistance during the court proceedings and other forms of assistance granted to the injured party by state and local government institutions or non-governmental organisations. A total of 500 000 copies of the “Victim’s Guide” was printed and distributed in the period from October to December 2010.

319. As part of the implementation of the above-mentioned project, in December 2009 in Warsaw, a conference aimed at promoting mediation in penal cases as an institution for the injured party was held.

320. Each year, one week of February is dedicated to victims of crime (known as “Week of Assistance for Victims of Crime”). The aim of this initiative is to, inter alia, attract attention to the needs and rights of persons suffering from crime, including victims of domestic violence. Victims of crime have access to free legal assistance and advisory within the scope of their case provided by judges, prosecutors, professional custodians, lawyers and other employees of the judiciary and representatives of non-governmental organisations.

321. On 29 November 2010, the agreement between the Ministry of Justice, the State Agency for prevention of Alcohol-Related Problems and National Headquarters of the Police concerning the functioning of the free Polish nation-wide intervention and informational helpline (0801-12-00-02) for victims of domestic violence was signed. An intervention is commenced after the injured party or other person that can provide material information submits a reliable report on the violation of legal order in the form of committing an act of domestic violence or violation of probation terms and conditions by a perpetrator previously legally sentenced by court for a crime involving violence or an unlawful threat towards an immediate family member. Consultants – employees of the intervention telephone – after receiving the report of an act of domestic violence undertake intervention activities by informing police officers and guardians who instigate activities in their local environments aimed at executing the punishment of deprivation of liberty or cancellation of early release.

322. On 29 November 2010, the Minister of Justice, the Commander-in-Chief of the Police and representatives of the National Council of Custodians also signed a document titled “Procedures of cooperation between custodian offices and Police officers and persons subject to a court decision issued due to the commitment of a punishable offence consisting in committing an act of violence or unlawful threat”. These procedures are aimed at possibly effective, efficient and fast cooperation between Police officers, especially community support officers and custodians supervising the perpetrators of acts of violence or unlawful threats, especially of domestic violence. Community support officers obtain full knowledge of the persons sentenced for violence, including acts of violence against their immediate family, residing in their area of activity, and guardians obtain information on the conduct of the persons they are in charge of. The main objective of the procedures is to increase the safety and security of persons previously affected by an act of violence, including domestic violence. The Procedures outline the principles of cooperation and information exchange concerning the persons sentenced for acts of violence against their immediate family and common actions aimed at providing the injured parties with protection.

323. The intervention and information helpline will enable injured parties to obtain all necessary psychological assistance, and – first and foremost – in the case of appropriate conditions, will launch an intervention of the Police who, in cooperation with custodians, will be capable of immediately isolating the perpetrator and bringing him before court.

**Training regarding domestic violence and on procedure for children who are participants of court proceedings (also concerns the recommendation in paragraph 49(c) of the concluding observations).**

324. Training provided on domestic violence and on procedure for children who are participants of court proceedings, from 2005-2010, is as follows:

*Year 2005*

- Training “The Child as a Victim of Crime”. It was attended by 58 prosecutors from all over Poland.

*Year 2006*

- Training “Protection of Minors in the Criminal Law”. It was attended by 83 judges adjudicating in criminal proceedings and prosecutors from all over Poland.
- Conference “Protection of the Child as a Victim of Crime – European Standards” (issues raised: psychological aspects related to the participation of children in legal procedures, principles of preparing court evidence by experts on the basis of testimonies provided by children-victims of crime; legal awareness and the age of the child; kidnapping of children; forced labour of children; comparison of Polish and European criminal law regulations on the protection of the child in IT society; the role of dyzurnet.pl teams in the protection of children against online abuse). It was attended by 69 prosecutors, 23 judges and 16 professional guardians from all over Poland.

*Year 2007*

- Two editions of the training “The Child as a Victim of Crime” (issues raised: definition of violence against the child; forms of violence, psychological and social preconditioning, symptoms and social consequences of violence against children; the child as victim of emotional crimes; medical diagnosis of injuries related to physical and sexual violence; self-violence; interviewing a child – victim of crime). It was attended by 120 prosecutors from all over Poland.
- Training “Prevention of Domestic Violence” – 2 sessions attended by 113 judges adjudicating in family proceedings.
  - List of issues raised: Domestic Violence – Facts and Myths. Attitudes towards violence – those attitudes that are helpful and those that are harmful when providing victims with support; psychological disorders in victims; perpetrators and witnesses of crime accompanying domestic violence; contacting persons who experienced domestic violence, including persons with coexisting problems (e.g. addiction), violence against children – sexual abuse and other forms of abuse. Situation of children belonging to families with violence-related problems.
- “Domestic Violence” – training for judges adjudicating in penal cases. Attended by more than 150 judges. The discussed issues involved, inter alia, psychosocial preconditioning of violence in the family – characteristics of the victim, the child as a victim of sexual violence, comparison of paedophilia and incest and the issue of interviewing the child-victim of crime.
- Training “Domestic Violence – its source and social consequences” – 3 sessions attended by 211 judges and assessors adjudicating in penal cases. List of discussed issues, inter alia: the child as victim of sexual violence, interviewing the child-victim of crime, physical and sexual domestic violence and its impact on mental health.
- Training “Crimes against Sexual Liberty and Decency in the light of new legal regulations” – 2 sessions attended by 156 judges adjudicating in penal cases. List of discussed issues: characteristic features of crimes: rape, paedophilia, running a prostitution ring, earning one’s living from prostitution, procuring and human trafficking for purposes of prostitution, combating child pornography in the Internet, with special consideration of child pornography, evaluation of facts in cases of

sexual crimes, with special focus on practical aspects of interviewing victims under 15.

*Year 2008*

- Seminar titled: “The Child as a Victim of Domestic Violence” with the participation of prosecutors and other entities.
- Training “The Child in Family Crisis in International and Polish Law” – attended by 180 judges adjudicating in family cases.
- Training “Problems Encountered during the Implementation of Basic Principles of Human Rights in Practice” – one session attended by 77 judges and adjudicating in penal cases. One of the discussed issues concerned legal measures of protecting the child against sexual abuse.
- “Crimes in Cyberspace” – three sessions attended by 180 judges adjudicating in penal cases within the scope of crimes committed in cyberspace. The training involved a course regarding cyberpornography with the participation of minors.
- “The Child as Witness in Criminal Procedures” – four sessions of the training organised by the National School of Judiciary and Prosecutors in cooperation with the Nobody’s Children Foundation. All training sessions were attended by a total of 182 judges and prosecutors from all over Poland. The training covered, inter alia: the goals and objectives of the programme for the child-friendly interviewing of juvenile victims and witnesses of crime, interviewing children, presentation of the stages of development of a child with the consideration of the process of development of cognitive, emotional and social processes as important aspects of the process of establishing contact with children, the psychological profile of a child-victim-of-crime, practising skills consisting in developing contact with a child traumatised by an adult. Analysis of factors facilitating and hindering communication with children, conditions and methods of effectively interviewing children.
- Training “Mediation in Criminal Law. Selected issues within the scope of adjudicating in cases concerning domestic violence” – one session attended by 62 judges adjudicating in penal cases. List of discussed issues: victims of crime against family and methods of their protection specified in criminal law, interviewing a juvenile victim during criminal proceedings, protection of the mother and child in the Polish criminal law, new legal regulations aimed at protecting victims of domestic violence.

*Year 2009*

- Courses for judges on interview tactics and techniques. Discussed issues: legal, criminalistic and psychological aspects of interviews, including interviews of victims of crime, especially children.
- The programme of Post-graduate Studies on Criminal Law and Criminal Proceedings (studies for judges and prosecutors) includes, inter alia, the following issues: Criminal law and psychological aspects of domestic violence, sexual abuse of the child, legal instruments aimed at isolating perpetrators of violence from their victims, practical and doctrinal aspects of judicial decisions in cases connected with domestic violence.
- Preparation of training for prosecutors in methodology applicable in criminal proceedings in cases of abuse and other crimes connected with domestic violence, also crimes to the detriment of the child. The training programme is yet to be

accepted by the authorities of the Polish National School of Judiciary and Public Prosecution.

- The Polish National School of Judiciary and Public Prosecution prepared brochures containing material information in the scope of law, psychology and victimology, including methodical guidelines for judges, prosecutors and professional guardians concerning conduct in cases connected with domestic violence. The activity was carried out in cooperation with the Ministry of Justice, state institutions, foundations and non-governmental organisations involved in the protection and exercising of rights of victims of crime, including children-victims.
- One of the subjects taught at the Post-graduate Studies in Substantive Criminal Law, co-organised by the Jagiellonian University in Cracow in the academic year 2008/2009 focused on sexual crimes – sexual crimes to the detriment of minors, pornography on the Internet. A total of 100 judges and prosecutors participated in these studies.
- Training “Human Trafficking in Practice for Prosecutors, Crime Investigation and Establishing the Circumstances of Its Commitment” organised by the Ministry of Interior and Administration in cooperation with the Embassy of Great Britain and the “La Strada” Foundation – attended by 36 prosecutors.

#### *Year 2010*

- The training schedule of the Polish National School of Judiciary and Public Prosecution foresees conducting a series of training titled “Methodology of criminal proceedings in cases involving crimes against family, guardianship, sexual liberty and decency” with consideration of such issues as: methodology of conduct towards juvenile witnesses/injured parties in cases of crimes against sexual liberty and decency and against family and guardianship, application of the provisions of the PPC concerning the principles of interviewing minors, the role of the blue interview room, the role of the psychologist, employment of devices registering the interview of the child.

325. Employees of common courts and investigation bodies are often the first persons contacted by victims of domestic violence (at those institutions). Owing to the immensely significant role of those persons in the process of supporting victims of such crimes, the programmes of already planned training have been expanded to cover psychological aspects of providing assistance.

326. The issue of child protection is also included in programmes of courses and training in the area of human rights, including the judicial decisions of the European Court of Human Rights, organised regularly for present and future employees of the judiciary: judges, prosecutors, lawyers, legal advisors and participants of all types of legal training.

#### **Measures applied in cases of domestic violence**

327. The Act of 29 July 2005 on Counteracting Domestic Violence should increase the effectiveness of prevention and combating of negative social phenomena connected with violence against family members. Until 7 June 2010, the above-mentioned Act contained a provision that made it possible to refrain from the application of the most severe preventive measure – temporary arrest – towards the person accused of domestic violence on condition that the accused leaves the premises occupied together with the injured party. Such conduct towards persons engaging in domestic violence is a significant element of influencing their behaviour that might change their attitudes and approaches. The draft amendment of relevant provisions of the Penal Procedure Code, aimed at full usage of the above-mentioned possibilities, is currently being consulted. The above-mentioned provision was

annulled on 8 June 2010 under the Act of 5 November 2009 on Amendments to the Act – Penal Code, the Act – Penal Procedure Code, the Act – Executive Penal Code, the Act – Penal and Fiscal Code and Certain Other Acts. Currently, an identical provision is contained in article 275 § 3 of the PPC.

328. Moreover, the aforementioned Act of 29 July 2005 on Counteracting Domestic Violence, in the wording valid until 31 July 2010, stated that in the case of violating the conditionally suspended criminal proceedings in relation to the perpetrator of the crime committed against a family member with the use of violence or unlawful threat, or the suspension of the punishment for the above-mentioned crime and ordering the perpetrator to refrain from contacting the injured party or other persons in a specified manner, or ordering the perpetrator to leave the premises occupied together with the injured party, the court specifies the manner in which the convict is entitled to contact the injured party or can prohibit contact between the convict and the injured party in specified circumstances. The above-mentioned provision was annulled on 1 August 2010 under the Act of 10 June 2010 on Amendments to the Act on Counteracting Domestic Violence and Certain Other Acts. Currently, an identical solution is contained in article 275a of the PC.

329. The above-mentioned order to limit contact with the injured party is imposed on the convict in the form of a restraining order to stay away from the place of residence or work of the injured party at a specified distance or a ban on all contacts with the injured party – directly and indirectly (via telephone, letter or e-mail). Failure to adhere to the order to limit contact with the injured party and the eviction order, when applied as preventive measures during the preparatory proceedings, should result in the application of temporary arrest. Works on the facilitation of the functioning of this duty involve data obtained from prosecutor's offices on the isolation of perpetrators from victims.

330. The amended Penal Procedure Code, under the Act of 5 November 2009 on Amendments to the Act – Penal Code, the Act – Penal Procedure Code, the Act – Executive Penal Code, the Act – Fiscal and Penal Code and Certain Other Acts states that the convict remaining under the supervision of a custodian can be obliged to refrain from contacting the victim or other persons or from appearing in certain places.

331. The wording of article 275 of the Penal Procedure Code is as follows:

“Art. 275. § 1. As a preventive measure, the accused may be committed to the surveillance of the Police and, if the accused is a soldier, to the surveillance of the soldier's commanding officer.

§ 2. A person under surveillance shall be obligated to comply with the conditions set forth in the order of the court or state prosecutor. These obligations may consist in the prohibition of absents himself from a designated area of residence, in his having to report to the agency under the surveillance of which he remains in specified time intervals, and to inform such an agency of any intention to absent himself and the time of his return, as well as other limitations on his freedom of movement necessary to assist the surveillance.

§ 3. If there are grounds for the application of temporary detention of the person accused of a crime committed with the use of violence or unlawful threat to the detriment of an immediate family member or a different person occupying the same premises as the perpetrator, instead of temporary detention it is possible to apply surveillance, on condition that the accused leaves the premises occupied together with the injured party within the specified deadline and specifies his/her place of residence.

§ 4. The person under the surveillance of the Police is obliged to appear at the specified organisation unit of the Police with a document confirming his/her

identity, comply with instructions aimed at documenting the surveillance process and provide information necessary for determining whether he/she adheres to the requirements imposed under the decision of the judge or prosecutor. In order to obtain such information, it is possible to summon the accused to appear at the unit at a specified date.

§ 5. If the person under surveillance fails to comply with the requirements specified in the decision, the surveillance body immediately notifies the court or prosecutor that issued the decision of this fact.

332. Within the scope of the recommendation on the counteraction of violence, police officers react to any and all signals of violence against children and other family members. Regular contact is maintained with school pedagogues, social employees, court custodians, local healthcare units. Moreover, officers cooperate with institutions and associations and join interdisciplinary teams for the counteraction of violence against children and family. If it is established that the parents neglected their duties or abused parental authority, applications are submitted to Family Courts.

333. The aim of the Police is to provide minors and other special categories of victims of crime (e.g. victims of rape, sexual abuse and violence) friendly interview conditions so as to prevent secondary victimisation. To this end, the Police establish cooperation with the local government, institutions and non-governmental organisations. This cooperation results in the creation of so-called “blue rooms” in Police units and non-Police premises. These rooms are prepared and equipped in a special manner. Currently, there are 267 such rooms in Poland. 221 of them are located in buildings housing police units, 46 in court buildings, medical facilities, governmental institutions, local governments, organisations and foundations acting to the benefit of children, youth and family.

334. Performing procedural activities in so-called “blue rooms” results in the development of algorithms of conduct towards injured parties specified by means of categories of crime and procedures related to providing information on their rights and directing them to entities providing comprehensive support and assistance (e.g. legal, psychological, medical, therapeutic, social), which allows for the adoption of a systemic approach to the needs and expectations of the person suffering from the crime.

#### **Response to the recommendation contained in paragraph 35(c) of the concluding observations**

335. Currently, detailed statistical data presenting the scale of sexual abuse remain at the disposal of the Ministry of Justice. These data, inter alia, indicate the number of persons convicted for the commitment of the said crimes according to sex, age, place of crime commitment (province, city, locality), as well as data on the number of affected women and minors. However, it ought to be underlined that data on the victims of crime in public statistics can be collected in accordance with the principle of voluntarism. For more information, see the response to the recommendation contained in paragraph 20 of the concluding observations (paras. 117-135 hereof).

336. Within its competences, the Police collects information on the perpetrators and victims of sexual abuse in the following databases:

(a) The TEMIDA Police Statistics and Crime System collects data on:

- Minors suspected of commitment of punishable offences. It is possible to specify the age, sex and citizenship of the perpetrators of these acts for crimes specified in the Penal Code and specific acts,
- The number of injured minors in registered crimes. It is possible to search the system and generate statistical indices according to the aforementioned data.

(b) The National Police Information System that collects, inter alia, data on:

- Minors suspected of committing punishable offences, especially data explicitly identifying the person, age, sex, nationality, address of registered residence,
- Minors injured due to the crime, including data that explicitly do not identify the minors (e.g. name, surname, age, sex and citizenship). Remaining data on injured minors are collected as catalogue features describing the crime.

337. Depending on the level of threat posed by the given type of crime, preventive programmes are developed and preventive and educational measures are adopted and directed at children, youth, pedagogues, parents and local communities.

**Response to the recommendation contained in paragraph 35 (d) of the concluding observations**

338. Article 40 of the Polish Constitution states that no person can be subjected to torture or cruel, inhuman or degrading treatment or punishments, and it is prohibited to apply corporal punishment. Relevant preventive mechanisms exist in the Penal Code and in the Act of 29 July 2005 on Counteracting Domestic Violence.

339. The Polish legal system penalises every form of violence against children. Such violence can assume the form of various crimes, inter alia cruelty, injury of the body, battery, violation of corporal integrity, which have been penalised in the Penal Code. For example, article 207 of the PC states: “Whoever imposes mental or physical cruelty on an immediate family member or other person being in a permanent or temporary state of dependence to the perpetrator or a minor or a person who is helpless due to his/her mental or physical condition (...)”. It follows explicitly from the above provision that the position of the minor is unambiguously and specifically emphasised. At the same time it ought to be underlined that each such crime against a child is subject to investigation by the prosecutor’s office on a routine basis.

340. In 2009, the amendment of the FGC (Act of 6 November 2008 on Amendments to the Act – Family and Guardianship Code and Certain Other Acts) entered into force. The main objective of the Act is to more explicitly underline the significance of the good of the child in reference to the exercising of parental authority – Article 95 § 1 of the FGC states: “Parental authority includes especially the obligation and right of the parents to exercise care over the person and property of the child and to raise the child with respect of its dignity and rights”.

341. Under the Act of 10 June 2010 on Amendment to the Act on Counteracting Domestic Violence and Certain Other Acts, solutions strengthening the protection of victims of domestic violence were introduced. Especially, a new article was introduced to the Family and Guardianship Code. Article 961 constitutes a ban on the application of corporal punishment by persons exercising parental authority and care over a minor. The protection foreseen under penal provisions was strengthened. For more detailed information, see part IA hereof.

342. Other amendments to the FGC include expanding preventive activities by imposing on the local government of the commune the obligation to develop and implement a communal programme for counteracting domestic violence and the obligation to establish interdisciplinary teams. New participants were included in the “Blue Card” procedure, i.e. representatives of the educational and healthcare system. Previous implementers – social assistance organisation units, communal committees for the solution of alcohol-related problems and the Police.

343. Moreover, in the case of direct threat to the life or health of the child in connection with domestic violence, the social employee exercising his professional duties has the right



to take the child away from the family and place it under the care of an immediate family member who does not reside with the family, a foster family or 24/7 education and care facility. Taking the child away from home by a social employee is possible only when its life and health are threatened, especially when its parents are intoxicated or under the influence of drugs. The social employee takes this decision together with a Police officer, as well as a doctor or medical rescue worker or nurse. The social employee is obliged to immediately notify the guardianship court, but not later than within 24 hours, of the fact that the child was taken away from its family. Taking the child away from a pathological environment that poses a threat to its life or health will protect it from a tragedy that it might witness or fall victim to.

344. The amended Penal Procedure Code (under the Act of 10 June 2010 on Amendments to the Act on Counteracting Domestic Violence and Certain Other Acts) consisting in the introduction of provisions expanding the catalogue of preventive means in the form of a restraint order to refrain from contacting the injured party or other persons in a specified manner and the introduction of the order to leave the premises occupied together with the injured party will guarantee more effective protection of victims of violence by way of activating courts.

345. In reference to the accusation of the Committee on the Rights of the Child, it ought to be stated that if persons engaging in violence against children are not subject to criminal liability, then it is solely the result of bad practice – the Ministry of Justice undertakes regular activities aimed at increasing the sensitivity of prosecutors and judges to this issue. See also paragraph 17 hereof.

#### **Response to the recommendation contained in paragraph 35 (e) of the concluding observations**

346. In the years 2001-2010, public educational campaigns concerning the negative effects of child abuse and promoting positive, non-violent methods of maintaining discipline as an alternative to corporal punishment were organised:

##### *1. Social Campaign “Childhood without Abuse”*

347. The first stage of the campaign was completed in 2001 by the Polish State Agency for Prevention of Alcohol-Related Problems, the Nobody’s Children Foundation and the Polish Nation-wide Emergency Service for Victims of Domestic Violence “Blue Line”.

348. The aim of this stage was to increase social involvement in issues connected with counteracting violence against children, promote positive solutions related to counteracting violence, and motivate local communities to undertake activities to the benefit of injured children, social education providing knowledge on the harming of children and methods of coping with this problem.

349. A TV spot, radio advertisements and posters were used to carry out nation-wide activities.

350. As part of the campaign, local debates with the participation of representatives of local authorities, non-governmental organisations, institutions and services providing children with assistance and the media were held. Training for professional employees were held and 17 therapeutic rooms and 8 information and consulting points were established.

351. In 2006, the campaign “Childhood without Abuse” was carried out and coordinated by the Nobody’s Children Foundation in 6 countries (Bulgaria, Lithuania, Latvia, Macedonia, Moldova, Ukraine) participating in the project. Materials presented in Poland in 2001 were reused during the 2006 campaign. A TV spot, two radio advertisements and posters were translated and adapted to eight languages (6 national languages, and

additionally to Russian and Albanian). The media message was supplemented with leaflets, calendars, stickers and other materials.

352. The second stage of the campaign was completed in 2009 by the Nobody's Children Foundation, the Ministry of Labour and Social Policy, the Polish Nation-wide Emergency Service for Victims of Domestic Violence "Blue Line" and the Polish State Agency for Prevention of Alcohol-Related Problems in the press, radio, television and the Internet.

353. Organisations and institutions that were willing to perform activities promoting raising children without abuse as ambassadors of the campaign were invited to participate in the campaign. A total of 537 ambassadors from all over Poland took part in the campaign.

354. During the campaign, nearly 500,000 copies of educational material were distributed; inter alia leaflets titled "10 Steps to Becoming a Better Parent" and the brochure "Instead of Spanking. How to Define Borders with Respect and Love", which in a simple and practical way discuss effective and friendly educational methods.

355. Moreover, 30 training sessions for professional employees were held in various Polish cities titled "Without Spanking – How to Define Borders with Respect and Love" (574 professional employees underwent training) and 128 training sessions for parents, 19 seminars and 43 conferences dedicated to the issue of corporal punishment of children, 202 information meetings for parents on the campaign and upbringing without violence, 101 competitions, concerts and other events that allowed parents, children and professional employees for acquainting themselves with the message and materials of the campaign. A total of 47 500 persons took part in campaign events.

356. By April 2010, 165 press articles about the campaign were published. Radio advertisements were broadcast for more than 150 days in total, and the commercial was broadcast 70 times in nation-wide and local media.

357. As part of the campaign, the Nobody's Children Foundation organised the photography contest "Happy Childhood". The competition was supported by: the Association of Polish Art Photographers, Galeria Jabłkowskich, the website e-dziecko.pl. The prizes were sponsored by Nikon.

## 2. *Social Campaign "I Love. I do not Hit"*

358. The Foundation "National Competence Centre" was the initiator of the campaign. The campaign was held in 2008, 2009 and 2010.

359. The Foundation "National Competence Centre", Ministry of Interior and Administration, Ministry of Justice, Ministry of Labour and Social Policy, Ministry of National Education, Ministry of Health, Polish National Police Headquarters, Commissioner for Children's Rights, the largest television channels and Polish artists joined forces to raise awareness of how important and valuable raising children without violence is. The campaign involved activities performed both at the central and provincial level.

360. The aim of the campaign was to, inter alia, promote slogans connected with counteracting domestic violence and limiting its effects, increasing social involvement in issues connected with counteracting the above-mentioned phenomenon by increasing social sensitivity to broadly understood violence, increasing the citizens' knowledge of domestic violence and promoting family values.

361. In 2008, the campaign "I Love. I do not Hit." was accompanied by the slogan "I Love – I React". Promotional activities included informative commercials placed in

billboards, the press, radio, television, schools, police offices, hospitals, out-patient healthcare facilities, offices and social assistance centres.

362. The following events were held as part of the provincial social campaigns:

- Provincial conferences (a total of approximately 2 338 participants);
- The conference on counteracting the harming of children was attended mainly by social employees, school pedagogues and psychologists, school and pre-school teachers, custodians, speech and language therapists, pedagogical therapy instructors, methodology consultants and advisors, municipal guard officers, police officers, court and social custodians, employees of education and care facilities, associations, support centres and emergency intervention centres and representatives of health care, the Church and non-governmental organisations, etc.
- Moreover, the following issues were, inter alia, discussed during the conference: issues connected with identification, assistance and prevention connected with violence against the child, procedures applicable in the case of suspecting sexual abuse of a child, legal regulations concerning protection of minors in the course of penal procedures, application of intervention procedures and child interviews – victims, witnesses of violence in the family, counteracting violence against children in school environments, the role of government administration in counteracting domestic violence, tasks of interdisciplinary teams concerned with domestic violence.
- Leaflets, posters, brochures and guides were prepared and used during the conference and training sessions or distributed to communes. Special events were held, including the so-called “open days” during which persons in need of assistance could obtain free advice from psychologists, social employees and lawyers.
- Advertisements were broadcast in radio and television channels, and information about the Campaign was published in the local press;
- Websites dedicated to issues covered by the social campaign, including information on the telephone and address database for persons experiencing domestic violence were launched in particular provinces;
- Information about the campaign was spread by means of billboards and city lights, as well as by means of information visits of employees to social organisations, study visits and seminars;
- Trainings of interdisciplinary nature (organised by Province Marshals) were directed at representatives of institutions concerned with counteracting domestic violence (more than 2 300 participants).

363. In 2009, the campaign was expanded by successive slogans “I love. I do not Shout”, “I Love. I Have Time”. The campaign was promoted by commercials, broadcast free-of-charge by television channels such as: Polsat, TVN, TV4, Superstacja, MTV, VIVA and radio advertisements. The project was advertised by 3,600 billboards and 200,000 posters. Moreover, the commercials were broadcast at the Multikino and Silver Screen cinema networks.

364. In 2010, similarly as in the case of the previous campaign “I Love. I do not Hit.” the campaign was endorsed by well-known artists and sportspersons. These persons drew the attention of adults to the harm done to the youngest and persuaded them to bring children up without violence, but with a lot of warmth and care. The campaign targeted persons suffering from violence, children, youth, parents and representatives of institutions concerned with counteracting domestic violence.

365. The Campaign “I Love. I do not Hit” was entered into the Government Programme for the Reduction of Crime and Antisocial Behaviours “Safer Together”. This allows for effective responding to each case of domestic violence reported via the helpline for victims of violence (0 801 109 801). The helpline is serviced by employees of the Foundation “National Competence Centre”. Thanks to the cooperation with the Police, all cases requiring an emergency intervention are reported to one of the Province Police Headquarters, and the Province Police Headquarters forwards the information to local Police units in the entire territory of Poland.

3. Social Campaign “Violence is Stupid”

366. This campaign was organised in 2009 by the Agreement “Children under Protection”, composed of the Foundation Kidprotect.pl, the Committee for the Protection of the Rights of the Child and the Foundation “ABCXXI – Cała Polska czyta dzieciom”, in cooperation with the Ombudsman for Children.

367. The campaign “Violence is Stupid” was organised in response to numerous reports in the media on the common occurrence of battering of children and its tragic effects in our country, and as a response to the research on the attitudes of Poles to this issue.

368. It follows from the study commissioned by the Agreement “Children under Protection” conducted in September 2008 that more than 70% of Poles admit that they spank their children.

369. Two commercials were prepared and broadcast during the Polish nation-wide media campaign: “Street” and “Vase”. Apart from commercials, clips intended to be used in the Internet were prepared.

370. The conference “Smart Upbringing” constituted part of the social campaign “Violence is Stupid”. The conference was organised by the Agreement “Children under Protection” in cooperation with the National Library and the SportPlus Association. The aim of the conference was to provide parents, educators, teachers and other adults who work with children with knowledge and skills in the area of tested-and-tried peaceful educational methods and strategies.

371. The conference was therefore an important element of increasing the scope and effectiveness of the campaign against beating children, and constituted an important stage of preparing “field work” of Ambassadors of Smart Upbringing indicated by the Agreement “Children under Protection”, the Ombudsman for Children and the SportPlus Association. The Ambassadors, after additional training, will promote the concept of smart upbringing in their local environments by giving lectures, organising meetings and other activities aimed at increasing social awareness of the negative consequences of violence against children and enhance the educational competences of parents, teachers, guardians, etc.

372. It was assumed from the outset of the campaigns at the national level that they will persist in international awareness. Poland, during the Presidency of the Council of the European Union (the second half of 2011), will undertake, inter alia, activities to the benefit of counteracting domestic violence, which corresponds to the adopted EU lines of action and standards of activities, and at the same time constitutes a continuation of the priority adopted during the Spanish Presidency. As part of this activity, the campaign “I Love. I do not Hit – The Whole Europe Against Child Abuse” will be held and according to plan will involve 27 EU Member States.

## **B. Current governmental actions**

### **Prohibition of the imposition of the death penalty on persons under 18**

373. The Republic of Poland guarantees the legal protection of life to each and every human being (art. 38 of the Constitution of the Republic of Poland of 2 April 1997). Poland lifted the death penalty in its internal law by way of adopting the Penal Code of 6 June 1997, which entered into force on 1 September 1998. The Penal Code foresees the punishment of deprivation of liberty for life or the punishment of deprivation of liberty for 25 years in the case of most serious crimes. Moreover, as regards the prohibition of imposing the death penalty, Poland is also obliged to adhere to numerous international agreements, inter alia, on 20 October 2000, Poland ratified Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty.

### **Prohibition of the imposition of torture and other cruel, inhuman or degrading treatment or punishment**

374. Article 40 of the Polish Constitution states that no person can be subjected to torture or cruel, inhuman or degrading treatment and punishment. It also prohibits corporal punishment. This law, pursuant to article 233 of the Polish Constitution cannot be limited under any circumstances.

### **Internal law**

375. Norms preventing torture, cruel, inhuman punishment or treatment can be found in the provisions of the Penal Code, the Penal Procedure Code, the Executive Penal Code and other acts. The Polish criminal law (inter alia in art. 3 of the Penal Code and art. 4 of the Executive Penal Code) contains general directives on the application of punishment and punitive measures based on the adherence to the principle of humanitarianism, human dignity and the prohibition of torture or inhuman or degrading treatment. Under the Act of 10 January 2003 on Amendments to the Act – Penal Procedure Code, the Act – Provisions Implementing the Penal Procedure Code, the Key Witness Act and the Act on Protection of Confidential Information (art. 1 para. 230), the amendment to article 604 § 1 of the Penal Procedure Code was introduced. The subjective scope of the article was expanded by the addition of paragraphs 6 and 7, in accordance with which the extradition of a wanted person is unacceptable if it is reasonably feared that the person might be sentenced to death or the death penalty might be imposed on that person or that the person might be tortured in the state demanding his/her release.

376. There were no changes in the Polish educational system in the reporting period in the area of law and practices concerning corporal punishment – it is unacceptable, and no document foresees the imposition of such punishment. The prohibition of imposition of corporal punishment is specified in the above-mentioned article 40 of the Constitution. Moreover, the Penal Code states that whoever strikes a human being or violates a human's corporal integrity in any other way is subject to a fine, a punishment of restriction or deprivation of liberty up to one year (art. 217 of the PC).

### **International agreements**

377. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment entered into force in Poland on 25 August 1989 (ratification – 9 June 1989). Under the Resolution of the Council of Ministers of 30 March 1993, Poland, by way of submitting the declaration in compliance with article 22, paragraph 1 of the above-mentioned Convention, recognised the competency of the Committee against Torture

within the scope of receiving and considering notifications provided by or on behalf of persons subject to Polish jurisdiction who claim to be victims of a violation.

378. On 5 April 2004, Poland signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the UN General Assembly on 18 December 2002. In accordance with article 4, paragraph 1, owing to the fact that Poland is obliged to adhere to the above-mentioned Protocol, Poland consents to visits of the national and international prevention mechanism to any location subject to its jurisdiction and control, where persons deprived of freedom under an order issued by a public authority body or at its request, consent or permission are held or might be held.

379. Moreover, Poland is obliged to respect other agreements on the prohibition of the imposition of torture:

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment drafted in Strasbourg on 26 November 1987, date of ratification by Poland – 7 September 1994, date of entry into force in relation to Poland – 1 February 1995.
- Protocol No. 1 and Protocol No. 2 to the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment drafted in Strasbourg on 4 November 1993, date of ratification by Poland – 6 February 1995, date of entry into force in relation to Poland – 1 March 2002,
- Agreements on the protection of human rights, which impose the prohibition of the imposition of torture (International Pact of Civil and Political Rights, Convention on the Protection of Human Rights and Fundamental Freedoms, Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the Abolition of the Death Penalty).

#### **Legal regulations allowing for punishment of acts of torture**

380. The basis for the prosecution of acts of torture that do not constitute war crimes is article 246 of the PC. This provision foresees criminal liability of a public officer or person acting at the request of the public officer if they use violence, unlawful threat or other forms of physical or psychological cruelty to elicit certain testimony, explanations, information or statements. The punishment for such an act is deprivation of freedom for 1-10 years.

381. In article 247 § of the PC, criminal liability for physical or psychological cruelty towards a person deprived of liberty is foreseen. The punishment for such an act is deprivation of liberty ranging from 3 months to 5 years, whereby the punishment for such an act qualified as a crime committed with extreme cruelty is deprivation of liberty for 1-10 years (§ 2). The public officer who despite his/her duties allows to commit such a crime, is held responsible within the sanction foreseen for the perpetrator (§ 3).

382. Criminal liability for physical or psychological cruelty towards an immediate family member or other person remaining in a permanent or temporary state of dependency to the perpetrator or a minor or a person helpless due to his/her psychological or physical condition has been foreseen in article 207 of the PC. The punishment for such an act is deprivation of liberty ranging from 3 months to 5 years, whereby the punishment for such an act qualified as a crime committed with extreme cruelty is deprivation of liberty for 1-10 years. If the act results in the suicide of the injured party, the perpetrator is subject to punishment of deprivation of liberty for 2-12 years.

383. The Penal Code does not contain a definition of cruelty. However, this term was defined by the Supreme Court, *inter alia*, in the Order of 9 June 1976 (VI KZP 13/75), by recognising that: “The statutory term cruelty is tantamount to an act of neglect consisting in

the purposeful imposition of physical pain and severe moral pain, repeatedly or once, but intense and covering a long period of time (OSNKW 1976, No. 7-8, item 86). In the justification of the judgement of 27 February 2002 (II KKN 17/00), the Supreme Court adjudicated that the “phrase impose cruelty means that the act is most often committed by repeated attacks (although in an exceptional situation, one is sufficient)” (OSNKW 2002 No. 7-8, item 55). As regards the above, one can state that the practice applied by the Polish judiciary does not encounter interpretation-related difficulties connected with defining the acts referred to in the Penal Code as cruelty.

384. Physical cruelty can consist in beating, starving, choking, burning, wounding, etc. Psychological cruelty can consist in psychological tormenting of the victim, e.g. by insulting, degrading, ridiculing, threatening, etc. A physical interference of the perpetrator is not necessary to consider his/her acts to be a crime; the negative influence on the psychological condition of the victim is sufficient.

385. Taking the above into account, it out to be pointed out that the concept of “physical and psychological cruelty” corresponds to the concept of “torture” within the understanding of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

386. Moreover, the Penal Code contains a wide range of detailed norm penalising particular cases of inhuman and cruel treatment. The following provisions should be indicated in particular:

- Article 148 § 2 of the PC, which foresees the punishment of deprivation of liberty for 8 or more years, 25 years of deprivation of liberty and life sentence for the perpetrator of murder with extreme cruelty,
- Article 189 § 2 of the PC, which foresees the punishment of deprivation of liberty for 1-10 years for a perpetrator who deprives another person of liberty, if the deprivation of liberty lasted more than 7 days. If the deprivation of liberty was not combined with any particular cruelty, the perpetrator is subject to punishment of deprivation of liberty for not less than 3 years – art. 189 § 3 of the PC.
- Article 207 § 2 of the PC, which foresees the punishment of 1-10 years for a perpetrator who imposes extreme mental or physical cruelty on an immediate family member or other person being in a permanent or temporary state of dependence in relation to the perpetrator or a minor or a person who is helpless due to his/her mental or physical condition.

387. In accordance with Polish legislation, the crime of “physical or psychological cruelty” is prosecuted ex officio. The injured party is entitled to submit a report of a crime, as well as to submit a private indictment to the court if the prosecutor issues a decision on the refusal to commence the proceedings or to discontinue the proceedings twice (art. 55 § 1 and 330 § 2 of the PPC). In the case of lack of reaction of the body appointed to conduct preparatory proceedings in connection with the report of a crime, the injured party who submitted the report is entitled to lodge a complaint (art. 306 § 3 of the PPC). The injured party who suffered from the crime is a party to the preparatory proceedings, whereby in compliance with article 53 of the PPC, the injured party can appear before court as a party as subsidiary prosecutor of the public prosecutor or even instead of the public prosecutor.

388. As a result of the amendment of the Penal Procedure Code (Act of 10 January 2003 on Amendments to the Act – Penal Procedure Code, the Act – Provisions implementing the Penal Procedure Code, the Key Witness Act and the Act on the Protection of Confidential Information), article 51 § 3 of the PPC was introduced. The provisions of this Article allow

for the exercising of the right of the injured party by the legal guardian of the injured party, if the injured party is helpless, especially owing to age or health condition.

### **C. Budget**

389. In line with the assumptions of the National Programme for the Prevention of Domestic Violence and the provisions of the Act of 29 July 2005 on Counteracting Domestic Violence, poviats and communal local governments are responsible for activities in the scope of more effective protection of victims of crime and work with perpetrators of domestic violence.

390. In 2006, 33 specialist support centres for victims of domestic violence were established, and approx. 960 perpetrators of domestic violence were subjected to corrective and educational programmes.

391. In 2006, more than PLN 8 846 000 was allocated for the adaptation or construction and maintenance of specialist support centres for victims of domestic violence and the organisation of corrective and educational programmes for perpetrators of domestic violence.

392. The State budget allocated more than PLN 9 386 000 for tasks resulting from the Act on Counteracting Domestic Violence, as well as the implementation of the National Programme for the Prevention of Domestic Violence.

393. As part of the implementation of the above-mentioned Programme, in 2007 more than PLN 12 367 000 was spent on the following activities:

- (a) Maintenance of specialist support centres for victims of domestic violence;
- (b) Implementation of corrective and educational programmes for perpetrators of domestic violence;
- (c) In compliance with resolution No. 27 of the President of the Council of Ministers of 16 March 2007, the Monitoring Team responsible for the supervision of the National Programme for the Prevention of Domestic Violence was established. The most important activities performed by the Team:
  - Appointing a Working Group of the Team Monitoring the Implementation of the National Programme for the Prevention of Domestic Violence. Members of the Working Group represent the Ministry of Labour and Social Policy, Ministry of Interior and Administration, Ministry of Health, Ministry of National Education, Ministry of Justice, Ministry of Culture and National Heritage, Polish National Police Headquarters and the National Broadcasting Council;
  - Preparation of the report on the implementation of the National Programme for the Prevention of Domestic Violence for the period from 25 September 2006 to 31 December 2006 (the report was adopted at the meeting of the Sejm on 28 February 2008).
  - Drafting assumptions concerning educational packs in the scope of causes and effects of domestic violence that were presented to the Province Marshals responsible for the implementation of training for first-contact employees regarding prevention of domestic violence;
- (d) Co-financing training (total amount of PLN 240 000 transferred to Province Marshals);
- (e) Polish nation-wide social campaign on the prevention of domestic violence;



(f) Performing a diagnosis of domestic violence and conducting a study on the educational needs of first-contact employees. The reports were made available on the website of the Ministry of Labour and Social Policy.

394. In 2008, as part of the National Programme for the Prevention of Domestic Violence, PLN 240 000 were allocated for training of first-contact employees (social employees, health care staff, custodians, Police officers, school pedagogues). Training in accordance with these assumptions is held by Province Marshals.

395. Funds for the functioning of specialist support centres for victims of domestic violence in the amount of PLN 9 840 000 and for the organisation of corrective and educational programmes in the amount of PLN 1 960 000 were transferred to Province Governors.

396. In 2009, more than PLN 16 616 000 was allocated for the implementation of the National Programme for the prevention of Domestic Violence (maintenance of 36 specialist support centres for victims of domestic violence, organisation of corrective and educational programmes for persons engaging in violence, co-financing of training held by Province Marshals, organisation of the conference “Domestic Violence – Don’t Wait, React, Help”, Organisation of a nation-wide meeting of social policy departments of province offices and specialist support centres for victims of domestic violence, organisation of the Polish nation-wide social campaign against domestic violence towards the elder and the disabled, conducting a diagnosis of domestic violence towards children).

#### **D. Planned governmental actions**

397. The Ministry of Justice appointed the Team for Developing the National Programme for Victims of Crime (Ordinance No. 78 of the President of the Council of Ministers of 30 July 2007). This Team prepared a pilot programme of creating an Assistance Network for Victims of Crime in Poland. It is expected that the institution of guardian will be established – a person who will support the injured party throughout the criminal proceedings and, if necessary, after the closing of the proceedings. First and foremost, the victims requiring special support, i.e. children, will be subject to such care. This programme also foresees providing the child with therapeutic, psychological and other necessary assistance, both at Family Diagnostic and Consultative Centres and at the child’s place of residence.

398. The activities planned by the Ministry of Justice are aimed at ensuring full protection of the witness-child.

(a) Continuation of the above-mentioned activities. In particular, attempting to create more child-friendly interview rooms (currently, there are more than 200 such rooms in Poland).

(b) Strengthening of administrative supervision over the appropriate penal procedure concerning interviewing children.

(c) Continuation of works on the development of a national system supporting victims of crime, including children.

399. The project consisting in developing the analytical system “National Police Information System” is pending. The system will enable conducting analyses of gathered data, perform various static comparisons according to indicated parameters and presentation of the results in any selected manner (graphs, tables, and textual data). The aim of the newly developed analytical system is to enable, inter alia, the diagnosis of unfavourable phenomena, crime and demoralisation of minors, observed dynamics of these phenomena, and, as a result, making it possible to undertake preventive measures.

## **V. Family environment and alternative care (arts. 5, 9-11, 18, paras. 1 and 2; 19-21, 25, 27, paras. 4 and 39 of the Convention)**

### **A. Implementation of the recommendations of the Committee on the Rights of the Child**

*CRC/C/15/Add.194 – paragraph 37: The Committee recommends that the State party:*

- a) Ensure periodic review of placement of children in institutions which takes into account the views and the best interest of the child while aiming, whenever possible, at reintegrating them into their families, with appropriate counselling and support, or at finding other forms of care than institutionalization;*
- b) Expand the foster-care system by providing greater financial support to foster families and increasing the counselling and support mechanisms for foster families;*
- c) Upgrade the capacity and skills of social workers so that they are better able to intervene and assist children in their own environment;*
- d) Establish procedures to ensure that children currently residing in institutions that are being close down are fully informed and able to participate in deciding their future placement, and that these children retain the right to social protection.*

400. The Polish law guarantees the priority of upbringing the child in its own family. The Act of 12 March 2004 on Social Welfare, in the wording valid as at 31 December 2010, maintains the hierarchy of values and sequence of activities to the benefit of ensuring the right of the child to being brought up in a family, mainly with the support of the biological family, and then the provision of assistance to the child who cannot stay with its own family. The interests of the child are secured by placing the child for a fixed period of time at a foster family, and in exceptional cases at 24/7 education and care facilities, mainly at family type facilities, and, in the last resort, at socialising facilities.

401. The family receives support for the performance of care-giving and educational functions in the form of preventive activities, advisory, therapy, social work, family benefits, benefits from the alimony fund and daily forms of care over the child. Moreover, children and youth receive support in their environment, inter alia, they have the possibility of engaging in various forms of summer and winter recreation that include elements of sociotherapy, as well as in activities organised throughout the year such as preventive courses, theatrical courses, crafts, sports, IT classes, socio-therapeutic courses, courses in addiction prevention, field events, trips and excursions, Internet cafes, Internet reading rooms, interpersonal communication workshops, activities of street pedagogues, and the helpline for children and youth.

402. The Act of 12 March 2004 on Social Welfare, notably extended the scope of regulation on care over the child and the family, with special consideration of the securing of the rights of children staying at education and care facilities and foster families. A full catalogue of the rights of the child specified in the Convention on the Rights of the Child was introduced to the Act, and is binding both at education and care facilities and in foster families and in every social support institution acting to the benefit of children. Adherence to the rights of the child is currently a priority. Governors are obliged to perform supervisory activities aimed at ensuring compliance with standards of care and education at education and care facilities and monitor the quality of the activities undertaken by

adoption and care facilities. See also “Alternative forms of childcare”, paragraphs 421-430 hereof.

**Response to the recommendation contained in paragraph 37 (a) of the concluding observations**

403. The Regulation of the Minister of Social Policy of 19 October 2007 on education and care facilities specifies, inter alia, that the activities of the facility are to benefit the implementation of the rights of the child, the qualification procedure, referring the child to a facility and its return to the family, standards of the services rendered education and care facilities, the standard of care and education binding at these facilities, as well as the qualification of employees.

404. The provision of article 80, paragraph 7 of the Act of 12 March 2004 on Social Welfare, in the wording valid as at 31 December 2010, states that the stay of the child at an education and care facility should be of temporary nature – until the child returns to the natural family or until it is placed at a foster family. Current implementing regulations to the Act on Social Welfare state that the standing teams for the periodical review of the child’s condition functioning at the facilities should perform a verification of the grounds for the child’s stay at the facility and undertake appropriate actions to release the child from the facility. The Act also defines in detail the terms and conditions of the child’s return to the family. Persons who supervise education and care facilities on behalf of the governors control the work of the teams for the periodical review of the condition of the child in terms of evaluating the grounds for the child’s further stay at the facility (Regulation of the Minister of Labour and Social Policy of 19 October 2007 on education and care facilities).

**Response to the recommendation contained in paragraph 37 (b) of the concluding observations**

405. The Act of 12 March 2004 on Social Welfare introduces a wide range of changes to the organisation of care over the child and the family. These include new forms of professional foster families unrelated to the child. These are, apart from the emergency foster families that are already operating, professional foster families with many children and professional specialist foster families.

406. Professional foster families with many children mainly serve the purpose of upbringing many siblings. Such families can raise from three to six children at the same time.

407. Professional specialist foster families are to raise children who require special care and nursing or socially maladjusted children. A professional specialist foster family unrelated to the child can raise not more than three children at the same time.

408. In emergency situations, children are placed in professional foster families unrelated to the child and serving as family emergency support for short periods of time, until the legal situation of the child is settled, that is either until the child returns to the natural family or until the child is transferred for adoption or is to be placed at a different foster family. Not more than three children can be placed in such a type of foster family. The maximum period of time spent by a child at family emergency support amounts to 15 months.

409. Persons carrying out professional tasks of foster families, apart from financial support for the child, receive remuneration for their work. These families, apart from the general requirements agreed upon for foster families in the Act on Social Welfare, must meet additional criteria consisting in the completion of additional training and obtaining a qualification certificate.

410. Foster families are prepared to perform their function at education and care facilities on the basis of special training programmes licenced by the Ministry of Labour and Social Policy. The contents of the programme are specified in the Regulation of the Minister of Labour and Social Policy of 4 June 2010 on foster families. The programme of training for foster families foresees, *inter alia*, basic knowledge within the scope of developmental and educational psychology, pedagogy, family law, nutritional norms, physiological development, the health of the child, etc., as well as the completion of an internship at a professional foster family unrelated to the child or a 24/7 education and care facility. Since 1 May 2004, the Minister of Social Policy approved 44 foster family training programmes. The entities which developed these programmes can train candidates for foster families within the basic scope. Moreover, some of these entities expanded the programme by including professional foster family training. Twenty-two entities are entitled to train candidates for foster families accepting socially maladjusted children, twenty-one entities obtained the consent to train candidates for foster families raising sick children, children with dysfunctions, and twenty-three training programmes for candidates willing to run family emergency centres were approved.

411. Professional foster families are created by the poviats, and data on such families should be made available to courts. The court can order that the child be placed at a professional foster family, but it cannot appoint specific persons to perform the function of professional foster family, as the establishment of a professional foster family is a competence of the poviats, which, *inter alia*, must be financially prepared to create such a family. The introduction of new types of unrelated professional foster families led to a situation in which poviats began using this form of care over the child as an alternative to 24/7 education and care facilities.

412. From May 2006 to September 2007, the campaign “Foster Parent – Real Love” was held to the benefit of children without parents. As part of the campaign, *inter alia*, a TV spot, and radio advertisements were broadcast, and a few conferences dedicated to foster parentage were held. Two books for foster parents were published, and the Legal Intervention Point for foster families was created, works on the bill on family forms of foster care were commenced.

413. The main effects of the campaign were as follows: dissemination of information on foster families as the best form of care apart from biological families, education of the media – positive change in the way of discussing family forms of foster care, the report “Child and family care system. Assumptions for model solutions”. Thanks to the efforts of the team that organised the campaign, the Sejm of the Republic of Poland announced that 30 May will be celebrated as Foster Parentage Day.

414. Activities to the benefit of the development of family forms of foster parentage are being continued.

415. Since 2008, the Ministry of Labour and Social Policy has been conducting works on the reform of the child- and family care system, the effect of which is the Family Support and Foster Care System Bill. The bill concerns the principles and forms of supporting families undergoing difficulties in the performance of its care-giving and educational function, the principles of providing foster care, specification of the tasks of public administration within the scope of supporting the family and the foster family, principles of financing and the tasks of public administration in the scope of adoption proceedings. In September 2010, the bill was submitted to the Sejm. The Act on Family Support and Foster Care System was adopted on 9 June 2011. Information on the solutions specified in the Act and their implementation will be presented in the next report of the Republic of Poland on the implementation of the provisions of the Convention.

416. The development of local child and family care systems is financially supported by the Minister of Labour and Social Policy through the annual Programme for the Development of the Local Child and Family Care System. In the years 2008-2010, the amount of PLN 7 800 000 (each year) was allocated for performance of tasks within the scope of preventive care over the child and the family, as well as for the financing of the best programmes promoting professional unrelated foster families, training for foster families and programmes providing adult foster-children with support in the process of becoming independent. Moreover, each year funds are allocated for the performance of the tasks of poviats local governments in the scope of meeting the required standards at education and care facilities. These standards are specified in the Regulation of the Minister of Labour and Social Policy of 19 October 2007 on education and care facilities. Pursuant to the provision of article 154, section 7a of the Act on Social Welfare, education and care facilities which do not meet the required standard are obliged to implement a corrective programme by 31 December 2010.

**Response to the recommendation contained in paragraph 37(c) of the concluding observations**

417. Local governments responsible for the performance of tasks connected with care over the child were obliged by the Act on Social Welfare to enhance the qualifications of social employees. Poviats and province local governments organise a series of training also for social employees working directly with children and families. This series of training concerns enhancing skills in the area of family support, providing the child with assistance, and expanding knowledge of the rights of the child. Moreover, as part of the Government Programme for the Prevention of Social Maladjustment and Child and Youth Delinquency, a series of training was organised for social assistance employees in the scope of working with neglected children.

418. Under article 83 section 11 of the Act of 12 March 2004 on Social Welfare, the qualifications of persons employed at education and care facilities and adoption and care centres were defined (Regulation of the Minister of Social Policy of 6 October 2005 on entities authorised to establish and maintain non-public adoption and care facilities and the seniority and qualifications required from persons employed at public and non-public adoption and care facilities, and also accommodation conditions such facilities should dispose of.). Such persons must have at least higher education and pedagogical or psychological preparation. Persons responsible for the supervision of compliance with the standard of care and education of children at education and care facilities and the functioning of adoption and care centres must hold a certificate confirming the completion of higher MA studies in pedagogy or psychology and have at least three years of experience in working at educational institutions and a certificate confirming the completion of studies in the organisation of social assistance.

**Response to the recommendation contained in paragraph 37 (d) of the concluding observations**

419. The legal provisions valid in Poland in the scope of social assistance concerning child and family care (Act of 12 March 2004 on Social Welfare) ensure that children staying at education and care facilities function in a stable educational environment (art. 70, para. 3 of the above-mentioned Act). The poviats or the local government of the province that manages the 24/7 education and care facility or the adoption and care centre cannot close these entities without the consent of the province governor. The Governor issues the consent to the closing down of a 24/7 education and care facilities facility, if the poviats ensures appropriate care to the children of that facility either at foster families or at a different 24/7 education and care facility. The Governor issues consent to the closing down of an adoption and care centre if the tasks performed solely by the given centre are taken

over by a different adoption and care centre (art. 85 of the above-mentioned Act). When performing its duties, the adoption and care-giving facility is obliged to cater for the best interest of the child and respect the rights of the child (art. 82 of the above-mentioned Act). Moreover, in accordance with the Regulation of the Minister of Labour and Social Policy of 19 October 2007 on education and care facilities, each education and care facility is obliged to create conditions making it possible to respect the subjectivity of the child, acknowledge its opinion and, to the extent possible, take into account its opinions in all matters concerning the child and to inform the child of the activities undertaken in connection with its case.

## **B. Current governmental actions**

420. Small children have been subjected to special care in the Act on social assistance. Responsibility for children left by mothers at hospital right after birth is assumed by the local government of the poviát with jurisdiction over the hospital where the child was abandoned. The poviát is obliged to provide care, mainly at a specialist foster family or an education and care facility specialising in care over small children until the legal and care-related situation of the child is settled, e.g. until the child is placed at an adoption family.

### **Alternative forms of childcare**

421. In 2007, the systemic revision of numerous implementing regulations to the Act on Social Welfare and implementing regulations regulating the scope of childcare took place. On 14 November 2007, the following regulations entered into force:

- Regulation of the Minister of Labour and Social Policy of 19 October 2007 *amending the regulation on adoption and care facilities.*
- Regulation of the Minister of Labour and Social Policy of 19 October 2007 *amending the regulation on determination of the lump-sum for child cost of living and rates for ongoing operation of family care establishment,*
- Regulation of the Minister of Labour and Social Policy of 19 October 2007 *amending the regulation on foster families;*
- Regulation of the Minister of Labour and Social Policy of 19 October 2007 *amending the regulation on detailed principles of supervision over care and upbringing standard at education and care facilities and supervision over operations of adoption and care facilities.*
- Regulation of the Minister of Labour and Social Policy of 19 October 2007 *on education and care facilities.*

422. The changes introduced under the above regulations were aimed at increasing the quality of care provided to children subjected to various forms of foster care, supporting the efforts of facilities and foster families to attain European standards of care and education at education and care facilities and strengthening supervision over the activity of adoption and care centres so as to optimise the process of preparing candidates for the performance of the function of foster family and candidates wishing to adopt a child.

423. The provision of the Act on Social Welfare and the implementing regulations issued under this Act were constructed on the basis of the legal regulations adopted in the Convention on the Rights of the Child. Under the Polish law, only a court can decide on the limitation or deprivation of parental authority by placing the child at a foster family or education and care facility.

424. A child deprived of parental care in part or in whole can be placed at a 24/7 education and care facility of the following type:

- Intervention.
- Family.
- Socialising.

425. 24/7 education and care facilities provide children with 24-hour constant or temporary care and education, and satisfy their livelihood and development needs, including emotional, social and religious needs, at least at the level of the valid standard of care and education, and ensures that the children have access to health care and educational services guaranteed to them under separate provisions.

426. A child deprived of parental care in part or in whole can stay at a 24/7 education and care facility until it becomes 18, and after becoming 18, in compliance with the same principles, until the child finishes the school it started attending before becoming 18.

427. Directing a child deprived of parental care in part or in whole to a 24/7 education and care facility for a 24-hour stay might take place after all other possibilities of providing assistance within the natural family or placing the child at a foster family have been exhausted.

428. The education and care facility is responsible for ensuring care and education to children and supporting parents in the upbringing and caring for their children. It is obliged to:

- Create conditions conducive to the physical, psychological and cognitive development of the child.
- Respect the subjectivity of the child by hearing out and acknowledging its opinion to the extent possible.
- Ensure that the child has a feeling of safety and security.
- Sustain emotional ties with parents, siblings and other persons.
- Teach the planning and organisation of every-day activities in a manner appropriate for the age of the child, as well as responsibility for its conduct and independence in life.
- Bridge the gaps between the development of children.

429. In emergency situations, intervention facilities accept children over 11, irrespective of their place of residence in emergency situations and provide them with emergency 24-hour care. They prepare a diagnosis of the psychophysical condition of the child and family in order to establish whether the child can return to the family or should be directed to a foster family or family or socialising facility. The stay should not exceed 3 months. Extension of the child's stay by not more than 3 more months can be the result of pending court proceedings deciding on the future of the child.

430. Family facilities consist of one family with many children for 4-8 children of various age for whom a foster or adoption family was not found. They enable joint upbringing and care over many siblings in conditions similar to the family home. The children are provided with education and levelling of development and school education. They maintain contact with social support centres and the poviats family assistance centre.

431. Socialising facilities provide not more than 30 children with 24-hour care and education and appease their basic needs. They conduct classes compensating for the lack of upbringing in a family environment and preparing for social life, and in the case of disabled

children, they ensure rehabilitation and specialist courses. They provide children with education, levelling of development and school delays by undertaking activities aimed at the child's return to the family or finding an adoption family.

432. 24/7 education and care facilities can combine intervention, socialising and other activities to the benefit of the child and the family by assuming the role of a multi-functional facility.

#### **Prevention of negative effects of economic migration of parents**

433. Children and youth left without parental care owing to the economic migration of their parents might lower the educational aspirations of the children, lead to frequent absences in class, drop in learning results, lack of motivation to learn, lack of preparation for class, ignoring school duties, repeating classes, emotional disorders resulting in apathy, conflicts with the peer group and surroundings. This issue concerns mainly children of school age, but in some cases also youth continuing education at higher schools and universities.

434. The Ministry of National Education has been addressing the issue of so-called "euro-orphans" for a long time. The appointed working team (composed of local coordinators at education offices, representatives of the Government Plenipotentiary for Equal Treatment. The Ministry of National Education and the former Methodical Centre for Psychological and Pedagogical Assistance) prepared the contents of the leaflet directed at parents, as well as the poster and guide for school directors and pedagogical councils. Posters (30 000 items) were placed at each and every school/facility in the country, and the leaflets (300 000 items) were distributed to schools, town halls, labour offices and passport offices. The guide "The Child of a Migrant Family in the Educational System – Information Material for Directors of Schools and Pedagogical Councils" (it is available on the Internet). This initiated the large-scale information campaign – how to care for a child whose parents migrated in search of a job.

435. As part of the methodology publications issued by the Methodological Centre for Psychological and Pedagogical Assistance (currently the Education Development Centre), the publication titled "The School and Economic Mobility of Parents and Guardians – Reference Tool for Teachers" (publication No. 8 of 2008).

436. The Ministry of National Education developed the Research Project: "The Economic and Educational Situation of Children and Youth of Parents Who Migrated Abroad in Search of Employment" and the questionnaire to the survey. The first stage of the study will be carried out in 2009 and will be run as a pilot study in four provinces covering 5% of all facilities in the given province. Conclusions from the study will allow for the preparation of an electronic application to conduct studies in the whole country. The studies carried out in July 2010 indicate that teachers do not have full knowledge of the scale of economic orphanage in their area, they are not aware of all current problems of the children, their parents or guardians. They only have the knowledge transferred to them by the parents or students themselves, and they obtain information about the said issues from training or literature of the field. It was pointed out by 41% of respondents that the positive effect of moving abroad to find employment is the enhancement of the financial standing of the family. However, school results of the students become worse, similarly as their attendance, as well as relations with peers and general conduct which is characterised by aggression, isolation from other students and seeking company at any cost.

437. In order to solve the most significant problems concerning levelling educational opportunities of students, supporting the development of the child and counteracting negative effects of parents' economic migration, the Ministry of National Education prepared and implemented (in cooperation with education officers) training for



representatives of local government units at the poviát and communal level (employees of family support centres, labour offices, social assistance centres), as well as custodians. The aim of the training was to acquaint listeners with legal, pedagogical and psychological aspects of economic migration of parents and presenting the emotional and social situation of the child in a migrant family. The conferences were held in all provinces, in cooperation with specialists from methodology centres and universities.

438. In Polish schools, the number of children of foreigners who entered Poland in search of employment and children of Poles who returned after a few years abroad, where the children studied in a different education system is increasing. These children require assistance in the levelling of programme differences and frequently in enhancing Polish language skills. The amendment of the Act on Education System introduced under the Act of 19 March 2009 on Amendments to the Act on Education System and on Amendments to Certain Other Acts imposed the obligation of providing children of economic migrants with additional support – in accordance with their needs – for at least a year from entering the Polish education system.<sup>2</sup>

#### **The right of the child separated from its parents (art. 9)**

439. The Act of 6 November 2008 on Amendments to the Act – Family and Guardianship Code and Certain Other Acts introduced significant changes to the rights of the child separated from one of its parents to maintain direct contact with that parent. These changes consist in the strengthening of the rights of children and parents to mutual contacts and introduce mechanisms aimed at the enhancement of the application of these rights. Article 113 § 1 of the FGC states that, irrespective of parental authority, parents and children have the right and obligation to maintain contact. However, if the child stays permanently with one parent, the manner of maintaining contact with the other parent is determined by the parents, with consideration of the good of the child and its reasonable wishes, and if the parents fail to reach an agreement, the issue is resolved by a guardianship court (art. 1131 § 1 of the FGC).

440. The provision of article 58 of the PGC corresponds to this solution, as it states that the court should acknowledge the agreement reached by the spouses on the manner of exercising parental authority and maintaining contact with the child after the divorce, if it is compliant with the good of the child. It ought to be underlined that these provisions do not limit the possibility to adjudicate so-called “interchangeable care” – which allows for entrusting both parents with the right to care for the child in successive periods specified by the court.

441. Enforcement of court decisions on contacts between children and parents is regulated by article 5821 of the Civil Procedure Code. In order to ensure that these contacts are maintained, the provision provided the guardianship court with the possibility to:

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<sup>2</sup> Article 94a, paragraph: 4 Persons who are not citizens of Poland subject to compulsory education or the obligation to obtain education, who do not know Polish or whose knowledge of Polish is not sufficient to obtain education, are entitled to additional, free-of-charge Polish language lessons. Additional Polish language lessons are organised by the body governing the school. Article 94a paragraph. 4b) The rights specified in section 4 can also be exercised by persons who are citizens of Poland subject to compulsory education or the obligation to obtain education, who do not know Polish or whose knowledge of Polish is not sufficient to obtain education, such persons are entitled to exercise the right specified in section 4 for not more than 12 months. Article 94a , paragraph 4c) The persons specified in section 4 and 4b can avail themselves of additional equalising courses in the scope of subjects organised by the body governing the school, though for not longer than 12 months.

1) Oblige the person entitled to contact the child or the person taking care of the child, to cover the travelling and accommodation costs of the child and the person accompanying the child, including costs of return to the permanent place of residence.

2) Obligate the person taking care of the child to transfer a certain amount to the court deposit account in order to cover the costs incurred by the entitled person in connection with the maintenance of contact in the case of failure to duly perform the obligations resulting from the court's decision (does not concern foster families and education and care facilities),

3) Obtain from the person entitled to contact the child or the person taking care of the child a pledge to behave in a specified manner.

442. The above solutions significantly contribute to the fulfilment of the right of the child to maintain contact with both parents.

443. The Civil Law Codification Committee is developing another amendment of the civil procedure code aimed at ensuring the effectiveness of the execution of court decisions on contact with children. The Committee is considering the introduction of the possibility to order that the person obliged to adhere to a statement on contacts with the child pays a specified amount (deposit) to the benefit of the person entitled to contact the child. This amount would constitute an additional guarantee of the execution of the right to contact the child by the entitled parent.

444. The Act of 6 November 2008 on the Rights of the Patient and the Ombudsman for the Patient was adopted by the Sejm and guarantees that patients have the right to respect of family life by securing the possibility of personal, telephone or correspondence contact with the immediate family of the patient of in-patient healthcare facilities. Patients staying at such facilities also have the right to the care of an immediate family member. These rights are of special significance to the comfort and emotional development of children staying at in-patient healthcare facilities. The absence of the legal guardian or hindered contact with the legal guardian can constitute a problem in terms of providing medical services.

445. In the case of providing medical care to a minor, one ought to bear in mind the legal situation of such a person is different from that one of an adult patient. Medical services are generally rendered after obtaining the consent of the patient to the given service. This is referred to as participation in the decision-making process concerning the treatment. In the case of a minor, participation in the decision-making process concerning the treatment is the role of the legal guardian, on condition that the autonomy of the child specified in the relevant provisions is maintained. The provisions of Act of 5 December 1996 on Professions of Physician and Dentist regulate the principles of conduct within this scope.

#### **Deportation of an underage foreigner (art. 10)**

446. Under article 94, paragraph 1 of the Act of 13 June 2003 on Foreigners, the decision to deport an underage foreigner to the country of his/her origin or a different state is executed only if the minor will be under the care of parents, other adult persons or care institutions, in accordance with the standards specified in the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989. Moreover, in compliance with paragraph 2 of this article, the underage foreigner can be deported only under the supervision of the statutory representative, unless the decision to deport is executed in such a way that the minor is handed over to the statutory representative or the representative of competent State authorities of the country to which the minor is deported.

**Adoption (art. 21)**

447. The crime of illegal adoption is subject to severe punishment. Article. 211a § 2 of the PC states: “Whoever, for purposes of obtaining material benefits, engages in the organisation of the adoption of children in contradiction to the provisions of the Act; is subject to punishment of deprivation of liberty for 3 months to 5 years“. The following acts are subject to punishment: the crime of kidnapping a child under 15 years of age or detaining it against the will of the person legally appointed to take care of the child (art. 211 of the PC) and the crime of depriving a human of liberty (art. 189 of the PC).

448. Under Polish law, adoption can be performed only to the benefit of the child (art. 114 of the FGC). Whoever has full legal capacity and personal qualifications that justify the assumption that this person will duly fulfil the obligations of an adoptive parent can adopt a child (art. 1141 of the FGC). Moreover, there should be a sufficient age difference between the adoptive parent and the adoptee.

449. If the adoptee is over 13, it is required to obtain his/her consent (art. 118 § 1 of the FGC). The adoptee who is under 13 years of age and who is capable of comprehending the meaning of adoption should be heard by the court adjudicating in the adoption case (art. 118 § 2 of the FGC). The guardianship court can exceptionally adjudicate in favour of the adoption without requiring the consent of the adoptee or without hearing the adoptee, if the adoptee is not capable of giving consent or if the evaluation of the relation between the adoptive parent and the adoptee proves that the adoptee believes to be the child of the adoptive parent, and the requirement of a consent or hearing would be contrary to the good of the adoptee (art. 118 § 3 of the FGC).

450. The principle that the consent of the natural parents of the adoptee is required to perform the adoption, unless they were deprived of parental authority or are unknown or contacting them is impossible, contributes to the protection of the interests of the child and respect of parental authority (art. 119 § 1 of the FGC). In terms of adoption, the Polish law, however, gives priority to the protection of the good of the child: If the refusal of the natural parents to the adoption is obviously contradictory to the good of the child, the guardianship court can, owing to special circumstances, adjudicate in favour of the adoption despite the lack of consent of natural parents whose legal capacity is limited (art. 119 § 2 of the FGC).

451. Special limitations aimed at preventing cases of illegal transfer of children abroad are applied to international adoptions. Article 1142 § 1 of the FGC states that adoption which leads to the change of the previous place of residence of the adoptee in the Republic of Poland to a place of residence in a different country can be performed only if an appropriate foster family environment can be provided to the adoptee. This provision proclaims the priority of national adoption over international adoption. The child cannot be qualified for international adoption if the education and care facilities failed to obtain persons willing to adopt the child in Poland (subsidiarity principle – § 11 of the Regulation of the Minister of Social Policy of 30 September 2005 on adoption and care facilities). The guardianship court must verify whether the child was qualified for international adoption in compliance with the provisions of the Regulation of the Minister of Social Policy of 30 September 2005 on adoption and care facilities. The said regulation also specifies pre-court procedures concerning the qualification of both children for adoption and candidates for adoptive parents.

452. The possibility of determining a pre-adoption period is a significant guarantee of the good of the child (art. 120<sup>1</sup> of the FGC) – it is obligatory to specify such a period in the case of international adoption. During that period, the court, as part of the performed surveillance activities, verifies whether the period of personal contact supports the statement specified in the application for adoption. On the basis of this observation and

other evidence, the guardianship court must establish the environmental conditions and educational qualifications required of the candidates for adoptive parents. Especially, in compliance with article 586 § 4 of the CPC, the court must, prior to issuing the decision, consult the education and care facility or a different specialist facility. It is always the court that decides whether the given adoption should be performed. The termination of adoption is possible only if it does not prove detrimental to the child (art. 125 § 1 of the FGC). The court takes the decision on the termination of the adoption. Such a solution is the guarantee of the protection of the rights of the child – ensuring that the good of the child, as specified above, is the supreme aim of the adoption.

453. The issues of preventing and combating illegal adoption was the subject of training for judges and prosecutors, e.g. training for judges on legal transactions abroad in the scope of family law and proceedings towards foreigners concerning detention, placement in a guarded facility and arrest for purposes of deportation. During the training, the following issues were discussed, inter alia: abduction of the child beyond the territory of the state – Convention on the Civil Aspects of International Child Abduction, drafted in The Hague on 25 October 1980, the legal situation of underage foreigners without care applying for refugee status, situation of foreign children staying at education and care facilities – deprivation, limitation of parental authority of the parents, adoption, especially with consideration of EU law.

454. Adoption procedures are carried out by adoption and care centres. Their activity is regulated by the Regulation of the Minister of Social Policy of 30 September 2005 on education and care facilities. Judicial decisions concerning national and international adoption are issued by the family court, after ascertaining that the procedure was carried out in compliance with the provisions of the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, drafted in The Hague on 29 May 1993, on condition that the case concerns international adoption.

455. Procedures connected with international adoption are carried out by adoption and care-giving facilities indicated in the Regulation of the Minister of Social Policy of 5 October 2004 on the central data bank of children awaiting adoption and adoption and care facilities authorised to cooperate with organisations or adoption centres licenced by governments of other countries. The central body for international adoption appointed during the ratification of the document and under article 6 of the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption drafted in The Hague on 29 May 1993 is the Ministry of Labour and Social Policy. The tasks of the central body are performed by the Family Policy Department, which is responsible for the appropriate fulfilment of obligations resulting from The Hague Convention by all entitled entities.

456. Intermediation in international adoption procedures is performed by three education and care facilities:

- Publiczny Ośrodek Adopcyjno-Opiekuńczy, 02–018 Warsaw, ul. Nowogrodzka 75.
- Krajowy Ośrodek Adopcyjno-Opiekuńczy TPD, 00–325 Warsaw, Krakowskie Przedmieście 6.
- Katolicki Ośrodek Adopcyjno-Opiekuńczy, 04–357 Warsaw, ul. Grochowska 194/196.

457. The Central Data Bank of children qualified for international adoption is maintained by the Public Adoption and Care Facility. All facilities guarantee that the adoption procedure is performed correctly. The dossier of potential adoptive parents is sent to one of the three facilities. Each of the facilities houses a Committee for International Adoption, which qualifies potential parents.

458. Foreigners willing to adopt a Polish child should contact the central body or authorised organisation operating in their state and cooperating with one of the above-mentioned Polish facilities. The central body or organisation provides the Polish central body or adoption and care facility with full documentation of the candidates for adoptive parents. The following documents are required, as well as their certified translations into Polish:

- Request for the adoption of a child/children.
- Copies of certificates of birth of the future parents.
- Copy of the certificate of marriage.
- Certificate of disciplinary record (issued within one month prior to the date of submitting the adoption request to the institution concerned with performing the adoption procedure).
- Earnings certificate.
- Certificate of citizenship.
- Medical record – certificate of lack of medical contraindications.
- Family review conducted by an authorised institution, consent of the central body of the state of the applicant(s) to the international adoption and the entry of the child to the state, issued to the applicant(s).

459. Sources of law concerning adoption are as follows:

- Act of 25 February 1964 – Family and Guardianship Code.
- Act of 12 March 2004 on Social Welfare.
- Regulation of the Minister of Policy of 30 September 2005 on adoption and care facilities.
- Regulation of the Minister of Social Policy of 5 October 2004 on the central data bank of children awaiting adoption and on care facilities authorised to cooperate with organisations or adoption facilities licensed by governments of other countries.
- Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption drafted in The Hague on 29 May 1993, valid in Poland since 1 October 1995.
- European Convention on the Adoption of Children, drafted in Strasbourg on 24 April 1967.

#### **Trafficking of children (art. 11)**

460. The crime of human trafficking, including trafficking of children, was penalised in article 189a of the PC (which replaced the ambiguous art. 253 of the PC), which states that “§1. Whoever commits human trafficking is subject to the punishment of deprivation of liberty for a period of time not shorter than 3 years. § 2. Whoever makes preparation for the commitment of the crime specified in § 1 is subject to the punishment of deprivation of liberty for a period between 3 months and 5 years.” The organisation of illegal adoptions for purposes of obtaining material benefits constitutes a crime subject to the punishment of deprivation of liberty for a period between 3 months and 5 years (art. 211a of the PC).

461. Pursuant to the provision of article 91 of the Polish Constitution, the provisions of ratified international agreements are applied directly by bodies of the Polish judiciary. Of course, this also applies to agreements containing the definition of human trafficking, including mainly the Palermo Protocol (Protocol to Prevent, Suppress and Punish

Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime), adopted by the General Assembly on 15 November 2000 and the Convention of the Council of Europe on Action against Human Trafficking, drafted in Warsaw on 16 May 2005.

462. However, the Government of the Republic of Poland, in order to ensure higher effectiveness in combating human trafficking, decided to introduce some changes to the Penal Code. These changes include:

- Inclusion of the definition of human trafficking to the PC. The definition is based on appropriate provisions of international law, mainly the said Protocol and Convention. Definition: Article 115 § 22 of the PC: “Human trafficking consists in recruitment, transportation, delivery, transfer, harbouring or employment of a person by means of:
  - Violence, unlawful threat.
  - Abduction.
  - Deception.
  - Misleading or using an error or incapacity to undertake due action.
  - Abuse of a dependency relation, taking advantage of a critical situation or state of helplessness.
  - Granting or accepting material or personal benefits or a promise of such benefit from the person appointed to care for or supervise the given person for purposes of abuse, even at that person’s consent, especially for purposes of prostitution, pornography or other forms of sexual abuse, in the form of employment or forced labour, begging, slavery or other forms of abuse degrading human dignity or for purposes of obtaining cells, tissues or organs contrary to the provisions of the Act. If the act of the perpetrator concerns a minor, the act constitutes the crime of human trafficking, even if the methods and means specified in para. 1-6 were not employed.”
- Penalisation of the act consisting in making preparations for the commitment of the crime of human trafficking, including the trafficking of children. This act is subject to the punishment of deprivation of liberty for the period between 3 months and 5 years (art. 189a of the PC).

**Numerical data according to the Organised Crime Office of the National Public Prosecutor’s Office:**

463. In 2002, in completed preparatory proceedings concerning human trafficking, 18 out of 167 victims of the revealed crimes were under 15. In 2003, in completed preparatory proceedings concerning human trafficking, 21 out of 261 victims of the revealed crimes were under 15. In 2004, 98 victims were registered in completed investigations, of which only 2 were under 15 years of age. In 2005, 99 victims of human trafficking were exposed, 10 of which were between 16 and 17 years of age, in 2006 – 126 victims, of which 19 were between 15 and 17 years of age. In 2007 – 1021 victims, of which 4 persons were 15 and 2 were 16 years of age, in 2008 – 315 victims were disclosed, including 5 persons aged 17 and 2 persons aged 16.<sup>3</sup> In 2009, 611 victims were exposed, of which 66 persons were

<sup>3</sup> The data for the years 2002-2008 concern the crime of human trafficking, i.e. the crimes specified in article 253 § 1 of the PC (human trafficking) and article 204 § 4 of the PC (luring or abduction of another person for purposes of forcing that person to engage in prostitution abroad) and additionally the crime specified in Art. 204 § 1 of the PC (inducing another person to engage in

under 18 years of age. In 2010, 323 victims were disclosed, including 32 persons under 18 years of age.<sup>4</sup>

**Intervention and resocialising activities aimed at socially maladjusted children and youth (art. 18)**

464. The Good Practice Bank was created at the Ministry of Interior and Administration. The main objective of this Bank is to combine the experiences accrued by the government administration, local governments and social organisations. The key aim of the Good Practice Bank is to create a Polish nation-wide database of tested-and-tried initiatives in the scope of increasing safety and security which will contribute to solving of specific problems of the given local community. Recommended initiatives also involve preventive programmes directed at children and youth and dedicated to the issues of alcohol and psychoactive drugs addiction, violence and aggression and promoting appropriate free time management.

465. Under the Act of 27 June 2003 on Amendments to the Act on Education System and on Amendments to Certain Other Acts, Youth Education Centres (YEC) and Youth Social Therapy Centres (YSC) were included in the education system on 1 January 2004. These facilities undertake educational, upbringing and resocialisation activities to the benefit or socially maladjusted children and youth in care. The main focus is on, inter alia, acquiring skills of peaceful cohabitation in a peer group, coping with aggression, escaping the trap of alcohol, cigarette and drug addiction. The system of establishing and managing educational and sociotherapy centres for youth is fully decentralised and socialised.

466. The basis for placing a minor at a YEC is constituted by the decision of a family court on the implementation of the educational measure consisting in the placement of the given person at a facility of this sort. Children and youth can be directed to a YSC on the basis of a court decision on the implementation of the educational measure to the benefit of the minor consisting in the placement at a facility of this type or on the basis of a decision on the need for special education issued by the adjudicating team of the public psychological and pedagogical advisory centre, including – at the request of the parents – a specialist centre.

467. The provisions of the Regulation of the Minister of National Education and Sport of 26 July 2004 on the detailed principles of referring, accepting, transferring, releasing and stay at minors at youth education centres and youth sociotherapy centres outline in detail the procedure of directing minors to YEC and YSC by the poviát governor (starosta) and state that the body that indicates at which youth educational or social therapy centre the given minor should be placed is the Education Development Centre in Warsaw (unit subordinate to the Ministry of National Education).

468. The central system for selecting centres for minors is maintained by the Minister of National Education and involves a database which enables placing each minor at a suitable

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prostitution or facilitating prostitution in order to obtain material benefits), article 204 § 2 of the PC (obtaining material benefits from prostitution by another person), article 204 § 3 of the PC (commitment of the crimes specified in article 204 § 1 and 2 of the PC towards a minor) and article 203 of the PC (driving another person to engage in prostitution).

<sup>4</sup> Data for 2009 concern the crime of human trafficking, i.e. the crime specified in article. 253 § 1 of the PC and article 204 § 4 of the PC and additionally the crime specified in Article 204 § 3 of the PC and article 203 of the PC. Data for 2010 concern the crime of human trafficking, i.e. the crime specified in article 253 § 1 of the PC and article 204 § 4 of the PC and article 189a (in connection with the amendment of the Penal Code which entered into force on 8 September 2010) and additionally the crime specified in article 204 § 3 of the PC and article 203 of the PC.

facility – in terms of the minor's age, sex, health condition and educational development level and level of obtained education. In the case of YSCs, usually separate centres accept pupils on the basis of a court decision or at the request of the parents.

469. Moreover, there are separate YECs and YSCs for girls and boys, as well as coeducational YECs and YSCs.

470. YECs and YSCs, as educational facilities, not only provide their pupils with therapy and resocialisation, but also ensure the fulfilment of compulsory education – at each facility (except for five YSCs), a particular school is in operation. In order to ensure that all various needs of minors are met, the following facilities are established and managed: youth education centres and youth social therapy centres with primary schools, lower secondary schools and youth education centres and youth social therapy centres with higher secondary schools. The schools functioning at the YECs and YSCs have the status of special schools owing to the fact that education is organised in a special manner. YSCs also serve as resocialisation and educational centres, as well as resocialisation and revalidation centres, which are directed at socially maladjusted children and youth with mild mental retardation

471. One of the initiatives especially worth mentioning in the context of supporting the development of youth educational and sociotherapy centres is the organisation of RFPs by the Ministry of National Education aimed at entities which are the governing bodies of YECs and YSCs. More than PLN 20 000 000 was allocated to the implementation of projects submitted in response to the above-mentioned RFPs held in the years 2007-2010. These RFPs were aimed at improving the quality of works performed at the YECs and YSCs and increasing the number of places available for children and youth at the centres. Moreover, the aim of the RFPs was to adapt the centres to the planned changes in the system of education concerning the education of students with special educational needs. The effects of the implementation of the above-mentioned projects and the maintenance of the central system for the selection of places for minors indicate that the undertaken activities were very effective. This also concerns the quality of works performed at these facilities, which was highly evaluated by specialists and the Supreme Audit Office.

472. Thanks to the above-mentioned activities, in the years 2004-2010 the number of available places at YECs and YSCs increased twofold. The number of places at YECs and YSCs in 2004 amounted to 2 973 and 148, respectively, in 2006 – 3 300 and 190, in 2008 – 3 691 and 2 080, in 2010 – 4 575 and 2 871. The number of facilities rose significantly. In 2004 there were 45 YECs and 9 YSCs, in 2006 – 51 and 10, respectively, in 2008 – 62 and 49, and in 2010 – 74 and 61.

473. In 2009, interministerial works aimed at the optimisation of systemic solutions connected with the supraministerial nature of resocialisation-related activities were conducted. This was also one of the aims of the Interministerial Team for Improving Effectiveness of Court Decision Implementation. As part of the team, the Working Group for Improving Effectiveness of Court Decision Implementation was appointed for the supervision of Placing Minors at Facilities Subordinate to the Ministry of National Education and Ministry of Labour and Social Policy. This working group was composed of representatives of the Minister of Justice, Minister of National Education, Minister of Labour and Social Policy and the Minister of Interior and Administration. The task of the Group was to draft bills on the amendment of the Act on Juvenile Delinquency Proceedings and implementing regulations, as well as on the amendment of the regulations of the Minister of National Education and the Minister of Labour and Social Policy concerning youth educational centres, youth social therapy centres and foster family care.

474. In 2010, the legislative activities aimed at increasing the effectiveness of works performed by YECs and YSCs were undertaken. The Regulation of the Minister of National Education of 10 December 2010 amending the regulation on the detailed



principles of referring, accepting, transferring, releasing and stay of minors at youth education centres and youth sociotherapy centres will enter into force in January 2011.

475. The goal of this regulation is to increase the effectiveness of referring and accepting minors at YECs and YSCs. The instrument employed to enable such an optimisation of the usage of places available at these facilities is the shortening of periods during which the given facility is obliged to secure a place for the given minor in the case of the minor failing to appear at the facility (from three months to one month) or in the situation of voluntary departure from the facility (from eight to four weeks). The regulation also foresees the possibility of temporary placement of minors at YECs and YSCs.

476. The legislative works aimed at enabling directing pupils to YECs solely on the basis of a statement of a psychological and pedagogical advisory centre issued at the request of parents are underway. Placing minors at YSCs under a court decision is a serious content-related problem which notably hinders their functioning. The basis for effective sociotherapy and psychotherapy is positive motivation, or at least acceptance of the decision by the therapy participant. Compulsory placement at a facility of this type and compulsory participation in therapy under a court decision renders effective therapeutic work with children and youth impossible. At the same time, the minors placed at YSCs under court decisions do not benefit from the therapy, as they reject compulsory participation in the therapy and do not use their stay at the facility to eliminate behavioural disorders.

477. As regards changes in the system of management, the Ministry of National Education is preparing a regional solution consisting in increasing the responsibility of local governments for working with difficult youth, especially in terms of the regional system of assigning children and youth to a particular type of facility. The bill on amendment to the Act on Education System foresees that these tasks will be carried out by educational and professional information centres managed by the province marshal.

478. The Ministry of Justice is currently conducting works on the comprehensive amendment of the JDPa. The bill is aimed at adjusting the binding law concerning minors to international regulations and recommendations, facilitating juvenile delinquency proceedings and accelerating the process of issuing content-related decisions, ensuring that the subjectivity of the minor is respected and increasing the amounts of required proceedings guarantees in relation to prosecution bodies and broadly understood judiciary, performing the harmonisation of family court proceedings, ensuring a higher level of involvement of parents in the process of upbringing of their own child which display serious behaviour issues, guaranteeing broader rights to injured parties suffering from a reprehensible act committed by a minor and facilitating the implementation of decisions so as to implement the process of educational impact on minors as soon as possible and as effectively as possible, also – and even mainly – with the participation of the minor's parents or guardians and the minor's previous family environment.

479. The bill, inter alia, specifies the minimum age of responsibility for acts connected with demoralisation, as well as maximum periods of stay at shelters for minors, and regulated in detail the mediation proceedings (see also information provided in para. 476 hereof).

**Protection of the child against all forms of physical and psychological violence -  
Physical and psychological rehabilitation and social reintegration of the child (arts. 19  
and 39)**

480. In June 2007, the social media campaign "Childhood Under Protection" was held twice. As part of the campaign, the public opinion was acquainted with various aspects of domestic violence towards children. Moreover, a Polish nation-wide conference against the

neglect of children by intoxicated parents and guardians took place. Works on the concept of developing the Child Monitoring System were carried out.

481. Activities in the scope of supporting families with alcohol-related problems are the statutory tasks of the State Agency for Prevention and Alcohol-related Problems (PARPA). They involve mainly the prevention of domestic violence and prevention of problems in the group of children and youth, including inter alia programmes for risk groups (children of families with alcohol-related problems, youth that abuses alcohol). As part of the programme for the protection of children against violence, PARPA performs the following activities:

(a) Since 1995, management of the Polish nation-wide Emergency for Victims of Domestic Violence “Blue Line” (financed from the funds of the Agency; website <http://www.niebieskalinia.pl>). The “Blue Line” comprises, inter alia, the Polish nation-wide free-of-charge intervention and information telephone for persons injured by immediate family members – 0801-1200-02, telephone legal advisory centre, e-mail advisory centre ([niebieskalinia@niebieskalinia.info](mailto:niebieskalinia@niebieskalinia.info)); moreover, internships for university students are organised as preparation for working with victims of domestic violence.

(b) Enhancing competences of representatives of services and institutions active in the area of counteracting domestic violence;

- Since 1994 – organisation of Polish nation-wide conferences against domestic violence targeted at members of the “Blue Line” Polish Nation-wide Agreement of persons and organisations assisting victims of domestic violence, the social initiative associating persons and institutions active in the area of counteracting domestic violence, including violence towards children.
- Since 1996 – organisation of the 120-hour interdisciplinary Domestic Violence Study aimed at preparing for working with victims of domestic violence, contacting perpetrators of violence and performing activities within the local system for counteracting domestic violence.
- Since 2004 – conducting training for custodians working with youth at custodian centres.
- Since 2005 – organisation of training for judges of family departments of district courts.
- Since 2005 – support of activities of educational nature aimed at representatives of healthcare (doctors, students of medical universities). Training participants obtain knowledge of domestic violence towards children and the possibilities of intervening in the case of suspecting or diagnosing injuries caused by domestic violence in children,
- Conducting training for employees of sociotherapeutic rooms (120 hours). During the training, participants obtain knowledge of addiction, co-addiction, violence, principles of assistance and intervention in families with alcohol-related problems, principles of providing assistance to children displaying behaviour disorders.
- Since 2006 – organisation of training preparing for diagnosis of children with FAS (fatal alcohol syndrome) and working with such children.

(c) Conducting public educational activities;

- In 2001, the State Agency for Prevention of Alcohol-related Problems, in cooperation with the Nobody’s Children Foundation and the “Blue Line” Polish Nation-wide Emergency Service for Victims of Domestic Violence, organised a campaign against the hurting and neglect of children “Childhood without Abuse”.

Training for services and workshops in parenting skills were organised in local environments. The campaign was accompanied by TV commercials, radio advertisements, posters and billboards. The campaign received five awards (including two international prizes) in the category “Social Campaign”.

- In 2007, the educational campaign under the motto “Pregnancy without Alcohol” was organised.
- At the request of the State Agency for Prevention of Alcohol-related Problems, the helpline for parents and youth who drink alcohol “Orange Line” ” (0801-140-068) is in operation.
- Activities undertaken by the Agency also serve the purpose of fulfilling the obligation to disseminate information about the rights of the child specified in article 42 of the Convention on the Rights of the Child. The training and conferences organised by the Agency and numerous publications contribute to the extending of knowledge on legal instruments for the protection of children’s rights, and increase social awareness and sensitivity in this scope.

**Periodical review of the child’s medical record and circumstances under which the child was placed at an education and care facility (art. 25)**

482. Compliance with the standard for education and care at education and care facilities is subject to supervision of persons with relevant pedagogical qualifications authorised by the governor competent for the given facility. As part of this supervision, special attention is paid to compliance with the rights of the child at facilities operating within the social assistance system.

483. In the years 2001-2007, an inspection of education and care facilities was performed in all provinces. The inspection concerned compliance with the rights of the child and the position and rights of the children and youth in care. Persons responsible for the inspection of the facilities carried out anonymous surveys among the children and youth in care. The results of the surveys helped ascertaining, whether the children were subject to violence, both physical and psychological. Moreover, it was recommended to all directors of such facilities to inform the children about the telephone numbers and addresses of the Commissioner for Children’s Rights, persons responsible for pedagogical supervision at the governor’s office and the poviats family assistance centre.

484. Article 87a of the Act on Social Welfare contains provisions regulating the issue of sanctions towards the educators employed at education and care facilities accused of crimes involving violence. For the duration of the proceedings, the educator is suspended from duty. If the educator is convicted under a final and valid court decision for the commitment of a crime involving violence, the director of the facility is obliged to terminate the employment relation with the educator.

485. 24/7 education and care facilities are obliged to ensure the best possible conditions for the physical, psychological and cognitive development of the child. Children staying at such facilities are provided with access to healthcare (Regulation of the Minister of Labour and Social Policy of 19 October 2007 on education and care facilities).

486. In July 2007, the Ombudsman for Children presented the Minister of Labour and Social Policy with the results of the analysis of the medical records of the stays of pupils of education and care facilities at psychiatric hospitals. The analysis was performed by the Office of the Commissioner for Children’s Rights and covered the period from 2004 to 2006. The data collected from all provinces indicated that, inter alia, the practice of placing pupils of education and care facilities in psychiatric hospitals was misused. As a result, in compliance with the recommendations of the Minister of Labour and Social Policy of 30

August 2007, directors of all 24/7 education and care facilities are obliged to inform the social policy departments of governor's offices about each and every case of placing a child in a psychiatric hospital. The provided information should contain: the age of the child, the date of placing the child in the psychiatric hospital, the duration of the stay, grounds for the decision to place the child in the psychiatric hospital, data concerning the statements of the parents/legal caretakers of expressing consent to the referring of the child to the psychiatric hospital or the relevant court decision or the consent to placement in a psychiatric hospital expressed by pupils over 16 years of age.

487. Moreover, persons responsible for the supervision over education and care facilities were obliged to thoroughly verify the medical records of the children who were directed to a psychiatric hospital at least once and pay special attention to the manner of drafting medical documentation of the children staying at the facilities, as well as to organise training for the directors of the facilities in mental health of children and youth with the participation of a psychiatrist, a clinical psychologist and lawyer, as well as to organise training in the scope of the provisions of the Act of 19 August 1994 on the Protection of Mental Health.

## **C. Budget**

488. In connection with the implementation of the Government Programme for the Containment of Crime and Anti-social Behaviours "Safer Together", which was commenced in 2007 under the Resolution of the Council of Ministers No. 218/2006 of 18 December 2006, the amount of PLN 3 000 000 is annually allocated from the State budget to the activation of local communities. This amount is transferred to the budgets of governors for the purpose of financing the performance of tasks by non-governmental organisations and local government units.

489. Co-financing of the performance of tasks in the area of Domestic Violence amounted to: in 2007 – nearly PLN 453 000, in 2008 – more than PLN 878 000, in 2009 – nearly PLN 338 000, in 2010 – nearly PLN 912 000, in the area of Safety and Security at School it amounted to: in 2007 – more than PLN 1 525 000, in 2008 – more than PLN 824 000, in 2009 – more than PLN 938 000, in 2010 – more than 726 000.

490. The above Programme combines activities of the Police, government and local government administration and social partners interested in the enhancement of safety and public order. One of the basic assumptions of the programme is convincing citizens to establish a permanent, durable and natural partnership with the Police and other institutions for the protection of safety and public order. The main areas of activity within the programme are as follows:

- Safety and security in public places and at the place of residence.
- Domestic violence.
- Safety and security at school.
- Safety and security in means of public transport.
- Safety and security in road traffic.
- Safety and security of economic activity.
- Protection of national heritage.

## **D. Planned governmental actions**

491. In 2011, it is planned to introduce new legal regulations that will contribute to the development and differentiation of forms of foster care over the child. New solutions assume the popularisation of family forms of foster care, including especially professional foster families. Moreover, it is planned to amend the standards binding at existing education and care facilities, and especially decrease the size of the facilities that should accept up to 14 children. What is more, it will be prohibited to place children under 10 years of age at care-giving and educational facilities.

492. The above specified activities will be accompanied by preventive activities and intense work with the biological families of children qualified for placement at a foster family or already placed at a foster family. It is planned to appoint communal family assistants whose task will consist in the performance of preventive activities, work with families raising children and undergoing a crisis, as well as providing support to families threatened with care-giving and educational dysfunction. The work of the family assistant will be supported by interdisciplinary teams established at communal level, and preventive activities will be supported by so-called support families functioning in the local environment.

## **VI. Basic health and welfare (arts. 6, 18, para. 3, 23, 24, 26 and 27, paras. 1-3 of the Convention)**

### **A. Implementation of recommendations of the Committee on the Rights of the Child**

*CRC/C/15/Add.194 – paragraph 39: The Committee recommends that the State party:*

- a) Improve the effectiveness of health promotion and health education programme, in particular by promoting healthy lifestyles among children and young people;*
- b) Take steps to encourage and educate mothers on the benefits of exclusive breastfeeding of infants for the first six months and of continued breastfeeding for two years.*

#### **Response to the recommendation contained in paragraph 39(a) of the concluding observations**

493. During the last years numerous activities were carried out in Poland which enabled the implementation of the health promotion and health education programmes as part of pre-school and school education, inter alia:

(a) Development in the Ministry of National Education of the infrastructure for effective implementation of health promotion and health education programmes, including:

- training educators dealing with health education and health promotion,
- issue of a newsletter titled: “Health education and health promotion at school”,
- adding health education to the minimum curricular requirements for master’s degree studies in the field of education;

(b) Incorporating educational path “health-promoting education” into the core curriculum of schools of all types;

(c) Incorporating the prevention programme into statutory tasks of nursery schools and schools.

494. According to the Committee's recommendations, the health-care facilities of the Ministry of Interior implement the following health-related programmes dealing with addictions:

- (a) National Program for Prevention and Solving Alcohol Problems;
- (b) National Programme for Counteracting Drug Addiction;
- (c) National Programme for Preventing HIV Infections, Care for Persons Living with HIV/AIDS;
- (d) Programme for Reducing Health Consequences of Tobacco Smoking in Poland.

495. These programmes are addressed to children and young people in treatment or rehabilitation. Psychologists, doctors and nurses in the healthcare facilities of the Ministry of the Interior all over Poland, which in total amount to 29 facilities, conduct various courses at schools of all types, both for young people, their parents and teachers. Professional trainings are organized for medical personnel that aim at expanding their knowledge in the field of addictions and acquisition of the skills enabling them to pass this knowledge on to children and young people. The Department of Health at the Ministry of Interior in cooperation with the Ministry of Interior's health-care facilities organizes every year all-Poland conferences whose participants are persons dealing with the implementation of health-related programmes dealing with addictions.

496. The State Agency for the Prevention of Alcohol-Related Problems (PARPA) carried out a series of trainings for persons working with children and young people threatened with social maladjustment, including guardians, judges of family divisions, tutors at social therapeutic centres and other facilities providing support.

497. Actions aiming at expanding access to therapeutic and social therapeutic services in the scope of alcohol addiction therapy for children and young people were continued. The implementation of the "Programme for life skills development" was commenced. This programme is addressed to young people from 12-14 years old and its main assumptions include exerting influence contributing to development of assertive behaviours, communication skills, conflict resolution skills and decision-making skills. In cooperation with the Institute of Psychiatry and Neurology the work on adaptation of the American prevention programme "Project Northland" was also continued.

498. Under broadly defined public education, PARPA collaboratively participated in the implementation of the social campaign "Alcohol – no access to minors", aiming at the prevention of damages related to alcohol consumption by minor-age persons. See also information included in paragraph 480 hereof.

499. For educational and training activities aiming at HIV/AIDS prevention – see paragraphs 627-629 hereof.

500. The implementation of tasks related to counteracting drug addiction was oriented towards information, educational activities as well as psychological-pedagogic counselling. As part of its information strategy the National Bureau for Drug Prevention recommends execution of trainings for professional groups (teachers, psychologists, police officers, social services, employees of educational care facilities, doctors, and clergymen) who carry out tasks resulting from the Act on prevention of drug abuse and work for the benefit of children and young people. To promote prevention programmes with proven effectiveness in the country, the National Bureau organized training for people responsible for the implementation of early intervention programme FreD goes net and the universal

prevention programme “Unplugged”. FreD Programme is addressed to young people who consume psychoactive drugs in an occasional or problematic manner, but who are not addicts. These classes are of a workshop nature and are conducted by certified instructors. The purpose of the classes is to encourage participants to reflect on the topic, expand their knowledge on drug consumption, and encourage them to assess the risks and responsibilities, change their attitude and behaviour related to drug consumption and draw upon the local support system. “Unplugged” is a programme for universal prevention of psychoactive substances consumption (alcohol, tobacco, drugs) addressed to students of lower secondary schools and their parents, carried out by teachers.

501. Within 2006-2007 under the project “Support for local communities in drug addiction prevention”, implemented as part of the programme “Transition Facility 2004”, trainings were conducted for 866 communes preparing representatives of professional groups (teachers, psychologists, police officers, social services, employees of education and care facilities) and non-governmental organizations for the implementation of tasks in the scope of drug abuse prevention and work for the benefit of children and young people. For more details on protection against drugs, see information included in chapter VIII, paragraphs. 955-966 hereof.

502. Legal protection against exposure to tobacco smoke has been introduced by the act of 9 November 1995 on Protection of Health Against the Effects of Use of Tobacco and Tobacco Products, which prohibits tobacco smoking in areas and rooms of public use, workplaces, and educational facilities. Provisions of the act provide particular protection for the young generation whose health and development are threatened by environmental tobacco smoke and that should be protected against addiction to tobacco. Therefore the provisions of the Act resulted in the complete elimination of advertising of tobacco products (which exert a powerful impact on young people starting smoking), as well as considerably reduced access to tobacco products (bans on selling tobacco products to persons below legal age, on selling cigarettes in packs containing less than 20 sticks, on selling single sticks, and a ban on selling tobacco in vending machines and self-service systems). Moreover with the provisions of the Act of 8 April 2010 on Amendments to the Act on Protection of Health Against the Effects of Use of Tobacco and Tobacco Products and the Act on National Labour Inspectorate the possibility of installing tobacco smoking areas on the premises of educational facilities has been eliminated and the ban on tobacco smoking on the entire area of education facilities has been introduced. Thanks to this it is possible to ensure health safety to children and young people attending schools, eliminating the exposure to tobacco smoke in educational facilities as well as to make school facilities also serve as educational environments in the scope of health education.

503. The legal regulations referred to hereinabove constitute one of the elements of a comprehensive state policy aiming at the reduction of tobacco (smoking) consumption and protection against tobacco-related diseases. The intentions and actions related thereto are included in the Programme for Reducing Health Consequences of Tobacco Smoking, whose last edition for 2010-2013 was adopted by the Council of Ministers on 16 February 2010. Its objectives and tasks, formulated based on the analysis of current state of health-related behaviours in the society and population’s health condition determined by tobacco smoking and the possibility of financing thereof by the State, are compliant with the programme of World Health Organization (“WHO Tobacco Free Europe”) and health policy of European Union (Programme “Europe Against Cancer”). The Programme constitutes continuation of anti-tobacco activities in Poland and is to ensure the effective and successful promotion of a tobacco smoke-free life style. The implementation of the Programme should result in a change in Poles’ attitudes and behaviours with respect to the issue of smoking and contribute to better effects in nicotine addiction treatment. The tasks, methods for execution thereof, institutions responsible for execution thereof as well as monitoring principles have been explained in detail in the Programme.

504. The Programme has an interdisciplinary and inter-sectorial nature – according to multi-factorial determinants of taking up and promoting tobacco smoking – and focuses on tasks of broad, nation-wide reach, that bring relatively durable results, especially in the field of education and promotion of tobacco-free lifestyle, as well as organisation of help for smokers with freeing themselves of tobacco addiction.

505. A significant component of the Programme for Reducing Health Consequences of Tobacco Smoking is the education of children and young people encouraging them to refrain from taking up tobacco smoking and protecting them against addiction.

506. The Programme “Clean air around us” is addressed to children at preschool age, their parents and carers and it provides grounds for conscious health-oriented behaviours and assertive attitudes as well as develops responsible parental behaviours aware of hazards related to tobacco smoke environment to which the youngest ones are exposed.

507. As part of core curriculum for elementary and middle school many educational programmes are conducted with the common objective of protecting children against the tobacco epidemic. These are educational programmes explaining the essence of threats posed by tobacco and supporting individual health-oriented choices and environmental co-existence standards that respect health-related needs.

508. Additional educational programmes offered under the Programme are pilot programmes initiated by the Chief Sanitary Inspectorate: “Please do not smoke near me” for students of I-III grades of primary school and “Find the right solution” – for upper grades’ students of primary and lower secondary schools.

509. The Programme for Reducing Health Consequences of Tobacco Smoking is executed at the central level by all obliged ministries, and at the regional and local levels by National Provincial Sanitary Inspectorates and National Poviats Sanitary Inspectorates in cooperation with local authorities, churches, non-governmental organisations, educational and care facilities, higher education facilities, Police, City Guard and other entities involved in preventive activities.

510. The Programme is coordinated by the Minister of Health. The Interministerial group for coordinating the Programme for Reducing Health Consequences of Tobacco Smoking in Poland, appointed under the ordinance the Prime Minister, deals with setting its detailed objectives, scope of execution and collaboration.

511. Health, social and economic policy aiming at reduction of tobacco epidemic, including in particular protection of the young generation against tobacco addiction and exposure to tobacco smoke, expressed in Programme for Reducing Health Consequences of Tobacco Smoking corresponds to international standards and obligations stemming from European Union’s programming documents (e.g. Recommendations of the Council on smoke-free environments) as well as the provisions of WHO Framework Convention on Tobacco Control to which Poland acceded in September 2006.

512. On 15 November 2010, the Act of 8 April 2010 on Amendments to the Act on Protection of Health Against the Effects of Use of Tobacco and Tobacco Products and the Act on National Labour Inspectorate entered into force. The amendments refer to further protection of non-smoking and smoking Poles’ health, mainly by reducing society’s exposure to tobacco smoke inhalation in public use areas.

#### **Response to the recommendation contained in paragraph 39(b) of the concluding observations**

513. In 1992 under cooperation between the Ministry of Health, Polish UNICEF Committee and Mother and Child Institute, Komitet Upowszechniania Karmienia Piersią (KUKP – Committee for Breastfeeding Promotion) was established. The Committee



gathers the authorities of Polish medicine – currently it is composed of 214 members. It promotes breastfeeding as an element of healthy life style and desired behaviour of babies' mothers by: implementation and monitoring in Polish maternity-infant facilities of the programme "Baby Friendly Hospital Initiative", promoted by WHO and UNICEF. Every facility which has this title awarded is comparable with awarded facilities from all over the world and its operating procedure fully serves the benefit of child and mother enabling breastfeeding. At the same time in such facility "International Code of Marketing of Breast-milk Substitutes" is fully respected, providing women with the opportunity to make the decision on child feeding based on modern medical knowledge, and not advertising.

514. The significance of breastfeeding, including exclusive breastfeeding for the first 6 months of life, has been expressed in the National Health Programme 1996-2005 and in the following National Health Programme for 2007-2015, adopted under Resolution No. 90/2007 of the Council of Ministers of 15 May 2007. The Programme takes into account the task consisting in continuation of the programme of infants' breastfeeding promotion so that by 2005 at least 30% of infants who are 6 months old are breastfed. As an indicator of accomplishment of this objective the percentage of infants who are exclusively breastfed at 6th month of life has been adopted. Issues related with breastfeeding have been reflected in the Regulation of the Minister of Health of 23 September 2010 on standards of conduct and medical procedures in providing health services in the area of perinatal care for women during physiological pregnancy, physiological childbirth, and postpartum and of infant care, which entered into force as of 8 April 2011. The mentioned document is the Polish standard in perinatal care, care provided during pregnancy, during physiological childbirth and confinement as well as infant care. It was developed taking into account the guidelines of World Health Organization, evidence-based medicine and Polish experiences in the scope of mother and child care, it was also adjusted to the health protection system functioning in the Republic of Poland and Polish legislation, with special with special consideration of patient's rights. Provisions of the standard meet the expectations of women, their application will contribute to limiting excessive medicalization of physiological childbirth, to compliance with patient's rights, application of three-level perinatal care, increase in patients' satisfaction with care and optimisation of the costs of care and adequate to the needs distribution of financial means. In the infant care the assistance in the form of determination of milk type, feeding technique and method with special focus on advisability of breastfeeding has been taken into account.

515. In compliance with the results of Poland-wide study on Poland's population health condition, conducted by the CSO in 2004, it may be concluded that mothers adhere to the recommendations related to breastfeeding. From the overall number of studied babies, 88.1% were breastfed and most of them for the period of 3 months. Almost 89% babies were in the group of children who were exclusively breastfed (without any additional substances to drink or eat). Nearly 90% of children were breastfed for the first 48 hours of their life and this number is similar for all years of the children at 0-14 years (source: Stan zdrowia ludności Polski w 2004 r., CSO, Warszawa 2006). The results of the research carried out by the CSO in 2009 indicate that mothers adhere to the recommendations on natural feeding. From the overall number of studied babies 86% were at least for some time breastfed, and most of them for the period of 6 months (14.3%). A bit less children (11%) were breastfed for 3 months. It is worth noting that nearly 9% of the children were breastfed by their mothers to the 12th month of life (source: Stan zdrowia ludności Polski w 2009 r., CSO, Warszawa 2011). European Health Interview Survey (EHIS), carried out by the Central Statistical Office in Poland in 2009 was executed in line with the recommendations of Eurostat on thematic scope and applied research tools. Methodology of this survey is to a substantial extent consistent with the one applied in health condition studies carried out by the CSO in 2004 and 1996.

516. The number “Baby Friendly Hospitals” can be taken as an indirect indicator of the extent of the involvement of health care employees and their effectiveness in breastfeeding promotion. The initiative to create “Baby Friendly Hospitals” is related to the “Innocenti Declaration” signed by Poland<sup>5</sup>. Awarding this title to a hospital involves fulfilment of 10 strictly defined conditions<sup>6</sup>, confirmed by commissions especially appointed for this purpose, whose members are also the representatives of non-governmental organizations, acting for the benefit of children. Every facility that aspires to this title is comparable with awarded facilities from all over the world, and its mode of conduct fully serves the benefit of child and mother by enabling breastfeeding. At the same time in such facility “International Code of Marketing of Breast-milk Substitutes” has to be fully respected, providing women with the opportunity to make the decision on child feeding based on modern medical knowledge, and not advertising.

517. By the end of 2010 86 hospitals had been awarded the title “Baby Friendly Hospital”.

518. The organisation acting for the promotion of breast-feeding is the Committee for Breastfeeding Promotion – a public benefit organisation. The Committee gathers authorities of Polish medicine from the Mother and Child Institute, the National Food and Nutrition Institute, the Polish Academy of Sciences, and the Medical University of Warsaw. The Committee takes actions to the benefit of:

- (a) Promotion of breastfeeding as a desired pattern of behaviour among women raising small children;
- (b) Organization of perinatal care fostering commencement of lactation;
- (c) Fulfilment of international initiative of UNICEF and WHO on creation of climate and conditions for establishment of baby friendly hospitals/wards;
- (d) Development of legal grounds enabling implementation of the Code on Marketing of Natural Milk Substitutes for Infants.

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<sup>5</sup> On 1 August 1990, representatives of the Ministries of Health of 29 states, including Poland, signed the document titled “The Innocenti Declaration”. This document concerns, inter alia, the necessity to ensure that all women be enabled to practice exclusive breastfeeding and all infants should be fed exclusively on breast milk from birth to 4-6 months of age, as well as thereafter for up to two years of age, and the necessity to implement the Ten Steps to Successful Breastfeeding in each and every facility providing maternity services in Poland.

<sup>6</sup> 10 Steps to Successful Breastfeeding:

1. Develop in writing principles of conduct supporting breastfeeding and present them to entire personnel.
2. Train all employees so that they are able to execute the principles defined above.
3. Inform all pregnant women about the benefits from breastfeeding and the conduct during breastfeeding.
4. Help mothers with starting breastfeeding within half an hour from the childbirth.
5. Practically teach the mothers (demonstrate) how to breast-feed and maintain lactation even if they are separated from the infants.
6. Not to additionally feed or give anything to drink to infants except for breast milk, excluding special medical orders.
7. Apply the “rooming-in” system which enables the mother to stay with the baby in one room from childbirth and for entire day and night.
8. Encourage and facilitate breastfeeding on demand.
9. Not to give the dummy to infants who are breast-fed.
10. Involve into creation and work of groups of women supporting each other in breast-feeding and refer to such groups mothers who are discharged from the hospital or remain under clinic’s care.

519. The Committee collaborates with institutions and organisations dealing with mother and child care, supports governmental institutions, local government institutions, non-governmental organizations and any social initiatives in their actions for the benefit of organisation of support and self-training groups for women in the scope of breastfeeding and child care. It carries out evaluation of hospitals applying for the title “Baby Friendly Hospital” and promotes the idea in the medical environment, and it also conducts activities in the scope of activation of opinion-forming circles for the benefit of supporting the idea of breastfeeding. The Committee organizes trainings for medical personnel preparing to implement the idea of breastfeeding, conducts publishing, film activities, radio and TV programmes and other forms (sessions, meetings, lectures, festivals, exhibitions, concerts, competitions) supporting promotion of the idea of breast-feeding.

520. Poland adheres to the principles of the International Code of Marketing of Breast-milk Substitutes, according to which “no advertising or application of any form of promotion of products included in the scope of the Code should take place”. The Provision of article 25, paragraph 1 of the Act of 25 August 2006 on Food Safety states: “Advertising of products for early infants feeding may be conducted only in scientific publications for the general public specialising in promotion of knowledge in the scope of child care and in scientific publications and has to be limited to the information confirmed with scientific research. Information included in advertisements cannot imply that feeding infants with artificial milk is equivalent to, or more beneficial than breastfeeding”. Under this specified Act advertising of products for early infants feeding is forbidden in the points of sale of such products and promotion activities related thereto are also prohibited.

521. Regulations of the applicable Act of 26 June 1974 – Labour Code – provide conditions that enable mothers who are working to breast-feed their children. Based on article 187 of the Labour Code, a breastfeeding mother has the right to two 30-minute breaks from work included in the working time. An employee who breast-feeds more than one child has the right to two breaks from work, 45 minutes each. Breaks for breast-feeding may be granted jointly at employee’s request.

*CRC/C/15/Add.194 – paragraph 41: The Committee recommends that the State party:*

- a) Develop a time-bound plan for reducing the number of children with disabilities living in institutions and integrating them into mainstream education and vocational training programmes, as well as social, cultural and leisure activities;*
- b) Provide sufficient financial, human and organizational resources to powiats ensure that they all offer integrated educational facilities that are accessible and appropriate to children with disabilities that will ensure their full participation in society.*

**Response to the recommendation contained in paragraph 41(a) of the concluding observations**

*Educational support for children with disabilities – Legal regulations*

522. The education of children and adolescents with disabilities in Poland constitutes an integral part of the education system. This area is regulated by education-related regulations, including in particular the provisions of the Act of 7 September 1991 on Education System and secondary legislation to this act.

523. According to the provisions of aforementioned act the education system ensures in particular:

- Fulfilment of the right of every citizen of the Republic of Poland to education and children's right to upbringing and care adequate to their age and achieved level of development.
- Adjustment of contents, methods and organisation of education to mental and physical capabilities of students, as well as the possibility of using psychological and pedagogical assistance and special forms of didactic work.
- Possibility of receiving education in all types of schools by children and adolescents with disabilities compliant with individual development- and education-related needs as well as mental and physical predispositions.

524. The education system provides children and adolescents with disabilities the opportunity to fulfil the obligation of one-year pre-school preparation, and schooling obligation and education obligation in nursery schools, schools and facilities selected by their parents. Children and adolescents have guaranteed right to education in all types and kinds of nursery schools and schools:

- (a) Nursery schools and mainstream schools;
- (b) Nursery schools and integrated schools;
- (c) Nursery schools and special schools;
- (d) Integrated and special units organized in mainstream schools,
- (e) Special schools organized in special schooling and educational facilities for children receiving education outside their place of residence.

525. Decision regarding the choice of a school for child, including child with disability, is always taken by the parents (legal custodians).

526. Nursery schools, schools and facilities attended by children and adolescents who have a certificate on the necessity for special education, provide them special organization of education, working methods, various forms of stimulation, re-validation, therapy and enhancement, executed as part of revalidation classes adjusted to their development-related needs.

527. Moreover, the Act on the education system, with the provision included in article 67 imposes on every school the obligation to provide the students with the opportunity to learn in rooms with the necessary equipment, day-care room, library, a set of sport and leisure equipment and preventive healthcare and pre-medical help offices.

528. In the education of students with various disabilities (deaf, hearing-impaired, with mobility-related disabilities, blind, with vision impairment, with autism) with normal intellectual capacity and students with mild mental retardation and multiple disabilities, one of which is mild mental retardation, the core curriculum of general education is applicable, which is the same as for students without any disabilities (based on the Regulation of the Minister of National Education of 23 December 2008 on the core curriculum for pre-school upbringing and general education in individual school types).

529. The core curriculum highlights, inter alia, the importance of social development of students, and hence development of responsible attitudes, self-esteem, respect for other people and willingness to take initiatives and other attitudes that are significant for ensuring that the rights of people with disabilities are respected. In the case of pre-school education it states that the objective thereof is, inter alia, to develop children's social abilities and create conditions supporting joint and harmonious play and education for children with diverse mental and physical capabilities. Whereas the objective of early school education is to support the child in intellectual, social and ethical development, it is also important to ensure such upbringing that the child, based on its capabilities, is prepared to live in

harmony and at peace with themselves and other people. The school's task is, inter alia, to respect the child's dignity, ensure them friendly, safe and healthy conditions to learn and play, develop their self-reliance and responsibility for themselves and the closest environment as well as to facilitate development of the features of a child's personality necessary for active and ethical participation in social life.

530. A separate core curriculum is applied in elementary and middle schools to students with moderate or severe disabilities. For children and adolescents aged 3 to 25 years suffering from deep mental disabilities, revalidation and educational classes are organized in groups or individually. The objective of such classes is to support development of children and adolescents, develop their interest in the surroundings and obtain independence from other people in functioning in every-day life .

531. In order to ensure students with disabilities a successful education, by way of adequate conditions for learning and psychological-pedagogical assistance as well as employment of teachers and specialists to conduct the classes in the manner adjusted to development-related needs and abilities of this group of students, the following legal and organizational solutions have been adopted:

(a) Regulation of the Minister of National Education of 21 May 2001 *on framework charters of public kindergartens and public schools*, stipulating reduced number of units in nursery schools and schools for children requiring, inter alia, classes with use of Braille, sign language, supported communication and application of alternative communication methods (blind, visually-impaired, deaf and hearing-impaired, with autism);

(b) Regulation of the Minister of National Education and Sport of 12 February 2002 *on framework plans of education at public schools*, specifying, inter alia, that school's teaching programme should additionally include students with disabilities, depending on the type and level of disability, the following revalidation classes: faulty posture correction, speech impediments correction, spatial orientation and moving, teaching sign language or other alternative communication methods, and other classes, stemming from revalidation programmes. For students with disabilities, an additional 30 hours should be allocated for revalidation classes in three-year period of education, which means 10 hours a week for a unit;

(c) Regulation of the Minister of Education of 18 January 2005 *on conditions of organising of education, upbringing and care for disabled or socially maladjusted children and youth at generally accessible or integration kindergartens, schools and units*. The provisions of the aforementioned regulation impose on nursery schools, schools and mainstream education units as well as integrated schools and units the obligation to ensure to children and adolescents with disabilities or socially maladjusted execution of recommendations included in the special educational needs certificate, adequate conditions for learning, specialist equipment and didactic measures, execution of the pre-school teaching programme, curriculum, education and prevention programme, adjusted to individual education-related needs and physical and mental abilities or individual education programme with application of proper forms and methods of didactic and educational work, revalidation classes or social therapeutic classes, depending on the needs, and integration with peer environment.

In nursery schools and integrated schools as well as with integrated units additional teachers are employed who have the qualifications necessary to occupy the position of a teacher in relevant types and kinds of special nursery schools and schools as well as proper specialists are employed to co-organize integrated education;

(d) Regulation of the Minister of National Education of 18 January 2006 *on conditions of organising education, upbringing and care for disabled or socially*

*maladjusted children and youth at special kindergartens, schools, units and centres.* The provisions of this regulation indicate that special nursery schools, including special nursery schools functioning in mainstream nursery schools, special schools, including special schools operating in facilities, and special units in mainstream schools ensure: performance of recommendations included in special educational needs certificate, proper learning conditions, specialist equipment and didactic measures, execution of pre-school curriculum, teaching curriculum, education programme and prevention programmes, adequate for a given type of disability and level of mental retardation, with application of proper forms and methods of didactic and educational work, multi-specialist assessment of student's functioning level performed on a given educational stage, not less often than once a year, by teachers and specialists working with a student, serving as a basis for development and modification of individual education programmes specifying the scope of integrated activities of teachers and specialists as well as the type of revalidation classes and social and therapeutic classes conducted with a student, in line with their individual educational needs and psychological and physical abilities, providing support to parents (legal custodians) of children and adolescents with disabilities and socially maladjusted, in the scope of improvement of skills necessary in supporting their development as well as integration with peer environment and preparation for independent adulthood.

532. Schools and facilities where children and adolescents with disabilities learn organize individualized education based on a relevant certificate or opinion, issued by an evaluation board of public psychological and pedagogical counselling service, including specialist offices. Also based on the aforementioned special educational needs certificate, students and graduates with disabilities take a test organized during the last year of education in primary school, an exam held during the last year of education in lower-secondary school, a school-leaving examination after upper-secondary school and an examination confirming vocational qualifications, in the conditions and form adjusted to the type of their disability.

533. Adjustment of the conditions for execution of the test, middle school exam, secondary school-leaving exam and examination certifying vocational qualifications to individual development- and education-related needs as well as mental and physical abilities that depend on the disability of a student or graduate, consists in particular in mitigation of limitations resulting from disability, usage of proper specialist equipment and didactic measures, adequate prolongation of the time assumed for test or exam performance, as well as in ensuring that during the test or exam a specialist in the field of a given disability is present, if it is necessary for obtaining proper contact with a student or graduate or assistance with handling specialist equipment and didactic measures.

534. Moreover, for students and graduates with disabilities who hold special educational needs certificates, who take the test, the lower-secondary school exam, the secondary school-leaving exam or the exam confirming vocational qualification, adequate sets of tasks and exam sheets are developed, adjusted to the type of disability of the students.

535. Evaluation of the educational accomplishments and behaviour of the student is performed under an in-school assessment process in line with in-school evaluation principles included in the statutes of a given school or facility, developed in compliance with regulations.

536. The objective of the activities taken by the Ministry of Education was also to ensure that the child may be covered with necessary support and specialist care as early as possible, i.e. from the moment when alarming symptoms related to child's development are observed. Since 2005 the education system provides the possibility to organize activities stimulating development of small child already from the moment of disability diagnosis, so also from childbirth, if a child is born with a disability, to the moment of education commencement at school. According to the statistical data of the education information system, in 2009 as many as 14 601 small children were included in early support activities.

In 2010 the number of children covered with early development support increased to 15 394.

#### **Scope of educational support for children with disabilities**

537. Currently education is mandatory from 7th year of life until 18th year of life and lasts at least to the moment of graduation from middle school (art. 15 of the Act of 7 September 1991 on Education System). In the case of children and adolescents with disabilities and socially maladjusted, their education may be executed until a student is:

- (a) 18 years of age – in the case of elementary school;
- (b) 21 years of age – in the case of middle school;
- (c) 24 years of age – in the case of upper-middle school;
- (d) 25 years of age – in the case of children with deep mental retardation, participating in revalidation-educational classes.

#### **Psychological and pedagogical support and the issuance of psychological and pedagogical decisions**

538. Children and adolescents with disabilities and threatened with disability may use the assistance of psychological-pedagogical counselling centres in the scope of diagnosis, developmental dysfunctions therapy, psychological and pedagogical assistance and vocational counselling.

539. At all educational stages children and adolescents with disabilities receive psychological-pedagogical support, inter alia, in the form of educational programmes, adjusted to their level of mental and physical development, and forms of psychological-pedagogical assistance, specialist corrective-compensation, speech-therapy and other therapeutic classes, according to their needs. Special schools create their own bases for providing students development support, inter alia, in the form of physiotherapy rooms, installation of passenger lifts, world experiencing rooms and senses stimulation rooms.

540. Based on the recommendations included in special educational needs certificates, issued by evaluation boards operating in public psychological-pedagogical counselling centres, headmasters of nursery and other schools are obliged to ensure students' education, upbringing and care according to the type of their disability. Parents of children with disabilities more and more often participate in meetings of evaluation boards (in psychological-pedagogical counselling centres) that diagnose development- and education-related needs of their children. Choice of the forms of education and upbringing (mainstream, integrated or special school or special facility) lies with the parents or guardians of the child.

#### **Levelling educational opportunities for students with disabilities in activities of schools and education facilities**

541. Schools and education facilities are obligated to ensure the possibility of equal access to education for students with disabilities, at the same level as their peers without disabilities. For this purpose education-related provisions on special education enable:

- (a) In the integrated kindergartens and schools, as well as integrated units – ensuring support of a teacher who has the qualifications necessary to occupy the position of a teacher in relevant types and kinds of special kindergartens and schools, and employment of adequate specialists in order to co-organize integrated education;
- (b) Providing proper equipment and installations for learning stations (adjusted to the type of student's type of disability), including computers equipped with braille

display, speech synthesizers and scanners necessary for blind or visually-impaired students, personal computers for students who do not communicate with their voice, but have the ability to write on computer's keyboard, teaching alternative communication methods to mute students,

- (c) Providing free access to adequate textbooks and didactic aids;
- (d) Adjusting the contents, methods and organization of teaching to individual development- and education-related needs as well as mental and physical abilities of a student and their pace of knowledge comprehension;
- (e) Supporting learning effectiveness by way of psychological and pedagogical assistance and specialist revalidation classes adjusted to individual development- and education-related needs as well as mental and physical abilities of children and adolescents;
- (f) Financing special education executed in classrooms and special schools, integrated classrooms and schools and in mainstream schools by providing to the State budget increased education subvention in the amount adjusted to the type of disability, including to the level of mental retardation;
- (g) Partially payable stay in dormitory for students who receive education outside their place of residence (parents incur only partial cost of meals, the so called food cost);
- (h) Adjusting buildings and teaching rooms to the needs of students with disabilities, elimination of architectural barriers and installation of passenger lifts for students with mobility-related disability, in cooperation with the authorities running the schools and facilities;
- (i) In the buses designated for transporting students – adjusting at least one seat to the needs of students who move around in wheelchairs or on crutches;
- (j) Adjusting the conditions and forms of execution of external examinations and tests to the needs and abilities of students with disabilities.

542. An example of interministerial activities for improvement of the access of children who are chronically ill and have disabilities to the education in mainstream educational facilities is the initiative of the Government Plenipotentiary for Equal Treatment on establishment of the Group for counteracting discrimination against chronically ill children. As part of these activities informative and educational materials have been developed for headmasters of schools and teachers of educational facilities which will allow to obtain elementary knowledge and skills necessary for providing care for a chronically ill child during their stay at education system facility: "Child suffering from asthma in school and nursery school", "Child suffering from diabetes in school and nursery school", "Child suffering from epilepsy in school and nursery school", "Child suffering from haemophilia in school and nursery school", "Chronically ill child – psychological aspects of child functioning in school and nursery school".

#### **Vocational education for students with disabilities**

543. In order to prepare young people with disabilities to participation in life in society, including professional work, special education at upper-middle school level is organized in:

- (a) Basic vocational schools;
- (b) Secondary schools: general, profiled, supplementary education;
- (c) Secondary technical schools, supplementary secondary technical schools;
- (d) Post-secondary schools.



544. Choice of a special school depends mainly on health conditions, predispositions and aspirations of the students and the possibility of receiving education in mainstream vocational schools in the students' place of residence or in its vicinity.

545. For the students with moderate or severe mental retardation as well as for students with multiple disabilities, who finish their education at the middle school level, a new type of post middle school has been functioning since the 2004/2005 school year– namely the 3-year vocational training school.

546. It is also possible for adult persons with disabilities, after finishing education in schools for young people, to participate in life-long learning options organized by life-long learning centres.

#### **Preparation of students with disabilities for participation in life in society**

547. For children with disabilities possibilities of providing integrated assistance have been established, including educational support, under early support of child development – in the period from childbirth (from the moment when disability is diagnosed) to the commencement of school education. Complexes for early child development support may be created in nursery schools and elementary schools, including special schools, and in facilities as well as in public and non-public psychological and pedagogical counselling centres, including specialist counselling centres. The main purpose of the work of the complex for early development support is stimulation of psychomotor and social development of a child performed directly with the child and their family.

#### **Integrating mainstream and special education – as an element of social integration**

548. In order to create uniform education system covering mainstream, integrated and special education, boards of education and teachers improvement facilities (regional and central) organize training conferences and enhancement courses for headmasters of mainstream, integrated and special schools, psychological and pedagogical counselling centres, for teachers and specialists employed in these schools and counselling centres and for local government units, as the authorities running the schools/facilities. The objective of these activities is to transfer the knowledge on the needs of students with disabilities, about the manners of organization of education, upbringing and care for students with disabilities, both in mainstream as well as integrated and special schools and units.

549. Higher education facilities (such as the Academy of Special Education) offer teachers training on the post-graduate studies and qualifying courses, and teachers training centres develop various forms of professional training for teachers, including in the scope of special education.

550. For the teachers of schools, especially mainstream schools that teach students with disabilities, in the Ministry of National Education or on the initiative of the Ministry, textbooks have been prepared that include tips and guidelines regarding work with disabled student, sample scenarios of subject classes and others.

#### **Textbooks for students with disabilities**

551. In compliance with article 71d of the Act of 7 September 1991 on Education System, school textbooks and supporting books for special education for students with mental retardation, blind, vision-impaired and deaf are co-financed from the State budget from the part administered by the minister competent for issues related to education and upbringing.

552. Every year in the performance budget of the Ministry of National Education funds are secured for co-financing of the purchase of school textbooks and supporting books for students who are blind, visually-impaired, deaf, or suffer from mental retardation.

553. As of 2009 new formula has been developed for execution of the task with respect to blind students, i.e. providing schools and facilities with access to electronic versions of adapted textbooks and workbooks. Adaptation of textbooks indicated by the schools teaching blind students are published on the website of the Ministry of National Education in an IT system especially developed for this purpose, which enables headmasters of schools and facilities to download these texts on an ongoing basis, according to the individual educational needs of the students.

554. Whereas the textbooks produced in large print, addressed to students with vision impairment, are provided to schools and facilities in hard copy version, according to the requisition submitted to the Ministry of National Education.

#### **Financing the educational support for children with disabilities**

555. All the educational activities organized under the education system are financed or co-financed from the State budget.

556. Local government units receive funds under the education-related part of general subvention – in line with the principles stipulated in the directive issued for every accounting year.

557. Funds for education of students with disabilities are allocated based on special educational needs certificates, individual education certificates or certificates of the need to take revalidation-educational classes.

558. Moreover from the overall amount of education-related part of general subvention – under article 28 paragraph 2 of the Act of 13 November 2003 on the Income of Local Government Units – provisions are separated of the education-related part of general subvention, the amount of which is 0.6%. Under the criteria for distribution of these reserves, local government units may apply for co-financing of renovation works, the so called running renovations, eliminating barriers present in school buildings and in the immediate area that due to technical, construction solutions or usage conditions make free movements of disabled persons impossible or difficult.

#### **Tasks of communes in the scope of supporting education of students with disabilities**

559. Communes are obliged to ensure students with disabilities – free transportation and care during transport to the closest elementary and middle school, and to students with mobility-related disabilities, moderate or severe mental retardation, also to the closest post middle school, however no longer than to the end of their 21st year of life, and to children and adolescents with deep mental retardation, as well as to children and adolescents with mental retardation with multiple disabilities – free transport and care during transport to the facility enabling such children and adolescents performance of schooling obligation and education obligation, however not longer than to the end of their 25th year of life or reimbursement of the costs of transport of the student and their custodian to school or facility under the rules stipulated in the agreement concluded between the Commune Head (mayor, president of the city) and the parents, custodians or legal custodians of the student, if transport and care is provided by parents, custodians or legal custodians.

**Opportunities of providing support to children and adolescents with disabilities, stemming from the provisions of other Acts**

560. Children and adolescents with disabilities and their parents may benefit from the support resulting from the provisions included in relevant Acts in the scope of:

- Families aid and support – Act of 12 March 2004 *on Social Welfare*, Act of 28 November 2003 *on Family Benefits*;
- Social inclusion – the Act of 25 August 1997 *on Social and Vocational Inclusion and Employment of the Disabled*, Regulation of the Minister of Labour and Social Policy of 25 June 2002 *on specification of the types of poviats' tasks that may be financed from the National Disabled Persons Rehabilitation Fund*;
- Medical diagnosis and medical rehabilitation activities – the Act of 27 August 2004 *on Publicly Funded Healthcare Benefits*;
- Benefitting from specialist care services – Regulation of the Minister of Labour and Social Policy of 22 September 2005 *on specialist care services*;
- Attendance benefits and therapeutic treatments and procedures required to be performed in a student with chronic illness or disability during their stay in school, executed by a school hygienist or nurse in the teaching and educational environment – Regulation of the Minister of Health of 29 August 2009 *on guaranteed benefits in the scope of primary health care*.

For Planned activities for the education of children with disabilities, see paragraphs. 644-648 hereof.

**Response to the recommendation contained in paragraph 41(b) of the concluding observations**

561. According to the Regulation of the Minister of Economy, Labour and Social Policy of 15 July 2003 on determining disability and the degree of disability, the decisions on disability or degree of disability are taken by poviats' disability evaluation boards (as the first instance) or provincial disability evaluation boards (as the second instance). Persons who are below 16 are classified as persons with disabilities if they have their physical or mental abilities impaired for expected duration exceeding 12 months, due to congenital defect, long-term illness or organism damage, resulting in the need to provide full care or assistance in fulfilment of elementary life needs in the manner exceeding the support necessary for a person at a given age. In persons who passed their 16th year of life three degrees of disability may be determined: severe, moderate, or mild.

562. Tasks for the benefit of persons with disabilities, including disabled children, are executed mainly by local governments. Thanks to financial resources that are provided by National Disabled Persons Rehabilitation Fund, local governments have the opportunity to form the activities for the benefit of disabled children in such manner to increase their access to some forms of social inclusion and goods and services.

563. Disabled persons that meet the criteria specified in the provisions on rehabilitation of disabled persons, may apply in poviats' family assistance centres for allocation of co-financing for purchases of goods and services. Mode and principles for co-financing of the tasks from the funds of National Disabled Persons Rehabilitation Fund are specified by the Regulation of the Minister of Labour and Social Policy of 25 June 2002 on specification of poviats' tasks that may be financed from the National Disabled Persons Rehabilitation Fund. Within 2005-2006 there was an increase in the number of disabled children who used such co-financing. This increase proves that increasingly more children with disabilities

may function in the way which gives them the chance for participation in society's life to the same extent as the other – without disabilities – members of society.

564. Targeted programmes addressed also to children and adolescents with disabilities are, inter alia, as follows:

(a) *The Programme for the Mitigation of the Effects of Disability* – executed within 2008-2009. In 2008 6 829 children benefitted from the financial aid for the total amount of over PLN 2 263 000, in 2009 6 391 children obtained the support for the amount of over PLN 2 342 000;

(b) *Pegaz 2003* (executed to 10 March 2010): the primary objective of the Programme was to exercise the right of disabled persons to free communication and mobility by way of elimination of the barriers to communication and transport that prevented or obstructed their functioning in social and professional life and at the same time to enable them access to education, goods and services and comprehensive rehabilitation. Under module I area B support for the purchase of computer equipment, the addressees are, inter alia, disabled persons and adolescents below 18 missing both upper limbs or both upper limbs paresis, and disabled children and adolescents with hearing loss at the level of 90 decibels, performing schooling obligation or pre-school preparation obligation. Under the module I area C – support for the purchase of a wheelchair, the addressees are, inter alia, disabled children and adolescents below 18, in whose case dysfunction of one or both upper limbs prevents moving around in a wheelchair with manual drive. Under area D support is provided in maintenance of the technical working condition of a wheelchair with an electric drive. In 2005, 2,188 children and adolescents benefitted from the co-financing under areas B and C, in the amount of over PLN 12 800 000. In 2006, 2 331 children and adolescents benefitted from the co-financing under areas B and C, in the amount of over PLN 13 500 000. In 2007, almost PLN 16 880 000 was paid to 2 844 children and adolescents under areas B and C. Within 2005-2007, area D was not implemented. In 2008, almost PLN 19 153 000 was paid to 2 814 children and adolescents under areas B, C and D. In 2009 almost PLN 18 850 000 was paid to 2 796 children and adolescents under areas B, C and D.

(c) *Pegaz 2010* (implemented since 11 March 2010): the objective of this Programme is to professionally mobilise and maintain the professional activity of persons with disabilities, increase their educational opportunities, raise their education level, and increase opportunities regarding access to comprehensive rehabilitation and inclusion. In 2010 Pegaz 2010 was implemented in the form of assistance with activation of disabled persons by eliminating transport and communication barriers as well as by co-financing of initiatives under programme of the association: Stowarzyszenie na Rzecz Osób Niepełnosprawnych Joni i Przyjaciele Polski "Wózki dla Polski". In 2010 funds in an amount exceeding PLN 10 120 000 have been allocated to the activities under the programme Pegaz 2010. In 2010 over PLN 2 023 000 was paid to 259 children and adolescents under areas C and D.

(d) *Komputer dla Homera 2003 (PC for Homer 2003) Programme* for providing support in purchase of electronic equipment and software enabling professional and social inclusion of blind and visually-impaired persons. Participants in the Programme were, inter alia, children and adolescents below 18 with disabilities resulting from eye dysfunction. In 2005, 2 523 disabled children and adolescents benefitted from co-financing for purchase of basic and specialist equipment and devices and 276 children and adolescents with disabilities participated in the trainings. In 2006, 2 787 children and adolescents benefitted from co-financing for purchase of equipment and devices and 136 children and adolescents

participated in the trainings. In 2007, 3 029 children and adolescents benefitted from co-financing for purchase of equipment and devices and 77 children and adolescents participated in the trainings. In 2008, computer equipment was purchased for 2,958 children and adolescents and 316 children and young people were included in the training. In 2009, computer equipment was purchased for 2 791 children and adolescents and 298 children and young people were included in the training;

(e) *Education – programme for providing support in getting access to education by children and adolescents with disabilities* (implemented within 2005-2007). The objective of the aid provided under the Programme was to improve education conditions for disabled children and adolescents to the level comparable with mainstream education and to improve infrastructure in special facilities, ensuring disabled students/pupils 24-hour care. Co-financing covered:

- Area A – equipping didactic and rehabilitation base in special facilities,
- Area B – equipping and upgrading social and welfare infrastructure in special facilities ensuring 24-hour care to disabled children and adolescents,
- Area C – elimination of architectural, urban and communication barriers on the premises of special facilities,
- Area D – elimination of transportation barriers making learning difficult or impossible for disabled students/pupils.

In 2005, the National Disabled Persons Rehabilitation Fund spent PLN 38 846 000 for the implementation of the Programme, including:

- In area A – PLN 20 366 444 for 16 503 students,
- In area B – PLN 8 451 760 for 5 686 pupils,
- In area C – PLN 3 848 047 for 3 779 students,
- In area D – PLN 6 179 755 for 6 184 students,

In 2006 the amount of PLN 58,310,700 was spent, including:

- In area A – PLN 26 697 848 for 20,997 students,
- In area B – PLN 11 939 538 for 8,852 pupils,
- In area C – PLN 11 288 148 for 11,144 students,
- In area D – PLN 8 385 167 for 8,442 students.

In 2007 the amount of PLN 55 700 000 was spent, including:

- In area A – PLN 23 800 000 for 21 750 students,
- In area B – PLN 9 400 000 for 7 189 pupils,
- In area C – PLN 13 900,000 for 11 772 students,
- In area D – PLN 8 600 000 for 4 992 students.

(f) Over 2005-2007, a pilot governmental programme: “Early, multispecialty, comprehensive, coordinated and constant support for the child threatened with disability or disabled child and their family” (WWKSC) was implemented. Beneficiaries of the programme were children aged 0-7, threatened with disability or disabled and their parents (custodians). In 2006 National Disabled Persons Rehabilitation Fund paid ten organisations nearly PLN 450 000 for implementation of the pilot programme, including inter alia over PLN 98 000 for courses, trainings and workshops, over PLN 45 000 for environmental support groups, nearly PLN 140 000 for occupational therapy, PLN 19 000 for providing

rehabilitation equipment, over PLN 65 000 for equipping the organizations with didactic aids and materials, nearly PLN 80 000 for providing and maintenance of premises base. In December 2007 the implementation of the afore-specified pilot programme was completed. According to the recommendations of the Office of the Government's Plenipotentiary for Persons with Disabilities, National Disabled Persons Rehabilitation Fund developed the Programme "Early support to child with disability", providing the opportunity of further financing of the activities conducted by the facilities participating in WWKSC, inter alia, in the scope of children rehabilitation. Operating objectives of the Programme are

:

- - Providing assistance to parents (legal custodians) in the process of adaptation to living conditions, resulting from the fact of raising a child with disability;
- - Preparing the parents (legal custodians) for participation in early support of disabled child development;
- - Supporting the facilities providing early help for children with disabilities.

Financial support covers:

- - Performance of rehabilitation of disabled children (excluding medical rehabilitation);
- - Organization and execution of courses and trainings for parents (legal custodians), environmental support groups for parents and legal custodians of children with disabilities, individual classes aiming at acquisition and development of the skills necessary for independent functioning;
- - Purchase of didactic aids and materials for performance of the task;
- - Services commissioned to external providers in the part related to task performance in the scope of rehabilitation services and lease of the fleet intended for transportation of participants;
- - Use of the rooms designated for task performance.

For the execution of the activities under the programme "Early support for child with disability" the following amounts were spent: in **2008** – almost PLN 490 000, in **2009** – almost PLN 2 655 000, in **2010** – almost PLN 3 000 000. The Programme "Early support for child with disability" will last until the Council of Ministers develops proper systemic solutions related to the issue of early support.

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(g) Within the 2007-2010 pilot programme was implemented titled: "Student in the countryside – providing support in obtaining education by disabled persons living in rural and urban-rural communes". Its objective is to level the opportunities in obtaining education by disabled students. The programme is implemented under areas A and B, whose addressees are: in area A – disabled persons attending elementary, middle or post middle schools (excluding post-secondary school), and in area B – communes where these students live. Co-financing under programme A may cover the costs of: purchase of objects facilitating or enabling learning; participation in classes aiming at improvement of physical or mental abilities (including holiday rehabilitation camps); regarding access to the Internet (installation and subscription), excluding purchase of computers; training courses in the scope of teaching curriculum and language courses (in the case of courses organized outside student's place of residence, also the costs of transport, accommodation, meals, trips organized as part of school classes). In the case of post middle school students, granted co-financing may additionally include: fee for education (tuition fee), accommodation costs (when a student receives tuition outside permanent place of residence) or costs of transport

to school. In 2007 under the area A co-financing was granted for the amount of PLN 54 453 000 (beneficiaries were 21 742 students), and under area B – PLN 9 339 469. In 2008 under the area A co-financing was granted for the amount of PLN 41 890 000 (beneficiaries were 42 927 students), and under area B – PLN 39 597 000. In 2009 under the area A co-financing was granted for the amount of PLN 86 395 800 (beneficiaries were 46 810 students). Activities under area B were not implemented. In 2010 liabilities under contracts concluded in 2009 (PLN 15 270 58) were paid and programme implementation was completed.

### **Supporting participation of disabled children and adolescents in cultural life**

565. Supporting participation of persons with disabilities, including children, in cultural life is one of the priorities of the policy executed by the culture department. Activities aiming at fulfilment of the provisions of the Charter of the Rights of Persons with Disabilities, supported by the Ministry of Culture and National Heritage, refer to, inter alia, promotion of artistic work of persons with disabilities, artistic education, art-therapy development, social integration as well as improvement of existing infrastructure of cultural institutions and artistic schools. Initiatives supported financially by Ministry of Culture and National Heritage were diverse and referred to, inter alia, plastic arts competitions, occupational therapy workshops, supplementing library collections with audiobooks and Braille books, training the instructors working with disabled persons, reconstruction of rooms, etc. Since 2005 cultural tasks have been co-financed by Minister of Culture and National Heritage under financial programmes whose priorities account also for the needs of disabled persons.

566. One of the most important tasks is implementation of the Resolution of the Council of Ministers No. 284/2005 of 25 October 2005 launching long-term Programme titled “Development of the Central Library of Association of the Blind”. The Programme aims at financing the facility within 2005-2010 in the amount of PLN 2 300 000 a year, of which PLN 700 000 comes from the budget of the Ministry of Culture and National Heritage, whereas PLN 1 600 000 from subsidies of National Disabled Persons Rehabilitation Fund.

567. The Ministry of Culture and National Heritage under its competencies supervises 262 art schools. In order to meet the needs of students with disabilities interested in artistic education, the schools focused on series of activities that are to enable greater participation in the didactic process on one hand and on the other activities for the benefit of youth integration. Among the critical tasks are:

- Elimination of architectural barriers and modernization of utility rooms with respect to the needs of persons with disabilities;
- Organization of concerts for disabled children and adolescents;
- Renting school rooms for performance of cultural-artistic and occasional events addressed to children and adolescents with disabilities;
- Purchase of specialist computer equipment facilitating learning e.g. IT objects for visually-impaired persons.

568. Acknowledging special needs of a disabled child, museums prepare special programmes, adjusted to their needs and abilities, taking into account type of disability. These programmes are developed in cooperation with teachers, educationalists, schools, associations and societies of disabled persons, social welfare centres.

569. Museologists demonstrate particular involvement, care and professionalism and the reception of these meetings by the children and their minders confirms their usefulness and

motivates to further activities and search for new methods of transferring knowledge about the world and communing with art.

*CRC/C/15/Add.194 – paragraph 43: The Committee recommends that the State party institute health education and awareness programmes specifically for adolescents on sexual and reproductive health and the dangers of smoking and drug and alcohol abuse in schools, communal clubs, family centres and other institutions working with children*

570. In Polish schools education in the field of reproductive health (art. 24 of the Convention) is implemented under educational classes: Family Life Education. This education was introduced into the curricula based on article 4, paragraphs 1 and 3 of the Act of 7 January 1993 on Family Planning, Protection of Human Foetus and Conditions of Admissibility of Abortion. Implementation of sexual education is an obligatory task of all types of school: elementary, middle schools and post middle schools. Regulation of the Minister of National Education of 12 August 1999 on the manner of school education and the scope of contents related to knowledge on human sexual life, the principles of informed and responsible parenthood, value of family, life in prenatal phase and methods and means of informed procreation, contained in the core curriculum of general education stipulates that the contents regarding knowledge on man's sexual life principles of conscious and responsible parenthood, family value, life in prenatal phase and methods and measures of conscious procreation included in the core curriculum of general education, are implemented under educational classes Family Life Education. These classes are conducted in 5th and 6th grades of elementary schools, in middle schools, basic vocational schools, general education secondary schools, profiled secondary schools and in 1-3 grades of technical secondary schools, including special schools, for children and adolescents, public and non-public with public school authorizations. Implementation of the curriculum contents of the classes constitutes a coherent whole with other educational and preventive activities of a school, in particular: 1) supporting upbringing role of the family, 2) promoting integral presentation of human sexuality, 3) developing family-, health and society-oriented attitude.

571. The core curriculum of the subject "Family Life Education" is stipulated in:

(a) Regulation of the Minister of National Education and Sport of 26 February 2002 on core curriculum for pre-school upbringing and general education in individual school types;

(b) Regulation of the Minister of National Education of 23 December 2008 on core curriculum for pre-school upbringing and general education in individual school types.

572. The issue of teachers' qualification is governed by article 9 of the Act of 26 January 1982 – *Teacher's Charter* and the Regulation of the Minister of National Education of 12 March 2009 *on detailed qualifications required from teachers and determination of schools and cases at which teachers without higher education or accomplished course of teacher education may be employed* (Journal of Laws No. 50 item 400).

573. According to article 9, paragraph 1 of the aforementioned Act, the position of a teacher may be occupied by a person having, inter alia, higher education with proper pedagogical preparation or who graduated from a teacher training institution and takes the job on the position for which he/she possesses sufficient qualifications. Based on the provisions of the afore specified regulation, the qualifications for occupying the position of a teacher are attributable to, inter alia, the person who graduated with:

- Higher education studies in the field (speciality) compliant with the subject taught or conducted classes and who has pedagogical preparation, or



- Higher education studies in the field whose scope specified in education standard for this field of studies in the group of elementary and major contents covers the content of the taught subject and who has pedagogical preparation, or
- Higher education studies in a field other than the taught subject or conducted classes where such person has completed post-graduate studies or qualification course in the scope of taught subject or conducted classes and who has pedagogical preparation, or
- Teacher training institution with the major corresponding to taught subject or conducted classes.

574. As of 1 September 2009, in kindergartens, the first grades of primary schools and in the first grades of lower secondary schools, the core curriculum applied is that defined by the Regulation of the Minister of National Education of 23 December 2008, which will be successively implemented for six subsequent years. Whereas in other grades, until completion of education cycle, the current core curriculum will be applied, as specified in the Regulation of the Minister of National Education and Sport of 26 February 2002.

575. Sexual education implemented in the schools enables young people to understand physical and mental changes, teaches to positively approach their own sexuality, makes it easier to understand the opposite sex and contributes to development of proper, better relationships, shapes various psychological and social skills that have significant impact on health and quality of life. Education contents refer to, inter alia, sexual initiation and the risk related to early initiation, family planning, undesirable pregnancy, fertility awareness methods, contraception methods (not only the natural ones) and its health-related aspects, HIV/AIDS prevention and other sexually transmitted diseases and point out to the opportunities of obtaining support and assistance.

576. Since September 2009 family life education has been a mandatory subject in all grades, beginning from 5th grade of primary school. Thanks to the change introduced in the 2009-2010 school year, students are obliged to attend the family life education classes unless their parents (legal guardians) or the students of legal age submit to the headmaster written resignation from participation in the classes. In the previous legal circumstances the participation of students in the classes was not obligatory, and the condition for participation in the classes was to obtain written consent from the parents of students below the legal age or the students of legal age.

577. In the Methodological Centre for Psychological and Educational Assistance (currently part of Centre for Education Development) a data bank was created that collects information regarding, inter alia, the nature and scale of hazards posed by tobacco smoking and alcohol and drugs abuse. In the analysis results of research conducted by National Bureau for Drug Prevention and Poland-wide school research regarding consumption of psychoactive substances, conducted by Institute of Psychiatry and Neurology under European School Survey Project (ESPAD) were used. ESPAD Surveys refer to attitudes of young people towards alcohol, drugs and tobacco as well as experiences with consumption thereof. The objective of the research is also to try to identify and measure the factors impacting the dimensions of the phenomena of consumption by young people of psychoactive substances, both related to demand as well as supply. The survey conducted in Poland in 2002 covered 3 148 students aged 16-24 years from third middle school grades and second post middle school grades. In 2007 in Poland-wide research 4480 students participated, aged 15-18 from third middle school grades and second post middle school grades.

578. Detailed analysis of the results of the above mentioned research refers to the sources and causes of addictions among children and young people, especially those that may be related to child's stay at school. Performed thorough diagnosis allows determining the

sources of negative phenomena isolate and reveal their symptoms and design preventive activities.

579. Adopted solutions enable the elimination of the factors and counteracting them, as well as reinforcement of the factors protecting children and young people.

580. The following, *inter alia*, contributes to mitigation and reduction of adverse phenomena: integrated activities in the scope of education, upbringing and prevention, introduction to schools of educational programmes and prevention programmes for problems of children and young people, development of priority programmes for reduction of the phenomenon of drug abuse in school environment.

581. Psychological and pedagogical assistance provided in nursery schools, schools and facilities consists, in particular, in diagnosing students' environment, organization – according to the needs – of various forms of support, carrying out educational and preventive activities resulting from educational and preventive programmes for children and young people, implementing health-oriented education and health promotion among students, teachers and parents, and taking mediation- and intervention-related actions in critical situations. Psychological and pedagogical support is executed in particular in the form of didactic-compensatory, specialist classes: corrective-compensatory, speech therapy and other classes of therapeutic nature, counselling service for the students, counselling service, consultations and workshops for parents and teachers.

582. The Act on Education System, under the provision included in article 1, paragraph 4 ensures that all students have the opportunity to obtain psychological and pedagogical assistance. In the education system such assistance is provided by psychological and pedagogical counselling centres, including specialist centres, as well as teachers and specialists conducting classes with a student in nursery schools, schools and facilities (educationalists, speech therapists, vocational advisors and other specialists). Over the reporting period in Poland the number of public psychological and pedagogical counselling centres fluctuated from 590 in the 1999/2000 school year to 558 in the 2009/2010 school year.

583. A very important form of work of the specialists employed in public counselling centres – resulting from applicable legal acts, is the provision of indirect assistance, consisting in issuing certificates and opinions that constitute, *inter alia*, the basis for the organization of special education, individual teaching, early support of child's development and psychological-pedagogical assistance to children and young people. The issuance of documents regarding the child is preceded by a diagnosis by a specialist.

584. In the 1999/2000 school year specialists in public psychological and pedagogical counselling centres delivered 402 377 psychological diagnoses, 323,466 pedagogical diagnoses and 139 925 speech therapy diagnoses. Whereas in the 2007/2008 school year, specialists in psychological and pedagogical counselling centres delivered 453 645 psychological diagnoses, 406 787 pedagogical diagnoses and 165 577 speech therapy diagnoses. In the 2008/2009 school year accordingly: 450 024 psychological diagnoses, 404 372 pedagogical diagnoses and 160,015 speech therapy diagnoses. Whereas in the 2009/2010 school year specialists delivered 435 289 psychological diagnoses, 386 184 pedagogical diagnoses and 160 043 speech therapy diagnoses.

585. Based on the reports on the activities of psychological and pedagogical counselling centres in the reporting period we may conclude that the largest group of examined persons were the students of elementary schools.

586. Psychological and pedagogical counselling centres also provide direct support. Forms of assistance used in counselling service were most often: therapies (conducted with various methods), trainings, consultations, advisory, instructions, mediation, critical

intervention (at home and school), conversations (therapeutic, supporting), various classes: inter alia, corrective-compensatory, educational-care, related to adaptation and development, with elements of sensory integration.

587. In all types of schools and facilities children and young people were provided with psychological and pedagogical assistance in various forms, adjusted to reported needs of the children, young people, their parents and teachers. And so, for example, corrective-compensatory classes in the 2007/2008 school year covered 29 897 students and in the 2008/2009 school year – 34 191 (primary schools – 17 812 and 20 447 students, lower-secondary schools – 3 858 and 4, 228 students, upper-secondary schools – 1 135 and 1 013 students), and the speech therapy covered – in the 2007/2008 school year – 92 600 children and adolescents, and in the 2008/2009 school year – 94 860 children and adolescents (accordingly 51 285 and 52 724 children at pre-school age, 34 813 and 35 231 students – in primary school).

588. In the scope of drug abuse prevention the minister competent for issues related to education and upbringing executes the tasks that have been entered to the National Programme for Drug Prevention for 2006-2010 and next Programme for 2011-2016, adopted under regulations of the Minister of Health. Based on the tasks of the aforementioned Programmes the Ministry of National Education developed the Action Plan in the scope of drug abuse prevention (hereinafter referred to as Action Plan).

589. The Action Plan was targeted at improvement of the quality of drug abuse prevention implemented in schools and facilities of education system and covers actions addressed to teaching supervision, children and young people, pedagogical staff and parents and custodians. They are also oriented towards development of network of schools for health in Europe and interministerial cooperation in the scope of addictions prevention.

590. The Ministry of National Education ensures legal conditions for taking actions related to drug abuse prevention in schools and facilities of education system. In line with applicable education-related law, schools and facilities of education system are obliged to develop school's educational programme, covering all the contents and activities of educational nature and prevention programme adjusted to the development-related needs of students and needs of a given environment, covering all the contents and activities of preventive nature addressed to students, teachers and parents.

591. According to the core curriculum the school is obligated to shape in students attitudes conditioning responsible functioning in the modern world, including by development of health awareness, habits to care for their own health and the health of other people as well as the ability to create a health-friendly environment. In the course of education a student should comprehend information regarding psychoactive substances as well as should understand why one should not experiment with these substances. An important educational objective is to shape in students a health-oriented attitude conditioning them to make the right choices beneficial for health and personal development.

592. The area of the issues on drug abuse prevention is also included in activities of schools promoting health. In the country approximately 200 schools belong to the network of schools promoting health. Their special role is to promote systemic and innovative solutions regarding the development of a comprehensive school's offer in the scope of health promotion and prevention, based on making an impact both on the student, parents as well as the environment in which they live. This way the schools contribute to increasing effectiveness and reach of health-oriented impacts.

593. The Ministry of National Education takes numerous supporting activities, inter alia, by announcing competitions for execution of public tasks. For example in 2010 a competition was announced for a public task titled "Supporting implementation of school's

educational programme and prevention programme by shaping in students attitudes fostering individual and social development”. Only non-governmental organizations and local government units running the schools and educational-care facilities were eligible for participating in the competition. The objective of the competition was to promote the school’s most valuable educational and prevention programmes enabling, inter alia, to shape in students the attitudes oriented towards care for own health and other people’s health. As a result of the competition, 66 projects were selected, and the amount of PLN 2 000 000 was allocated to their implementation. In its further activities, the Ministry of National Education supplemented the teaching supervision plan with a new direction of education policy execution by education authorities in the 2010/2011 school year, on monitoring of performance of preventive activities in the scope of drug abuse prevention, including collaboration with specialised institutions and use of offers and materials prepared by them. Based on the monitoring results a report was issued.

594. Activities taken by the health department and financed from state funds, remaining at disposal of the Minister of Health, are targeted also at preventing addictions such as alcohol abuse, tobacco smoking, psychoactive substances abuse.

595. The Ministry of Health executes its tasks, including these in the scope related to health promotion, using instruments and actions that are available from the legal perspective. The most important thereof are legislation activities and health policy programmes financed from the funds of the Ministry of Health. Activities in the scope of health promotion are executed by specialised budgetary units appointed by the Minister of Health, such as: State Agency for the Prevention of Alcohol-Related Problems (PARPA), National Bureau for Drug Prevention and National AIDS Centre.

596. In the scope of health education aiming at raising awareness of young people in education in the matters related to health, within 1999-2007 activities which had already started were continued, and new educational programmes were implemented. See also, chapter VI B: “State’s health policy programme”, “Activities for preventing HIV/AIDS and other sexually transmitted infections”, “Training programmes and educational materials” (paras. 614, 628-635 hereof).

## **B. Current governmental actions**

597. The Republic of Poland acts as guarantor for the protection of human life and health from the moment of conception. This fact is determined by article 38 of the Constitution of the Republic of Poland as well as the provisions of the Act on family planning, protection of the human foetus and conditions governing the permissibility of abortion dated 7 January 1993. The preamble to the aforementioned Act provides that human life constitutes a fundamental value and that the protection of life and good health remains one of the most significant duties of the state, the society as well as the individual citizen. In article 1 of the aforementioned Act it was stated that protection is to be afforded to the right to life, including the prenatal stage.

598. All the activities performed by the Ministry of Health are aimed at the protection of the life and health of citizens, including children. Due to the specific health requirements of children related to their development needs, a special emphasis is placed on the healthcare measures implemented with respect to this particular age group. This applies, first and foremost, to preventive measures.

599. In Poland, the health indicators with respect to the health condition of children remain on the rise. According to the reports presented by the Central Statistical Office, the mortality rate of infants continues to decline. The overall infant mortality rate (number of deaths of infants aged less than 1 year per 1000 live births) in the year 2003 amounted to

7.0‰, in 2004 r. – 6.8‰, in 2006 r. – 6.0‰, in 2007 r. – 5.9‰, in 2009 r. – 5.6‰. In 2010 the mortality rate referred to above has dropped to 5.2‰. The perinatal mortality rate (dead births and deaths of infants aged 0 – 6 days per 1000 live and dead births), much like the general infant mortality rate, shows a downward trend. In 2002 the indicator referred to above amounted to 8.7‰, in 2003 r. – 8.6‰, w 2007 – 8.0‰, in 2008 – 7.6‰, in 2009 – 7.2‰.

### **Health care for disabled children**

600. Disabled persons, including children, have the same guaranteed right of access to health care as any other citizens of our country.

601. The most fundamental document which contains mention of the said right is the Constitution of the Republic of Poland. According to article 68, paragraphs 1-3 of the Polish Constitution:

“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.”

602. The conditions and scope for the provision of health-care services are laid down in the Act on Publicly Funded Healthcare Benefits dated August 27, 2004.

603. Article 15 of the Act provides that patients, including handicapped children, shall have the right to take advantage of healthcare benefits on the terms and conditions stipulated under the said Act, the aim of the said benefits being the protection of health, prevention of diseases and injuries, early detection of diseases, treatment, rehabilitation as well as prevention and reduction of disabilities. The types of reimbursed medical products in the form of orthopaedic objects and auxiliary measures, the amount of reimbursement, the share to be provided by the insured and the frequency of reimbursement are governed by the provisions of the applicable regulations issued by the Minister of Health. The reimbursement of the aforementioned products is effected by the National Health Fund in accordance with the schedules contained in the applicable legal regulations.

604. The right to health care and medical treatment of disabled persons has also been emphasized in the resolution of the Sejm of the Republic of Poland dated August 1, 1997 – The Charter of the Rights of Persons with Disabilities. The resolution in question provides, inter alia, that “disabled persons shall, in particular, have the right of access to healthcare and medical treatment, early diagnostics, rehabilitation and medical education as well as to healthcare benefits which take into account the type and degree of disability, including the right of access to orthopaedic objects, auxiliary measures and rehabilitation equipment”.

605. The Republic of Poland recognizes the right of the child to receive the highest level of medical care available. This right is contained in the Constitution of the Republic of Poland, whose article 68 stipulates that public authorities shall ensure that citizens have equal access to publicly financed healthcare benefits. Furthermore, public authorities shall be under an obligation to provide special medical care to children and pregnant women.

606. In 1999, a healthcare system reform, linked to the administration and local government reform, has been implemented. As a consequence, the existing healthcare system – and in particular the rules of financing thereof – has been completely remodelled. The fundamental concept behind the reform in question has been the separation of the functions of service provider, healthcare payer and healthcare benefit organizer.

607. The health-care system reform was performed based on the provisions of the Act of 6 February 1997 on Public Health Insurance. Provisions of the Act introduced the system of public health insurance. In this system the right to free healthcare services for pregnant women and children and adolescents was preserved. Pregnant women, children and adolescents are entitled to, based on the principles specified in the mentioned Act, to healthcare services aiming at: preservation of health and diseases prevention, early diseases diagnosis, treatment, disability prevention and mitigation.

#### **Long-term care**

608. The Healthcare system ensures the patient long-term care delivered in in-patient (care-treatment and nursing-care facilities) and home conditions. The criterion qualifying a patient to be covered with long-term care is patient's/child's health condition. Nursing and care services are addressed both to adult persons as well as children. This is reflected in the scope of tasks expected to be executed in specific types of care.

609. Nursing and care services in the scope of long-term care are executed in/by: 1) wards for chronically ill, 2) nursing-care facilities for children and adolescents, 3) care-treatment facilities for children and adolescents (for children and adolescents, for children mechanically ventilated), 4) group for long-term home care (home care over children mechanically ventilated), 5) long-term nursing care.

#### **Palliative and hospice care in Poland**

610. Palliative care is provided in patient's house, in specialist clinics, in-patients wards of palliative care and day care centres as well as by hospital supporting complexes. It is exercised by a multidisciplinary team composed of a physician, nurse, psychologist, social worker, physiotherapist, occupational therapist, chaplain and volunteers.

611. Since 1992 we have experienced dynamic development of palliative and hospice care – the number of palliative-hospice care facilities already in 1993 increased to 81 and in 1996 to 160. In 2001 there were 260 facilities functioning, including over 90 as non-public units and 5 hospices for children and juveniles. In 2002 the total number of palliative-hospice care facilities amounted to 270. In 2008 there were 349 public (governmental, local government) and non-public (ran by associations, foundations, orders, Caritas) palliative-hospice care facilities functioning in Poland. In addition thereto there are few commercial palliative-hospice care facilities. Public and non-public palliative-hospice care facilities in Poland are: palliative medicine clinics, home hospices, palliative medicine wards in hospitals, in-patient hospices, home care complexes for children.

612. The Ministry of Health started works on development of operating standards and medical procedures in the scope of palliative care in home hospice for persons below 18 for entities providing medical services in this area.

613. The National Health Fund finances healthcare services provided to children and adolescents in palliative-hospice care facilities. Support to families taking care after children at home may also be provided by volunteers. The Act of 24 April 2003 on Public Benefit and Volunteer Activities governs the conditions for performance of services by volunteers and using these services. Volunteers may perform the services for non-governmental services, public administration bodies, and organizational units subject to public administration bodies or supervised by these bodies, excluding business activities conducted by these units. Volunteers' services are performed in the scope, manner and time specified in the agreement with services user. The volunteer should have qualifications and meet the requirements adequate for the type and scope of performed services, if the obligation of having such qualifications and fulfilment of relevant requirements results from separate regulations. A volunteer is entitled to compensation due to an accident in the

course of the performance of the services. To the volunteer who performs the services for the period not longer than 30 days, the user is obliged to provide personal accident insurance. Moreover the user is obliged to: inform the volunteer about the risk for health and safety related to performed services and about principles for protection against hazards, ensure the volunteer safe and hygienic conditions for performance of services by the volunteer, cover the costs of business trips and allowances of the volunteer, inform volunteers about their rights and obligations and ensure access to such information.

614. The State's health policy programmes oriented towards health of children and adolescents are as follows:

(a) The Preventive Vaccination Programme the objective of which is the purchase of vaccines according to the obligatory vaccination schedule. The obligatory vaccination programme applied in Poland, in terms of type of vaccines provided to children is comparable with other sample countries from European Union. Every year Polish preventive vaccination programme is subject to verification;

(b) The Programme of Infant Screening Tests in Poland for 2009-2014, which covers the tests of entire infants population in Poland targeted at: hypothyroidism, phenylketonuria and mucoviscidosis;

(c) The National programme for prevention of overweight and obesity and non-infectious chronic diseases by improvement of nutrition and physical activity for 2007-2011 POL-HEALTH;

(d) Programme for elimination of iodine deficiency for 2009-2011;

(e) The National programme for cancer eradication;

(f) The National programme for AIDS eradication and HIV infections prevention, which covers all persons infected with HIV and suffering from AIDS who meet medical criteria, HIV-infected pregnant women and infants born from women infected with HIV, in line with the standards applicable in this scope. Subject matter of the financing is purchase of antiretroviral medicines, tests and vaccines for children born from HIV-infected mothers.

#### **Social insurance and children care system**

615. The family benefits governed by the Act of 25 June 1999 on Money Benefits from Social Insurance in case of Illness and Maternity include maternity allowances and care allowances.

616. Maternity allowance is attributable to a female employee due to childbirth for the period of maternity leave and amounts to 100% of base pay. To 31 December 2008 it was paid by the period of: 18 weeks in the case of first childbirth, 20 weeks in the case of subsequent childbirth, 28 weeks in the case of giving birth to more than one child in one childbirth.

617. Since 1 January 2009 maternity allowance is paid by the period of maternity leave for: 20 weeks in the case of giving birth to one child, 31 weeks in the case of giving birth to 2 children in one childbirth, 33 weeks in the case of giving birth to 3 children in one childbirth, 35 weeks in the case of giving birth to 4 children in one childbirth, 37 weeks in the case of giving birth to 5 and more children in one childbirth.

618. Maternity allowance is also attributable to insured persons who took into their custody child under 7, and in the case of a child with regards to whom a decision on deferment of schooling obligation was made – under 10, for the purpose of such child's adoption and applies to court with a petition for their adoption as well as to an insured person who takes a child at the afore specified age under into foster family.

619. In the case of professional foster family not related to the child, maternity allowance is attributable for the period that depends in the number of children taken at the same time into custody, i.e. for the period of: 20 weeks in the case of adoption of one child, 31 weeks in the case of adoption of 2 children, 33 weeks in the case of adoption of 3 children, 35 weeks in the case of adoption of 4 children, 37 weeks in the case of adoption of 5 and more children. Moreover maternity allowance is attributable for the period of additional maternity leave or additional leave on the terms and conditions of maternity leave, resulting from the Labour Code. Since 1 January 2010 maternity allowance is attributable also to child's father for the period of paternity leave.

620. An employee who is not required to report for duty due to the necessity of exercising personal care of a child under 14 is entitled to care allowance in the amount of up to 60 days in one calendar year. In the case when an insured mother of a child, receiving maternity allowance in the amount of up to 8 weeks after childbirth, requires hospital care due to health condition preventing personal care of the child, the insured father of this child is entitled to additional care allowance, for the period of mother's stay in the hospital, in the amount of up to 8 weeks, i.e. up to 56 days, however not longer than to the end of child's 8 weeks of life. This principle applies also to other insured members of the closest family, if they stop working or running other gainful activities to personally take care of the child. The period of payment of this care allowance is not included in the limit of 60 days of payment of care allowance in a calendar year and it is not related to the calendar year.

621. Care allowance may also be used in the case of personal care of another ill family member, including a child at the age above 14, living in the common household. In such case the allowance is applicable for 14 days in a calendar year.

622. Levelling of mother's and father's entitlement to care allowance became effective already as of 1 March 1995. Monthly care allowance amount to 80% of base pay.

#### **System of non-insurance benefits**

623. See also information included in response to the recommendation contained in paragraph 18 of the concluding observations; (paras. 90-92 hereof).

624. Family benefits are non-insurance system. The right to family allowance and supplements to family benefits depends on fulfilment of, inter alia, income criterion, that in 2010 amounted to PLN 504 net (after deduction of income tax and social and health insurance premiums) or PLN 583 net per one person in a family if family member is a child holding disability certificate or certificate of moderate or severe degree of disability. In principle family allowance is attributable until the child becomes 18 years old or ends school education, however not longer than until the child becomes 21 years old. Whereas if the child holds a certificate confirming a moderate or severe degree of disability and continues education at school or in a higher education facility, the family allowance is attributable until the child becomes 24 years old. One-off aid due to childbirth, and care allowances granted with regards to the necessity of ensuring care to disabled person, do not depend on family's income.

625. The family benefits system is based on the principle of subsidiarity, taking into account the rule that the persons who are in the first place obligated to provide for the children are their parents. In the case when their funds and rights are not sufficient to raise and support the children, they are entitled to state aid in the form of family benefits. In the case of single parents this refers to the need to adjudicate alimony for child's benefit from the other parent.

626. System of family benefits is governed by the Act of 28 November 2003 on Family Benefits. Moreover the state provides support to persons entitled to alimony in the case of ineffective enforcement of alimony allowances. In the period from 1 September 2005 to 30



September 2008 this support was granted based on the act of 22 April 2005 on the Conduct towards Alimony Debtors and Alimony Advance, and since 1 October 2008 the support has been granted based on the Act of 7 September 2007 on Support to Persons Entitled to Alimony. Benefits from maintenance fund are attributable to eligible person until such person becomes 18 years old or in the case when such person attends school or higher education facility – until such person becomes 25 years old, and in the case of holding certificate of severe degree of disability – for an indefinite period, if family's income does not exceed the amount of PLN 725 (net).

627. Families in a difficult life situation, raising a child, are entitled to the following benefits (as at the end of 2010):

- (a) family allowance, the amounts of which are diverse depending on child's age and monthly amounts to: PLN 68 for a child under 5, PLN 91 for a child over 5 and below 18 and PLN 98 for a child over 18 and below 24;
- (b) supplements to the family allowance due to;
  - childbirth (PLN 1000 – one-off),
  - care for a child during parental leave (PLN 400 a month),
  - single parenting (PLN 170 a month for a child or PLN 250 for a disable child),
  - raising a child in a large family (with many children) (PLN 80 for third and every next child in the family),
  - education and rehabilitation of child with disability (PLN 60 for a child under 5, PLN 80 for a child aged 5-24),
  - beginning of a school year (PLN 100 once in a school year),
  - child starting education outside their place of residence (PLN 90 for dormitory/lodgings or PLN 50 for transport to school);
- (c) Nursing allowance (PLN 153 a month, irrespective of the family's or person's income);
- (d) Nursing benefit (PLN 520 is attributable to a person who does not take or resigns from employment or other gainful work in order to exercise care over disabled child);
- (e) One-off aid due to childbirth (PLN 1 000 irrespective of family's income);
- (f) Optionally granted under resolution of commune council – additional aid due to childbirth, financed from commune's own funds;
- (g) Benefits from maintenance fund – since 1 October 2008 these benefits may be awarded to the amount of systematically determined alimony, however not more than PLN 500 a month per person. (From 1 September 2005 to 30 September 2008 maintenance advance payment was applicable to the amount of adjudicated alimony, however not more than from PLN 120 to PLN 380 per person, depending on the number of eligible persons in the family, child's disability and the amount of income per person in the family).

#### **Activities for preventing HIV/AIDS and other sexually transmitted infections**

628. The National AIDS Centre (budgetary unit appointed by the Minister of Health), under its statutory obligations, and in cooperation with non-governmental organizations, implements various programmes aiming at improvement of the health condition of children diagnosed with AIDS or infected with HIV, increasing knowledge on threats and hazards related to HIV/AIDS and general education of the society and development of attitudes

oriented towards tolerance and support for the sick. The projects implemented by the Centre are as follows:

(a) Cooperation with the Association of Volunteers for Children “Mały Książę”, since 2001, has involved the organization, by the Association, of rehabilitation and educational holiday camps for children and adolescents suffering from HIV/AIDS co-financed from subsidies granted by the National AIDS Centre. In specific cases, thanks to psychological evaluation performed during the aforementioned camps, it is possible to adjust the level of school education to the child’s abilities, to point out to parents the directions of the work with a child, to indicate defects and opportunities of mitigation thereof as well as to boost self-esteem of the children affected by HIV/AIDS and to enable them return to their peers environment

(b) Cooperation with the Obstetrics and Gynaecology Clinic of the Institute of Mother and Child in Warsaw involves medical and prevention issues, inter alia, through promotion of performance of HIV tests by women who are planning pregnancy or are pregnant. Current recommendations on prevention of HIV vertical transmission regard application of antiretroviral therapy during pregnancy, during perinatal period and in the child for 4-6 weeks as of childbirth. All preventive procedures are also applied in Poland which enables reduction of the risk of transmission from the mother to the incidence determined in Europe, i.e. approximately 2-3%.

(c) The Programme for early detection of HIV infections in pregnant women is addressed to pregnant women who, after performance of test-related counselling, consent to an HIV infection test. Inclusion in the Programme takes place during routine consultation in gynaecology-obstetrics clinic. The Programme covers:

- Execution of test-related education and counselling, aiming at justifying the need to perform the test, provide explanations related to HIV infection,
- Performance of examination with rapid 3rd generation quality test, detecting HIV antibodies in full blood (after obtaining patient’s consent),
- In the case of questionable or positive result, referring the pregnant woman to reference facility – clinic for contagious diseases in a given province or other selected by this woman – in order to have the confirmation test performed and covering the patient with further care,
- Recording the fact of examination performance in pregnancy card,
- Physician providing counselling service fills out, anonymous for the patient, counselling questionnaire,
- Offering women participating in the programme completion of additional anonymous survey (however only in the case of women whose result was questionable or positive).

(d) The Multimedia campaigns of the National AIDS Centre are as follows:

2006 – “Family together against AIDS”. Target group of this campaign were families with small and adolescent children and married couples planning to have children

2007 – “Give your baby a chance. Don’t give AIDS a chance.” One of the target groups of this campaign were pregnant women or women planning pregnancy.

### **Training programmes and educational materials**

629. Under the cooperation of non-governmental organizations with National AIDS Centre, also projects addressed to young people from middle and post middle schools are

implemented, constituting support for educational activities executed by schools. As part of educational activities the following, inter alia, materials were published:

- Bulletin for paediatricians and family practitioners titled “The issue of HIV-infected child in primary care” (developed in 2005).
- Educational materials addressed to children regarding HIV/AIDS (published in 2003 and reissued in 2007).

630. Under the “National Programme for Preventing HIV Infections, Care for Persons Living with HIV / AIDS for 2004-2006”, National AIDS Centre undertook activities in the scope of health and health education of children and young people. Under Poland-wide and provincial preventive programmes regarding HIV/AIDS, implemented by non-governmental organizations and subsidized by National AIDS Centre, the total number of the following persons were trained: 8 814 educators of children and adolescents (educationalists, teachers, court-appointed guardians, social workers from facilities providing care to addicted and infected persons and the so called Youth Health Leaders); 6 612 pupils and students.

631. The training programmes aimed at, inter alia, shaping and reinforcing attitudes and behaviours with respect to selected issues related to HIV/AIDS and towards people living with HIV/AIDS, activation of various target groups towards further education and transferring skills and knowledge to their charges (students), as well as at increasing the number of professional educators in the scope of selected issues related to HIV/AIDS. Additionally a textbook titled “Preventing HIV/AIDS and sexually transmitted diseases. School-age youth education.” was published, addressed to persons intending to develop educational programme for school-age youth regarding prevention of sexually transmitted diseases (recommended by the minister competent for the issues related to education and upbringing).

632. In some provinces preventive workshops and debates regarding HIV/AIDS were held, conducted by non-governmental organizations. The programmes included issues from the field of HIV/AIDS epidemiology, routes of HIV infection, hazardous behaviours, HIV/AIDS prevention and attitudes reducing discrimination and stigmatization of persons living with HIV/AIDS.

633. Within 2004-2006 also activities were taken addressed to persons with high level of hazardous behaviours, including, inter alia, young people. Under the Programme “Aware of the hazards”, workshops were organized, counselling services were provided and “bank of information” regarding knowledge about HIV/AIDS among young people aged 15-18 was established. Moreover a Poland-wide programme was executed, addressed to children affected by HIV/AIDS titled “Out of concern for the future”. The task of the programme was to prepare the parents to inform children about the disease and consequences thereof, provide knowledge and skills in this scope and exchange experiences, increase motivation in children for proper treatment and care for own health and present parents the need to get involved in the process of child’s therapy. Since 2004 every year also rehabilitation and educational holiday camps were organized for children affected by HIV/AIDS.

634. Social campaigns organized by National AIDS Centre, promoting healthy life style, inter alia, among young people:

- In 2004 – the campaign titled “Don’t give AIDS a chance. Do a HIV test” was addressed to heterosexual couples aged 18-29, i.e. the age group corresponding to substantial majority of HIV-infected persons.
- In 2005 – campaign titled “An ABC of prevention” was addressed also to young people aged 18-29.

- In 2006 – campaign titled “Family together against AIDS” was addressed to families with adolescent children. After the campaign parents’ reluctance to talk to their children about the issue diminished and the knowledge about the issue among parents increased.

635. According to the Schedule for implementation of the National programme for AIDS eradication and HIV infections prevention prepared for 2007-2011, the National AIDS Centre, acting on behalf of the Minister of Health, executed the following tasks, addressed directly or indirectly to children and adolescents:

**Thematic area: HIV infections prevention (primary prevention)**

**1. Limitation of HIV/AIDS infections spreading by:**

(a) Training various professional and social groups such as: medical workers (including also gynaecologists, family practitioners, midwives, nurses, teachers, religious instruction teachers, instructors in the scope of HIV/AIDS, employees of intervention services, police officers, city guards, “street workers”, addicted persons staying in in-patient facilities, pupils and students, educators, consultants and advisors for HIV/AIDS, social assistance workers, employee of family support counselling centres, social guardians;

(b) Organization of World AIDS Day;

(c) Organization of educational and preventive actions and campaigns;

(d) Social campaigns, inter alia: “Give your baby a chance. Don’t give AIDS a chance!” – campaign was addressed to pregnant women or women planning to have a baby, “Life is just like dancing – every step matters”, “Come back without AIDS” – an element of the campaign was also a platform game, “Knowledge saves life”;

(e) Development, publication and distribution of various preventive materials addressed to target groups, inter alia: Always Together – colouring book for children, Little Friends – book for children, What You Need to Know about HIV and AIDS No Matter Where You Live or Work, The Other Side of Holidays – leaflet for young people, Facts on HIV/AIDS for Nurses and Midwives – binder, How Can You Avoid HIV Infection? – bookmark, Competition “Holiday card” and printing holiday cards for Christmas and Easter, Leaflet for HIV+ women who want to have a baby (translation from English);

(f) Active participation in the project H-CUBE – the objective of the project was, inter alia, to prevent new HBV, HCV and HIV infections, especially among young people aged 15-24;

(g) Launching Mobile Guide for HIV/AIDS.

**2. Ensuring proper access to information, education and services in the scope of HIV/AIDS prevention by:**

(a) Running the website [www.aids.gov.pl](http://www.aids.gov.pl) containing the most important and up-to-date information regarding HIV/AIDS;

(b) Financial support for the activities of 24-hour helpline for AIDS – by calling the number 022 6928226 people can get all the necessary information regarding HIV/AIDS, as well as related topics;

(c) Financing the activities of Web counselling services regarding HIV/AIDS. Access to the website of counselling service may be obtained directly from Centre’s website [www.aids.gov.pl](http://www.aids.gov.pl). Specialists employed in the Counselling service send replies directly to the address provided by the person submitting a question;

(d) Financial and substantive support for the activities of consultation-diagnostic points, performing anonymous and free of charge HIV tests, combined with counselling before and after the test.

**Thematic area: Improvement of life quality in psychological and social sphere of persons living with HIV/AIDS, their families and close ones (secondary prevention)**

*Improvement of life quality in psychological and social sphere of persons living with HIV/AIDS, their families and close ones by:*

- (a) Subsidizing activities of non-governmental organizations that run support groups;
- (b) Subsidizing activities of non-governmental organizations that organize sanatorium and therapeutic camps;
- (c) Under the activities related to change of social attitudes towards persons living with HIV/AIDS, supporting the programme for development of coalition for combating discrimination and improvement of the situation of persons infected with HIV and diagnosed with AIDS – “Together we are more effective”.

**Thematic area: Providing broad access to ARV treatment and diagnostics (tertiary prevention)**

**1. Improvement of the quality of and access to diagnostics and medical care for persons living with HIV/AIDS and persons exposed to HIV infection by:**

Under the Coordination of the Programme “Antiretroviral therapy for persons living with HIV in Poland”, the objective of the system of specialist antiretroviral treatment is to mitigate the effects of HIV/AIDS epidemic with simultaneous monitoring of its effectiveness in patients infected with HIV and diagnosed with AIDS. Proper treatment reduces incidence and mortality rate due to AIDS in the population of persons living with HIV and reduces their infectiveness.

**2. Reduction of HIV infections among children:**

(a) Under the ARV prevention of vertical infections (mother-child) vertical infections prevention covered pregnant women infected with HIV (in 2007 – 73 pregnant women, in 2008 – 70, in 2009 – 81, in 2010 – 67). Also infants received ARV medicines (in 2007 – 54 infants, in 2008 – 69, in 2009 – 69, in 2010 – 54).

(b) Under the said Programme ARV therapy covered also the children infected with HIV and diagnosed with AIDS (in 2007 – 123 children, in 2008 – 117, in 2009 – 134, in 2010 – 130). All the children received free vaccines, according to special vaccination schedule, developed individually by the Childhood Infectious Diseases Clinic of Medical University of Warsaw, financed by the Ministry of Health under the health policy programme.

## **C. Budget**

636. In 2004 the amount of PLN 8 075 000 was allocated from the State budget to family benefits and costs of handling thereof, including the amount of PLN 2 517 000 (31.2%) that constituted the expenses incurred to 30 April 2004 for family, nursing and parental leave allowances as well as maintenance fund benefits, whereas the remaining amount of PLN 5 557 000 was spent on new family benefits, applicable as of 1 May 2004.

637. In 2005 the amount of PLN 7,840,000 from the State budget was spent on family benefits and costs of handling of family benefits, in 2006 – PLN 7 724 000, in 2007 – PLN 8 161 000, in 2008 – PLN 7 614 000, in 2009 – PLN 7 367 000, and in 2010 – PLN 8 162 000. Increase in expenditures in 2007 by 5.7% as compared to 2006 was caused by increase as of 1 September 2006 of family allowance, supplement due to raising a child in a large family, supplement due to education and rehabilitation of disabled child, supplement due to beginning of a school year, supplement due to starting education by a child outside place of residence and nursing benefit in result of statutory verification of the amounts of family benefits as well as by the change in the principles for diversification of family allowances (by this date the amount of a benefit depended on the number of children in a family, currently it depends on child's age). Increase in expenditures in 2010 by 10.8% as compared to 2009 was caused by the increase, as of 1 November 2009, of family allowances and nursing benefit, as well as by broadening the group of persons eligible for the nursing benefit due to making this benefit independent from the income criterion.

## **D. Planned governmental actions**

### **Ensuring proper protection and treatment in the scope of mental health (art. 24)**

638. According to the CSO there are approximately 7.1 million children and young people living in Poland (source – CSO – Basic information about demographic development of Poland within 2000-2010, preliminary data at the end of 2010). Moreover global statistics indicate that from 10 to 20% of this age group suffers from broadly defined mental disorders. At the same time it should be highlighted that family environment, activities of educational facilities and impact of peer groups have the greatest effect on children's mental health. Therefore the system of care for mental health of children and youth has the following objectives:

- Supporting families, teachers, social services, paediatricians, family practitioners and mother and infant care units and other social agendas, in the process of child raising,
- Accessibility of services and programmes as fast as it is required for the children that demonstrate first symptoms of disorders – development of early intervention systems.

639. The implementation of the assumptions presented above is the task of National Mental Health Prevention Programme which will be executed within 2011-2015 under the Resolution of the Council of Ministers of 28 December 2010. This is the first national programme devoted to this subject, and its adoption results from the fact of recognising the mental health as an intrinsic element of man's health and constitutes obligation of public authorities to take activities aiming at protection of society's mental health and improvement of the situation of persons suffering from mental disorders.

640. The fundamental objectives of National Mental Health Prevention Programme for 2011-2015 are: promotion of mental health and preventing mental disorders as well as ensuring persons with such disorders access to healthcare services and other forms of support and assistance that enable them functioning in a family and society, as well as development of scientific research and establishment of information systems necessary for effective prevention of mental disorders.

641. The most important activity taken under this Programme implementation will be modernisation of psychiatric treatment, based on the assumptions of environmental modern and consisting in:

- Transforming large psychiatric hospitals into specialist facilities.

- Establishment of psychiatric wards in general hospitals.
- Increasing the share of non-hospital forms of healthcare in psychiatric rehabilitation. Taking into account the objectives of the aforementioned Programme and the present condition of psychiatric healthcare the Minister of Health recognizes as priorities the activities in the following areas:
  - Prevention.
  - Depression disorders.
  - Suicides.
  - Geriatric disorders, related to aging.
  - Disorders caused by alcohol consumption.
  - Chronic, recurring diseases of schizophrenia type and affective.

642. National Mental Health Prevention Programme for 2011-2015 is executed by the Ministries of: Health, National Education, Labour and Social Policy, Science and Higher Education, Justice, National Defence, Interior and Administration. Also the National Health Fund and local governments of provinces, poviats and communes will be involved in Programme implementation. The following entities, inter alia, will be able to participate in the programme: social organizations, associations, foundations, professional self-governments and churches. The Minister of Health will manage implementation of the Programme, coordinating also tasks performance. The Programme is financed from the State budget, from own funds of local governments and from the funds of European Union.

643. The development of the National Mental Health Prevention Programme for 2011-2015 also constitutes a response to the provisions expressed in the Declaration adopted by participants of the European Conference for Mental Health Protection, summoned by the Regional Office for Europe of the World Health Organization in January 2005 in Helsinki. An Action Plan adopted at the same time, constitutes a proposal for the implementation of the provisions included in the Declaration, outlines priorities of European policy regarding mental health protection for the period of the next 5-10 years and in this regard belongs to one of the most important international documents of programming nature.

644. The Education system in Poland ensures personal development and inclusion of disabled students into the general course of life in society. The first step towards an inclusive society is the commitment to ensure that disabled children and young people functioning in this system become as independent as possible.

645. To this end previous activities will be continued and enhanced to provide an optimal educational and upbringing environment that accepts the fact that development-related needs of the students are diversified and enables fulfilment thereof.

646. The activities of all types of schools aiming at raising students awareness regarding the problems related to disability will be intensified, both these that are encountered by the very disabled persons and their families as well as those related to functioning of persons without disabilities in relationship with disabled persons.

647. With respect to broadly defined social education, activities in this scope will be addressed to the media as well as to architects, employers, medical and social services employees, volunteers and members of local governments. Also the activities addressed to families of persons with disabilities, preparing them and providing support with problems resolution, will be an important element of social education.

648. Integration of activities addressed to disabled children and young people, related to the supraministerial nature of the problem, should also constitute an important area of

activities. Continuation of cooperation between the ministries providing various support to disabled children and young people, including education, health, social assistance, constitutes a condition for effectiveness and success of this support.

## **VII. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

### **A. Implementation of recommendations of the Committee on the Rights of the Child**

*CRC/C/15/Add.194 – paragraph 45: The Committee recommends that the State party ensure that children in rural areas have equal opportunities for a quality education which provides them with the skills to enter the labour market or university-level education based on their merit, by:*

- a) Seeking innovative means for promoting the cognitive, social and emotional development of children, through, inter alia, programmes that foster interaction between children and their peers and parental education programmes on the benefits of early childhood education, ensuring that there are sufficient and appropriate kindergarten facilities for all children in rural areas; orienting the education system towards achieving the aims mentioned in article 29, paragraph 1, of the Convention and in the Committee's General Comments on the aims of education; and introducing human rights, including children's rights, into the school curricula;*
- b) Ensuring that rural areas and poorer communities are provided with additional funds to allow them to provide the same quality of education and level of extracurricular programmes as urban schools;*
- c) Ensuring that students from poor families or those in rural areas have access to scholarships or other forms of financial support that allow them to attend general secondary schools in preparation for university.*

#### **Promotion of pre-school education**

649. The concept of pre-school education promotion has a systemic nature. It was based on the solutions in the scope of the so called small child policy, tested in other European countries. Implementation by the Ministry of National Education encompasses.

- Development of the network of pre-school education facilities and providing access to various forms of pre-school education for children at pre-school age.
- Pedagogical support and assistance in problems resolution for parents raising small children, including execution of various forms of parents' education.
- Introduction into pre-school education of diagnosis of readiness to start education at school.
- Ensuring psychological-pedagogical and specialist assistance aiming at supporting development and education of children, levelling developmental disharmonies and retardations and disorders therapy.

650. As of 1 September 2004 6-year-old children have been subject to one-year pre-school preparation obligation in a nursery school or in pre-school unit organized in primary school. In the previous legal circumstances the child was not subject to such obligation. As of the 2009/2010 school year 5-year-old children have the right to participate in one-year pre-school preparation in nursery school, pre-school unit organized in primary school or



other form of pre-school education. At the same time the 6-year-old children who do not commence schooling obligation in the first grade of primary school, are still obligated to participate in pre-school education.

651. The reduction of the age of starting school education involves many activities supporting this initiative that impact education quality and preparation of schools for accepting 6-year-old children, inter alia: promotion of pre-school education, individualization of education process and change in teaching methods related thereto, preparation of teachers to new challenges and modernisation of school base. Since 2009 a new core curriculum for general education has been successively introduced which has had a positive effect on the change in the manner of teaching the youngest pupils, adjusting teaching requirements, expectations and methods to their age and individual needs. Also the systemic project is being implemented – “Individualisation of teaching and education process for pupils of grades 1-3 in primary schools”. Its objective is to support all primary schools in activities related to this area. Also significant is the implementation of “Governmental programme for supporting in 2009-2014 governing authorities in ensuring safe conditions for learning, teaching and care in the grades 1-3 in primary schools and primary general music school – Happy School”. Under this Programme, in approximately 80% of the schools the special facilities designated for leisure and education delivered with active methods for the pupils of 1-3 grades were equipped with advanced didactic aids. Nearly 1000 outdoor playgrounds were built. In 2010 the amount of over PLN 52 000 000 from the provisions of the education-related part of general subvention was allocated to additional equipment for classrooms and gyms in primary schools and to renovating the facilities.

652. As of the 2011/2012 school year, 5-year-old children will have the obligation to participate in one-year pre-school preparation. It is anticipated that this will result in significant increase in the number of children covered with pre-school education (96.4% of 5-year-old children is covered with pre-school education – as at 30 September 2010).

653. In order to increase popularity of pre-school education the Ministry of National Education introduced changes facilitating access to pre-school education for children under 5. Also Regulation of the Minister of National Education was published of 10 January 2008 on types of other forms of pre-school upbringing, conditions of creation and organisation of these forms and their manner in operation.

654. With respect to the entry into force of the Act of 19 March 2009 on Amendments to the Act on Education System and Amendments to Certain Other Acts and the Act of 5 August 2010 on Amendments to the Act on Education System, the above regulation was superseded accordingly by the Regulation of the Minister of National Education of 27 May 2009 on types of other forms of pre-school upbringing, conditions of creation and organisation of these forms and their manner of operation and the Regulation of the Minister of National Education of 21 August 2010 on types of other forms of pre-school upbringing, conditions of creation and organisation of these forms and their manner of operation.

655. The above implementing Acts allowed the establishment – in addition to the kindergartens functioning in the system – of pre-school education points and pre-school education complexes, and at the same time popularized access to pre-school education, especially in rural areas;

656. The Establishment of and running other forms of pre-school education both by the communes as well as by legal and natural persons constitutes an extension of the catalogue of locations where pre-school education is provided. Establishment of pre-school education points or pre-school education complexes is beneficial for the communes due to lower costs incurred per child attending the classes in a different form of pre-school education than the

costs of keeping a child in a kindergarten. However this does not mean that the traditional kindergartens are to be replaced by other forms of pre-school education. Only in the cases justified by demographic and geographic conditions the council of commune may supplement the network of public kindergartens and pre-school education units in primary schools with other forms of pre-school education.

657. In line with the above provisions regarding functioning of different forms of pre-school education, both pre-school education points as well as pre-school education complexes are obligated to execute selected programmes for pre-school education including core curriculum of pre-school upbringing, and the teachers employed in other forms of pre-school education have to have the same qualifications as the teachers in nursery schools. The daily number of hours of classes in the point or complex, determined by governing authority of the point or complex, cannot be lower than the number of hours of classes during which core curriculum of pre-school upbringing is executed, as indicated in the regulation quoted above. At the same time there is nothing that would prevent other forms of pre-school education from ensuring the child full-time care. The daily number of hours of pre-school education classes in the point or complex has to be adjusted to children's abilities and parents' needs.

658. Tasks related to pre-school education are, and will be co-financed from European Social Fund under 9th Priority of Human Capital Operational Programme 2007-2013. Detailed description of this Priority under Measure 9.1 "Equalization of educational chances and providing high quality of educational services" performed within the framework of the educational system provides for various support areas in the scope of pre-school education. In the Sub-measure 9.1.1 "Minimising inequalities in the level of popularization of pre-school education", projects submitted refer to: creating kindergartens (including also launching other forms of pre-school education) in areas and environments of low level of presence of pre-school education (in particular in rural areas), support to existing kindergartens (including also other functioning forms of pre-school education), contributing to increased participation of children in pre-school upbringing, e.g. support to pre-school education facilities threatened with liquidation, extending work hours, launching additional units, employing additional personnel, etc.

659. The effect of the negotiations between Polish Government and the European Commission was an agreement that local governments of provinces as intermediate bodies are responsible for execution of measures under Priority 9 of HC OP. In all the provinces implementation of the measures started in 2008. Within 2008-2013 total amount of over € 243 000 000 was planned for achievement of the objectives referred to above.

660. The Ministry of National Education closely cooperates with local governments of provinces and the Minister of Regional Development to ensure the best and most effective utilisation of the financial resources of European Union for development of pre-school education. Moreover in the Ministry of Agriculture and Rural Development under measure 3.2 "Establishment of micro-sized enterprises in the Programme for Development of Rural Areas" for 2007-2009, funds have been included for development of new pre-school education facilities in rural areas.

661. According to the data of Education Information System, the number of public and non-public points and complexes of pre-school education has been systematically increasing. In 2009 there were in total 819 public and non-public points and complexes of pre-school education, including 883 on rural areas. In 2010 (based on the data as at 30 September 2010) there were accordingly 1240 and 650 such facilities.

662. It should also be emphasized that since 2008 the number of nursery schools (public and non-public) has also increased. In 2009 there were 8 470 such facilities, including 2 835 on the rural areas, in 2010 accordingly – 8 821 and 2 906. At the same time the number

of pre-school education units in primary schools has increased. In 2008 there were 11 161 such facilities, including 7 906 on the rural areas, in 2009 accordingly – 11 931 and 8 215, whereas in 2010 – 12 570 and 8 576. As compared to 2008 the number of pre-school education facilities increased in 2009 by 6.8%, whereas in 2010 by 13.9%.

663. At the same time the index for pre-school education popularization systematically rises. In the 2007/2008 school year the index for popularization of pre-school education in total amounted to 47.2% and on the rural areas: 23.1%. In the 2009/2010 school year in Poland the total share of 59.7% of children were covered with pre-school education. On rural areas this value amounted to 37.5%.

664. The situation is similar with respect to children born in different years. In the 2007/2008 school year 36.1% of three-year-old children, 48.1% of four-year-old children and 57.8% of five-year-old children were covered with pre-school education. In the 2009/2010 school year there were 45.7% of three-year-old children, 59.4% of four-year-old children and 74.8% of five-year-old children.

665. In absolute figures the growth dynamics for the number of children enrolled in pre-school education can be presented as follows: in the 2006/2007 school year 862 700 children, in 2007/2008 – 871 900 children, in 2008/2009 – 919 100 children, in 2009/2010 – 994 100 children, in 2010/2011 – 1 060 200 children were enrolled in pre-school education.

666. The effectiveness of undertaken activities is proven by the fact that in 2007 in 539 communes all over Poland there were no pre-school education facilities. Presently in every commune there is a kindergarten or pre-school education unit in primary school or pre-school education point or complex. Inter alia the development of other forms of pre-school education contributed to such significant change of this situation.

667. Governmental policy assigns a special role to local governments that are which are expected to ensure effective management of the financing of education and competent adjustment of Polish schools to local capabilities and needs. The effect of actions already undertaken has been to systematically increase the index of the popularization of pre-school education.

668. In 2010, the Ministry of National Education undertook actions for further levelling of educational opportunities of children and adolescents with special educational needs, including persons with disabilities. For this purpose legislative works were conducted aiming at modification, and thus improvement of organisational and legal conditions, constituting the basis for providing education, upbringing and care adjusted to individual developmental and educational needs of disabled students.

669. Six regulations were amended, governing the area of psychological and pedagogical support and education of students with special educational needs, including children and young people with disabilities, in nursery schools, schools and facilities of various type (mainstream, integrated or special) where these students fulfil accordingly the obligation of one-year pre-school preparation, schooling obligation or schooling duty.

670. These changes have systemic nature and consist, inter alia, in:

- Implementation at every educational stage of more flexible model of education of disabled students, better adjustment to their individual developmental and educational needs and mental and physical capabilities,
- Development of organizational solutions that will contribute to systemic improvement of the conditions and adjustment of teaching methods to individual needs of disabled students and training the young man to make conscious choice of the direction of vocational education, including higher level education,

- Execution of the right to take external exams and tests in the conditions and form even more adjusted to educational needs and mental and physical capabilities of disabled students, ensuring the student support and individualized assistance of teachers and specialists, provided as part of psychological and pedagogical support, as early as possible after identifying such need, already on the premises of nursery school or school.
- In the coming years, the implementation of the changes in the area of education, upbringing and care of disabled students by introduction of further necessary legislative modifications and by preparing teachers and specialists employed in nursery schools, schools and educational facilities to implement these solutions will continue. This is to be achieved with the help of actions taken by the Ministry of National Education under the executed systemic project titled “Improvement of effectiveness of educating students with special educational needs”, implemented in the period from March 2010 to the end of 2011. Thanks to these actions it will be possible to significantly more effectively use the competencies of educational staff of nursery schools, schools and education system facilities, including psychological-pedagogical counselling centres, in order to ensure to disabled students the support and individualised assistance during obligatory and additional classes, according to identified educational and developmental needs and their mental and physical capabilities, irrespective of the location of their education.

#### **Popularization and promotion of the knowledge on the rights of the child and human rights**

671. The realization of the idea of human rights at school, education for tolerance and mutual respect for individual and group rights are among the educational priorities of the Polish education system.

672. Proposals of trainings, conferences and publications about this subject has been included since 1994 in educational offer of Central Teacher Training Facility (currently Centre for Education Development)<sup>7</sup>. The trainings are addressed to: methodological advisors, consultants, schools’ headmasters, teachers, representatives of pedagogical supervisory personnel – inspectors, coordinators for issues related to observance of the rights of the child, student in schools and facilities, volunteers and activists of non-governmental organizations – Helsinki Committee for Human Rights, Amnesty International and Polish Red Cross.

673. The major objectives of the activities are popularization of knowledge on human rights and freedoms in the educational environment, providing support to ensure the quality of the work of schools, taking into account standards in human rights, shaping attitudes of respect for law and principles applicable in democratic society, combating discrimination, providing education contributing to tolerance and peace.

674. A very important initiative executed in cooperation with the Helsinki Committee for Human Rights is the Programme: “The Ombudsman for Students”. It covers 160 hours of trainings in the scope of human rights with special emphasis on the relationship parents/children – educational authorities and performance of country-wide research regarding the condition of observance of child’s rights in schools. Its addressees are inspectors – representatives of all the provinces performing the function of the coordinator of supervision over observance of student’s rights and child’s rights in schools and

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<sup>7</sup> Pursuant to Resolution No. 19 of the Minister of National Education of 10 December 2009 on the merger of the National In-Service Teacher Training Centre and Methodological Centre of Psychological-Pedagogical Counselling into the Education Development Centre in Warsaw.

facilities. Major objective of proposed trainings is to prepare a group of qualified persons who will have theoretical knowledge and practical skills for conducting educational and intervention activities in the scope of observance of human rights in school or educational facility.

675. Poland-wide studies regarding popularization and observance of child's rights in schools were performed at the request of the Ministry of National Education by Central Teacher Training facility (CODN – presently – Centre for Education Development) and regional education authorities in the 2005/2006 school year. Students, teachers and parents of students from 320 educational facilities in Poland participated in the studies (including primary schools, middle schools and post middle schools).

676. The studies covered two areas – popularization and enforcement of four selected rights: to information, to privacy, to expressing opinions, and to be free from degrading treatment. The results of the studies allowed the development of a strategy of educational and intervention actions in the scope of observance of the rights of the child in schools adequate to deal with the signalized problems.

677. A Training network of “Trainers for education on human rights” – appointed by CODN (presently part of Centre for Education Development) in 2003 – apart from direct educational actions addressed to educational staff, young people and children, also enables an exchange of professional experiences, the seeking of new, innovative solutions and the maintenance of constant cooperation and mutual support between the trainers.

678. Publications, constituting additional didactic aids for teachers are: 1) “Prawa człowieka. Poradnik nauczyciela” (eng. “Human Rights. Teacher's Guide”) (2002) – devoted to the issue of human rights and the introduction of this notion to Polish schools, for use in the work aimed at forming tolerance-oriented attitudes and popularization of knowledge on human rights and freedoms among teachers, children and young people, 2) “COMPASS. A manual on human rights education with young people” – publication of Council of Europe published in cooperation with the Association for Children and Young People “SZANSA” (2005), 3) “Antydyskryminacja. Pakiet edukacyjny” (Anti-discrimination. Educational package.) (2005), 4. “Compasito: Manual on Human Rights Education for Children” – publication of Council of Europe published in cooperation with the Association for Children and Young People “SZANSA” (2009).

679. The “Odkrywamy Prawo Humanitarne” (OPH) – programme is based on the educational package “Exploring Humanitarian Law” (EHL), that was developed by the International Committee of the Red Cross in cooperation with the Education Development Centre from USA and representatives of ministries of education from a dozen or so countries and freelance experts from all over the world.

680. In 2004 the “EHL Programme” was authorised to be used in schools by the Minister of National Education and Sport (authorisation No. DKOS-5002-19/04).

681. During 2005-2006 CODN (currently part of Centre for Education Development) in cooperation with Polish Red Cross executed eight three-day trainings for inspectors, methodological advisors and consultants as well as employees and volunteers from regional branches of Polish Red Cross (approximately 150 persons) who deal with implementation of the programme “Exploring Humanitarian Law” as part of the trainings for teachers and young people in their local environment.

682. Under Ordinance No. 32 of the Minister of National Education of 25 November 2008 appointed was Coordination Team for Implementation and Monitoring of the Programme “Exploring Humanitarian Law” in Schools and Education Facilities. One of the tasks of the team in 2009 was to develop on-line surveys, addressed to students and teachers in order to perform an assessment of the implementation of the EHL programme in

Polish schools. The study with use of mentioned surveys and compilation of the results was performed in the first half of 2010. Report on the study mentioned above was published on the website of the Ministry of National Education and Polish Red Cross.

683. With respect to the amendments introduced in the provisions of article 66 of the Act on General Obligation to Defend the Republic of Poland (under the Act of 22 May 2009 on Amendments to the Act on General Obligation to Defend the Republic of Poland and the Act on Physical Culture), as of the 2009/2010 school year, a new subject, “education for safety”, has been introduced to middle schools, and as of the 2012/2013 school year it will also be mandatory in post-middle schools. It will replace the subject “civil defence”, currently offered in post-middle schools. In accordance with new core curriculum for pre-school and general education in various types of schools, stipulated with the provisions of the Regulation of the Minister of National Education of 23 December 2008, under the subject “education for safety”, young people will learn not only about the essentials of functioning of population protection and civil defence as well as political and military conditions for guaranteeing the security of the State, but also about the elementary legal acts regarding International Humanitarian Law and the objectives and tasks of International Red Cross and Red Crescent Movement.

684. The Centre for Education Development executes many proposals regarding human rights and freedoms in cooperation with various institutions and non-governmental organizations promoting the subject of human rights and dealing with human rights protection. These are inter alia: Helsinki Foundation for Human Rights, Amnesty International, Centre For Citizenship Education, UNHCR, UNICEF, UNESCO, Polish Red Cross, International Committee of the Red Cross, Polish Humanitarian Action (PAH, pl. Polska Akcja Humanitarna, Council of Europe, Office of Government Plenipotentiary for Equal Status of Women and Men, Ludwig Boltzmann Institute of Human Rights, RAXEN network.

685. Poland as the first country in Europe to organize in 1994 the Sejm of Children and Young People (Sejm DiM). Sejm DiM is composed of 460 Sejm deputies, similar to the Sejm of the Republic of Poland. The term of office of the deputies lasts one year. The sessions of the Sejm DiM, held once a year, have been classified as private members bill, which was reflected by appointment of the Organizational Team, which by the 11th session of the Sejm DiM was chaired by the member of the Parliamentary Group of Women. As of the 12th Session of the Sejm DiM the works related to its organization were taken over by Sejm Information Base (Wszechnica Sejmowa). Support is also provided by the deputies from the Commission for Education, Science and Youth. Co-organizers are: The Ministry of National Education, Foundation the “Centre For Citizenship Education” and the Foundation “Project: Poland”. Regional education authorities appointed Provincial Organizational Teams for the Sejm of Children and Young People that in many provinces are initiators of meetings of young deputies with local administrative and self-government authorities. Employees of the Secretariat of Sejm Sessions in the Chancellery of the Sejm prepare the scenario for the plenary session, train young speakers, help with chairing the sessions and prepare shorthand notes on the course of the session of the Sejm of Children and Young People. By 2009, seats in the Sejm DiM, were granted on the basis of a literary competition. Candidates wrote their essays/compositions on one of the subjects assigned by the Organizational Team referred to above. The Provincial Commission (appointed by regional education authority) evaluated the works and awarded seats in the Sejm DiM to the authors of the best works. Then the works of the deputies were evaluated by the Organizational Team, selecting a group of approximately 20 young people who in addition a dozen or so days ahead of the session of Sejm DiM were allowed to participate in the works of Sejm Commissions. This group selected from among its members the Speakers of the Sejm DiM and developed draft Sejm resolutions. As of 2010, candidates for deputies have been working in two-person teams. In order to receive seat in the Sejm, the team has

to execute social activity related to the subject of the session, and publish the report on activity performance on public web site [www.edutuba.pl](http://www.edutuba.pl). Seats in the Sejm will be granted to the teams whose reports on local activities received highest score. The initiator and organizer of the new form of recruitment for the Sejm of Children and Young People is the Foundation “Centre For Citizenship Education”.

686. The Ministry of Interior and Administration coordinates the implementation in Poland of two programmes of European Union “Fundamental rights and citizenship” and “Daphne III”. The role of the Ministry of Interior and Administration is to promote these Programmes in Poland and encourage eligible entities to apply for co-financing from the funds included for their execution.

#### **Programme “Fundamental rights and citizenship”**

687. The Council of the EU adopted on 19 April 2007 under the resolution establishing for 2007-2013, a detailed Programme “Fundamental rights and citizenship”, as part of the general Programme “Fundamental rights and justice”; the Ministry of Interior and Administration coordinates the implementation of this Programme in Poland since 2008. The overall amount for the implementation of this Programme for 2007-2013 is: € 93 800. The general objectives of the Programme are:

- To support development of European society, where fundamental rights are recognised in article 6, paragraph 2 of the Treaty on European Union, including the rights resulting from citizenship of European Union are respected,
- To reinforce civil society and promote open, transparent and regular dialogue with this society regarding fundamental rights,
- To combat racism, xenophobia and anti-Semitism and to popularize the attitude expressing greater understanding for other cultures and denominations and greater tolerance in entire European Union,
- To develop contacts, exchange information and develop network between judicial and administrative bodies and legal environment inter alia by supporting trainings in the field of judiciary – in order to improve understanding between these bodies and between representatives of legal profession.

688. One of the priorities is the protection of children’s rights, under which projects of supranational nature can be co-financed, consisting in running awareness-building campaigns, conducting research regarding best practices in Member States and the manner of how to transfer them to other States, as well as analysis of specific problems (poverty, street children, children deprived of care) and possible other solutions.

#### **Programme “Daphne III”**

689. The Programme was adopted by the Council of EU and European Parliament on 20 June 2007. The Ministry of Interior and Administration coordinates the implementation of the Programme “Daphne III” in Poland.

690. The Programme was developed in response to general and growing unrest regarding violence, it understands the definition of violence very broadly, in order to enable Daphne projects to analyse in detail the faces of violence and its specific forms. The Programme aims at intensification and coordination of activities in the entire Union against violence towards children and women, as well as against people-trafficking and sexual abuse.

691. The overall amount for implementation of the Programme for 2007-2013 is: € 116 850 000.

692. The general objectives of the Programme are:

- To support protection of children, youth and women against any forms of violence,
- To reach high level of protection of health, welfare and social cohesion,
- To support development of the Union's policies – especially those regarding children, youth and women,
- To support measures aiming at protecting children's rights and combating people-trafficking and sexual abuse,
- To exchange, adapt and use existing good practices.

**Providing financial support**

693. See also Chapter VIIB, "Child's right to rest and leisure", paras. 744-748 hereof.

**National scholarship programme**

694. Introduced in 2004 the provisions of chapter 8a of the Act of 7 September 1991 on Education System provided the basis for the policy of financial support to students whose financial and life situation may pose a threat to the systematic fulfilment of schooling obligations or duties, limit educational ambitions or make the children and youth resign from education at higher levels. This also allowed support to particularly gifted students, the triggering of the social activity of many entities supporting education of children and young people – units of local government or non-governmental organizations, and the development of legal solutions such as will ensure effectiveness of undertaken activities.

695. Chapter 8a, "financial assistance for students" specifies in detail the principles for providing financial aid. This support may be provided in the form of scholarship, school allowance, scholarship for academic merit or sport achievements, scholarship of the Prime Minister, scholarship of the minister competent for the issues related to education and upbringing, scholarship of the minister competent for the issues related to culture and protection of national heritage.

696. This assistance covers the following areas:

- Financial support provided to students, course participants and pupils under the education system;
- Financial support provided to students by competent ministers;
- Financial support provided under governmental programmes;
- Programmes implemented with use of Community funds;
- Sport scholarships;
- Activities enabling and generating activity of non-governmental entities in the scope of providing financial support to students (including supporting activities of local government units and non-governmental organizations).

697. New model of financial support for students covers three basic modules:

(a) Module I – Financial support of social nature, executed as permanent task:

- Aims at reducing differences in access to education, resulting from student's difficult financial situation.
- Is implemented by the commune, as own task, co-financed in the form of restricted grant from the State budget, provided according to objectivised criteria determined in the Regulation of the Minister of National Education and Sport of 22 February 2005 *on terms of conveying of special subsidy to communes for subsidizing material*



*aid benefits of social character, and the manner of determination of the amount of this subsidy*, issued under article 90r, paragraph 3 of the *Act on Education System*.

- Students, course participants and pupils who meet the income criterion stipulated in the act on social assistance (i.e. up to PLN 351 a month per one person in the family) have the right to apply for the support.
- The Act on *education system* specifies forms of providing support other than pecuniary benefits (art. 90d of the Act); providing support in pecuniary form is applied only in special cases.
- Detailed solutions enabling execution of the task are determined by the council of commune in the act of local law – regulations for providing financial assistance, whose scope if specified by the act (art. 90f of the Act).

(b) Module II – Financial support of social and incentive nature, executed in shorter (diverse) time sequences (art. 90u of the Act):

- As governmental programme for levelling educational opportunities of children and young people and other social groups – financed from the State budget (art. 90u sec. 1 item 1 of the Act).
- As governmental programme for supporting, establishing and implementing regional or local programmes for levelling educational opportunities of children and young people, developed by local government units or non-governmental organizations (art. 90u sec. 1 item 2 of the Act).
- As governmental programme for supporting, establishing and implementing regional or local programmes for supporting education of gifted students, developed by local government units or non-governmental organizations (art. 90u para. 1 item 3 of the Act).
- The Governmental programmes indicated above are executed based on the regulations of the Council of Ministers, that stipulate detailed mechanisms necessary to ensure programme implementation (art. 90u para. 4 items 1-3 of the Act).

(c) Module III – Financial assistance of an incentive nature, executed as permanent task under article 90g-90j of the Act and the regulation of the Council of Ministers issued under article 90k of the Act:

- Executed as a task to significant extent financed from the State budget;
- Detailed solutions regarding scholarships for highly gifted students are stipulated in the regulation of the Council of Ministers of 14 June 2005 *on Scholarships of the Prime Minister, of the minister competent for the issues related to education and upbringing and of the minister competent for the issues related to culture and protection of national heritage*.

698. Also legal basis have been developed for passing by the Council of Ministers of the governmental programmes enabling co-financing of local and regional programmes developed by local government units or non-governmental organizations, aiming at levelling of educational opportunities (close in their nature to financial support benefits of social nature) and programmes for supporting education of gifted students (close in their nature to financial support benefits of incentive nature) to which these entities allocate their own funds.

699. Funds for scholarships and school allowances are allocated to communes and amounted to: in 2007 – over PLN 439 000 000, in 2008 – over PLN 522 898 000, in 2009 – PLN 396 000 000, in 2010 – PLN 386 510 000.

700. In the 2006/2007 school year 949 098 students from the total number of all students of 5 531 084 received scholarships. In the 2007/2008 school year 913 202 students from the total number of all students of 6 881 735 received scholarships. In the 2008/2009 school year 567 123 students received scholarships, whereas 23 675 students received school allowances, and in the 2009/2010 school year it was accordingly – 677 010 and 19 429 students.

#### **Other governmental programmes**

##### *Governmental programme for levelling educational opportunities of students coming from the families of former employees of State-owned agricultural enterprises*

701. This Programme was established under resolution No. 39/2006 of the Council of Ministers of 28 March 2006. The manner of implementation of this long-term Programme was stipulated in the regulation of the Council of Ministers of 28 March 2006 on detailed conditions and procedure of granting aid to students from families of former workers of national agricultural enterprises.

702. This Programme was addressed to students attending post middle schools, who come from families of former employees of state-owned enterprises of agricultural economy, live in rural areas or in towns up to 20 000 residents, who by 31 December 2004 were granted scholarships of Agricultural Property Agency for at least 2005, to enable them to obtain secondary education completion diplomas.

703. The Programme aimed at enabling students coming from the areas of former state agricultural enterprises (so called PGRs) to continue education in spite of the difficult financial situation of their families. Students received scholarships up to the moment of graduation from post middle school, however not longer than by June 2008.

704. The scholarship was granted to students for the period of 10 months in a given school year and to graduates for the period of 8 months in a given school year and it was allocated to partially or completely cover the expenses incurred with respect to education, in particular on: meals in school canteen, canteen of special educational-care facility, dormitory, boarding house or run by another entity, accommodation in dormitory, boarding house or private lodgings, transport to school, purchase of textbooks and school aids, purchase of necessary clothing and shoes, studying foreign languages and other educational classes, executed at school and outside school, school trips.

705. In total, within the period of the programme implementation, in 2006-2008 the amount of funds spent from the State budget reached nearly PLN 77 000 000. More than 47 000 scholarship holders received support.

706. The major effects are as follows:

- Facilitating, and in many cases making it possible to obtain education at the level of secondary school, obtain secondary education completion diploma and continue education in selected higher education facility,
- Levelling disproportions between students by participation in school trips, providing textbooks and necessary clothing,
- Motivating students to greater life activity and in particular promoting the ability to enter the labour market and change the attitudes among the young people from the areas of former state agricultural enterprises. The programme fulfilled its assumed objectives.

**Governmental programme for supporting establishment and implementation of regional or local programmes for levelling educational opportunities of children and young people in 2006 “Activation and supporting local government units and non-governmental organizations in the scope of providing financial support of educational nature to students” (Programme developed by the Ministry of National Education under the Resolution of the Council of Ministers No. 40/2006 of 26 March 2006 – for its implementation the amount of PLN 75 000 000 was allocated)**

707. The Programme assumed the integration of local environments around the problems and needs of the children, initiation of and support for activities of these environments aimed at providing children proper support, enabling them to overcome educational barriers and attain higher education levels. A basic assumption of the Programme was joint engagement of the funds of local government units, public and non-public in the financial support for students.

708. Entities participating in the programme were not only obligated to diagnose the needs of students in schools, but also to engage financially in the provision of financial support to education. Students of all types of schools, coming from the families in which income per person did not exceed the income criterion specified in the Act on Social Assistance, benefited from the support.

709. Under the programme the following initiatives were organized: additional classes for developing knowledge and skills, classes for developing interests, passions and talents, psychological and pedagogical classes supporting student development, classes shaping entrepreneurial attitudes, and attitudes towards undertaking educational and professional activities.

710. In 2007 and 2008 the Council of Ministers adopted accordingly:

**(a) Governmental programme for levelling educational opportunities of children and young people in 2007 “Activation of local government units and non-governmental organizations”.**

- In the programme special emphasis was placed on reinforcing the upbringing function of the school. The total amount of PLN 75 000 000 was allocated from the State budget for programme implementation.

**(b) Governmental programme for levelling educational opportunities of children and young people in 2008 “Activation of local government units and non-governmental organizations”**

- With an appendix in the form of the programme and regulation of the Council of Ministers of 16 September 2008 on detailed conditions of subsidizing local or regional programmes for equalisation opportunities for children and youth in 2008, conditions to be met by such programmes, entities assessing the programmes and the manner and procedure of selection of programmes to be subsidized. In 2008 the amount of PLN 50 000 000 was spent on the programme.

711. The objective of the Programme “Activation of local government units and non-governmental organizations” in the subsequent years was to create conditions for development of the system of classes for students that enable them to develop their interests going beyond the core curriculum executed in schools and educational facilities; develop cultural competencies; prepare young people for conscious career planning and assuming professional roles; support student development with psychological and pedagogical support provided to them in various forms; fulfil the needs for active ways of spending spare time and form positive civic attitudes of children and youth. Such classes provide also the opportunity to supplement knowledge and enhance key skills; that is why they represent an element of levelling educational opportunities of children and youth.

712. Additionally the Programme made it possible to conduct educational and supporting classes for children at pre-school age. In Poland the task of popularization of the education of small children, including ensuring all 5-year-old children the right to free of charge pre-school education constitutes one of the major assumptions of the education department for 2009-2011. In this period it was planned to rapidly and significantly increase the index of children covered with pre-school education – up to 70% at the national level.

713. Therefore the Programme was compliant with the assumptions of a change in the education system aiming at establishment of safe and friendly school, providing all children equal opportunities of access to education, facilitating development of their individual interests, promoting foreign languages learning, sports and active lifestyle, supporting development of the child at pre-school age and preparing 6-year-old children for starting education in school and ensuring children and youth sense of security.

714. According to these assumptions the priorities were the following objectives:

- (a) Increasing the number of educational and supporting classes for children at pre-school age, including these executed in other forms of pre-school education;
- (b) Reinforcing upbringing and care function of the school, family and local environment, addressed to children enrolled in one-year pre-school preparation and attending 1-3 grades of primary school and primary general music school;
- (c) Development and implementation of regional or local programmes for levelling educational opportunities focused on improvement of the quality of the functioning of the education system by introduction of solutions increasing the effectiveness of education and upbringing, with special emphasis on small children;
- (d) Levelling educational, cultural and social opportunities of students with disabilities.

715. The Programme provided for co-financing from the funds of the State budget of the activities undertaken by local government units and organizations referred to in article 3, paragraphs 2 and 3 of the Act of 24 April 2003 on Public Benefit and Volunteer Activities, i.e. non-governmental organizations, associations of local government units and legal persons and business units operating under the provisions on relationship between the State and the Catholic Church in the Republic of Poland, on relationship between the State and other churches and religious associations and on guarantees of freedom of conscience and religion, whose statutory objectives including running public benefit activities. Both funds of local government units as well as funds from the State budget have been engaged in educational support for students.

716. At the level of every province, at least 15% of granted funds were allocated to the programmes that cover students with disabilities. Entities implementing local or regional programmes were entitled to spend up to 50% of received subsidy on purchase of equipment required for Programme implementation, that would be used in the following years for execution of educational, upbringing and care activities addressed to children and up to 5% of received subsidy on programmes management and handling. The subsidy was granted in the amount of 70% of funds necessary for programme implementation, the remaining 30% of the funds were own funds of programme implementing entity.

717. Students of all types of schools could be covered by the programme, with particular focus on children and youth from the families with low income, with upbringing-related problems, demonstrating learning difficulties, threatened with discontinuation of schooling obligation or duty fulfilment and ending education at lower education level, students with disabilities, students coming from rural areas.

718. Forms of the support offered by implementing entities of local programmes provided students with the opportunity to overcome already existing educational barriers and constituted the basis for investing in their own education. Significant is also the fact that local communities see the need for engaging in the programmes for levelling educational opportunities of children and young people not only to access the financial resources available but first of all to develop the local potential of knowledge and skills.

719. Among the most important results of programme implementation we may classify:

- Popularization or extension of the educational offer addressed to children at pre-school and early school age, especially in rural areas.
- Reinforcing the upbringing function of the school.
- Implementation of new models for working with the student.
- Improvement of grades and academic accomplishments.
- Elimination and prevention of phenomena of pathology and moral corruption.
- Overcoming economic, social, cultural and developmental barriers.
- Supporting harmonious development of children and young people (development of versatile interests, increasing physical fitness, development of key skills, etc.).
- Development of creative competencies.
- Reinforcement of self-esteem.
- Increasing motivation and educational aspirations.
- Integration of persons with disabilities with peer environment.
- Support with resolution of local problems (e.g. helplessness of people from the areas of former state agricultural enterprises (PGRs), poverty of the residents of rural areas, limited access to participation in culture, absence of proper care for children of refugees and from care-educational facilities for support to the education of gifted students).
- Organizing students' spare time.
- Forming social and civic attitudes of children and young people.
- Reinforcing local environments by getting them involved in implementation of the programmes for children and young people.
- Equipping labs and classrooms with specialist equipment and didactic aids.

#### **Governmental programme “State-sponsored supplementary food programme”**

720. The Programme was adopted under the Act of 29 December 2005 on the Establishment of Many-year Programme: “State Aid in the Scope of Meal Sponsoring”. Regulation of the Council of Ministers of 7 February 2006 on the implementation of the many-year Programme “State Aid in the Scope of Meal Sponsoring”, stipulates the manner of implementation of the aforementioned programme, as well as the manner of planning and distributing the funds from the State budget granted for programme implementation.

721. The Programme provides for long-term activity in the scope of improvement of children's and young people's health condition by reducing the phenomenon of undernourishment, promoting healthy dietary style, improvement of the living standards of persons and families with low income and development of a dietary base in the communes, with special focus on the needs of children and young people.

722. Support under the Programme is provided to: children under 7, students by the time of graduating from post middle school, persons and families who are in a difficult situation due to various reasons, especially single persons, persons of advanced age, sick or disabled.

723. The Programme provides for reception of support in the form of: a meal, with special focus on hot meal, restricted allowance for purchase of meal or food, in-kind benefit in the form of food products.

724. Single person households, persons living in a family or families may apply for the support under the Programme.

725. Moreover, under the programme activities are implemented in particular on establishment of new and providing additional equipment to existing points preparing or delivering meals and transport of meals.

726. The Programme is financed from the State budget and from the funds from communal budgets. Total expenditures on programme financing in entire period of implementation thereof (by 2013) will amount to not less than PLN 6 000 000 000. For implementation of the programme within 2006-2010 in the State budget funds have been planned in the amount of PLN 2 600 379 000 (in 2006 – PLN 500 000 000, in 2007 – PLN 500 379 000, in 2008 – PLN 500 000 000, in 2009 – PLN 550 000 000, in 2010 – PLN 550 000 000).

727. The share of the funds from the State budget in the costs of programme implementation amount to: within 2006-2008 – 65%, in 2009 – 63%, in 2010 – 64%. From the overall amount of funds spent on programme implementation, on average 42-43% was spent on programme financing in rural areas.

728. The Programme beneficiaries are set out below:

*Year 2006*

- In total 2 446 518 persons, including 1 247 072 persons from rural areas,
- In total 1 452 056 children and young people (by the time of graduating from middle school) – including nearly 57% from rural areas;

*Year 2007*

- In total 2 270 742 persons, including 1 138 307 persons from rural areas.
- In total 1 332 383 children and young people (by the time of graduating from middle school) – including nearly 57% from rural areas.

*Year 2008*

- In total 2 006 008 persons, including 1 033 853 persons from rural areas.
- In total 1 174 777 children and young people (by the time of graduating from middle school) – including nearly 59% from rural areas.

*Year 2009*

- In total 1 984 108 persons, including 1 005 523 persons from rural areas.
- In total 1 125 369 children and young people (by the time of graduating from middle school) – including nearly 59% from rural areas.

*Year 2010*

- In total 1 977 351 persons, including 994 984 persons from rural areas.

- In total 1 089 288 children and young people (by the time of graduating from middle school) – including nearly 58% from rural areas.

729. Initially the programme was planned to be applicable in 2006-2009. Amended provisions of the Act of 29 December 2005 on the Establishment of Many-year Programme: “State Aid in the Scope of Meal Sponsoring”, extended the period of its operations by 2013 and introduced legal changes stemming from monitoring of the act within 2006-2009, inter alia: providing possibility to deliver food and meals to children and youth, who due to various reasons do not have the chance to eat any meal at school, without the necessity to execute family environmental interview and issue administrative decisions. The amendment of the Act entered into force on 1 January 2010.

## **B. Current governmental actions**

### **Specialist support for the children from families threatened with social exclusion**

730. The Ministry of National Education implements systemic solutions aiming at preventing and combating any types of problematic behaviours of children and youth, including the phenomenon of unjustified absences of students from school (introduction of universal obligation to develop educational and preventive programmes at schools). In order to increase effectiveness of school prevention Ministry of National Education promotes quality standards for preventive activities, examples of good practices in the form of professional preventive programmes and information, educational and methodological materials for teachers.

731. On the initiative of the education department, the bank of recommended preventive programmes was established, supplementing activities taken under upbringing programme of the school and school preventive programme. Similarly as in the case of quality standards it is permanently available on the websites of Centre for Education Development. Among the preventive programmes addressed to children and youth threatened with social maladjustment, the most often implemented are (original Polish title, plus translation in brackets): “Wychowawca podwórkowy” (Playground tutor), “Pedagog uliczny” (Street counsellor), “Pedagog rodzinny” (Family counsellor), “Dzieci Ulicy” (Street children), “Starszy brat, starsza siostra” (Older brother, older sister), “Odłot – Dokąd?” (Take-off – where to?), “Chrońmy młodość” (Let’s protect the youth), “Szansa w aktywności” (Chance in activity), “Pomocna dłoń” (Helping hand), “Mediacja środkiem rozwiązywania konfliktów bez przemocy” (Mediation – measure for non-violent conflict resolution), “Stop Przemocy” (Say NO to violence), “Spójrz inaczej” (Look at it from different perspective), “Trening Zastępowania Agresji” (Aggression replacement training), “Jesteśmy z Tobą” (We are with you), “Drugi Elementarz, czyli Program Siedmiu Kroków” (Second primer – seven steps programme), “Jak żyć z ludźmi” (How to live with people), “NOE” (NOE), “Debata” (Debate), “Podaj dłoń” (Give your hand), “Nasze spotkania” (Our meetings), “Zanim spróbujesz” (Before you try), “Dziękuję NIE” (NO, thank you).

732. Also preventive and educational activities are developed in non-school environments. Conducted are trainings of specialist interdisciplinary teams involved in preventive and educational activities in local environments, trainings of youth leaders, popularization of mediation as the method for communication and conflicts resolution and the method of Aggression replacement training.

733. A significant condition for achieving the best effects of educational and preventive activities, including also the activities for counteracting unjustified students’ absences from school, is to get many entities, not only schools and educational facilities, involved in execution of the tasks in this area.

734. At central level this refers to the necessity of ensuring cooperation of governmental administration in supra ministerial manner.

735. In the local environments it is necessary to ensure cooperation of local government administration, public services as well as non-governmental organizations and other social partners, including churches and religious associations.

736. Under the education system the system of psychological and pedagogical support has been developed, oriented towards providing support to students, parents and teachers irrespective of their place of (permanent) residence.

737. Public psychological and pedagogical counselling centres, including specialist counselling centres conduct diagnostic, therapeutic, preventive and advisory activities. Effects of the activities of counselling centres are focused on, inter alia, work with child and family, speech therapy, psychotherapy, intervention in student's environment, preventive and information activity as well as individual and group consultations. In the first instance children and young people from the areas of former state agricultural enterprises (PGRs), inefficient in terms of education and upbringing, from large families, foster families, as well as from the areas with high unemployment level – were provided with various forms of psychological and pedagogical support.

738. In the 2004/2005 school year psychological and pedagogical counselling centres provided support to 1 218 282 children and young people, who constitute 13.23% of the entire population. This was the highest rate of visits to the counselling centres in the reporting period. Special forms of work of public counselling centres are the activities in the scope of issuing decisions and opinions. Evaluation boards appointed in the counselling centres issue to children and young people certificates on the need of:

- Special education due to disability of social maladjustment.
- Individual education.
- Revalidation-educational classes for children with deep mental retardation.

739. In general, the activities of counselling centres aim at the improvement of children functioning in pre-school, school and family environment.

740. In the 2008/2009 school year, according to the data from the Education Information System, in Poland there were 554 public psychological and pedagogical counselling centres functioning and 27 branches thereof, thanks to which clients of counselling centres, in particular those from rural areas, had easier access to the services provided by counselling centres. Whereas in the 2009/2010 school year there were 558 public counselling centres functioning and 29 branches thereof.

741. Also through the Education Information System the data on types of classes organized under psychological and pedagogical support in nursery schools, school and facilities are collected. These are, inter alia, corrective-compensatory classes, speech therapy classes, didactic-levelling classes, socio-therapeutic classes, psycho education classes.

742. Compensatory units and therapeutic units are created for students who require long-term specialist assistance or intense support to their education and upbringing. Primary school students are those who most often take advantage of specialist classes, followed by middle school students, children at pre-school age and students of secondary school, vocational schools and technical secondary schools.

743. For more data, see the response to the recommendation contained in paragraph 43 of the concluding observations (paras. 583-585 and 587 hereof).



### **Child's right to rest and leisure**

744. Within the years covered in this report co-financing was provided for the organization of summer holidays in the form of: summer camps and other forms of vacation for school children and youths, as well as trainings of youths, camps for young Polish people living abroad, summer vacation for children from rural areas, coming from families with low income and summer vacation for children of former employees of state agricultural enterprises (by 2009), language camps (by 2008). Every year not less than 80 000 children benefit from the co-financing for summer vacation from the State budget. Additionally 3000 children and young people benefit from various forms of recreation during camps for Polish community living abroad and international exchange programmes for young people implemented from the funds of the Ministry of National Education. It should also be noted that within 2009-2010 the government allocated special funds for recreation of children from the areas affected by the flood.

745. Apart from the budget of provinces and the budget of the Ministry of National Education support for recreation of children and young people is possible to be provided also from the funds of Farmers' Social Insurance Contributory Fund. On average every year approximately 12 000 children benefit from the funds of the Fund.

746. In the years covered in this report, funds allocated to supporting activities in the scope of recreation organization remain on a comparable level. Summer camps are managed directly, mainly by non-governmental organizations, including scout organizations, Caritas, Society of the Friends of Children, and Polish Red Cross. Financial resources are distributed through open bidding contests managed by regional education authorities.

747. In 2009, summer vacations of children and young people were co-financed to the total amount of PLN 23 300 000, which made it possible to ensure vacation organization to more than 83 000 children from all provinces. Moreover from the restricted provisions of the State budget the amount of PLN 3 000 000 was allocated to financing summer vacation for nearly 1 500 children from rural areas and for more than 2 000 children and youth from the areas affected by flood in the same year. Every year the Ministry of National Education performs tasks for the benefit of children and young people by delegating them to non-governmental organizations under the Act on Public Benefit and Volunteer Activities. In 2009 these tasks included inter alia: international cooperation of schools and young people exchange and organization during summer holidays of educational vacation for children of Poles living abroad. The same tasks were also executed in 2010. See also paragraph 84 hereof.

748. In 2010 the total amount of PLN 28 000 000 was planned for organization of vacation for children and youth. Over 80 000 children and youths from all over Poland benefitted from these vacation options. Additionally more than 6 000 children from the areas affected by flood participated in summer camps and educational camps in Poland and abroad, for which the amount of PLN 6 000 000 was allocated.

### **Supervision and coordination of the holiday recreation options for children and youth**

749. By 2009 the control over the facilities for school children and youth recreation was performed in all regional education authorities according to the procedures developed under the Regulation of the Minister of National Education and Sport of 21 January 1997 on conditions to be fulfilled by organizers of recreation for school children and youth, and on principles of organising and supervising thereof. In 2009 the aforementioned regulation was amended (Regulation of the Minister of National Education of 9 December 2009 amending the regulation on conditions to be fulfilled by organizers of recreation for school children and youth, and on principles of organising and supervising thereof), which is aimed at

improving safety of children during holidays. It was made possible by launching the submission of holiday options via electronic means and their automatic exchange between relevant institutions and services: regional education authority, sanitary services and fire brigade, functioning of central recreation base providing information on recreation option offered in a given area and specifying obligations of the organizer and manager of recreation options. Supervision over children and youth recreation is performed by regional education authorities in cooperation with relevant services such as sanitary and epidemiological station, police headquarters, fire service headquarters. Under this cooperation inspections of the facilities where the recreation is organized are performed, information and educational meetings, social campaigns and lessons for children and parents in the scope of safe vacation are organized, etc. The amendment of the regulation, resulting from broad social consultations, entered into force on 1 March 2010. Following the amendment the Ministry of National Education launched the website [www.wypoczynek.men.gov.pl](http://www.wypoczynek.men.gov.pl) and published the bulletin "Safe recreation guide" (original title: Poradnik bezpiecznego wypoczynku), distributed free of charge in all provinces.

### **Child's right to participate in cultural and artistic life**

750. Among the tasks supported by the culture department there is a large group composed of tasks of an educational nature, enriching the offer of out-of-school classes, facilitating active and creative recreation of children. The interdisciplinary nature of the tasks executed under these projects enables broadly defined artistic education to be combined with elements of active leisure. These initiatives are to constitute alternative form of spending spare time, supporting intellectual and emotional development of the participants, expanding knowledge on cultural heritage – tangible and intangible as well as historic. The initiatives undertaken were an integral part of the events of a tourist-leisure nature, and thus significantly contributed to increasing the attractiveness of tourist offer of the regions, also in the part addressed to children. Implementing entities of the initiatives of cultural-educational nature were cultural institutions (centres, facilities, cultural centres, museums, libraries etc.), non-governmental organizations, public and non-public artistic schools, entrepreneurs operating in the area of culture and churches and religious associations.

751. The events of a tourist-leisure nature, supported financially, include inter alia: creative workshops, festivals and artistic reviews constituting also form of popularization of Polish traditional culture, as well as presentations, artistic performances and fairs.

752. Among the activities aiming at transferring the tradition of folk culture, a significant role was played by the programme for protection of tangible heritage of folk culture titled "Dying professions" (original title: Ginące zawody), implemented within 1994-2005. The Programme was composed of many valuable initiatives executed by cultural institutions and non-governmental organizations. The Ministry of Culture and National Heritage played mostly the role of initiator in the campaign and financially supported some of the initiatives. For school children and young people, regional workshops and handicraft courses were organized under the programme during which the instructors (local handicraftsmen) presented selected artistic techniques to participants.

753. The programme is continued under the financial programme titled "Cultural education and culture promotion", priority II. Protection of the heritage of folk culture.

754. As of 2005 the initiatives in the field of culture are co-financed under annually announced programmes.

755. Tasks in the field of cultural education which plays significant role in developmental processes, and in stimulating innovativeness, creativity and knowledge development were

in 2009 supported under the funds accumulated in the Programmes: “Cultural Education” and “Literature and Readership”.

756. Within the last several years, a universal practice has been developed for preparing performances and programmes for children in dramatic, opera and musical theatres and art galleries. Widely known examples are:

- The opera *Pan Marimba* (eng. *Mr. Marimba*) written for children by M. Ptaszyńska – its another premiere was held during inauguration of new building of Krakow Opera in 2008;
- *Interactive playground* – modern art exhibition designed for young spectator in 2009 in Zachęta National Gallery of Art in Warsaw.
- Cycle of concerts for mothers, infants and very small children in the Opera Nova in Bydgoszcz, started in 2008.
- Performance *Short stories for children*, based on I. B. Singer in National Theatre in Warsaw, presented since 2009.
- Concerts for children in Warsaw Philharmonic.

757. Performances for children promote undeniable humanistic values, teach courage, and openness to the world. They develop sensitivity and empathy. They show the border lines to be followed in contacts with other people. They have also irreplaceable cognitive and educational functions. Art is also very helpful in resolution of severe psychological problems, especially among children and young people (the so called psychodrama). This process was showed, inter alia, in the play *Cinders* by Janusz Głowacki, staged many times in Poland and all over the world. It may be stated that art available in state cultural institutions fosters promotion of positive values and human rights included in The Convention on the Rights of the Child.

758. Education is one of priority statutory tasks of museums. Activities taken by museums in the scope of education, addressed mainly to children and young people, aim at – apart from presenting history, culture and national heritage – the development of personality and talents of young people. To this end, museum lessons, educational programmes, fine arts classes, competitions, performances, concerts, etc. are organized. They are addressed both to the youngest persons, who participate in the classes still with their parents, as well as to nursery school pupils, school children and young people.

759. Children participating in the programmes prepared by museums are taught tolerance, friendship between all the nations, ethnic, national and religious groups by learning about their culture and history. The Regional Museum in Tarnów, specialising in the issues of Roma people, under the governmental Programme for the Roma community in Poland prepared the Programme “Roma children in museum”, in which have already participated several hundred children of this nationality and their non-Roma friends from schools, where they learn together.

760. Mainly natural history museums and open-air ethnographic museums deal with development in children of the respect for their natural environment. Educational programmes, organized also with financial support of the Ministry of Culture and National Heritage are to teach children to look at the surrounding nature, understand phenomena on-going in it and protect them. Moreover the museums propose many rich offers, addressed to school children and youth that allow young recipients to participate in cultural and artistic life (museum lessons, open air workshops, competitions, festivities, fine arts classes), enable them to participate in cultural activity (e.g. organize art and photographic exhibitions of children’s works), present proposals for spending the free time communing with culture (e.g. exhibitions in open-air ethnographic museums with accompanying classes

“Children’s activities and games”). Meetings with artists or creators often allow the discovery of new interests and talents. Many competitions are organized. The most important among them are: organized for 30 years by the minister competent for the issues related to culture Poland-wide Art Competition for Children and Young People “My adventure in museum”, executed by the Regional Museum in Toruń (since 2009 with participation of children from abroad) and International Photographic Competition “Museum Meetings with Photography”, organized since 2002 by the Museum in Koszalin.

#### **Child’s right to participate in sport-leisure classes**

761. The Ministry of Sport and Tourism provides a series of programmes addressed to children and youth aiming at engaging the largest possible part of the young generation from various environments, with various interests and level of physical fitness into physical activities. Tasks from the area of sport and tourism promotion among children, executed by the Ministry, are inseparably accompanied by health- and society-related objectives as well as educational and upbringing goals contributing to expanding tourist and ecological knowledge as well as being an important element of counteracting aggression, crime or other pathological behaviours. Many tasks are executed in rural and neglected environments, offering children and young people the chance for new, better life, changing behaviours, developing interests or building sports career. In implementing the tasks referred to above the Ministry of Sport and Tourism cooperates with non-governmental organizations, clubs and sport associations and local government units, among others, providing financial support under open bidding tenders for the implementation of national tasks.

762. “Active and fit society” is the major strategic objective of the document adopted by the Government of the Republic of Poland in the 2007 entitled “Strategy of sport development in Poland to 2015”. Under priority I “Promotion of sport for everyone”, tasks from the area “Physical fitness of children and youth” are executed, the most popular of which are:

- Sport-leisure classes for students – whose major objective is to level the opportunities for access to physical culture, especially for students who live in the poorest areas, by participation in systematic and universal extracurricular classes of a sport nature. This task is financed from the Fund of Sport-Leisure Classes for Students established under article 13<sup>3</sup> of the Act of 26 October 1982 *on Upbringing in Sobriety and Counteracting Alcoholism*. Revenues of the Funds are receipts from fees paid by the entities providing services consisting in advertising alcoholic beverages. Detailed procedure for granting co-financing from the Fund was regulated in the Regulation of the Minister of Sport of 21 October 2005 *on subsidising tasks from the Sport and Recreation Fund for Students*. Subsidies for organization of the classes may be obtained by sport clubs operating in the form of association and other non-governmental organizations that under their activities execute tasks in the scope of physical culture and sport promotion among children and youth, as well as local government units. 2 947 entities benefitted from the subsidies granted within 2004-2010, for the total amount of nearly PLN 95 650 000. Based on the longstanding experiences in execution of this task it may be stated that the Fund fulfils a significant role in the promotion of sport-leisure forms of extracurricular classes, as well as in mobilizing local environments to organization of various forms of physical and sport activity of school children and youth. Regular participation in organized forms of sport classes has a beneficial impact on the mental and physical development of children, strengthening health conditions and shaping positive attitudes and personalities. It leads to acquisition of elementary sport skills and habits of regular physical activity and healthy lifestyle. In total

within 2004-2010 more than 2 000 000 students participated in sport-leisure classes co-financed from the Fund.

- Programme “Sport of All Children” – implemented since 1994, whose objective is to create conditions facilitating development of sport activity of children and youth, training for regular care of health and physical fitness, encouraging to practice various sports disciplines. The Programme is implemented mainly by Polish sports unions and Poland-wide associations, and direct participants of the tasks are in particular the members of Students’ Sports Clubs. Financing is ensured by the funds from the Fund for Development of Physical Culture, whose revenue is 77% of proceeds from extra charges in games subject to state monopoly, according to article 86 of the Act of 19 November 2009 *on Gambling* and in compliance with the Regulation of the Minister of Sport of 10 July 2006 *on subsidising tasks from the Physical Culture Development Fund* and the Regulation of the Minister of Sport and Tourism of 23 August 2010 *on subsidising tasks from the Physical Culture Development Fund*. In total within 1999-2010 the amount of app. PLN 438 000 000 was allocated for the tasks of the Programme “Sport of All Children”.

763. Under the Programme “Sport of All Children” the following tasks are executed:

(a) *Purchase and distribution of sports equipment*, under which every registered students’ sports club or other unit with legal personality, whose scope of operations covers promotion of physical culture and sport among children and young people, may receive sets of sport equipment for freely chosen sports disciplines practiced in a club. Within 1999-2010 27 000 sets of sport-leisure equipment for the total amount of approximately PLN 107 000 000 were distributed.

(b) *Organization of sports and leisure events for children and youth*. Co-financing is provided for sports events of a cyclical nature and of supra regional and Poland-wide reach. Participation in sports competition enables participants to directly apply acquired sports skills in competitions with their peers from other sports organizations and clubs. Every year approximately 20 000 girls and boys participate in each tournament, through a comprehensive elimination system. Also the projects aiming at mobilizing non-sportive environments to participate in physical culture were supported. Within 1999-2010 implementation of this task was co-financed in the amount of PLN 60 000 000. The total number of the participants is almost 7 500 000 children and youths – on an annual average of over 600 000 participants. Moreover every year the organization of the Provincial Finals of School Youth’ Olympics and Finals of the competitions: “Gimnazjada” (for lower-secondary school students) and “Licealiada” (for upper-secondary school students) is co-financed. Supra-poviat competitions, semi-finals and finals, organized from the school level, allow providing to every child conditions for active participation in various forms of sports activity and competition. Within 1999-2010 for the tasks in which nearly 5 000 000 children and young people participated – on average annually approximately. 400 000 participants, the amount of over PLN 42 300 000 was spent.

(c) *Organization of sports-leisure camps for children and youth under the campaign “Sports holidays”*. The objective of the conducted campaign, apart from sports training is to form proper habits, leading to getting children and young people into the habit of regular physical activity. Main participants of sports holidays are children permanently participating in the activities of students’ sports clubs. Sports objectives are executed under supervision of experienced trainers of Polish sports unions. Within 1999-2010 for this task the amount of app. PLN 97 000 000 was allocated for co-financing of sports-leisure camps in which every year on average app. 20 000 children and young people participated.

(d) *“Facilitator of sports for children and youth”*. Participants to whom the Programme is addressed are teachers of physical education, instructors and trainers working

with school children and young people, holding relevant entitlements, in compliance with applicable regulations. Within 2002-2010 the system of co-financing covered more than 29 500 persons from all over the country – on average annually more than 3 200 persons who conducted sports-leisure classes, mainly based on “school” clubs and school sports facilities. Total amount of granted subsidies is over PLN 65 500 000.

(e) *Provincial programme “Preliminary selection of youth for sport”*. Refers to implementation of the training of school youth with sports talents in the category sub junior, in various sports disciplines. Participants in consultations and training camps are selected by Provincial Interdisciplinary Sports Associations. This is the first important element of selection and targeted sports training. Within 2009-2010 the task covered 12 000 persons providing co-financing in the amount of PLN 7 350 000. The Programme within 1999-2008 was implemented under youth sports system as targeted training of young people with sports talents.

(f) *“Organizer of sports for children and young people in rural environment”*. The task has been implemented since 2003 in cooperation with local governments that participate in its financing. The major objective of the Programme is to mobilize the rural environment to intensify active measures for increasing participation of children and young people in basic areas of physical culture. Direct participants in the Programme are persons holding authorizations to work as teachers of physical education, trainers, instructors or sports organizers. Within 2003-2010 this task was implemented by approximately 1 707 “organizers” from all over the country, and subsidy for this objective amounted to PLN 10 450 000. On average annually the system covered more than 210 persons.

(g) *Trainings for teachers, instructors, trainers, volunteers and facilitators and organizers of sport*. The objective of co-financed trainings is to improve qualifications of trainers, instructors, teachers and volunteers conducting classes in students’ sports clubs and other associations operating in the area of physical culture. Within 1999-2010 the subsidy in the amount of PLN 15 000 000 was allocated for organization of the trainings. In total 84 000 persons were trained – on average annually 7 600 participants of the trainings.

(h) *Training-methodological publications and other promotional activities*. Under the task within 1999-2010 co-financed were various training-methodological publications, visual charts, posters and training films for various sports disciplines, legal and financial guides and other publications facilitating running sports activities for children and young people. Also implemented were various initiatives aiming at the promotion of a healthy life style and practicing various forms of sports activities from the youngest years. Within 1999-2010 the amount of PLN 14,500,000 was spent on this objective.

(i) *Facilitator – “My Pitch – Orlik 2012”*. The task executed since 2009 consists in financial participation of the Ministry of Sport and Tourism in partially covering the costs of employment of the “facilitators” – persons organizing and conducting sports-leisure activities in newly built sports facilities. Ultimately it is planned to cover with the project all the commissioned sports fields built under the investment Programme “My Pitch – Orlik 2012”. In 2009-2010, the total amount of over PLN 13 300 000 was provided to 1 871 facilitators conducting sports and leisure classes in newly built sports facilities.

764. The Ministry of Sport and Tourism carries out the tasks of promotion of physical activity among children and young people, take advantage of the potential contained in sport for improvement of children’s and young people’s health, levelling developmental opportunities, stimulating solidarity, tolerance and social integration or promotion of universal fair play principles, both on and off the sports field. An example of such comprehensive activities is the Programme implemented in nation-wide form since 2009 “Preventing aggression and pathology among children and youth through sport”, based on the agreement of 5 November 2008 between the Minister of Interior and Administration,

Minister of Health, Minister of National Education and Minister of Sport and Tourism. In August 2009 Ministry of Justice joined the Programme.

765. The major objective of the Programme is to reduce the aggression level and prevent phenomena of pathology among the young generation, inter alia, by: creating opportunities for children's and youth's participation in various forms of physical activity; promotion of a healthy life style and nutrition and stopping adverse tendencies in biological development of children and youth; organization of extracurricular and out-of-school classes, sports-leisure camps and sports events, including extension of the offer in the scope of physical culture aiming at ensuring proper operations of sports facilities under, inter alia, the programmes: "My pitch – Orlik 2012" and "Close to the field", "Development of multifunctional fields publicly available for children and youth"; trainings and professional training of pedagogical and training-instructing staff; ensuring proper upbringing for children and preparing them to participation in mass sports events in a spirit of "Fair Play".

766. The Programme is financed by funds obtained from the European Union under the Operational Programme Human Capital (regional component) Priority 9 and State budget and the Fund for Development of Physical Culture.

767. As a result of the promotional actions executed in 2009 15 provinces joined the Programme. In 7 provinces applications were submitted for co-financing of out-of-school sports classes implementing programme objectives, under Operational Programme Human Capital. Entities that joined implementation of the Programme received co-financing from the Ministry of Sport and Tourism from the funds of the Fund for Development of Physical Culture, from which the following initiatives were organized: 20 sports-leisure camps with participation of 1 092 students, 6 sports-leisure events promoting the Programme with participation of 1 410 persons, moreover 252 sets of equipment for general physical exercises were purchased. In 2010, 9 camps were organized with participation of 235 persons, 203 sets of sports equipment were purchased. Cycle of meetings of sports-educational nature was executed for the charges from 17 young offenders' institution, in which 1200 persons participated.

768. Moreover under the Programme "Reach for medal", 14 episodes of didactic films were recorded, in which famous athletes promote sport as the way for achieving successful life.

769. A web service [www.zesportembezpiecznie.pl](http://www.zesportembezpiecznie.pl) was launched and episodes of a cyclical TV programme promoting objectives and tasks of the programme and the methods for using sport to combat aggression and pathologies among children and young people were produced and broadcasted in the station TVP (TVP1, TVP2).

770. From 2008-2010 a conference summing up programme implementation was held each year.

771. Under the subject of education through sport and for sport the Ministry of Sport and Tourism initiated and participated in the implementation of many projects regarding broadly defined education of sports fans, addressed mostly to school children and young people. These included inter alia:

(a) The training project "Active Fan" (implemented within 2009-2010) aimed at the development of the concept of positive support to sport and increasing sport activities and the popularization of this idea in the society;

(b) The initiative "Fans in the city" (implemented within 2009-2010) was oriented towards educational work with associations of fans and representatives of the authorities of host cities for UEFA EURO 2012<sup>TM</sup>;

(c) The Project “Fans together” (implemented since 2009) coordinated by the company PL.2012, aimed at combating violent attitudes in the environment of football fans. The Project accounts for the methods of “fan-coaching” and provides for long-term pedagogical-educational work performed in fans environment;

(d) The Project “Embassies of fans” – coordinated by the company PL.2012, will be implemented during UEFA EURO 2012™ in host cities. Embassies of Fans are stationary and mobile information points for tournament guests run by volunteers from the environment of football fans.

772. The Ministry of Sport and Tourism cooperated also with Pawel Wlodkowic University College in Plock in the framework of the implementation of a Poland-wide programme for sports staff education, financed from the funds of European Union. The graduates of the courses listed above, after obtaining professional qualifications will play the role of facilitators and organizers of healthy lifestyle and one of their basic duties will be to adhere to, and to promote health-oriented attitudes among their pupils/charges, primarily among children and youth.

773. On 22 October 2009 the Conference “Let’s support in a fair way” was organized in Warsaw. The meeting was addressed to a wide range of physical culture staff: physical education teachers, sports instructors and trainers, as well as to school coordinators for safety. The objective of the conference was to present the strategy of programmes and projects addressed to students, teachers and school and out-of-school environments, implemented in the scope of shaping positive attitudes and behaviours of the fans during sports events.

774. Under the priority 3 of “Strategy for development of sport in Poland by 2015”, titled “Development of sports-leisure infrastructure” a number of programmes are implemented for construction of sports facilities designated mostly for sports activities of children and young people. These programmes include, but are not limited to:

- Construction of football pitches “Close to the field” (pl. Blisko – Boisko) (implemented within 2007-2008) 148 facilities were constructed for the amount of PLN 14 760 000.
- “Development of multifunctional fields publicly available for children and young people” (implemented since 2006). By 2010 there were 680 facilities constructed for the amount of nearly PLN 112 850 000.
- Construction of sports centres – “My Pitch – Orlik 2012” (implemented since 2008). In 2008 there were 566 facilities constructed for the amount of PLN 189 000 000; in 2009 – 718 facilities for the amount of PLN 239,000,000, in 2010 – 519 facilities for the amount of PLN 184 000 000 and 38 ice rinks under pilot programme “White Orlik” for the amount of PLN 9 000 000.

775. The implementation of the above programmes will enable the construction of several thousand modern, safe and publicly available sports fields. The major objective of implemented investment programmes is to promote sport as a factor essential for development and upbringing of young people and to promote healthy lifestyles. Assumption of these programmes placed special emphasis on general and free-of-charge nature of constructed facilities.

776. The construction of sports facilities is executed also under Long-term provincial programmes for development of sports base (functioning since 1995). Implementation of these programmes enables construction of, inter alia: sports arenas (1 515 facilities were constructed for the amount of PLN 1 617 000 000), gyms (1 446 facilities were constructed for the amount of PLN 508 000 000), in-door swimming pools (361 facilities were constructed for the amount of PLN 629 000 000).



777. Support to selected forms of children's and young people's tourism is as follows:

(a) The Ministry of Economy, in the framework of its financial support to selected forms of children's and young people's tourism, co-financed in 2003 11 tasks of broad thematic scope regarding not only recreation, but also extending to history, geography, tourist knowledge and environmental awareness. 16 576 young people directly participated in implemented tasks. Subsidies for the amount of nearly PLN 289 000 covered various forms of activation of tourism-oriented attitudes and behaviours;

(b) In 2004, the Ministry of Economy and Labour provided financial grant in the amount of nearly PLN 273 000 which allowed to co-finance 13 tourist-sightseeing events. Most of the events were of cyclical nature. Their objective was to promote adventure tourism among school youth, popularize proper tourist behaviours, establish preference for active family recreation, as well as to present tourist-sightseeing advantages of the regions where the events were held. 6 390 persons participated in the mentioned events, from which approximately 80% were young people attending schools, and the remaining part was composed of organizers and facilitators of tourism and recreation for children and young people, teachers, family members and other persons;

(c) In 2005, the Ministry of Economy provided financial grant in the amount of over PLN 190 000, which allowed the co-financing of 8 tourist-sightseeing events: 4 348 persons participated in these events, from which approximately 75% were young people attending schools;

(d) In 2006, the Ministry of Economy provided financial grants in the amount of nearly PLN 290 000, which allowed the co-financing of 8 tourist-sightseeing events. 4 058 persons participated – school children and youth;

(e) In 2007, the Ministry of Economy provided financial grants in the amount of over PLN 202 000 which allowed the co-financing of 4 tourist-sightseeing events;

(f) In 2008, the Ministry of Sport and Tourism provided financial grants for the tasks related to supporting various forms of tourism and recreation of children and youth in the amount of over PLN 267 000 which allowed the co-financing of 6 tourist-sightseeing events;

(g) In 2009, the Ministry of Sport and Tourism provided financial grant in the amount of over PLN 213 000 which allowed the co-financing of 4 tourist-sightseeing events;

(h) In 2010, the Ministry of Sport and Tourism co-financed a youth rally in which more than 2 500 persons participated, including children and young people. The grant amounted to PLN 26 500.

778. The Ministry of Sport and Tourism executed also information and promotional campaign "Safe slope". The objective of this initiative was to promote among school children and young people who are potential skiers, knowledge on safe behaviours on skiing slopes and routes. The campaign "Safe slope" is to contribute to improvement of the safety on ski routes and prevent accidents during skiing and snowboarding.

779. Moreover the Ministry of Sport and Tourism developed a set of information and educational materials for the purposes of the campaign "Safe water", promoting principles for safe behaviour in the water, by the water and on the water among school children and young people during summer leisure.

780. Under the governmental Programme for statistical studies of public statistics, the Ministry of Sport and Tourism undertakes the study titled "Poles' tourist activity". Cyclically every two years a detailed study on tourist activity of children and young people is recommended. Results of the studies are used for monitoring of the size of tourist traffic

of children and young people. In 2010 38% of children below 14 participated in tourist travels – by 6 percentage points less than in 2009. Less children participated in domestic long-term and short-term trips. The number of children participating in foreign trips was similar to the previous year.

781. In the country 26% of children went on long-term trips, by 6 percentage points less than in 2009. The average is 1.3 trips per child (similar to 2009). 1.5 million children participated in long-term trips, a total of 1.8 million trips.

782. In 2010, 15% of children participated in domestic short-term trips, by 1 percentage point less than in 2009. Hence 0.9 million children went on such trips, an average of 2 times per child (in 2009 – 3 times). The trip covered on average 1.8 overnight stays (similarly as in 2009). The total number of all the short-term trips, in which children participated, amounted to 1.8 million, and the number of overnight stays – 3.2 million.

783. In 2010, similarly as in the previous year, 7% of children went abroad, i.e. 400 000. On average there were 1.3 trips per child (in the previous year – 1.4), hence overall the children went on 530 000 trips abroad (in 2009 – 560 000).

## **VIII. Special protection measures (arts. 22, 30, 32-36, 37 (b)-(d), 38, 39 and 40 of the Convention)**

### **A. Implementation of recommendations of the Committee on the Rights of the Child**

*CRC/C/15/Add.194 – paragraph 47: The Committee recommends that the State party:*

- a) Amend current legislation on refugee proceedings so as to ensure that all unaccompanied minors are immediately appointed a legal guardian responsible for them who is obligated to act in their best interest and to take their views into account.*
- b) Ensure that asylum-seeking children temporarily placed in emergency blocks are not held together with juvenile offenders and only remain there for the shortest possible time, not exceeding the legal maximum of three months.*
- c) Ensure that all children awaiting processing of their refugee claims in emergency blocks, the refugee reception centres or other forms of care have full access to education*

784. In the period from 27 December 1997 to 31 August 2003 the legal Act governing the issues related to the proceedings on granting the status of a refugee was the Act of 25 June 1997 on Foreigners. Provisions of this Act however did not specify the principles and mode for operating in the situation, when the applicant is an unaccompanied minor.

785. On 13 July 2002 the Regulation of the Minister of Interior and Administration of 14 June 2002 on conduct towards minor foreigners deprived of guardianship in the period of the proceedings for granting refugee status entered into force. This Act specified inter alia conditions for accommodating minor unaccompanied foreigners in the period of proceedings for granting the status of a refugee, professional qualifications of the staff managing the proceedings for granting the status of a refugee for minors and providing them benefits, conditions in which administrative actions in the proceedings for granting the status of a refugee with participation of a minor should be performed.

786. Based on the provisions of the regulation mentioned above, administrative actions in the proceedings (especially submission by a minor of testimonies and statements) were

performed in the presence of the minor's statutory representative, and if the minor was not accompanied by such statutory representative – in the presence of a guardian, as well as, at the minor's request, in the presence of an adult person indicated by the minor.

787. With respect to the accommodation conditions and access to education the regulation stipulated that the minor could be lodged in care-educational facility or in separated part of the centre for foreigners applying for granting the status of a refugee and that this centre had to be located in the vicinity of a school.

788. Provisions of the regulation were repealed on the day when the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland entered into force. Issues related to managing the proceedings with the participation of unaccompanied minors were given statutory significance and were set out in section II, chapter 3 of the Act (art. 47-53 of the Act).

789. According to the contents of this Act the body accepting the request for granting the status of a refugee (competent body of Border Guard) submitted by a minor present in the territory of the Republic of Poland without a statutory representative, immediately applied to the court having proper jurisdiction for the minor's location, with the petition for appointing a guardian to represent the minor in the proceedings for granting refugee status and placing the minor in a care-educational facility or a centre for foreigners applying for refugee status. In cases when the fact that the applicant was an unaccompanied minor was revealed in the course of administrative proceedings, the 1st instance body (then the President of the Office for Repatriation and Foreigners) submitted the requests referred to above. Unaccompanied minors were placed, by the time of issuing a decision by the court, in a care-educational facility, if under 13 years old, or in a centre if over 13, . Unaccompanied minors were not placed in a guarded facility and they were not taken into custody to be deported.

790. Moreover, in the proceedings for granting refugee status to an unaccompanied minor, an actual custodian was immediately appointed (from among the employees of the contemporary Office for Repatriation and Foreigners) who took care of the unaccompanied minor and their property, and inter alia, ensured that they had proper residential conditions and access to education.

791. On 29 May 2008 the Act of 18 March 2008 on Amendments to the Act on the Protection Granted to Foreigners in the Territory of the Republic of Poland and Certain Other Acts entered into force. The Act on the Protection Granted to Foreigners in the Territory of the Republic of Poland in its current form governs the issues related to conducting the proceedings with participation of unaccompanied minors in section II chapter 4 (arts. 61-67 of the Act). It provides for the fact that the body accepting the request for granting refugee status (competent body of Border Guard), submitted by an unaccompanied minor, immediately applies to the Guardianship Court with proper jurisdiction for the minor's location, with the petition for appointing a guardian to represent the minor in the proceedings for granting refugee status and for placing the minor in a care-educational facility. If the fact that the applicant is an unaccompanied minor is revealed in the course of the proceedings, the 1st instance body (currently the Head of the Office for Foreigners) submits the petition referred to above. The body accepting the request takes the unaccompanied minor to an unrelated professional foster family operating as a family emergency shelter or to a care-educational facility. The unaccompanied minor stays in such facility until the guardianship court issues a decision.

792. A minor who stays on the territory of the Republic of Poland with a statutory representative enjoys the social benefits provided for in the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland. All minor foreigners are ensured medical care on the same basis as the citizens of Poland (inter alia

they are covered with vaccination programme). Children staying in the facility are provided with accommodation, meals, pocket money for petty expenses, constant financial support for purchase of cleaning supplies and personal care products. Children under three years of age and children attending kindergartens, primary schools, lower-secondary schools and upper-secondary schools receive cash equivalent in exchange for meals and food.

793. According to the provisions of the aforementioned Act, the Office for Foreigners provides didactic aids for children of foreigners benefitting from education and care in public facilities, primary schools, lower-secondary schools and upper-secondary schools (including purchase of textbooks, sets of material required for school) and, as far as possible, covers the costs of extracurricular classes and recreation-sports classes for children.

794. The entity directly implementing the system of care of the foreigners covered by the procedure on granting refugee status in Poland, is the Office for Organization of Centres for Foreigners Applying for Granting the Status of a Refugee or Asylum in the Office for Foreigners.

795. According to the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland, children applying for refugee status have guaranteed legal protection both during the procedure of granting the status of a refugee as well as after being lodged in care emergency centres. Costs of the unaccompanied minor's stay in the family emergency or care-educational facility are financed from the State budget, from the part managed by the minister competent for internal affairs, from the funds at the disposal of the Head of the Office for Foreigners. Unaccompanied minors, with respect to whom a decision has been taken to refuse them refugee status, and to have them deported, remain in the care-educational facility until the time when they are transferred to authorities or organizations of their country of origin, whose statutory tasks include the issues of minors. In such case the costs of unaccompanied minor's stay in the care-educational facility are financed from the State budget, from the part managed by the minister competent for internal affairs, from the funds at the disposal of the Border Guard Commander-in-Chief.

796. With reference to the Committee's recommendation in the matter of accommodation conditions of unaccompanied minors in the Centre, a regulation was issued by the Minister of Interior and Administration on 18 August 2003 on the conditions of accommodation of minors deprived of guardianship and on the standard of care at the Centre for foreigners applying for refugee status. This regulation however lost its validity on 29 May 2008, when the Act of 18 March 2008 on Amendments to the Act on the Protection Granted to Foreigners in the Territory of the Republic of Poland entered into force. Since that time it is not possible to place unaccompanied minors in the centre for foreigners applying for granting the status of a refugee. According to the Act on the Protection Granted to Foreigners in the Territory of the Republic of Poland, they are placed in a care and education facility. Minors are accommodated in buildings with 1-5-person flats, of the size of not less than 5 m<sup>2</sup> per person, that meet all basic standards, bathrooms, rooms for quiet studying, relaxation (not less than one room per 10 children), isolation of the sick or meetings with visitors. Moreover, siblings are lodged in one residential room, unless separation of the siblings is to the benefit of the minors. The employee of the facility who lodges siblings takes into account their requests to the extent possible.

797. Minors who stay in a facility are ensured:

- (a) 24-hour care and fulfilment of their basic needs;
- (b) Conditions for physical, mental and cognitive development;
- (c) Respect for their subjectivity, in particular by providing information about actions taken towards them;

- (d) Sense of security and that the following is respected and sustained:
  - (i) Minor's emotional relationships with the siblings and other close persons staying on the territory of the Republic of Poland,
  - (ii) Traditions, religious customs and cultural continuity of minor's country of origin;
- (e) Education:
  - (i) Establishing emotional bonds and interpersonal relationships,
  - (ii) Planning and organization of daily classes in line with their age,
  - (iii) Organization of spare time, including participation in cultural, leisure and sports classes,
  - (iv) Health-oriented habits and behaviours;
- (f) Preparation to be independent in life and to take responsibility for own actions;
- (g) Levelling developmental and school retardations.

798. The issue of appointing a person responsible for unaccompanied minor, by 2007 was regulated by article 48 the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland. The care exercised by the actual guardian for unaccompanied minors and their property referred in particular to: ensuring proper residential conditions, access to education and healthcare; cooperation in organization of spare time, including cultural, leisure and sports classes; providing support in contacting national and international organizations, whose statutory tasks include minors' or refugees' affairs, in order to find minor's family members. The actual guardian performed the above tasks with the unaccompanied minor's welfare in mind and taking into account their opinions, as well as ethical, religious and language considerations. The actual guardian was appointed by the Head of the Office for Foreigners, for the period lasting until the end of the proceedings for granting refugee status, from among employees of the Office, holding qualifications of the social worker, specified in the Act of 12 March 2004 on Social Welfare. According to article 116 of the afore specified Act, a social worker may be a person who meets at least one of the conditions listed below:

- (a) Holds a certificate confirming graduation from the college for social services workers;
- (b) Graduated from higher education studies in the field of social work;
- (c) By 31 December 2013 graduated from higher education studies in the field preparing for the job of social worker with one of the following majors: education studies, special education studies, political science, social policy, psychology, sociology, family studies.

799. The Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland in its current form indicates that the person performing actions in the proceedings for granting the status of a refugee to an unaccompanied minor has to fulfil at least one of the following conditions:

- (a) Graduate from higher education studies (Master's degree) with major in law and have 2-year record of work in institutions whose scope of operations covers child care;
- (b) Graduate from higher education studies (Master's degree) and have 2-year record of work in public administration or pass training in the scope of running proceedings for granting the status of a refugee with participation of minors;

(c) Graduate from higher education studies (Master's degree) with major in education studies, psychology or sociology and have 2-year record of work in public administration.

800. The Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland governs also the issues related to interviewing minors. Interviews are performed in the language understandable to the unaccompanied minor, in the manner adjusted to their age, level of maturity and mental development, taking into account the possibility that they may have limited knowledge of the actual situation in their country of origin. An unaccompanied minor is interviewed in the presence of the custodian, an adult person indicated by the minor, if this does not obstruct the proceedings, a psychologist or a counsellor, who developed an opinion on the minor's mental and physical condition.

801. Conditions for starting education by foreigners in Polish schools and the amount of fees charged for tuition are specified in the provisions of article 94a of the Act of 7 September 1991 on Education System and the Regulation of the Minister of National Education of 1 April 2010 on admitting persons who are not Polish citizens to public kindergartens, schools, teacher training facilities and establishments and on organisation of additional Polish language lessons, additional leg-up programmes and learning of language and culture of the country of origin, preceded with the Regulation of the Minister of National Education of 4 October 2001 on admitting persons who are not Polish citizens to public kindergartens, schools, teacher training facilities and establishments.

802. All the foreigners benefit from education and care in public kindergartens and those being subject to schooling obligation benefit from education and care in public primary schools, lower-secondary schools, public art schools and facilities, including artistic facilities, on the conditions applicable to Polish citizens. Schooling obligation lasts until the person becomes 16 years old or until they complete their education in lower-secondary school. Non-Polish citizens who are subject to education obligation benefit from education and care in public upper-secondary schools on the conditions applicable to Polish citizens until they become 18 years old or complete education at the level of upper-secondary school (art. 94a sec. 1 and 1a of the Act on education system).

803. The following foreigners benefit from care and education in public post-secondary schools, public art schools, public teachers training centres and public facilities on the conditions applicable to Polish citizens (art. 94a, para. 2 of the aforementioned Act on Education System):

(a) Citizens of the member states of European Union, member states of European Free Trade Association (EFTA) – party to the agreement on European Economic Area and Swiss Confederation, as well as their family members holding right of residence or right of permanent residence;

(b) Persons of Polish origin within the meaning of the provisions on repatriation;

(c) Persons who were granted permission to settle in the territory of the Republic of Poland;

(d) Persons holding Polish Charter (pl. Karta Polaka) (since 29 March 2008);

(e) Persons for whom such entitlement results from international agreements;

(f) Persons who were granted the status of a refugee and their family members,

(g) Persons holding tolerated residence permit;

(h) Persons who were granted supplementary protection and their family members;

(i) Persons using temporary protection in the territory of the Republic of Poland;

(j) Persons who were granted long-term residence permit for European Communities in the territory of the Republic of Poland;

(k) Persons who were granted temporary residence permit in the territory of the Republic of Poland;

(l) Family members of persons applying for granting the status of a refugee.

804. According to the provision of article 94a, para. 3 of the Act on Education System, other foreigners who are non-Polish citizens may benefit from education in public post-secondary schools, public art schools, public teachers training centres and public facilities as:

- Scholarship holders receiving scholarships granted by the minister competent for the issues related to education and upbringing,
- Scholarship holders receiving scholarship granted by governing authority of a school, teachers training centre or facility, headmaster of a school, teachers training centre or facility,
- For payment.

805. The amount of the fees and manner of paying the fees, taking into account anticipated education costs and possibility of complete or partial exemption from this payment are specified in the Regulation of the Minister of National Education of 1 April 2010 on admitting persons who are not Polish citizens to public kindergartens, schools, teacher training facilities and establishments and on organisation of additional Polish language lessons, additional leg-up programmes and learning of language and culture of the country of origin.

806. Foreigners subject to schooling obligation or education obligation, who do not know the Polish language or whose knowledge is insufficient to be able to benefit from education, have the right to additional free-of-charge Polish classes. Additional Polish classes for these people are organized by the school's governing authority.

807. For the foreigners subject to schooling obligation, diplomatic or consular post of their country of origin operating in Poland or cultural-educational associations of a given nationality may organize, in agreement with school's headmaster and upon consent of the governing authority, the learning in school of the language and culture of their country of origin. The school provides free-of-charge rooms and didactic aids.

808. According to the provision of the Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland, the foreigners have ensured learning of Polish language and basic materials necessary for learning this language.

809. In all facilities the programme for free-of-charge learning of Polish language based on the methodology for teaching foreigners is executed (Framework programme for teaching Polish as foreign language, The Institute of Polish for Foreigners, ABS of integrated education preparing for work with foreign-language child).

810. The Office for Foreigners under the project co-financed from the funds of European Refugee Fund (project "Improvement of residential conditions in the centres for foreigners applying for the status of refugee or asylum and social support to charges of the centres to facilitate integration with local community" – 3/EFR/2005) established in the centres didactic rooms that are to significantly improve effectiveness of Polish language learning. The centres were also equipped with multimedia equipment for Polish language learning.

811. Also the teacher of Polish is employed in all the centres. The number of hours of conducted classes is adjusted to the needs of a given centre, with special focus on the needs of children and young people attending school. The classes are held in groups. In majority

of the centres the largest group of persons participating in Polish classes are children fulfilling schooling obligations. Classes for this group of children are adjusted to their needs, i.e. language teaching and help with homework (often the children have problems with understanding the instructions).

812. Children of foreigners applying for the status of refugee are obligated to fulfil schooling obligation (similarly as Polish children). Attending Polish language classes in a centre and knowledge of the language on elementary level do not constitute conditions for accepting a child to school. Knowledge of Polish language may be helpful when qualifying the child to the appropriate class/grade. The better their knowledge of the Polish language, the better results the children will achieve on the qualification test on which the assignment of the child to a class/grade will be based.

### **Deporting a minor foreigner**

813. According to the provision of article 94 of the Act of 13 June 2003 on Foreigners, the decision to deport a minor foreigner to their country of origin or a different State is exercised only when the minor is ensured, in the country to which he/she is deported, the custody of parents, other adult persons or care-giving institutions, according to the standards stipulated by the Convention on the Rights of the Child. According to article 94, paragraph 2 of this Act, a minor foreigner may be deported only in the custody of his/her statutory representative, unless the decision on deportation is exercised in a such way that the minor is transferred to the statutory representative or representative of competent authorities of the State to which the minor is deported.

*CRC/C/15/Add.194 – paragraph 49: The Committee recommends that the State party:*

- a) *Proceed with its intention to ratify the Worst Forms of Child Labour Convention (No. 182) of the International Labour Organization (ILO) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and develop a national plan of action on commercial sexual exploitation of children, as agreed at the first and second World Congresses against Commercial Sexual Exploitation of Children, held in Stockholm in 1996 and Yokohama, Japan, in 2001, respectively;*
- b) *Ensure that all persons under 18 involved in prostitution and the production of pornographic materials are not criminalized and enjoy full protection;*
- c) *Train law enforcement officials, social workers and prosecutors in how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner;*
- d) *Ensure that all victims of trafficking and forced prostitution have access to appropriate recovery and reintegration programmes and services.*

### **Response to the recommendation contained in paragraph 49(a) of the concluding observations**

814. The Republic of Poland is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), adopted by the General Assembly of the United Nations on 15 November 2000. The agreement entered into force with respect to Poland on 25 December 2003. The provisions of the aforementioned Protocol are directly applied by Polish judicial authorities.



**Response to the recommendation contained in paragraph 49(b) of the concluding observations**

815. The issue of trafficking in persons for the purposes of sexual exploitation applies mostly to adult women. In 2003 in the completed preparatory proceedings regarding trafficking in persons in the group of 261 discovered victims of criminal activities 21 victims under 15 were recorded. In 2004 in completed investigations 98 victims were discovered, from which only 2 victims under 15. In 2005 99 victims of trafficking in persons were discovered, from which 10 persons aged 16-17, in 2006 – 126 victims, including 9 aged 15-17. In 2007 – 1 021 victims, including 4 persons aged 15 and 2 aged 16, in 2008 – 315 victims, including 5 persons aged 17 and 2 persons aged 16, in 2009 – 611 victims, including 66 persons under 18, in 2010 – 323 victims, including 32 persons under 18.

816. Regulations related to crimes of sexual exploitation of children were discussed in response to the recommendation contained in paragraph 12 of the concluding observations..

817. It should be noted that according to the Polish law participation by children in production of pornographic materials and prostitution (irrespective of age) is not a crime. However, the crime is, inter alia, distribution of pornographic materials with a person under 18, recording pornographic materials with a person under 15 and drawing any benefits from practicing prostitution by another person (see also paras. 173, 175 hereof).

818. Children affected by the crimes of sexual exploitation are not “treated as criminals” (see also para. 169 hereof). The objective of the provisions listed in response to the recommendation contained in paragraph 12 of the concluding observations, is to protect children, their physical and mental development and ensuring that perpetrators of these crimes are punished. Moreover children aggrieved by the crime may use proper help.

819. More information about the support for victims of the crimes, especially children – see the response to the recommendation contained in paragraph 35 of the concluding observations.

820. As of 2003, under subsequent editions of national programmes for combating and preventing trafficking in persons, the following activities were executed:

(a) Signing and then ratification by Poland of Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (*National Programme for 2003-2004 and National programme for 2005-2006*);

(b) Appointment in the National Headquarters of the Police of the Group for Combating Trafficking in Persons and Human Organs, and Child Pornography and Child Paedophilia, whose major task is to coordinate the tasks in the scope of combating and preventing trafficking in persons, child pornography and paedophilia (*National Programme for 2005-2006*);

(c) Development by the National Public Prosecutor’s Office of methodological guidelines for prosecutors conducting or supervising the criminal proceedings in cases on trafficking in persons, including also the procedure on how to act towards the child – victim of human trafficking (*National Programme for 2005-2006*);

(d) Implementation of training and publishing the Programme titled: “Children are not for sale” which was initiated in January 2005 by Nobody’s Children Foundation. Under the programme bulletins and posters were published with practical tips, a leaflet titled: “The problem of trafficking in children in Poland and in the world” and the document “Good practices”; these materials were forwarded to the officers of the Police,

Border Guard, employees of care-educational facilities, accommodation centres for refugees, and Polish consular services;

(e) Organization of specialist trainings addressed to officers of the Police, Border Guard, Prosecutors, judges and social assistance staff in the scope of trafficking in children and commercial forms of sexual exploitation of children (*National Programme for 2005-2006 and National Programme for 2007-2008*);

(f) Discussing the issue of trafficking in children and unaccompanied foreign children during national conferences organized annually in the Ministry of Interior and Administration on combating and preventing trafficking in persons and development of recommendations and conclusions in this area (*National programme for 2005-2006 and National programme for 2007-2008*);

(g) Launching on the website of the Ministry of Interior and Administration of the module on trafficking in children to ensure public access to latest information about the phenomenon of trafficking in children (*National Programme for 2005-2006*).

821. From 1 January 2006 to 31 December 2009, based on the agreement for commissioning the public task, concluded between the Minister of Interior and Administration and non-governmental organization, the “Programme for supporting and protecting the victim of/witness to human trafficking” (executed by the Foundation against Human Trafficking and Slavery “La Strada”) was being implemented. As of 1 January 2010 the programme has been functioning under the public task related to the running National Consulting and Intervention Centre for the Victims of Trafficking. The programme is addressed to foreigners, both adult and minor, who fell victim to trafficking in persons. Its major task is to ensure aggrieved persons that their human rights are exercised, most of all the right to dignified life. Under the Programme the foreigners have ensured: accommodation in a safe facility in the custody of trained social worker, meals, basic medical care, psychological support, legal consultations, translator’s assistance, help with contacting law enforcement authorities and judicial authorities (e.g. presence of an employee of non-governmental organization when the victim/witness gives their testimony), transport on the territory of the country, and in the case of third country nationals illegally staying in the territory of the Republic of Poland, also regulating their residence status in compliance with the provisions of the Act on Foreigners.

822. Since 2009 under the National Action Plan against Human Trafficking for 2009-2010 the activities of preventive nature were continued, i.e.:

- Execution of information campaigns regarding human trafficking addressed, inter alia to youth from upper-secondary schools,
- Establishment of the system of professional improvement and trainings for the officers of the Police and Border Guard, with special focus on the subject on trafficking in children,
- Organization of trainings for judges and prosecutors in the scope of trafficking in persons, especially children,
- Holding specialist training workshops for employees of care and education facilities in the scope of identification of children-victims of human trafficking, emergency response and principles for cooperation with other institutions, and activities aiming at enriching the offer and improving the standard of actions for supporting the victims of human trafficking:
- Implementation of “*Programme for supporting and protecting the victim of/witness to human trafficking (foreigner)*”

- Implementation of the public task related to running National Consulting and Intervention Centre for the Victims of Trafficking which provides care and protection of elementary human rights to all persons aggrieved with the crime of human trafficking, both Polish citizens and foreigners;
- Establishment of the Model of Support and Protection of Minor-age Victim of Human Trafficking. In 2007 under the Working Group of the Interministerial Team for Combating and Preventing Human Trafficking, the expert group was appointed for the development of the aforementioned model and tools aiming at systematization of the procedures for operating in emergency situations with participation of juvenile victims of human trafficking.

**Response to the recommendation contained in paragraph 49(c) of the concluding observations**

823. Trainings for judges and prosecutors on the manner of conducting cases with participation of children were organized in response to the recommendation contained in paragraph 35(a) of the concluding observations) in the part referring to family violence (due to the fact that the issues of interviewing children and protecting them against family violence are related with each other and often presented jointly during trainings).

824. As part of increasing the effectiveness and quality of the activities, the programme for specialist training of Police officers in the scope of operating in the cases of combating human trafficking (taking into account the issue of children – victims of human trafficking) was prepared and implemented. This task expanded to include training of social assistance staff, employees of the inspection of employment legality and city guard officers, was implemented and completed in December 2006. During 2005-2006, trainings were executed in all provinces.

825. Under the Project “Combating the Forced Labour Outcomes of Human Trafficking” training was held for the officers of the Police, Border Guard and employees of the inspection of employment legality and emergency response facilities from all over Poland.

826. In Warsaw Police Headquarters additional training was held for the officers of the Police, Border Guard and City Guard, judges, prosecutors, employees of the inspection of employment legality and emergency response facilities from Mazowieckie province. Also the training for the officers of deportation arrests was held in the scope of identification and dealing with victims of human trafficking (230 Police officers participated).

827. Polish National Police Headquarters under the Conference on human trafficking organized by Provincial Headquarters in Lublin prepared and conducted training for officers of Central Bureau for Investigation (CBŚ) of Polish National Police Headquarters (26 officers from CBŚ Boards in the country were trained).

828. As part of continuation of international cooperation with the countries of origin of the victims of human trafficking and destination countries, in 2005 a seminar was held titled “Meeting of the West with the East in Poland”. The objective of the meeting was to exchange experiences and best practices in the prevention of human trafficking and support to victims. Experts from Belarus, Ukraine, Moldova, the Netherlands, Germany, Italy and Poland participated in the meeting.

829. In 2005 representatives of the Intelligence and Investigation Department of Headquarters of Border Guard participated in the British project implemented jointly with Nobody’s Children Foundation, on the control of migration of juvenile foreigners who travel unaccompanied (without legal custodian) in the area of the border with the Republic of Ukraine. Under the project, Nobody’s Children Foundation conducted training for the officers of the Border Guard and the Police on the subject of trafficking in children, as well

as a survey for the officers of the Border Guard serving on border crossings with Ukraine was developed to collect detailed information about the reasons for entry of unaccompanied children, aiming at preventing possible cases of trafficking in children.

830. In 2006 instruction/recommendation on manner of operating in cases of encountering victim of human trafficking was prepared and implemented.

831. Training staff was trained by way of specialist courses with participation of non-governmental organizations. Representatives of the Police Academy in Szczytno and the Police Training Centre in Legionowo participated in the trainings related to procedures for dealing with victims of human trafficking.

832. In 2006 in Warsaw the meeting of representatives of G6 countries was held and it was devoted to the subject: "International cooperation in the area of combating and counteracting trafficking in human beings. Experiences sharing – future proposals" and the International Expert Conference was held on combating and preventing human trafficking for the purpose of forced labour.

833. Under the National Programmes for Combating and Preventing Trafficking in Persons periodic trainings in the scope of procedures for dealing with victims of human trafficking are held for representatives of the Police, Border Guard, Prosecutor's Office and courts in all provinces, taking into account the issue of the children – victims of trafficking in children.

834. In 2007, in all Appellate Public Prosecutor's Offices and selected regional prosecutor's offices coordinators (prosecutors) for trafficking in persons were appointed. These prosecutors with in-depth knowledge of criminal activities related to human trafficking and the regulations of relevant Polish and international law, provide assistance to prosecutors conducting or supervising such cases and monitoring preparatory proceedings conducted in such cases. Moreover they participate in trainings on the areas of activity of a given appellate prosecutor's office which contributes to unification of the practice and elimination of mistakes made in these cases. For example, in 2009, specialist training was held for prosecutors – coordinators for human trafficking and prosecutors conducting and supervising cases of such type. In the course of the training the concepts discussed were: notion of human trafficking, right and role of the victim in criminal proceedings in the cases on human trafficking and cooperation between the prosecutor and the Police, Border Guard and non-governmental organizations in the course of these proceedings. 58 prosecutors participated in this training.

835. Prosecutors – coordinators for human trafficking collaborate with representatives of other services involved in combating and preventing the phenomenon of human trafficking, including with officers of the Police and Border Guard and together with them they participate in the trainings.

836. Other trainings on human trafficking, addressed to prosecutors and judges included:

- 2006 – training for judges adjudicating in criminal cases, on: "Selected issues related to dealing with foreigners from the perspective of the *Act on foreigners* and the *Act on the Protection Granted to Foreigners in the Territory of the Republic of Poland*". Overall 83 prosecutors from all over the country participated in the training. The objective of the training was to increase participants' awareness of the scope of possibilities for foreigners, including victims of human trafficking to obtain protection.
- In the academic year 2006/2007 and 2007/2008 – Post-Graduate Studies in Organized Crime and Terrorism for prosecutors were organized by the Polish National School of Judiciary and Public Prosecution in cooperation with Faculty of Law and Administration of the University of Warsaw, dealing with issues involved

in conducting criminal proceedings in the cases of human trafficking and illegal migration. Under these studies, prosecutors working in the Departments for Organized Crime and Corruption in Appellate Public Prosecutor's Offices from all over the country, where definite majority of proceedings in the scope of human trafficking are conducted, were trained.

- Over the years 2007-2008 – a cycle of seminars for judges was conducted under the specialist pilot training Programme “Human trafficking in courts’ practice, as a crime and circumstance of committing other crimes.” Seminars were organized by “La Strada” Foundation in cooperation with the British Embassy and the Ministry of Interior and Administration.

837. As part of the implementation of the recommendations formulated by Commissioner for Human Rights of the Council of Europe in Memorandum of 2007 within the scope of “ensuring specialist training on human trafficking on wider scale and involvement therein of higher number of police officers in cooperation with non-governmental organizations”, a programme for specialist course in the scope of combating human trafficking was developed and then implemented in the Police, under the decision No. 206 of the Police Commander-in-Chief of 14 May 2009. The major task of the training is to prepare police officers to perform their official duties related to combating human trafficking. Police officers who execute the tasks related to combating human trafficking and/or conduct didactic classes in this scope are referred to the trainings. The duration of the course is 38 hours lesson periods, i.e. 5 days. In 2009 two editions of the course were executed in the Police School in Piła, during which 48 officers were trained and one edition was conducted in the Police Academy in Szczytno for 22 participants.

838. The Ministry of Labour and Social Policy under activities aiming at development of the system of support for victims of/witnesses to human trafficking, executes tasks resulting from the National Programme for Combating and Preventing Trafficking in Persons (first Programme for 2003-2004, next: 2005-2006, 2007-2008, 2009-2010, 2011-2012). The result of the works of Ministry of Labour and Social Policy in the Group for Combating and Preventing Trafficking in Persons is execution of the trainings for social assistance staff (poviat family aid centres and emergency response centres) in the scope of preventing human trafficking and support for victims of this crime.

839. In 2004, the first training was held for the group of approximately 50 social workers who formed a national network of support for victims of human trafficking. The second stage of the training lasted from January 2005 to the end of 2006 and it was held at the provincial level, constituting continuation and extension of the previous training. The participants in the training, in addition to social assistance staff, included officers of the police, border guard, prosecutors, judges and representatives of the inspection of employment legality. The training schedule was drawn up in cooperation with the members of the working group of the team for combating and preventing trafficking in persons.

840. At the same time the Ministry of Labour and Social Policy initiated cooperation with “La Strada” Foundation against Trafficking in Persons and Slavery in order to prepare training sets for future social workers enrolled in professional preparation in the Colleges of Social Services Workers.

841. The Regulation of the Minister of Social Policy of 7 April 2005 on education standards in colleges of social services workers, introduced as speciality subjects, “the phenomenon of trafficking in persons, combating and punishing trafficking in persons, providing support to the victims of trafficking in persons”.

**Activities of the prosecutor's office for combating the crimes of sexual exploitation of children, including in the Internet**

842. The Office for Preparatory Proceedings in State Public Prosecutor's Office (as of 31 March 2010 Department for Preparatory Proceedings in Prosecution General) cooperates with the Central Team for Combating Trafficking in Persons in the Criminal Bureau of National Headquarters of the Police. In 2007 two meeting were organized in order to coordinate the activities at the level of prosecution and police. Their effect is, inter alia, establishment of coordinators and on-going information exchange in the cases against the practice of distributing child pornography and paedophilia in the Internet.

843. The State Public Prosecutor's Office (as of 31 March 2010 – Prosecution General) coordinates large, multi-layered and complex (in terms of persons) preparatory proceedings conducted for crimes of paedophilia and child pornography, located in various places of the country where the crimes were committed .

844. The coordinator of criminal-legal activities in the scope of combating criminal activity related to sexual exploitation of children (paedophilia) and the prosecutor responsible for execution of the tasks within the scope of combating computer crime, including also the activities related to sexual exploitation of children were appointed in the Office for Preparatory Proceedings in State Public Prosecutor's Office (activities continued by the Department for Preparatory Proceedings in the Prosecution General) . Moreover at the level of Regional Public Prosecutor's Offices and Provincial Teams for Combating Trafficking in Persons and Child Pornography operating under the structures of Provincial Police Headquarters coordinators were appointed who established mutual cooperation and coordinate the activities in the cases against holders of child pornography.

845. In the first half of 2007 on the target area of all Appellate Prosecutor's Offices inspections were carried out with respect to the subject of paedophilia and child pornography. Overall in the territory of the country 1434 proceedings were examined.

846. Inter alia, the decisions on remitting the proceedings were subject to examination. In a straight majority of examined cases these decisions were justified. Inspections enabled to determine that in general the guidelines for judicial authorities in the cases in which children were the victims or witnesses were observed in the examined cases. The rule of one-time interviewing of aggrieved minors is intended to minimize the suffering of the minor during preparatory proceedings (see also para. 307 hereof).

847. International campaigns conducted in 2009 addressed against distributors of child pornography significantly impacted the number of detected crimes of this type. According to the data obtained from Temida System (refers to offences under art. 202 § 4 and 4a of the PC – recording, importing and storing pornographic contents with participation of a minor under 15) in 2009 1 231 crimes were detected and 1 187 petitions to prosecutor's offices for covering indicated offences with bill of indictment were submitted. In the previous years the number of detected offences in the afore-specified category and of the petitions submitted to prosecutor's office amounted to accordingly: in 2005 – 91 and 98, in 2006 – 340 and 327, in 2007 – 206 and 178, in 2008 – 315 and 292, in 2010 – 285 and 250. According to the data obtained from Temida System (refers to offences under article 202 § 3 of the PC – producing, recording or public presentation of pornographic contents with participation of a minor under 15) in the following years the number of detected offences in the afore-specified category and of the petitions submitted to prosecutor's office amounted to accordingly: in 2005 – 68 and 64, in 2006 – 97 and 74, in 2007 – 154 and 107, in 2008 – 516 and 141, in 2009 – 295 and 245, in 2010 – 197 and 156.

848. The practice of distributing child pornography and paedophilia in the Internet is detected through the monitoring of the Internet network with specialist software in Operating Technology Departments in Provincial Police Headquarters.

849. In recent years, a work methodology was developed which will allow the execution of investigations to be conducted simultaneously in the territory of Poland in a unified manner. It was then forwarded to reporting organization units of prosecutor's office in order to have it applied in practice. This methodology is used in conducting proceedings on cases for importing and holding child pornography.

850. In the period from February 2006 to June 2009 14 operations were conducted against the perpetrators of child pornography distribution, including 6 based on the materials sent by police from different European countries and 8 operations based on the materials obtained in result of the monitoring conducted by Provincial Police Headquarters.

851. In the first half of 2009 in result of conducted operations 324 persons were detained, 72 persons were informed of the charges levelled against them, in total 312 houses, flats, companies, and Internet cafes were searched, 39 preventive measures were applied. Moreover substantial amounts of computers, laptops, palmtops, hard drives, CDs/DVDs, floppy disks, tapes, pen drives, mp3 players, digital cameras, mobile phones, memory cards, illegal software, photographs were seized. A series of these proceedings are being continued.

852. Computer hardware seized in the course of rooms search is subject to inspection by witnesses, expert in the tracking of paedophilia contents on IT. Where these inspections lead to positive results, the owners or users of hardware are informed about the charges against them.

853. A Representative of Prosecution General (by 30 March 2010 – State Public Prosecutor's Office) participates in the works of the Consultation Committee of the Research and Academic Computer Network NASK (pl. Naukowa i Akademicka Sieć Komputerowa) whose objective is to support the teams implementing SIAP project – Safer Internet Action Plan of the European Commission. The Team Dyżurnet.pl operates under the NASK network, and it notifies paedophilia contents revealed in the network, and after consultations with a prosecutor, forwards these contents to the National Headquarters of the Police. It also initiates blocking of websites containing the contents indicated above.

854. The Representative of Prosecutor's Office is a member of the Group for Preventing Discrimination of Minors in Electronic Mass Media – activities of the Team were described in response to recommendation contained in paragraph 12 of the concluding observations.

855. Law enforcement authorities monitor Internet cafes and networks; this is conducted by Police units in cooperation with field units of the prosecutor's office to reveal paedophilia contents.

856. Field units of the prosecutor's office conduct awareness-building activities among children and young people and inform society by media addresses regarding the issue of paedophilia and child pornography.

#### **Response to the recommendation contained in paragraph 49(d) of the concluding observations**

##### **Activities taken for combating human trafficking and protecting victims of this crime, including juvenile victims**

857. In 2006, non-full time coordinators and coordinators deputies were appointed in the Headquarters of Border Guard and in regional units of the Border Guard for combating human trafficking. Coordinators are the officers of the intelligence-investigation division. Their tasks include, inter alia, coordination of activities between organization units and departments of Border Guard, between Border Guard and the Police and coordination of activities under the Programme for supporting/protecting the victims of / witnesses to

human trafficking, including also as part of cooperation with non-governmental organizations executing tasks related to victims protection.

858. Additionally in order to streamline the coordination system, under the Decision No. 139 of 18 June 2008, the Team for Constant Monitoring and Coordination of the Activities of Border Guard in the Scope of Preventing and Combating Human Trafficking was appointed. This Team's tasks include: coordination of implementation by Border Guard of initiatives resulting from national programmes for combating and preventing human trafficking, on-going monitoring and analysis of the cases of human trafficking revealed by Border Guard, participation in the works of the working group established under the Team appointed under Ordinance No. 23 of the Prime Minister of 5 March 2004 on establishment of the Team for Combating and Preventing Human Trafficking, cooperation with Ministry of Interior and Administration, Police and other bodies of governmental administration and non-governmental organization in the scope of preventing and combating human trafficking. The Team is composed of representatives of the Intelligence and Investigation Department of Headquarters of Border Guard, the Border Management Department of Headquarters of Border Guard, the Department for Aliens of Headquarters of Border Guard, the Border Guard Strategic Analyses Bureau, the Staff and Training Bureau of Headquarters of Border Guard and the Border Guard Commander-in-Chief Office.

859. Moreover, as of 24 July 2008 under the authorization a non-full time Plenipotentiary for Human Rights Protection of the Border Guard Commander-in-Chief was appointed and under the Decision No. 247 of Border Guard Commander-in-Chief of 24 October 2008 permanent non-full time Team for human rights protection in Border Guard was appointed and its task is to reinforce and support their activities. Representatives of Intelligence and Investigation Department of Headquarters of Border Guard participate in the works conducted under the working group of the Team for combating and preventing human trafficking of the Ministry of Interior and Administration aiming at development of a model for supporting/protecting the child-victim of human trafficking.

860. Guidelines for prosecutors on human trafficking are as follows:

- In 2005, the State Public Prosecutor's Office prepared and sent to subordinate prosecutor's offices methodological guidelines for prosecutors conducting preparatory proceedings in the cases of trafficking in children, in particular foreign unaccompanied children staying in Poland;
- In 2008 methodological guidelines for prosecutors conducting or supervising criminal proceedings in the cases of human trafficking, which were prepared and updated by State Public Prosecutor's Office, were sent to all appellate prosecutor's offices;
- Also the Algorithm on how law enforcement officers should act in the case of revealing human trafficking crime was sent, which was prepared by the Team for Human Trafficking of the Ministry of Interior and Administration with participation of State Public Prosecutor's Office;
- As part of the works of the Team for Combating and Preventing Trafficking in Persons the Model for supporting/protecting foreign unaccompanied child identified by law enforcement authorities as a victim of human trafficking, was developed.

861. There is active cooperation with non-governmental organizations dealing with these issues, inter alia: "La Strada" Foundation against Trafficking in Persons and Slavery and Nobody's Children Foundation, ITAKA Foundation – Centre for Missing People, Caritas Poland.



862. Poland also cooperates in the field of combating human trafficking with international institutions, both those strictly related to police system and broadly defined judicial authorities, such as for example INTERPOL, EUROPOL, EUROJUST, BALTCOM as well as with the International Organization for Migration (IOM) and FRONTEX. This allows fuller and more effective implementation of tasks in the scope of combating human trafficking, child pornography and child prostitution, especially in terms of providing support to victims of such crimes and their cooperation with law enforcement bodies.

863. Within 2005-2006, funds were released from the restricted provisions of the State budget designated for co-financing of ongoing activities of the network of support centres and emergency response centres and establishment of new facilities that can provide assistance to victims of human trafficking.

864. The Ministry of Labour and Social Policy is one of five partners of the project Development Partnership “IRIS – social and professional reintegration of women – victims of trafficking in human beings” financed also from the funds of European Social Fund under Community Initiative EQUAL for Poland 2004-2006. Development Partnership was established to level the opportunities on the labour market for women – victims of trafficking in human beings who are especially burdened with the risk of long-term unemployment and social exclusion. Partnership aims at the development of mechanisms for the effective social and professional reintegration of these women and creating opportunities for their employment. Primary task stemming from being a member of the Partnership “IRIS” is to promote and distribute results of the Project and activities for including them in mainstream policy (e.g. introduction of the model of social and professional reintegration of victims of trafficking in human beings, possible changes in legislation oriented towards providing support to these groups).

865. Provisions introduced under the Act of 16 February 2007 on Amendments to the Act on Social Welfare, assume covering with the system of social assistance the victims of trafficking in persons who are Polish citizens as well as third country nationals (art. 33 para. 1 item 5 (presently art. 53a, para. 2, item 4) and art. 53 para. 1 item 15 of amended Act of 13 June 2003 on Foreigners). They enable more effective and comprehensive support provided by organizational units of social assistance at various levels of local government administration, as well as coordination of support provided to victims of trafficking in persons under the social assistance system (right to benefits in the form of emergency response, shelter, meal, necessary clothing and restricted allowance).

866. As of 1 October 2005 – with reference to incorporation into the Polish legal order of the directive of the Council 2004/81/EC of 29 April 2004 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 – provisions regarding regularisation for victims of trafficking in human beings cooperating with law enforcement bodies, were introduced to the Act of 13 June 2003 on Foreigners. A temporary residence permit is granted if a foreigner is a victim of trafficking in human beings within the meaning of the framework resolution of the Council of 19 July 2002 on combating trafficking in human beings and meets the following conditions:

- (a) Stays in the territory of the Republic of Poland;
- (b) Cooperates with the body competent for conducting proceedings for combating trafficking in human beings;
- (c) Has severed relations with persons suspected of commitment of offences related to trafficking in human beings, if the circumstance which is the basis for applying for this permit justifies this person's residence in the territory of the Republic of Poland for the period longer than 3 months.

867. The above permit may be granted to a foreigner illegally staying in the territory of the Republic of Poland by the provincial governor competent in the place of residence of the foreigner.

868. With respect to the foreigner granted the afore-specified permit, a decision on deportation from the territory of Poland is not issued neither is any previously issued decision on deportation exercised.

869. Moreover, under the reflection period the victim of trafficking in human beings has the right to legalize their residence for a period of 2 months by submitting application to the provincial governor for the issuance of a stay visa.

870. Amendment to the Act of 13 June 2002 on Foreigners, introduced under the Act of 24 October 2008 on Amendments to the Act on Foreigners and Certain Other Acts, which came into force on 1 January 2009, established an exemption from stamp duty for the afore specified temporary residence permit granted to a foreigner being a victim of trafficking in human beings who started cooperating with law enforcement bodies. Previously regularisation of these persons stay in the territory of Poland was performed on general principles. Moreover stay visa granted to the victims of trafficking in human beings for the period of 2 months for cooperating with law enforcement bodies, was superseded with a temporary residence permit with simultaneous extension of the “reflection period” from 2 to 3 months.

871. If after completion of the cooperation with the body competent for conducting proceedings for combating trafficking in human beings the foreigner who is victim of human trafficking intends to continue their residence in Poland, they are allowed to do this on general principles. If after the end of legal residence in Poland such foreigner can return only to the country where their right to life, freedom and personal safety is threatened, where they can be tortured or subject to inhumane or degrading treatment or punishment or be forced to labour or deprived of fair court trial or be punished without legal basis within the meaning of the Convention on the Protection of Human Rights and Fundamental Freedoms, developed in Rome on 4 November 1950, or if deportation of such foreigner infringes upon the right to family life within the meaning of the aforementioned Convention, or violates the rights of the child stipulated in the Convention on the Rights of the Child, posing a significant threat to their mental and physical development, it is possible to grant to such foreigner tolerated residence permit.

872. The most important elements of the National Programme for Combating and Preventing Trafficking in Persons (implemented since 2003 based on the resolution of the Council of Ministers) were included in specifically developed “Police tasks schedule” which was forwarded to all Provincial Police Headquarters. Based on the schedule, inter alia, the following tasks were implemented:

(a) In **2005** draft of the algorithm for operations of police officers conducting cases for human trafficking was prepared in consultation with Police organization units. In **2006** “*Algorithm on how law enforcement officers should act in the case of revealing human trafficking crime*” was implemented for application by the Police.

(b) Based on the *Concept of establishment of national structure for systemic identification and combating of human trafficking in Poland*, approved by Deputy Police Commander-in-Chief, in **2006** in the National Headquarters of the Police a non-full time Central Team for Combating Human Trafficking was appointed, aiming primarily at maintenance of international cooperation as well as coordination of police activities implemented in the country;

(c) In **2007**, within the structures of Criminal Departments in Provincial Police Headquarters and Warsaw Police Headquarters full-time teams for combating human

trafficking were separated. Moreover at the level of poviát police headquarters (city, regional) coordinators for combating human trafficking were appointed;

(d) On 15 June 2007 within the structure of the contemporary Criminal Department, Criminal Bureau of National Headquarters of the Police, full-time Central Team for Combating Human Trafficking was appointed;

(e) Instructional materials were developed and implemented regarding operating in the case of revealing a crime of human trafficking, e.g. Police Academy in Szczytno published in 2008: "Trafficking in human beings – preventing and combating. Guide for police officers";

(f) The following classes were added to the agenda of basic and specialist training: for the police officers of criminal services and duty services conducted by police schools classes on how to operate in the case of revealing and combating trafficking in human beings. Moreover on 14 May 2009 Police Commander-in-Chief issued a Decision No. 206 *on the curriculum of specialist course in the scope of combating trafficking in human beings*. The said course is executed by the Police Academy School in Szczytno and in the Police Schools in Piła and Katowice. Moreover, under the organized local professional training, taking into account in particular the issue of identification of the victims of trafficking in persons, more than 11 000 police officers were trained;

(g) Didactic staff of police schools was trained based on the curriculum agreed by National Headquarters of the Police with "La Strada" Foundation against Trafficking in Persons and Slavery;

(h) A series of activities are carried out by the Police aiming at reducing the practice of human trafficking, such as, inter alia, operation-detection activities, cooperation and joint actions with governmental organizations and bodies such as ministries or Border Guard. Within the scope of combating human trafficking and exploitation of prostitution, police officers from the criminal division in cooperation with police officers from other countries to which women are sold or from where they come from achieve good results. Fast information exchange and making necessary arrangements have enormous significance in such cases. In the majority of the cases, this cooperation is executed via the agency of International Police Cooperation Bureau and liaison officers;

(i) The Police cooperate with mass media in inspiring campaigns of preventive and educational nature. Moreover, representatives of the Police actively participated in the works on amending the *Act on Foreigners*.

- In the activities on human trafficking the effective cooperation with non-police entities who provide legal, residential and psychological support to the victims of human trafficking is of utmost importance.
- Police officers get involved in the cooperation with relevant countries and foreign organizations, institutions and agendas, by participating in seminars, conferences and workshops organized by international groups. The objective of these activities is to develop effective methods for combating the discussed phenomenon, implementation of tested operating procedures, training, and development of a close, uniform, consistent platform for cooperation and exchange of information and experiences.

873. Due to the amendment of the Act on Foreigners in 2005, which enabled regularization of residence for foreigners-victims of human trafficking, since 1 January 2006 the "Programme for supporting and protecting the victim of/witness to human trafficking" has been functioning which as a public task is annually commissioned to non-governmental organizations under open bidding. This task is financed from the State budget under restricted subsidies and aims at extending the offer and improving the standards of

support provided to all foreigners – victims of human trafficking. Since April 2009 the formula, as well as scope of this task, were extended by running the National Consulting and Intervention Centre for the Victims of Trafficking in Persons (KCIK) whose beneficiaries are not only foreigners but also Polish citizens. Under the KCIK the Support Programme dedicated to foreign victims is still being implemented. Activities conducted under KCIK aim at: streamlining identification of the victims of human trafficking, ensuring that basic needs of persons aggrieved with this crime are met, protecting and ensuring that the rights of aggrieved persons are exercised, supporting other institutions providing assistance in the scope of professional work with the victim and increasing awareness of general public on the subject of the threat of human trafficking. Hence these are the activities of intervention as well as preventive nature addressed mostly to adult victims, nonetheless also teenagers and children who fell victim to exploitation under human trafficking can benefit from the support and they often did so benefit.

874. Under subsequent editions of national plans against trafficking in persons a separate task was established aiming at development of Model for supporting and protecting the child – victim of human trafficking. In effect, on the initiative and under the leadership of the Ministry of Interior and Administration, since 2009 gradually in selected provinces a pilot project has been implemented which is intended to help in establishment of a comprehensive system for support and protection for juvenile victims as well as in development of uniform operating procedures for dealing with juvenile victims. Pilot activities include, inter alia:

- (a) Establishment of the network of safe facilities prepared to provide specialist support and ensuring comprehensive care to a minor identified as a victim of trafficking in human beings;
- (b) Development of instructional materials supporting identification of juvenile victims and providing them proper protection;
- (c) Establishment of the system of trainings for social assistance workers and officers in order to increase the awareness on the phenomenon of trafficking in children and mechanisms for protection of the victims of this crime.

875. In 2010 safe facilities referred to in item a) were located on the area of mazowieckie, łódzkie and małopolskie provinces (in implementation). As a result, it is possible to efficiently implement the “Programme for supporting and protecting the victim of/witness to human trafficking (foreigner)” with respect to juvenile victims in these provinces and thus it is possible to provide them comprehensive assistance, i.e.: safe shelter, 24-hour specialist care, medical intervention, psychological support, translations services, legal consultations (including also the possibility to recommend a person trained for performing the function of juvenile victim’s guardian) and safe return to the country of origin. In other regions of Poland such support is also provided under the Support programme and KCIK nonetheless due to absence of institutions that are recommended and trained in the scope of dealing with juvenile victim, such activities require greater involvement on the part of certain organizations (e.g. “La Strada” Foundation) or law enforcement bodies. In some cases this can also mean the necessity of transporting the child to other province in order to provide them support adequate to their situation and needs.

876. A positive example of activities aiming at preventing sexual violence and violence due to gender with respect to persons applying for refugee status, is the joint project, implemented since March 2008, of the Office for Foreigners, the Office of the United Nations High Commissioner for Refugees, the Police Commander-in-Chief and two non-governmental organizations, i.e. “La Strada” Foundation and Halina Nieć Legal Assistance Centre, under which the local cooperation teams are appointed. The objective of the project is to diagnose cases of sexual violence and take specific remedial and corrective measures.

Unfortunately in practice it happens that in situations where such violence occurs, the teams do not have real opportunities to respond. The most difficult, also due to cultural specifics, seem to be the situations of arranged or forced “marriages” of teenage girls, as well as the cases of domestic violence.

*CRC/C/15/Add.194 – paragraph 51: The Committee recommends that the State party:*

- a) *Ensure the full implementation of juvenile justice standards, in particular article 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), in light of the Committee’s day of general discussion on the administration of juvenile justice, held in 1995;*
- b) *Enforce the regulations allowing a maximum stay of three months in emergency blocks;*
- c) *Use deprivation of liberty only as a measure of last resort and protect the rights of children deprived of their liberty, including those pertaining to conditions of detention*

877. See the response to the recommendation contained in paragraph 26 of the concluding observations (para. 169-217 hereof).

878. With regard to the implementation of juvenile justice standards in the Polish legislation, it should be underlined that the Polish law is fully compatible with the above-mentioned guidelines, rules and standards.

879. According to its version as amended by article 3, paragraph 3 of the Act of 27 June 2003 on Amendments to the Act on Education System and on Amendments to Certain Other Acts, which came into force on 1 January 2004, pursuant to article 26 of the Act of 26 October 1982 on Juvenile Delinquency Proceedings (JDPA), a juvenile may be, as a temporary measure, placed in a youth education centre or a youth sociotherapy centre, or sentenced to medical-educational measures. Therefore, a youth emergency shelter may not be used as an interventional centre for juveniles, due to lack of appropriate legal basis.

880. According to article 27, paragraphs 1 and 2 of the JDPA, a juvenile may be placed in a shelter if circumstances are revealed indicating that he/she should be placed in a correction centre and there is a justified fear of his/her hiding from the law or erasing traces of the unlawful act, or if it is impossible to determine the juvenile’s identity. Exceptionally, a minor may also be placed in a juvenile centre if circumstances are revealed indicating that he/she should be placed in a correction centre and he/she is accused of having committed one of the unlawful acts enumerated therein.

881. The duration of a minor’s stay at a juvenile shelter is regulated by article. 27 paras. 3-6 of the JDPA. A minor may not be placed in a juvenile shelter before instituting legal proceedings for the case for a period longer than three months. If, due to special circumstances, there is a need of extending that period, it can be extended to up to three more months. Total duration of a minor’s stay at a juvenile shelter, up to the moment of pronouncing first instance sentence, may not exceed one year.

#### **Correction centres and juvenile shelters**

882. Over the period of time covered by this report, cases of violating juvenile rights were not numerous, which is a result of a regular supervisory activity, starting from lower level supervision conducted by headpersons of individual centres and emergency blocks, including actions aimed in particular at: raising awareness among detained juveniles and staff members of the necessity to observe the Convention; expanded system of monitoring and preventing infringements of the Convention; organisation of trainings within the scope

of, including but not limited to, staff members' communication with detained children and their own aggression management.

883. Due to the cooperation between headpersons of detention centres with pedagogical supervision authorities as well as co-ordination by the Ministry of Justice Department of Juvenile centres, a system has been established to prevent infringements of the rules laid down by the Convention, including but not limited to monitoring the level of abiding by it. The aforementioned system includes: guided interviews with detained minors and members of staff of detention centres, participant observations, diagnostic inspections, surveys conducted among detained minors and staff members, as well as interviews with parents or guardians of detained children.

884. The supervision includes regular inspections of the observance of juvenile rights. Pursuant to the Regulation of the Minister of Justice dated 17 October 2001 on correction centres and shelters for juveniles, inspections are conducted at least once every five years, unless there are circumstances dictating a necessity to conduct an inspection immediately.

885. Pedagogical supervisory personnel from regional sections conduct inspections and controls on a regular basis, as well as participate in staff meetings at correction centres or shelters for juveniles and teachers' meetings at schools. They consistently and regularly monitor the activity of centre headpersons so as to assess its quality, using, inter alia: participant and observation inspections, guided interviews, surveys, documentation analysis. Their analysis embraces all areas of activity. Those actions are co-ordinated by inspectors from the Ministry of Justice Department of Juvenile centres. On average, two scheduled inspections or controls are conducted each semester. The implementation of recommendations is controlled by additional inspections. Additional or extraordinary measures are introduced for the establishments which, according to the supervisory authorities, require particular attention.

886. Another source of knowledge about the functioning of reform centres is constituted by collected statistics, which are transferred to the Ministry of Justice and concern, inter alia, discussed issues and reports of family court judges responsible for proper implementation of recommendations.

887. During every comprehensive inspection, the observance of rights of minors detained at a particular correction centre or shelter for juveniles is examined separately. Surveys are conducted among the detained minors and staff members, the results of which are analysed and discussed at particular establishments. They are also included in post-control reports and, when necessary, used to produce recommendations. Every inspection of detention institutions also includes guided pedagogical interviews aiming at detecting cases of unacceptable behaviour of staff members towards detained minors. What is more, documentation on rewards and disciplinary measures application is examined from the perspective of their proportions, as the appraisal, reward and discipline systems applied at reform centres should be based on a positive reinforcement (rewards) method.

888. The basic rule is to provide the juvenile with all information on their rights – compliance with that requirement is controlled during an inspection.

889. Every youth detention centre displays, in a freely accessible place, a list of institutions, along with their addresses, to which the detained minors may, uncontrolled by the establishment staff members, file applications, requests or complaints. Those institutions include: the Headperson of a particular Correction Centre/Juvenile Shelter, the competent District Court President, the Regional Pedagogical Supervisory Team at the competent District Court, the Ministry of Justice Department of Common Courts, the Ministry of Justice Department of Decision Implementation, the Office of the Ombudsman for Children, the Office of Human Rights Defender. In addition, during each inspection at

an establishment, the juveniles are offered the possibility to address the inspectors in person if they wish to make any complaints or comments.

890. Furthermore, staff members regularly receive all material concerning the juvenile rights, published by the Human Rights Defender, the Ombudsman for Children and the Helsinki Foundation for Human Rights. The supervision also includes trainings for pedagogical and non-pedagogical staff members within the scope of compliance with the Convention on the Rights of the Child.

*CRC/C/15/Add.194 – paragraph 53: The Committee recommends that the State party:*

- a) Initiate campaigns at all levels and in all provinces aimed at addressing the negative attitudes towards the Roma in society at large and in particular amongst authorities and professionals providing health, education and other social services;*
- b) Develop and implement a plan aimed at integrating all Roma children into mainstream education and prohibiting their segregation into special classes, and which includes pre-school programmes for Romani children to learn the primary language of schooling in their communities;*
- c) Develop curriculum resources for all schools which include Romani history and culture in order to promote understanding, tolerance and respect of Roma in Polish society*

891. The thesis formulated in the above-cited recommendation which concerns spreading discrimination against the Roma should be deemed untrue and unjust. The majority of problems faced by the Roma community in Poland (unemployment, poverty, social exclusion) are connected with a very low education level (common illiteracy) and the resulting lack of professional qualifications as well as objective limitations related to the inability to exercise one's civil rights.

892. Taking into account the above-mentioned problems, on 19 August 2003 the Council of Ministers adopted the Programme for the Roma community in Poland. Implemented between 2004 and 2013 (with a continuation possible), the programme is coordinated by the Minister of Interior and Administration. The execution of the Programme-related tasks is supervised by: the province governors (with reference to the tasks executed on the territories of the provinces), the Minister of Interior and Administration as well as the Minister of National Education (within the scope related to education). The principles of the all-Polish Programme have been formulated based on the experience gained from the execution of the Pilot government programme for the Roma community in the Małopolska province in the years 2001-2003.

893. The Programme for the Roma community in Poland includes a variety of measures implemented by the government administration, local government units and non-governmental organisations. The main areas of activity are the following: education, improvement of living conditions, struggle against unemployment, healthcare, safety, culture and preserving the Romani cultural identity, promoting knowledge about the Romani people and spreading civic knowledge among the Roma.

894. Top priority has been given to the educational measures, which have also been the most successful area of the programme so far. There has been a considerable increase in the number of children fulfilling their compulsory schooling obligation (in some provinces, all children subject to the schooling obligation go to school), and the attendance and grades of Roma students have been systematically improving. The aforementioned successes have been achieved thanks to, inter alia, the work of Roma assistants and helping teachers as well as the introduction of complementary measures such as compensatory and additional classes. The implemented educational measures also include financial support for the

organisation of summer, winter and scouting camps, touristic trips and sightseeing tours, as well as sports and leisure activities.

895. Implemented educational measures are accompanied by material help. It consists mainly in providing financial support which enables Roma children to gain regular access to pre-school education. Other actions in this scope which should be mentioned include: funding textbooks, teaching aids and school accessories for the most needy students, helping finance transport to school and back home, and providing students with personal accident insurance.

896. Furthermore, as a part of the Programme execution, the Minister of Interior and Administration has asked the selected Roma non-governmental organisations to implement a scholarship system for Roma university students and gifted pupils.

897. Another top-quality area within the Programme is constituted by measures aimed at improving housing and sanitary conditions, including but not limited to: refurbishment works and supporting new housing construction, connecting housing estates to the water-supply and sewage systems, or providing running water and electricity.

898. Other measures implemented in order to achieve the Programme's aims constitute a specialist extension and supplementation of the two main thematic areas of the Programme. The health problems among the Roma arise as a result of their difficult living conditions. Preventive medicine measures include, inter alia, engaging community nurses and helping finance their work. The community nurses provide immediate medical services and basic medical advice, as well as distribute medications and personal care products supplied with subsidies. The above-mentioned actions are complemented by the organisation of medical check-ups and vaccinations as well as the organisation of the so-called "white-days", which consist in various specialisation physicians offering medical advice free of charge.

899. One of the major factors hindering the integration of the Roma is their stereotyped and usually negative image, widespread among the non-Roma majority. Therefore, the initiatives which would provide the society with accurate information on the Romani people need to be supported. The Programme embraces various forms of activity, such as cultural events, concerts, exhibitions, open-air events, workshops etc.

900. Within the area of education, measures have been planned and implemented with the aim of levelling educational opportunities of the Roma students at all stages of education, starting from the pre-school education, as well as promoting knowledge of the Roma community in the society. The latter aim is supported, inter alia, by launching a two-semester course in the Roma culture, history and contemporary situation intended for teachers and administration workers, financing book and multimedia releases, exhibitions, concerts, seminars and other initiatives at bringing the Roma community and the Polish society closer together.

901. It is also important to mention local initiatives aimed at promoting knowledge of the Roma community, undertaken by regional education authorities and schools attended by the children and youth of Roma origin (such as development of multimedia educational packages and materials for teachers).

902. Full reports on the execution of the governmental programme for the Roma were annually published on the Ministry of Interior and Administration webpage. Since December 2011, they have been available on the Ministry of Administration and Digitization webpage: [www.mac.gov.pl](http://www.mac.gov.pl)

903. Pursuant to the Act of 6 January 2005 on National Minorities and on Regional Language, the Roma who are Polish citizens are officially recognized in Poland as an ethnic minority. The Roma population of Poland can be divided into several ethnic groups, including mainly the Polska Roma, the Kalderash, the Lowari and the Carpathian



(Bergitka) Roma. Different ethnic groups of Polish Roma speak various languages (dialects). According to the Polish Central Statistical Office, during the 2002 National Census of Population and Housing, 12 731 Polish citizens declared themselves members of the Roma ethnic minority (which amounts to 0.03% of the entire Polish population).

904. Roma students attend state schools and learn in class with their non-Roma peers. More and more Roma pupils graduate from primary school and continue their education at lower- and upper-secondary levels. However, educational problems are present in some of the Roma communities. An example of such problems is a relatively poor command of Polish among children who start their education and the resulting learning difficulties. Schools organise extra classes and adopt educational measures for those of Roma pupils who face learning and school adaptation difficulties.

905. The authorities responsible for schools which offer compensatory classes in the Polish language and other subjects to Roma students receive additional financial state help from the national budget general education subsidy.

906. Special education is organised for the children and youth who are physically disabled, including those suffering from aphasia, who are mentally disabled (mild, moderate or profound-degree disability), who suffer from various degrees of visual impairment or of hearing impairment, or who suffer from autism, including Asperger syndrome. According to the parents' choice, special education may be provided at a general access school, an integrated school or class, or at a special school or class. According to the regulations at force, poor command of Polish may not be a reason for placing a student at special school. A child may be admitted to a special school based on a special educational needs certificate, issued by a public psychological and pedagogical counselling centre upon the parents' (guardians') request. The aforementioned certificate is issued if the counselling centre decision board diagnoses the child with a disability requiring special organisation of learning process and teaching methods.

907. In December 2010, the Ministry of National Education conducted a survey in 16 psychological-pedagogical counselling centres from 15 different Polish provinces which issue special educational needs certificates for Roma children. Counselling centres from the Wielkopolska province were not included in the survey as in 2010, there was no request from that province for financing the implementation of the governmental educational programme for the Roma community in Poland.

908. During the 2009/2010 school year the surveyed counselling centres issued in total 2 541 special educational needs certificates, including 23 certificates for Roma children (which constitutes 0.9% of the total number). According to the information provided by the headpersons of all the 16 counselling centres, Roma education assistants are rarely present during interviews with parents or children, conducted prior to psychological and pedagogical tests, as verbal communication with the counselling centre specialists during tests does not pose problems either for parents or for children. The survey results indicate that in principle, psychological and pedagogical tests did not require the presence of third parties. Only the children of pre-school and early-school age who displayed anxiety syndromes or suffered from autism were accompanied by their mothers during the tests. If a child's parents are illiterate, Roma education assistants and further relatives help them complete the requests for issuing a special education needs certificate. Each time, parents are notified of the time and place of the decision board meeting, yet they rarely participate in the meetings.

909. During the process of diagnosing the individual developmental and educational needs of a child with development dysfunctions, various data are taken into account that concern the child's development process and functioning from the perspective of educational requirements he/she has to meet. The diagnostic process involves a

psychological examination, in which testing techniques are used in order to determine the level of the child's intellectual development.

910. The psychological examinations use tests created according to psychometric rules that clearly define the kind and extent of the allowable actions by diagnosticians that is, the allowable forms of help. For each test, a manual is prepared describing the appropriate research procedure. The procedure includes the instruction presented to the examined student, the wording of which cannot be modified. Therefore, the participation of third parties in the psychological tests is often impossible. If the tested children have problems with verbal contact or come from different social background, the tests are used which take such circumstances into account. In the case of issuing a certificate or an opinion regarding children and youth of Roma origin, their specific, biculturalism and bilingualism-related characteristics are taken into account. For psychological examination, non-verbal and culturally unbiased tests were used (e.g. Raven's, Later-R or Columbia test). If there were no contradictions, the examination featured the Wechsler Scale – the entire test was used or only its non-verbal (performance) part, in which the verbal communication with a student is limited to giving simple instructions. In order to assess a child's social functioning level and resourcefulness, the Adaptive Behaviour Scale was used. The examination of pre-school children includes a set of tests used to assess psychophysical development of children aged 5-6.

911. The pedagogical examination of schoolchildren includes tests adapted to their perception level and educational stage. The following elements are tested and assessed: reading skills (including reading comprehension), writing skills, perceptual-motor abilities, and basic knowledge level, mainly from the area of the Polish language and mathematics. In some cases the tests are also conducted by speech therapists in order to diagnose any speech disorders. Schools are asked to provide relevant information concerning the child's educational achievements and/or (if applicable) failures, as well as his/her social functioning.

912. The analysis of the number of opinions and certificates issued by the counselling centres within the reporting period indicated that the centres issue more opinions than certificates. In the 2009/2010 school year, the most common kind of documents were opinions on adjusting school requirements to a Roma child's educational and psychophysical capabilities, as well as opinions on children's needs for various forms of psychological and pedagogical support.

913. According to the provisions of the Regulation of the Minister of National Education of 17 November 2010 on the principles of granting and organisation of psychological and pedagogical support in public kindergartens, schools and establishments, every child with special educational needs shall be provided with psychological and pedagogical support, suited to their individual needs and capabilities, including the opportunity to attend compensatory and specialist classes. Under the provisions of paragraph 5 item 5, psychological and pedagogical support at kindergarten, school or institution may also be provided to a child on a Roma education assistant's request.

914. The Ministry of National Education and the Ministry of Interior and Administration (which is the government department responsible for the co-ordination of the State policy on national and ethnic minorities in Poland) have taken measures aimed at improving the educational situation of the Roma. In 2009, a strategy was adopted to close the so-called "Roma classes". It was settled that starting from the 2009/2010 school year, there would be no intake into any of 5 Roma classes functioning at that time, and that the students already going to those classes would be provided, depending on their needs, with appropriate educational support (e.g. in the form of compensatory classes). In the 2009/2010 school year, there were only 4 Roma classes – until their complete closedown – at two primary schools (located in the towns of Maszkowice and Ełk). The aforementioned classes were

attended by students who, according to their age, should already study at higher education levels and those for whom lower educational requirements had been stated as well as students with serious educational gaps, repeating the same grade due to their lack of progress in learning or low attendance level. Complete closedown of the Roma classes shall take place in the 2010/2011 school year.

915. Funds from the budget of the Government Department of Education are allocated for measures aimed at giving Roma students equal educational opportunities, including but not limited to: purchasing textbooks and school equipment for primary school, lower secondary school and upper secondary school students, purchasing necessary books and equipment for Roma pre-school children, partially funding language courses; purchasing teaching aids, sportswear and sports footwear. Measures may be suggested and initiated by local government units (as they are the governing bodies responsible for schools) as well as by Roma associations and organisations or associations and organisations acting for the Roma from anywhere in Poland. What is more, additional funds have been allocated for giving Roma students equal educational opportunities within the education part of the national budget general subvention for local government units (see also paragraphs 223-230 hereof).

916. The Roma community in Poland does not use their statutory law to organise minority language teaching (Regulation of the Minister of National Education of 14 November 2007 on the conditions and manner of performance of tasks, by kindergartens, schools and public facilities, making it possible to preserve the sense of national, ethnic and linguistic identity of students belonging to national and ethnic minorities and communities using regional language. That fact results from the great number of different Roma dialects and lack of teaching staff. However, it is the attitude of the Roma themselves that remains the main underlying reason, as they are rather reluctant to disseminate their language outside their communities.

917. It is the head of school who is responsible for the creation of school curricula sets, by authorising, based on the opinion of the teachers' meeting, the curricula prepared by teachers to be used at school. The curricula must meet the requirement of compliance with the core curriculum, laid down by the regulations by the Minister of National Education.

918. In the core curriculum, which came into effect in the 2009/2010 school year pursuant to the Regulation of the Minister of National Education of 23 December 2008 on the core curriculum for pre-school upbringing and general education in individual school types, it is recommended to include history and culture of national and ethnic minorities recognised in Poland, including the Roma minority, in school curricula sets. That recommendation refers in particular to the subjects such as History and Society, History and Civics.

919. The teachers responsible for the creation of the school curriculum can make use of materials concerning the Romani history and culture prepared by Roma organisations, museums (e.g. the Ethnographic Museum in Tarnów) and other sources (book publications, albums, exhibition catalogues, periodicals) issued by non-governmental organisations. Many of these materials have been funded by the Government, within the execution process of the above-mentioned Programme for the Roma community in Poland.

920. In 2007, Poland was invited by the Council of Europe to contribute to the codification of the Romani language. In 2008, a working group was created whose aim was to work on the codification of the Romani language and to prepare Romani educational materials for Roma students. The group's work was financed by the Ministry of National Education. The aforementioned measures may contribute to the members of national and ethnic minorities using their right to learn their language in future.

921. Under the above-mentioned Act of 6 January 2005 on National Minorities and on Regional Language, a Joint Commission of Government and National and Ethnic

Minorities was appointed, featuring a Team for Roma Affairs. The Team's areas of activity include dealing with various issues related to the Polish Roma situation, including those related to Roma children and youth education.

## **B. Current governmental actions**

### **Enforcing the right of children from national and ethnic minorities to have and use their own culture**

922. Until the year 2005, the Government Department of Culture<sup>8</sup> financed education-related means dedicated to children and youth from national and ethnic minority communities. The support was provided mainly to national minority organisations and associations who introduced such measures.

923. The cultural measures concern in particular educational stimulation and support of cultural activities undertaken by children and youth from national and ethnic minority communities, using various forms: contests, workshops, programmes, publications, performances of children and youth amateur bands.

924. Such national and ethnic minorities' initiatives are aimed not only at passive participation of children and youth, limited to acquiring information on their own culture, but in particular at developing their cultural and artistic skills and competences. The direct objective of such measures is to prepare their young participants for the contact with culture and an active and conscious participation in cultural life as well as to offer them an opportunity to present their artistic works and to compare them with those of their peers from other backgrounds.

925. Apart from declamation, art or history contests held within the school education in its traditional form, projects were developed such as e.g. workshops for young correspondents for "Zorka" – a supplement to the Belorussian weekly magazine "Niva". Organised in a form attractive for young participants, the workshops were intended to supply new human resources to the developing market of Belorussian media in Poland.

926. Magazines for young audience also have significant educational qualities, as they contain information crucial for the children and youth's acquisition of appropriate cultural models and formation of their cultural identity.

927. The activity of children's amateur bands is an important element of all the undertakings in question. It constitutes one kind of artistic education-related measures, aimed at stimulating the creative-expressive activity of young performers. Similar measures, aimed at children and youth from Roma communities, are particularly important from the schooling-educational point of view. The above-mentioned measures are complemented by presentations in the form of reviews, festival and meetings, providing young performers with a valuable forum for their artistic output and an opportunity to compare and improve their creative activity.

928. The majority of education-related undertakings financed by the culture government department are long-term cyclic projects.

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<sup>8</sup> In connection with entering into force of the Act of 6 January 2005 *on National Minorities and on Regional Language*, the Minister of Interior and Administration was, starting from 2005, responsible for matters related to national and ethnic minorities as well as communities using regional languages. Since 18 November 2011, the aforementioned matters have been falling within the authority of the Minister of Administration and Digitization.

929. In 2009, the Ministry of Culture and National Heritage, within the “Cultural education” programme, financed educational measures dedicated to children and youth from national and ethnic minority communities (not limited to the minorities listed in the relevant act). The support was provided mainly to national minority organisations and associations which introduced such measures.

930. In order to fulfil the obligations under the Act of 6 January 2005 on National Minorities and on Regional Language to support actions aimed at preserving and developing cultural identity of national and ethnic minorities as well as preserving and developing regional languages, since 2005 the Minister of Interior and Administration has provided financial support for performing tasks contributing to achieving the above-mentioned goals (before, similar measures were executed by the Minister of Culture). An important part of those tasks include supporting actions aimed at children and youth coming from national and ethnic minority background. Some of the examples worth mentioning are: supporting the publication of periodicals for children and youth, producing board games and other teaching aids for learning minority languages, releasing children and youth minority bands’ CDs, organising numerous contests, festivals and educational programmes within the entire Polish territory whose participants are children and youth from the minorities, supporting the activity of children and youth music, dance and drama groups. The Minister’s financial support is also allocated for ethnography, theatre, journalism etc. workshops for children and youth from minorities, as well as for numerous projects aimed at familiarising children and youth with their tradition, language and culture.

#### **Protection against all forms of exploitation (art. 36)**

931. In 2007, the National Bureau for Drug Prevention, subordinate to the Minister of Health, provided financial support to the following programmes run by non-governmental organisations and dedicated to minors who may become victims of traffic, exploitative use in prostitution or pornography:

- (a) **“Reducing drug-related risky behaviour and preventing corruption of minors by means of providing support to minors who stay away from home without parental or guardian supervision or care” programme** is run in Warsaw by the “Program Stacja” (Station Programme) Association for Children and Youth. The goal of the programme is to offer support and shelter to minors staying away from home without parental or guardian supervision or care as well as to reduce the number of children living in the streets, be it permanently or temporarily. Implemented using the outreach method, the programme involves “street educators” duty hours, during which they work at places frequented by homeless children: railway stations, parks, squares, and Internet cafés. Within the programme, a twenty-four hour intervention hostel is run, providing help for people in a crisis situation. The aforementioned help includes professional (pedagogical and psychological) counselling with the aim of providing support, establishing a community diagnosis and developing, in cooperation with the beneficiary, a plan aimed at resolving their crisis situation. Furthermore, the hostel offers professional support services, including: providing accommodation until the end of the beneficiary’s crisis situation, catering for basic needs (personal hygiene, food, clean clothing), providing specialist support (medical and legal advice). The beneficiaries of the programme may also call an intervention line, open twenty-four hours a day. The participation in the Programme and the beneficiaries apply by themselves, frequently following a contact with “street educators”. The programme also involves working with the beneficiaries’ families, with the aim of making it possible for the minors to return home

(b) **“Parasol uliczny” (Street Umbrella) programme** is run in Krakow by the “Parasol” Prevention and Social Education Centre, the programme addressed to **male** and female sex workers as well as their customers and partners. In 2007, the number of its participants amounted to 280, 30 of whom were people aged less than 18 years. The main goal of the programme is to prevent sex workers from being marginalized and socially excluded. It is an outreach programme, whose service providers work at places frequented by its beneficiaries (streets, agencies, clubs) by carrying out, directly in their environment, educational work (concerning safe sexual behaviours, HIV/AIDS prevention, drug use-related damages and risks), as well as providing information (on psychological, medical, social and legal support opportunities) and support (crisis intervention). The programme also features distribution of information-educational materials (brochures, leaflets and guides), dressings and hygiene products, and condoms. Furthermore, the beneficiaries of the programme are directed to specialist aid institutions (such as crisis intervention centres, social assistance centres, hostels, addiction treatment clinics, gynecological and psychological offices). What is more, the programme organisers carry out group educational work directly at the so-called escort agencies, which is aimed at both the proprietors and employees of the agencies. The participation in the programme is

voluntary and the contact with its beneficiaries is established during street duty hours.

#### **Children in armed conflicts (art. 38)**

932. Poland is a State party to a number of conventions on humanitarian and armed conflict law. Some of them constitute a basis for the prosecution of persons who have committed offences specified therein, regardless of the offender’s nationality or the place of committing the offence (universal jurisdiction). The principle of universal jurisdiction is reflected in article 113 of the Penal Code, which states that “regardless of the regulations valid at the site where the offence was committed, Polish criminal law shall apply to the Polish citizen and the foreigner who was not decided to be extradited, in case he commits abroad an offence that the Republic of Poland is obliged to prosecute under international agreements.”

933. In accordance with the generally accepted principle of double criminality, the Polish Penal Code allows for Polish authorities’ exercising jurisdiction over persons (regardless of whether they are of Polish nationality or not) who have committed offences according to the Polish law and to the law valid at the site where the offence was committed (with certain exceptions when the double criminality principle does not have to be observed, e.g. crimes against the Republic of Poland national security).

934. In the context of article 38 of the Convention on the Rights of the Child, the crucially important provisions are those of article 124 of the Penal Code, which states that whoever forces – against international law – persons covered by international protection to join enemy armed forces (...) is subject for imprisonment for a minimum term of 3 years. The above-mentioned regulations apply to the cases of forced recruitment to foreign armed forces. In other cases, depending on the specific factual circumstances, making children participate actively in hostilities or enlisting them into armed forces could meet the prerequisites for other offences, such as unlawful depriving of freedom (art.189 of the PC), forcing certain behaviour (art.191 of the PC) or exposing to direct threat to life (art.160 of the PC).

935. Since the effective date (8 September 2010) of article 124 § 2 of the PC, which states that “(...) whoever breaching international law (...) enlists, recruits to armed forces persons under 18 years of age, or actually uses such persons to participate in hostilities”

shall be subject for imprisonment for a minimum terms of 3 years, all forms of using children in armed conflicts have been penalised as war crimes.

936. Poland is engaged in various activities of international cooperation related to the implementation of the above-mentioned regulations.

937. On 6 September 2004, the Republic of Poland ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted in New York on 25 May 2000. In Poland, the Protocol entered into force on 7 May 2005.

938. On 1 January 2010, the Act came into effect of 27 August 2009 on Amendments to the Act on General Obligation to Defend the Republic of Poland and on Amendments to Certain Other Acts, whose provisions suspended the regular temporary service duty in Poland.

939. Nowadays, according to the Polish legislation, only persons over 18 years of age may be conscripted for mandatory and voluntary basic military service.

940. Legal regulations that were in force in Poland before 1 January 2010 also prohibited conscripting persons under 18 years of age for mandatory and voluntary basic military service. Already on 7 April 2005, when submitting the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict ratification document to the United Nations Secretary-General, the Republic of Poland declared, through an official government statement, that the minimum age limit for mandatory military service conscription is defined by the law and equals 18 years of age. The minimum age limit for voluntary joining the Armed Forces of the Republic of Poland was raised to 18 years of age on 21 October 2005, i.e. the effective date of the Act of 29 July 2005 on Amendments to the Act on General Obligation to Defend the Republic of Poland and on Amendments to the Act on Substitute Military Service.

941. For more information, see the response to the recommendation contained in paragraph 11 of the concluding observations (chapter IX, paras. 971-974 hereof)

#### **Children infringing the law (art. 40)**

942. With reference to procedural issues, it has to be mentioned that the principle of presumption of innocence applies to everyone, including juveniles, alleged as, accused of, or recognized as having infringed the criminal law, until proven guilty according to law. This principle is stipulated in article 5 of the Penal Procedure Code, which states that everyone who has been charged shall be presumed innocent until proved guilty according to law (para. 1 thereof), and that when a criminal statute allows more than one interpretation, the one that favours the defendant should be chosen (para. 2 thereof).

943. The regulations concerning the obligation to inform juveniles of charges pressed against them and their right to use appeal measures against the rulings of bodies responsible for preparatory proceedings and of the court conform with the general rules as well. Each suspect (defendant) is guaranteed the right to defence counsel assistance with regard to the principle of two instance procedures and the right to immediate information on the role in the trial and the related special rights. It ought to be underlined that article 313 § 1 of the PPC, stating that “if the data exists at the time of the institution of an investigation or inquiry or is collected during their course, and contains grounds sufficient for suspicion that an act has been committed by a specified person, an order on presenting charges shall be issued and announced without delay to the suspect (also minor), who shall then be examined, unless such announcement or suspect examination is not possible due to the suspect’s hiding or not being present in the country”, obliges the body responsible for preparatory proceedings to immediately announce its decision to press charges.

944. Terms and conditions and methods of implementation of article 40 of the Convention on the Rights of the Child are defined in relevant legal acts. For the Police, the following act are particularly relevant: the Act on the Police, the Act of 26 October 1982 on Juvenile Delinquency Proceedings, the Act of 6 January 2000 on the Ombudsman for Children, the Regulation of the Minister of Interior and Administration of 21 January 2002 on detailed principles regarding the stay of minors in the police emergency centres for children.

945. Rights guaranteed to detained minors are regulated, inter alia, by the above-mentioned Regulation of the Minister of Interior and Administration on detailed principles regarding the stay of minors in the police emergency centres for children, which establishes, among other things, the rights guaranteed to the minors detained at police youth emergency centres. Juveniles staying at such establishments have right to: defence counsel's visits, respect of personal dignity, protection against physical violence, psychological abuse and any acts of cruelty, receive a food package, visits from parents or legal guardians by permission of the court, Police unit responsible for the case or the head of the establishment, file applications, requests or complaints to the head of the establishment.

946. Furthermore, while staying at an emergency centre, juveniles should have access to: daily press, audio-visual aids, reference library, sports and common-room equipment, daily showers and medical care provided within the scope defined in the regulations concerning universal health insurance.

#### **Victim assistance (art. 39)**

947. See also the response to the recommendation contained in paragraph 49 of the concluding observations (paras. 863-865 hereof) and information on article 36 implementation (para. 930 hereof).

948. In accordance with the provisions of the Convention on the Rights of the Child, Poland initiates numerous actions to provide assistance to child victims, such as e.g. launching psychological and legal help lines for children and their families, launching police help lines, running children's emergency centres and crisis situation aid points. Police officers organise thematic meetings with juveniles, their parents, teachers and representatives of teaching and education institutions, in order to present information on pathological phenomena.

949. Major collaboration partners in providing help and support for violence victims include: social assistance institutions, commissions solving alcohol-related problem, local family support centres at different levels, crisis intervention institutions, pedagogical counselling centres, addiction counselling centres, family courts, custodians, rehab counselling centres, help lines, consultation and information centres for victims of domestic violence.

950. In collaboration with the State Agency for the Prevention of Alcohol-Related Problems, the police has designed a procedure for home-visit interventions of the police officers in relation to domestic violence, special intervention documentation called "Blue Cards", as well as appropriate procedures for the cards completion and the performance of follow-up assistance measures.

#### **Economic exploitation of children, including child labour (art. 32)**

951. The Act of 14 November 2003 on Amendments to the Act – Labour Code and on Amendments to Certain Other Acts has provided regulations for the conditions of employment of children for cultural, artistic, sports or advertising purposes. Its aim was to adapt Polish law to the requirements of the Council Directive 94/33/EC of 22 June 1994 on



the protection of young people at work. Article 3055 of the LC, regulating the conditions of children employment, became effective as of the day of Poland's entry to the EU (1 May 2004).

952. The above-mentioned regulation:

- Introduces the requirement for consent from the parent or legal guardian of the child for performance of work or other paid activities by a child under 16 years of age,
- Obliges an entity engaged in cultural, artistic, sports or advertising activity to apply for a permit of the competent labour inspector for performance, within the aforementioned activity, of work or other activities by a child,
- Defines the documents that have to be enclosed to the application for permit for performance of work or other activities by a child,
- Defines the elements of content of the labour inspector permit for performance of work or other activities by a child, as well as terms and conditions of issuing and withdrawing such a permit.

953. The regulations defining terms and conditions of the employment of persons under 16 years of age entered into force on 1 May 2004. Owing to that fact, Polish National Labour Inspectorate holds data concerning child employment since 2005.

954. Between 2005 and 2010, local inspectorates received 1 498 applications for issuing a permit for performance of work or other paid activities by a child under 16 years of age. The competent labour inspectors issued 2 858 consents for performance of work by children, while in 26 cases they rejected requests for such consent. No cases of withdrawing a permit for performance of work or other paid activities by a child have been recorded. The majority of applications related to employing children for rehearsals for and participation in theatre and opera performances, shooting on locations, commercials and advertisements and photo shoots. Between 2005 and 2010, 10 applications were submitted for permit for performance of paid activities by minor-age sportsmen.

#### **Drug prevention measures (art. 33)**

955. The National Bureau for Drug Prevention was founded by the Ordinance of the Minister of Health and Social Welfare of 29 June 1993 on the establishment of the Bureau for Drug Addiction. Operating nationwide, the Office is subordinate to the minister responsible for health issues, delimits the scope and mode of its activity (the ordinances of the Minister of Health on the National Bureau for Drug Prevention of 13 November 2000, 28 June 2006 and 22 June 2010).

956. In order to perform its statutory tasks, the Bureau acts in cooperation with, in particular, associations, foundations, churches and other religious associations, national government units, health care institutions, public administration authorities, educational establishments, custody suites, penal institutions and mutual aid groups for addicted persons and their families.

957. The National Programme on Counteracting Drug Addiction (KPPN), developed under the Regulation of the Council of Ministers based on the Act of 29 July 2005 on Counteracting Drug Addiction, constitutes a basis for measures related to counteracting drug addiction. Until the end of 2010, the Regulation of the Council of Ministers of 27 June 2006 on the National Programme on Counteracting Drug Addiction for 2006-2010 had effect.

958. Within its activity related to the coordination and monitoring of the KPPN implementation, the National Bureau for Drug Prevention prepares annual reports on the

performance of KPPN-related tasks in the previous year, which are presented by the Minister of Health to the Council of Ministers and subsequently to the Sejm.

959. The National Bureau is also responsible for managing the Information Centre for Drugs and Drug Addiction (CINN), which was established within the process of Polish accession to the European Union and which is responsible for the cooperation with Lisbon-based European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).

960. The CINN manages the national system of information on drugs and monitors actions aimed at counteracting drug addiction at the national as well as international level. Moreover, it conducts and initiates research projects on drugs and drug addiction as well as processes and publishes their results.

961. In its epidemiology works, the CINN focuses on the five key EMCDDA's indicators: prevalence of drug use in general population, treatment demand, drug-related infectious diseases, drug-related deaths and mortality, problem drug use.

962. The CINN analyses drug supply reduction measures, by taking into account mainly the following indicators: numbers of drug seizures, drug-related crime, drug purity and prices.

963. The National Bureau for Drug Prevention is obliged to support drug prevention programmes within the scope of primary and secondary prevention. In reference to the above, since its foundation in 1993, the Bureau has acted in cooperation with non-governmental organisations from all over the Poland, as well as provided assistance and financial support for drug use prevention programmes. Each year, a tender contest is organised in order to choose and introduce measures aimed at children, teenagers and parents, implemented in the form of the following types of programmes:

- peer education programmes – preparing youth leaders to implement health educational measures among their peers;

- psychological aid programmes for persons particularly susceptible to drug addiction, who have started to occasionally take drugs, and for their families – programmes aimed at children and teens coming from backgrounds with particularly high risk of drug addiction, often from dysfunctional families where the addiction problem is present and at their parents, as well as at youth who use drugs occasionally and their families. The adopted measures aim at reducing the effects of children and youth's growing up in disadvantageous family and peer environment, at improving their emotional and social functioning, forming appropriate attitudes towards drugs, promoting healthy lifestyle, creating leisure activity habits not involving drug use, supporting families in solving problems related to using drugs by children, as well as at changing attitudes and promoting drug abstinence.

964. Since 2003, measures have been adopted for environments where occasional drug use is present or places of increased prevalence of drug use, aimed at preventing drug use initiation, changing attitudes towards drug use and reducing the risk related to the occasional drug use.

965. Every year, the National Bureau for Drug Prevention conducts social campaigns concerning drugs and drug-related risks, aimed at children, youth and parents:

- - “Znajdź czas dla swojego dziecka” (“Find the time for your child”, 2000-2001) – aimed at parents and legal guardians, the campaign focused on presenting the family as an important factor protecting children from drug use and underlining the role of parents or legal guardians in addiction prevention.
- “Narkotyki najlepsze wejście nie wchodzić” (“Drugs – the best way out is not to get in”, 2002-2003) – the goal of the campaign was to raise the youth awareness that using drugs leads to serious health and social damages. An important element of the

campaign was constituted by measures aimed at increasing the teenagers' security, mainly in clubs, discos and concert venues.

- “Uczelnie wolne od narkotyków” (“Drug free universities”, 2004) – conducted in cooperation with the Chancellery of the President of Poland, the campaign encouraged student organisations and university authorities to undertake preventive actions on campuses and in halls of residence aimed at reducing drug use among students.
- “Blżej siebie dalej od narkotyków” (“Closer to each other – further away from drugs”, 2005-2006) – the campaign focused on the statement that good relationship between parents or legal guardians and children results in creating bond and feeling of closeness thus preventing teenagers, to a significant extent, from psychoactive substances use, and in particular – abuse.
- Wsparcie społeczności lokalnych w przeciwdziałaniu narkomanii (“Supporting local communities in drug prevention”, 2006-2007) – campaign aimed at local communities whose objective was to support local governments in effective drug prevention. The project audience included: local government authorities, community workers, educational institutions, police and local non-governmental organisations staff, and the entire civil society.
- “Pilnuj drinka” (“Watch your drink”, 2007-2008) – informative campaign concerning the safety of youth during musical events, in clubs and discos. Its goal was to raise awareness of dangers related to date rape drugs added into drinks for criminal purposes.
- “Czy wiesz, co przewozisz?” (“Do you know what you’re carrying?”, 2008-2009) – public information campaign aimed at raising the Polish tourists’ awareness of unintentional smuggling during foreign travels and instructing them how to avoid that risk.
- “Dopalacze mogą cię wypalić” (“Legal highs can burn you out”, 2009) – informative and educational campaign launched in response to the alarming data collected by the National Bureau concerning an increasing prevalence of legal highs among youth. The action was aimed at providing young people with accurate information on the effects of the psychoactive substances sold as legal highs and raising their awareness of risks related the use of legal highs.
- “Brałeś? Nie jedź! Po narkotykach rozum wysiada” (“Been doing drugs? Don’t drive! When you’re on drugs your brain is off!”), 2009) – first national social campaign in Poland to have placed emphasis on the risk of driving under the influence of drugs. The goal of the campaign was to make young people aware of the fact that drug-driving and drunk-driving are equally dangerous and treated as the same offense by the law.
- The National Bureau for Drug Prevention also operates the National Antidrug Helpline (since 2000) and counselling webpage [www.narkomania.org.pl](http://www.narkomania.org.pl) (since 2002), which provide specialist information, advice and psychological support for anyone who, having experienced drug-related problems, seek help and advice.

966. The protection of children and youth from drug use is also guaranteed under the Act of 29 July 2005 on Counteracting Drug Addiction, whose provisions define tasks and obligations of institutions responsible for implementing drug addiction prevention measures and include penal regulations defining sanctions for unlawful acts which may result in using psychoactive substances by minors.

## IX. Optional Protocols to the Convention on the Rights of the Child

*CRC/C/15/Add.194 – paragraphs 55: The Committee recommends that the State party ratify the two Optional Protocols to the Convention on the Rights of the Child.*

967. In 2005, Poland ratified the Optional Protocols to the Convention on the Rights of the Child:

1) On 4 February 2005, Permanent Representative of the Republic of Poland in New York presented the United Nations Secretary-General with the ratification document and the note informing of Poland's entering into the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Protocol entered into force in Poland on 4 March 2005;

2) On 6 April 2005, Permanent Representative of the Republic of Poland in New York presented the United Nations Secretary-General with the ratification document and the note informing of Poland's entering into the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Protocol entered into force in Poland on 7 May 2005.

968. In 2007, according to the procedure defined by the Committee on the Rights of the Child, Poland submitted a preliminary report on the implementation of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/POL/1) and on the sale of children, child prostitution and child pornography (CRC/C/OPSC/POL/1). The Committee analysed Poland's preliminary report during its meetings No. 1436 and 1437 on 22 September 2009, and it adopted relevant concluding observations during its 1453rd meeting on 2 October 2009.

969. The content of both documents have been made publicly known by publishing it on the Ministry of National Education Website and by informing the respective government department about the opinion of the Committee on the Rights of the Child.

970. The Ministry of National Education has analysed the Committee's observations in cooperation with appropriate government departments.

### **Responses to the recommendations of the Committee on the Rights of the Child on the implementation of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

*CRC/C/OPAC/POL/CO/1 – paragraph 11: Voluntary recruitment*

*The Committee recommends that the State party expedite the process of this bill so as to increase the minimum age of voluntary recruitment thus ensuring that persons under the age of 18 do not serve in the Armed Forces of Poland.*

971. On 1 January 2010, the Act came into effect of 27 August 2009 on Amendments to the Act on General Obligation to Defend the Republic of Poland and on Amendments to Certain Other Acts. Under its provisions, the basic military service duty was deleted from article 55 of the Act on General Obligation to Defend the Republic of Poland, as one of the forms of performing the military service duty, which is not effective any more.

972. Nowadays, according to the article 55 of the Act of 21 November 1967 on General Obligation to Defend the Republic of Poland, the performance of basic military service by persons subject to that duty shall be possible only in the case of threat to national security and if it is indispensable for the performance of the Armed Forces tasks. The starting date and the duration period of the compulsory military service performance duty, taking into

consideration the level of threat to the national security, shall be determined, by means of issuing a regulation, by the President of Poland upon the Council of Minister's request.

973. If there exists a threat to the national security and if the President of Poland decides to make a regulation introducing the duty to perform basic military service, the following regulations shall apply:

(a) Pursuant to article 53, paragraph 1 of the Act of 21 November 1967 *on General Obligation to Defend the Republic of Poland*, compulsory military service as set forth in this act shall apply to Polish citizens starting on the day when they complete 18 years of age and up to the end of the calendar year in which they complete 50 years of age, and for those with non-commissioned officer or officer rank – 60 years of age;

(b) Voluntary performance of basic military service is regulated by the provisions of article 83 and article 32 of the Act *on General Obligation to Defend the Republic of Poland*. Pursuant to these provisions, the following types of persons may be appointed to voluntary basic military service: persons subject to military classification who volunteered to do the basic military service, as well as persons qualified capable of performing military service who are over 18 years of age and volunteered to do the service;

(c) Pursuant to article 32 of the aforementioned Act, the military classification covers men who in a particular calendar year attained 19 years of age. The volunteers, including women, may present themselves for military classification until the end of the calendar year in which they complete 24 years of age, irrespective of their education and qualifications, provided they have attained at least 18 years of age;

(d) Given the above, according to the Polish legislation, only persons who are over 18 years of age may be appointed to compulsory or voluntary military service.

974. Works are in progress in Poland aiming at modifying the scope of application of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by deleting the reservations to article. 38 of the Convention and by submitting declaration to the Optional Protocol to the Convention, under article 3, paragraph 4 of the Protocol, noticing about the condition of completing 18 years of age in order to be entitled to apply for voluntary military service in Poland.

*CRC/C/OPAC/POL/CO/1 – paragraph 9: Dissemination and training*

*The Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public, including children.*

*CRC/C/OPAC/POL/CO/1 – paragraph 13: Public awareness and peace education*

*The Committee recommends that the State party, in collaboration with civil society organizations:*

- (a) *Develop a methodological approach to ensure that consistent and comprehensive information about international law and policy for conflict resolution and peace is provided at all levels of the educational system;*
- (b) *Develop and implement training programmes and campaigns to promote the values of peace and respect for human rights; and*
- (c) *Strengthen its efforts to raise the awareness of the public with regard to the principles and provisions of the Optional Protocol.*

975. Dissemination of knowledge about the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict is performed within the process of promoting the international humanitarian law. There are a number of activities undertaken in the Republic of Poland aimed at dissemination of international humanitarian law in recognition of the utmost importance of its provisions for the whole international community. The obedience of international humanitarian law constitutes a foundation for functioning of modern democratic societies and is a practical implementation of the rule of law in international relationships.

976. In the defence department, the issues of international humanitarian law of armed conflicts were given distinctly higher practical dimension. As a result of these activities, the importance of war-time law was emphasized during practical training of soldiers, trainings for commands and staffs of military units were intensified, and also law of war coaches were instructed. Officers of the Polish Army started to systematically participate in international seminars and courses dedicated to this field of law, organised, inter alia, by the International Committee of the Red Cross (ICRC), the International Institute of Humanitarian Law in San Remo, and the International Society for Military Law and the Law of War.

977. New publications and didactic aids (brochures, handbooks, DVD/CD and VHS briefing movies, training materials) were developed. For participants of Polish Military Contingents, manuals were prepared containing, among other things, information in the scope international humanitarian law of military conflicts. Until now, the following manuals were prepared: Iraq, Afghanistan, Pakistan, Chad, Syria, Lebanon, Congo, Kosovo, Bosnia and Herzegovina, as well as Afghanistan-GHAZNI supplement. Furthermore, two releases of the study entitled "International Humanitarian Law of Military Conflicts – Principles on the Use of Force" (Afghanistan, Chad and Kosovo) and also "Guide on rights and obligations of soldiers participating in warfare". Specialist publications on humanitarian law of armed conflicts present on the publishing market are systematically purchased and conveyed to all military education libraries and to offices and departments of military units and institutions.

978. In accordance with the Methodology of training of soldiers on active duty, introduced with decision No. 436/MON of the Minister of National Defence of 21 December 2009 on methodology of training of soldiers in the scope of "Citizenship

education” and “Military prophylaxis and discipline,” the issues in the scope of international law of armed conflicts are discussed in all corps of staff of the Polish Armed Forces as part of citizenship education courses. Moreover, excellence courses are organised, covering issues of the international humanitarian law of armed conflicts, which are also contained in curricula of qualification courses implemented in the National Defence University of Warsaw, Polish Naval Academy named after Westerplatte Heroes, the Polish Air Force Academy, and in the Land Forces Training Centre. As part of education process, particular attention is placed on the significance of basic principles of the law of war, such as: principle of military necessity, distinction, proportionality, humanitarianism, principle of basic precautions during warfare, forbidden methods and means of combat, and also protection of civilians and civil property (including personnel of humanitarian organisations, medical staff, clergymen, and military correspondents and media representatives), as well as principles of conduct with prisoners and the apprehended. Courses are conducted not only in the form of lectures, but also with the use of interactive methods that require commitment of participants and independent analyses and resolutions performed by them as regards relevant cases as part of national safety and emergency management.

979. Of high importance is the implementation of international humanitarian law of armed conflicts in training practice, taking the latter into account during training and execution of tasks connected with peace and stabilisation missions abroad. The main goal here is shaping attitudes and habits of soldiers, which would exclude behaviour inconsistent with military law standards in extreme combat conditions.

980. In 1997-2008, the following courses were conducted: 36 specialist courses for commanders of battalions and companies, 6 courses in the scope of protection of cultural heritage in case of conflict, 23 specialist trainings for subsequent sets of NATO Response Force (each year the training covers two sets).

981. As part of implementation of the agreement on cooperation in the scope of dissemination of the international humanitarian law, concluded between the Minister of National Defence and the International Committee of the Red Cross (signed 31 May 1999), the Department of Education of Promotion of Defence of the MND organised in Warsaw, in 1999 and 2001, in cooperation with the ICRC Regional Delegation in Budapest, two regional seminars for countries of the Central and Eastern Europe, concerning the inclusion of the armed forces law into issues of military training. The first seminar was attended by deputy heads of staffs and heads of training departments of armed forces from nine countries. The second one, which concerned issues of operation of legal counsellors by armed forces, was attended by representatives of nineteen countries.

982. The department of national defence takes part in the Polish Academy of International Humanitarian Law of Armed Forces, organised each year by the Head Management of the Polish Red Cross in Radziejowice (the academy is co-financed from the MND budget, and a part of lectures is given by military specialists, and moreover, from 8 to 10 representatives of the Armed Forces of the Republic of Poland take part in the courses).

983. Representatives of the defence department participate in cyclical works of committees and teams dealing with dissemination of knowledge of the international humanitarian law of armed conflicts: (1) the Intradepartmental Team for Issues of the International Humanitarian Law, (2) the Committee for Dissemination of the International Humanitarian Law, operating by the Head Management of PCK, (3) the Programme Council for Issues of Protection of Cultural Heritage in case of Particular Threats, appointed by the Commander in Chief of the State Fire Service, (4) the Committee for Protection of the Red Cross Sign.

984. With decision No. 342/MON of the Minister of National Defence of 7 October 2009 on the appointment of team for regulation of issues of training in the field of "International Humanitarian Law of Armed Conflicts" a team was appointed in the defence department, whose task is to perform an assessment of currently applicable regulations in the scope of training in the field of the "International Humanitarian Law of Armed Conflicts", and also to prepare drafts of new assumptions and conceptions of organisation of the system of training and education to regulate principles of training and education in the field of the "International Humanitarian Law of Armed Conflicts", taking into account issues related to training of legal counsellors and training of soldiers by these legal counsellors, and also education in this scope at military academies and training centres. The team was familiarised with recommendations of the Child Welfare Authority published after consideration of the initial report of Poland from the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts.

985. Since September 1977, the Centre for Dissemination of the International Humanitarian Law has been operating by the General Management of the Polish Red Cross, whose task is to disseminate knowledge of the International Humanitarian Law (IHL), and also principles of operation and mission of the International Red Cross and Red Crescent Movement, and organisation of undertakings of various types, mainly addressed to: representatives of the world of science, NGO workers, representatives of armed forces, volunteers and workers of the Polish Red Cross, representatives of state authorities, media, and also widely understood public opinion.

986. Joint undertakings of the Ministry of National Defence, the Ministry of National Education, the Ministry of Interior and Administration, the Ministry of Foreign Affairs, and the Ministry of Culture and National Heritage include, among other things:

(a) The Polish Academy of the International Humanitarian Law of Armed Conflicts, organised once a year in the form of a 4-day course intended for students of law and international relations of universities (civil and military ones), representatives of the Police, Border Guard, and workers and volunteers of PCK. The lecturers of the Academy are renowned IHL specialists from domestic civil and military universities. 13 editions of the Academy have been organised so far;

(b) Organisation of seminars – e.g. for legal counsellors of armed forces from Central and Eastern Europe, organised in result of cooperation of MND and ICRC (October 2001), for military judges and prosecutors, organised within cooperation of ICRC and the Law and Administration Faculty of the University of Warsaw (December 2008);

(c) Organisation of scientific conferences (attended by international guests), inter alia: "Methods of IHL dissemination in Poland" (October 2000, in cooperation with MIA, MND, and MNE), "Common challenges of the international humanitarian law" (December 2004, with participation of ICRC), "Custom in international humanitarian law of armed conflicts" (March 2006, with support of ICRC and MFA);

(d) lectures given and specialist courses and training provided as part of undertakings organised by:

- The Ministry of National Defence – courses and trainings for NCOs and COs of the Polish Armed Forces, where IHL and the International Red Cross and Red Crescent Movement issues are addressed. One may put particular attention here on annual cooperation as part of CIMIC (civil and military cooperation), which started in 2000,
- The Ministry of Culture and National Heritage – workshops related to dissemination of IHL in armed forces (November 2002), international conference on the occasion of the 50th anniversary of the 1954 Hague Convention (May 2004),



- Other institutions: the Institute of Public Affairs – an international conference on “little weapons” (2000); OSCE – conferences on participation of children in armed conflicts (2000), human rights and humanitarian law (2001), the International Criminal Court (2002 and 2003); the Academy of National Defence (post-graduate courses); the Land Forces Training Centre in Poznań – training for officers (January 2008).

See also paragraphs. 163-164, 629-633, and 678 hereof.

*CRC/C/OPAC/POL/CO/1 – paragraph 15: Criminal legislation and regulations in force*

*The Committee recommends that the State party provide an explicit provision in the Penal Code to criminalize violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities and that it include a definition of direct participation in hostilities.*

987. See paragraphs. 971-974 hereof.

*CRC/C/OPAC/POL/CO/1 – paragraphs. 20 and 21*

*Follow-up*

*The Committee recommends that the State party take all measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to relevant Government Ministries, the Parliament and to all relevant national and local authorities, for appropriate consideration and further action.*

*Dissemination*

*The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.*

988. See paragraph 1007 hereof.

**Responses to the recommendations of the Committee on the Rights of the Child on the implementation of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.**

*CRC/C/OPSC/POL/CO/1 – paragraph 7: Data*

*The Committee recommends that the State party develop and implement a consistent methodology and a comprehensive and systematic mechanism of data collection, analysis, monitoring and impact assessment of all the areas covered by the Optional Protocol. This would include data on both perpetrators and victims of trafficking, sale of children, child prostitution and child pornography. Data should be disaggregated, inter alia, by nature of the offence and by sex, age, urban/rural areas and with particular attention to the vulnerable groups of children. The Committee also recommends that the State party collect and analyse data on sex tourism and its link with the issues addressed in the Optional Protocol. The Committee further recommends that the State party undertake research into issues covered by the Optional Protocol to identify the causes and extent of the sale of children and child prostitution.*

989. See paragraphs 117-135, 335-337, 399 hereof.

*CRC/C/OPSC/POL/CO/1 – paragraph 9: General principles of the Convention*

*The Committee recommends that the general principles of the Convention on the Rights of the Child, in particular the principles of non-discrimination and respect of the views of the child, be included in all measures taken by the State party to implement the provisions of the Optional Protocol, including judicial or administrative proceedings.*

990. See paragraphs. 153, 155, 159-161, 192-196, 201, 205, 235, 243, 246-247, 250, 253-260, 266-280 hereof.

*CRC/C/OPSC/POL/CO/1 – paragraph 15: Dissemination and training*

*The Committee recommends that the State party:*

- (a) *Strengthen its dissemination and training activities, including the development of training materials and courses, covering all areas of the Optional Protocol, for professionals including police officers, public prosecutors, judges, medical staff, media and other groups of professionals concerned;*
- (b) *Make the provisions of the Optional Protocol widely known to the public, particularly to children and their families, through, inter alia, integrating the provisions of the Optional Protocol in school curricula at all levels of the education system and carrying out awareness-raising campaigns and training on the risks and*

991. See paragraphs 153-162, 290-293, 324-326, 480-481, 823-837 hereof.

*CRC/C/OPSC/POL/CO/1 – paragraph 19: Independent monitoring*

*The Committee recommends that the State party continue to provide the Commissioner for Children's Rights with sufficient financial and human resources to exercise its mandate, including with regard to monitoring the implementation of the Optional Protocol. The Committee further recommends that the State party encourage collaboration between the Commissioner for Children's Rights and civil society in this regard.*

992. See paragraphs. 69-73 hereof.

*CRC/C/OPSC/POL/CO/1 – paragraph 37: Criminal justice system protection measures*

*The Committee recommends that the State party invest adequate resources to ensure that child-friendly interview rooms are properly equipped and that the personnel interviewing children are properly trained in this regard so as to ensure the protection of child victims. The Committee urges the State party to take the necessary measures to reduce the trauma suffered by victims of offences under the Optional Protocol, including by shortening the length of judicial proceedings in cases related to offences under the Optional Protocol, while redirecting the focus to the full recovery and reintegration of child victims.*

993. In accordance with Ordinance No. 81/03/DO of the Minister of Justice of 12 December 2003 on the organisation and the scope of operation of court secretariats and other departments of judicial administration, covers of files are affixed, shall a need arise, with marking relevant for a given case, e.g. "minor", "material proof" in order to draw attention to the given circumstance, whereby it is allowed to apply relevant abbreviations of such markings. On covers of case files in which a child is a victim of a crime, the expression "minor victim" should be placed, the more so that such marking is mandatory in the repertory.

994. Acting within their competencies, the Minister of Justice, made a request in 2010 to court presidents for consideration of criminal cases related to crimes detrimental to underage persons as priority cases, which means considering them on the first place. It may make it easier for the youngest citizens to return to normal life as quickly, as possible. For other information see paras. 203, 263-284, 308-316, 321-326, 332-334 hereof.

*CRC/C/OPSC/POL/CO/1 – paragraph 39: Recovery and reintegration of victims*

*The Committee recommends that the State party create programmes and provide services for child victims of offences under the Optional Protocol to assist recovery and reintegration. In this regard, the Committee urges the state party to ensure that adequate financial resources and trained human resources are allocated for these programmes and services. The Committee also recommends that the State party speed up the adoption of the guidelines on assisting victims of trafficking, developed under the inter-ministerial team's plan of action, which will serve as a pilot programme in police units, and that the State party ensure that the pilot programme is provided with adequate financial and human resources for implementation.*

995. See paragraphs. 308-321, 481, 820-822, 824-841, 857-876, 931, 948-950 hereof.

*CRC/C/OPSC/POL/CO/1 – paragraph 41: Helpline*

*The Committee recommends that the State party continue its efforts to ensure that the helpline provides adequate assistance to child victims. In this regard, the Committee also recommends that the State party ensure that children are aware of the existence of the helpline and are able to access it easily. The Committee further recommends that the State party encourage and facilitate collaboration between the helpline with child-focused non-governmental organizations and the police, as well as with health and social workers.*

996. Since 6 November 2008, an all Polish, toll-free victim support line for children and youth is operating (116 111). Launching of this line was possible thanks to cooperation of the Minister of Interior and Administration, and the President of the Office of Electronic Communication, Nobody's Children Foundation, and Polkomtel S.A.

997. In accordance with Decision of the European Commission 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value it is recommended that in all European Union countries, numbers for the provision of social value services should be launched. The catalogue of services connected with each of the numbers concerns important social issues:

- 116 000 – interventional line concerning missing children,
- 116 111 – support line for children and youth,
- 116 123 – emotional support line for adults.
- Poland was the fifth country of the European Union to launch support line for children and youth with number 116 111 which is to be available for all children and youth 7 days a week.
- Line 116 111 is serviced by qualified psychologists and pedagogues who are able to talk with young people about their problems and are able to provide them with professional advice in emergency situations.
- The line consultants cooperate with the country-wide network of institutions and organisations which should a need arise, conduct interventions in cases related to children. In the case of suspicion that health or life of a child is at serious risk, the

consultants are authorised to initiate police interventions thanks to developed procedures of cooperation in this scope between the National Headquarters of the Police and “Nobody’s Children” Foundation.

- Together with 116 111 line, a webpage was launched – [www.116111.pl](http://www.116111.pl). Children and youth may find there information about their rights and ways of solving problems, get acquainted with principles of operation of the line, and ask on-line consultants a question.
- For the execution of the public task called “Support line for children” the amount of PLN 350 000 was earmarked in 2009-2010 from the State budget. The task included: telephone and online consultations, launching and maintaining [www.116111.pl](http://www.116111.pl) web service, monitoring and supervision of work of the consultants, creation of a special database for the purposes of registering all conversations, conducting promotional and media campaign and organising holiday picnics and educational meetings for children, youth, and parents.
- In November-December of 2008, consultants of 116 111 line answered 20 000 calls, provided more than 2 700 consultations and 600 questions sent with the use of the webpage were answered.
- In 2009, more than 87 000 calls from children and youth were answered, 94 police interventions were recorded, undertaken in situations of direct threat to health or life of persons contacting with the 116 111 team, more than 2 500 anonymous messages were received via the webpage.
- In 2010, 105 000 children and youth used 116 111 line, 36 police interventions were recorded; consultants answered more than 3 000 anonymous messages sent via the webpage.
- Among persons contacting with the line, children aged 12-15 were in majority.
- The promotional campaign of 116 111 line was conducted as of December 2008 by the “Nobody’s Children” Foundation in cooperation with the ministries for education, for social policy and for interior, and media, and other NGOs.
- To reach children, the campaign was conducted in schools, educational establishments, and children and young welfare establishments. As part of the campaign, approximately 8 000 promotional and educational packages were used each year, as well as 750 000 leaflets, 18 000 course scenarios, 25 000 posters. The line was advertised in the press and on the Internet.

998. Since 20 March 2009, a missing child line (116 000) has been operating – a round-the-clock, toll-free intervention line for families and guardians of missing children. Poland implemented the recommendation of the European Commission in relation to this service as the sixth country in the European Union. The line is serviced by “ITAKA – Centre for Missing People”. The undertaking is financed from the State budget as part of commissioned tasks. In 2009-2010 the amount of PLN 300 000 was earmarked for this purpose. A partner to the programme is Telekomunikacja S.A.

999. In accordance with the decision of the European Commission, the free-toll intervention line related to missing children is available 24 hours a day, 7 days a week, throughout the whole country. The service consists in accepting notifications on missing children and conveying this information to relevant services (mainly police), providing various support to guardians of the missing child, and help in search. As part of 116 000, counselling for families of children and youth, and children and youth at risk of missing (escapees or those who plan to escape), and social pathologies connected with long-term stay outside their home without care of parents and the closest persons.

1000. As part of 116 000 interventional lines, search specialists, psychologists, lawyers, and social workers are on duty.

1001. Search activities undertaken by the Team for Search and Identification of "ITAKA Foundation" include: registration of the missing child in the Internet data base [www.zaginieni.pl](http://www.zaginieni.pl), distribution of posters with an image of the missing child, preparation of media announcement and dissemination of an image of the missing child in local and country-wide media, cooperation with social welfare, health care, police, municipal police, commencement of international search, cooperation with the Police and with Border Guards. Workers of "ITAKA" Foundation also monitor search activities of the police and undertake interventions in the case of visible negligence of the police at home and abroad.

1002. In 2009, 160 notifications of minor missing were accepted – 155 missed children and teenagers were found. In 2010, approximately 200 children and teenagers were searched for – 131 were found, and other are still searched for.

1003. Since 20 November 2008, the Support Line of the Ombudsman for Children (0800 12 12 12) has been operating. Calls are toll-free from any landlines and Orange network mobiles. There is also a possibility of complimentary connection via the Ombudsman's Office webpage. The line is serviced by specialists from the Office of the Ombudsman for Children – psychologists, pedagogues and lawyers. The CCR Support Line is available from Monday to Friday between 8.15 a.m. and 8.15 p.m. In 2008, 7 296 conversations were held, in 2009 – nearly 30 000. On the basis of these conversations the Ombudsman for Children takes decisions on interventions in individual cases of the rights of the child infringement.

*CRC/C/OPSC/POL/CO/1 – paragraphs. 44 and 45: Follow-up*

*The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant government ministries, the National Assembly, the Supreme Court and to national and local authorities, for appropriate consideration and further action.*

#### *Dissemination*

*The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.*

1004. See chapter X hereof.

## **X. Dissemination of documents**

*CRC/C/15/Add.194 – paragraph 56: Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organization.*

1005. As part of rendering available the reports to public opinion – pursuant to article 44, paragraph 6 of the Convention of the Rights of the Child – the second periodic report and written answers and recommendations of the Child Welfare Authority were rendered available to wide public. The report on the implementation of the Convention of the Rights of the Child in the Republic of Poland in 1993-1998 and recommendations of the Committee on the Rights of the Child (CRC/C/15/Add.194) were published on the webpage of the Ministry of National Education and the Ministry of Justice. The publications were conveyed to central administration, local-government administration and NGOs. Conclusions of the Committee on the Rights of the Child were taken into account in preparations of the National Action Plan for Children 2004-2012 "Poland for Children".

1006. On the webpage of the Minister of Justice, text of the Convention on the Rights of the Child is available together with other international agreements related to human rights. Moreover, information on disclosure obligations of the Republic of Poland towards treaty bodies are available there, and also documents connected with the fulfilment of these obligation (reports of Government of Poland on implementation of individual conventions, list of questions, answers of the Government, minutes of treaty bodies meetings at which RP reports and other reports were discussed).

1007. The report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the list of questions of the Committee on the Rights of the Child conveyed to Poland ahead of consideration of the above-mentioned reports, along with answers provided by the Government, as well as contents of comments and recommendations of the Committee on the Rights of the Child formulated after consideration of the above-mentioned reports, were publicly announced via the webpage of the Minister of National Education and conveyed for information of all the departments responsible for activities aimed at abiding by the rights of the child.

## Legal references

<i>Item</i>	<i>ACTS</i>
1	The Constitution of the Republic of Poland of 2 April 1997 (Dz. U. [Journal of Laws] No. 78, item 483, as further amended)
2	Act of 29 September 1986 – Civil Status Registry Act (Dz. U. [Journal of Laws] of 2004 No. 161, item 1688, as further amended)
3	Act of 25 February 1964 – Family and Guardianship Code (Dz. U. [Journal of Laws] No. 9, item 59, as further amended)
4	Act of 23 April 1964 – Civil Code (Dz. U. [Journal of Laws] No. 16, item 93, as further amended)
5	Act of 6 June 1997 – Penal Code (Dz. U. [Journal of Laws] No. 88, item 553, as further amended)
6	Act of 17 November 1964 – Civil Procedure Code (Dz. U. [Journal of Laws] No. 43, item 296, as further amended)
7	Act of 6 June 1997 – Executive Penal Code (Dz. U. [Journal of Laws] No. 90, item 557, as further amended)
8	Act z 6 June 1997 – Penal Procedure Code (Dz. U. [Journal of Laws] No. 89, item 555, as further amended)
9	Act of 26 June 1974 – Labour Code (Dz. U. [Journal of Laws] of 1998 No. 21, item 94, as further amended)
10	Act of 26 October 1982 on Juvenile Delinquency Proceedings (Dz. U. [Journal of Laws] of 2010 No. 33, item 178, as further amended)
11	Act of 24 October 2008 on Amendments to the Act – Penal Code and Certain Other Acts (Dz. U. [Journal of Laws] No. 214, item 1344)
12	Act of 5 November 2009 on Amendments to the Act – Penal Code, the Act – Penal Procedure Code, the Act – Executive Penal Code, the Act – Fiscal Penal Code and Certain Other Acts (Dz. U. [Journal of Laws] No. 206, item 1589, as further amended)
13	Act of 14 November 2003 on Amendments to the Act – Labour Code and on Amendments to Certain Other Acts (Dz. U. [Journal of Laws] No. 213, item 2081)
14	Act of 3 June 2005 r on Amendments to the Act –Penal Procedure Code (Dz. U. [Journal of Laws] No. 141, item 1181)
15	Act of 6 November 2008 on Amendments to the Act – Family and Guardianship Code and Certain Other Acts (Dz. U. [Journal of Laws] of 2008 No. 220, item 1431)
16	Act of 10 June 2010 on Amendments to the Act on Counteracting Domestic Violence and Certain Other Acts (Dz. U. [Journal of Laws] No. 125, item 842)

<i>Item</i>	<i>ACTS</i>
17	Act of 10 January 2003 on Amendments to the Act – Penal Procedure Code, the Act – The Implementing Act of Penal Procedure Code, Key Witness Act and the Act on Protection of Confidential Information (Dz. U. [Journal of Laws] No. 17, item 155, as further amended)
18	Act of 20 June 1985 on Prosecution Office (Dz. U. [Journal of Laws] of 2008 No. 7, item 39, as further amended)
19	Act of 6 January 2000 on the Ombudsman for Children (Dz. U. [Journal of Laws] No. 6, item 69, as further amended)
20	Act of 24 October 2008 on Amendments to the Act on the Ombudsman for Children and to the Act on Remuneration of Persons Holding Public Managerial Positions (Dz. U. [Journal of Laws] No. 214, item 1345)
21	Act of 29 July 2005 on Counteracting Domestic Violence (Dz. U. [Journal of Laws] No. 180, item 1493, as further amended)
22	Act of 6 April 1990 on the Police (Dz. U. [Journal of Laws] of 2007 No. 43, item 277, as further amended)
23	Act of 2 December 2009 on Amendments to Certain Acts Connected with the Performance of Tasks by the Police (Dz. U. [Journal of Laws] No. 223, item 1777)
24	Act of 13 June 2003 on the Protection Granted to Foreigners in the Territory of the Republic of Poland (Dz. U. [Journal of Laws] of 2009 No. 189, item 1472, as further amended)
25	Act of 18 March 2008 on Amendments to the Act on the Protection Granted to Foreigners in the Territory of the Republic of Poland and Certain Other Acts (Dz. U. [Journal of Laws] No. 70, item 416)
26	Act of 25 June 1997 on Foreigners (Dz. U. [Journal of Laws] of 2001 No. 127, item 1400, as further amended)
27	Act of 13 June 2003 on Foreigners (Dz. U. [Journal of Laws] of 2006 No. 234, item 1694, as further amended)
28	Act of 24 October 2008 on Amendments to the Act on Foreigners and Certain Other Acts (Dz. U. [Journal of Laws] No. 216, item 1367)
29	Act of 29 August 1997 on Personal Data Protection (Dz. U. [Journal of Laws] of 2002 No. 101, item 926, as further amended)
30	Act of 5 August 2010 on Protection of Confidential Information (Dz. U. [Journal of Laws] No. 182, item 1228)
31	Act of 29 June 1995 on Public Statistics (Dz. U. [Journal of Laws] No. 88, item 439, as further amended)
32	Act of 25 June 1997 on Key Witness (Dz. U. [Journal of Laws] of 2007 No. 36, item 232, as further amended)
33	Act of 24 May 2000 on National Criminal Register (Dz. U. [Journal of Laws] of 2008 No. 50, item 292, as further amended)



<i>Item</i>	<i>ACTS</i>
34	Act of 19 November 2009 on Gambling (Dz. U. [Journal of Laws] No. 201, item 1540, as further amended)
35	Act of 24 April 2003 on Public Benefit and Volunteer Activities (Dz. U. [Journal of Laws] No. 96, item 873, as further amended)
36	Act of 7 January 1993 on Family Planning, Protection of Human Foetus, and Conditions of Admissibility of Abortion (Dz. U. [Journal of Laws] No. 17, item 78, as further amended)
37	Act of 19 August 1994 on Protection of Mental Health (Dz. U. [Journal of Laws] No. 111, item 535, as further amended)
38	Act of 9 November 1995 on Protection of Health Against Consequences of Use of Tobacco and Tobacco Products (Dz. U. [Journal of Laws] of 1996 No. 10, item 55, as further amended)
39	Act of 26 October 1982 on Upbringing in Sobriety and Counteracting Alcoholism (Dz. U. [Journal of Laws] of 2007 No. 70, item 473, as further amended)
40	Act of 8 April 2010 on Amendments to the Act on Protection of Health Against Consequences of Use of Tobacco and Tobacco Products and to the Act on National Sanitary Inspection (Dz. U. [Journal of Laws] No. 81, item 529)
41	Act of 29 July 2005 on Counteracting Drug Addiction (Dz. U. [Journal of Laws] No. 179, item 1485, as further amended)
42	Act of 6 February 1997 on General Health Insurance (Dz. U. [Journal of Laws] No. 28, item 153, as further amended)
43	Act of 5 December 1996 on Professions of Physician and Dentist (Dz. U. [Journal of Laws] of 2008 No. 136, item 857, as further amended)
44	Acts of 27 August 2004 on Healthcare Services Financed from Public Funds (Dz. U. [Journal of Laws] of 2008 No. 164, item 1027, as further amended)
45	Act of 6 November 2008 on the Rights of the Patient and on the Ombudsman for the Patient (Dz. U. [Journal of Laws] of 2009 No. 52, item 417)
46	Resolution of the Sejm of the Republic of Poland of 1 August 1997 on the Charter of the Rights of Persons with Disabilities (M. P. [Polish Official Gazette] No. 50, item 475)
47	Act of 12 March 2004 on Social Welfare (Dz. U. [Journal of Laws] of 2009 Nr. 175, item 1362, as further amended)
48	Act of 16 February 2007 on Amendments to the Act on Social Welfare (Dz. U. [Journal of Laws] No. 48, item 320)
49	Act of 28 November 2003 on Family Benefits (Dz. U. [Journal of Laws] of 2006 No. 139, item 992, as further amended)
50	Act of 25 June 1999 on Money Benefits from Social Insurance in the case of Illness or Maternity (Dz. U. [Journal of Laws] of 2005 No. 31, item 267, as further amended)

<i>Item</i>	<i>ACTS</i>
51	Acts of 7 September 2007 on Support to Persons Entitled to Alimony (Dz. U. [Journal of Laws] of 2009 No. 1, item 7, as further amended)
52	Act of 22 April 2005 on the Conduct towards Alimony Debtors and Alimony Advance (Dz. U. [Journal of Laws] No. 86, item 732, as further amended)
53	Act of 27 August 1997 on Professional and Social Rehabilitation and Employment of Disabled Persons (Dz. U. [Journal of Laws] No. 123, item 776, as further amended)
54	Act of 29 December 2005 on the Establishment of Many-year Programme: “State Aid in the Scope of Meal Sponsoring” (Dz. U. [Journal of Laws] No. 267, item 2259, as further amended)
55	Act of 7 September 1991 on Education System (Dz. U. [Journal of Laws] of 2004 No. 256, item 2572, as further amended)
56	Act of 27 June 2003 on Amendments to the Act on Education System and on Amendments to Certain Other Acts (Dz. U. [Journal of Laws] No. 137, item 1304)
57	Act of 19 March 2009 on Amendments to the Act on Education System and on Amendments to Certain Other Acts (Dz. U. [Journal of Laws] No. 56, item 458)
58	Act of 5 August 2010 on Amendments to the Act on Education System (Dz. U. [Journal of Laws] No. 148, item 991)
59	Act of 26 January 1982 – Teacher’s Charter (Dz. U. [Journal of Laws] of 2006 No. 97, item 674, as further amended)
60	Act of 6 January 2005 on National Minorities and on Regional Language (Dz. U. [Journal of Laws] No. 17, item 141, as further amended)
61	Act of 13 November 2003 on Income of Local Government Units (Dz. U. [Journal of Laws] of 2010 No. 80, item 526, as further amended)
62	Act of 21 November 1967 on General Obligation to Defend the Republic of Poland (Dz. U. [Journal of Laws] of 2004 No. 241, item 2416, as further amended)
63	Act of 29 July 2005 on Amendments to the Act on General Obligation to Defend the Republic of Poland and on Amendments to the Act on Substitute Military Service (Dz. U. [Journal of Laws] No. 180, item 1496)
64	Act of 22 May 2009 on Amendments to the Act on General Obligation to Defend the Republic of Poland and the Act on Physical Culture (Dz. U. [Journal of Laws] No. 97, item 801)
65	Act of 27 August 2009 on Amendments to the Act on General Obligation to Defend the Republic of Poland and on Amendments to Certain Other Acts (Dz. U. [Journal of Laws] No. 161, item 1278)
66	Act of 23 December 1994 on the Supreme Audit Office (Dz. U. [Journal of Laws] of 2007 Nr. 231, item 1701, as further amended)

<i>Item</i>	<i>ACTS</i>
67	Resolution of the Sejm of the Republic of Poland of 20 January 2000 on Strengthening of the National Supervision Performed by the Supreme Audit Office (M.P. [Polish Official Gazette] No. 2, item 10)
68	Act of 22 January 2010 r on Amendments to the Act on the Supreme Audit Office (Dz. U. [Journal of Laws] No. 227, item 1482)
REGULATIONS/RESOLUTIONS	
69	Regulation of the Council of Ministers of 7 February 2006 on implementation of many-year programme: “State Aid in the Scope of Meal Sponsoring” (Dz. U. [Journal of Laws] No. 25, item 186, as further amended)
70	Resolution of the Council of Ministers of 23 May 2006 on the procedure of conveying funds for family benefits and the manner of preparation of substantive and financial reports (Dz. U. [Journal of Laws] No. 95, item 661, as further amended)
71	Regulation of the Council of Ministers of 14 June 2005 on Scholarships of the Prime Minister, of the minister competent for the issues related to education and upbringing, and of the minister competent for the issues related to culture and protection of national heritage (Dz. U. [Journal of Laws] No. 106, item 890)
72	Regulation of the Council of Ministers of 28 March 2006 on detailed conditions and procedure of granting aid to students from families of former workers of national agricultural enterprises (Dz. U. [Journal of Laws] No. 73, item 502)
73	Regulation of the Council of Ministers of 16 September 2008 on detailed conditions of subsidizing local or regional programmes for equalisation of opportunities in the scope of education of children and youth in 2008, conditions to be met by such programmes, entities assessing the programmes and the manner and procedure of selection of programmes to be subsidized (Dz. U. [Journal of Laws] No. 171, item 1059)
74	Resolution of the Council of Ministers of 28 December 2010 on National Mental Health Prevention Programme (Dz. U. [Journal of Laws] No. 24, item 128)
75	Regulation of the Minister of Justice of 17 October 2001 on correction centres and shelters for juveniles (Dz. U. [Journal of Laws] No. 124, item 1359, as further amended)
76	Regulation of the Minister of Justice of 25 August 2003 on organisational and regulatory rules of the execution of deprivation of liberty (Dz. U. [Journal of Laws] No. 152, item 1493)
77	Regulation of the Minister of Justice of 25 August 2003 on organisational and regulatory rules of the execution of pretrial detention Dz. U. [Journal of Laws] No. 152, item 1494)
78	Regulation of the Minister of Interior and Administration of 21 January 2002 on detailed principles of stay of minors in the police emergency centres for children (Dz. U. [Journal of Laws] No. 10, item 104, as further amended.)

<i>Item</i>	<i>ACTS</i>
79	Regulation of the Minister of Interior and Administration of 14 June 2002 on conduct towards minor foreigners deprived of guardianship in the period of the proceedings in the scope of granting the refugee status (Dz. U. [Journal of Laws] No. 91, item 813)
80	Regulation of the Minister of Interior and Administration of 18 August 2003 on the conditions of accommodation of minors deprived of guardianship, and on the standard of care at the centre for foreigners applying for refugee status (Dz. U. [Journal of Laws] No. 151, item 1473)
81	Regulation of the Minister of Economy, Labour and Social Policy of 15 July 2003 on determining disability and the degree of disability (Dz. U. [Journal of Laws] No. 139, item 1328, as further amended)
82	Regulation of the Minister of Labour and Social Policy of 19 October 2007 on education and care facilities (Dz. U. [Journal of Laws] No. 201, item 1455)
83	Regulation of the Minister of Social Policy of 30 September 2005 on adoption and care facilities (Dz. U. [Journal of Laws] No. 205, item 1701, as further amended)
84	Regulation of the Minister of Labour and Social Policy of 19 October 2007 amending the regulation on adoption and care facilities (Dz. U. [Journal of Laws] No. 201, item 1457)
85	Regulation of the Minister of Labour and Social Policy of 5 November 2004 on determination of the lump sum for child cost of living and the rates for ongoing operation of family care establishment (Dz. U. [Journal of Laws] of 2004 No. 245, item 2461, as further amended)
86	Regulation of the Minister of Labour and Social Policy of 19 October 2007 amending the regulation on determination of the lump sum for child cost of living and the rates for ongoing operation of family care establishment (Dz. U. [Journal of Laws] No. 201, item 1458)
87	Regulation of the Minister of Social Policy of 18 October 2004 on foster families (Dz. U. [Journal of Laws] No. 233, item 2344, as further amended)
88	Regulation of the Minister of Labour and Social Policy of 19 October 2007 amending the regulation on foster families (Dz. U. Nr. 201, item 1456)
89	Regulation of the Minister of Labour and Social Policy of 4 June 2010 on foster families (Dz. U. [Journal of Laws] No. 110, item 733)
90	Regulation of the Minister of Social Policy of 19 October 2005 on detailed principles of supervision over care and upbringing standard at education and care facilities and supervision over the operations of adoption and care facilities (Dz. U. [Journal of Laws] No. 214, item 1812, as further amended)
91	Regulation of the Minister of Labour and Social Policy of 19 October 2007 amending the regulation on detailed principles of supervision over care and upbringing standard at education and care facilities and supervision over the operations of adoption and care facilities (Dz. U. [Journal of Laws] No. 201, item 1459)

<i>Item</i>	<i>ACTS</i>
92	Regulation of the Minister of Labour and Social Policy of 25 June 2002 on determination of types of district tasks that may be financed from the funds of the National Fund for Rehabilitation of Disabled Persons (Dz. U. [Journal of Laws] No. 96, item 861, as further amended)
93	Regulation of the Minister of Labour and Social Policy of 22 September 2005 on specialist care services (Dz. U. [Journal of Laws] No. 189, item 1598, as further amended)
94	Regulation of the Minister of Labour and Social Policy 6 July 2006 on the standard of basic services provided by specialist support centres to victims of domestic violence, and also detailed directions of corrective and educational interactions (Dz. U. [Journal of Laws] No. 127, item 890)
95	Regulation of the Minister of Social Policy of 19 April 2005 on social enquiry report (Dz. U. [Journal of Laws] No. 77, item 672, as further amended)
96	Regulation of the Minister of Social Policy of 6 October 2004 on entities authorised to establish and maintain non-public adoption and care facilities and the seniority and qualifications required from persons employed at the public and non-public adoption and care facilities, and also accommodation conditions such facilities should dispose of (Dz. U. [Journal of Laws] No. 226 item 2293)
97	Regulation of the Minister of Social Policy of 30 September 2005 on adoption and upbringing means (Dz. U. [Journal of Laws] No. 205, item 1701, as further amended)
98	Regulation of the Minister of Social Policy of 5 October 2004 on the central data bank of children awaiting for adoption and adoption and care facilities authorised to cooperate with organisations or adoption facilities licensed by governments of other countries. (Dz. U. [Journal of Laws] No. 223, item 2266)
99	Regulation of the Minister of Social Policy of 7 April 2005 on education standards in colleges of social services workers (Dz. U. [Journal of Laws] No. 62, item 555)
100	Regulation of the Minister of Health of 29 August 2009 on guaranteed services from the scope of the basic health care (Dz. U. [Journal of Laws] No. 139, item 1139, as further amended)
101	Regulation of the Minister of Health of 23 September 2010 on standards of conduct and medical procedures of provisions of healthcare services in the scope of delivery and related services for woman in the period of physiological pregnancy, physiological delivery, puerperium, and newborn care (Dz. U. [Journal of Laws] No. 187, item 1259)
102	Regulation of the Minister of Sport of 31 October 2005 on subsidising tasks from the Sport and Recreation Fund for Students (Dz. U. [Journal of Laws] No. 226, item 1942)
103	Regulation of the Minister of Sport of 10 July 2006 on subsidising tasks from the Physical Culture Development Fund (Dz. U. [Journal of Laws] No. 134, item 944, as further amended).

<i>Item</i>	<i>ACTS</i>
104	Regulation of the Minister of Sport and Tourism of 23 August 2010 on subsidising tasks from the Physical Culture Development Fund (Dz. U. [Journal of Laws] No. 156, item 1051)
105	Regulation of the Minister of National Education of 12 August 1999 on the manner of school education and the scope of contents related to knowledge of human sexual life, the principles of informed and responsible parenthood, value of family, life in prenatal phase and methods and means of informed procreation, contained in the core curriculum of general education (Dz. U. [Journal of Laws] No. 67, item 756, as further amended)
106	Regulation of the Minister of National Education of 12 March 2009 on detailed qualifications required from teachers and on determination of schools and cases at which teachers without higher education or accomplished course of teacher education may be employed (Dz. U. [Journal of Laws] No. 50, item 400, as further amended)
107	Regulation of the Minister of National Education and Sport of 26 February 2002 on the core curriculum for pre-school upbringing and general education in individual school types (Dz. U. [Journal of Laws] No. 51, item 458, as further amended)
108	Regulation of the Minister of National Education of 23 December 2008 on the core curriculum for pre-school upbringing and general education in individual school types (Dz. U. [Journal of Laws] of 2009 No. 4, item 17)
109	Regulation of the Minister of National Education of 10 January 2008 on types of other forms of pre-school upbringing, conditions of creation and organisation of these forms and their manner of operation (Dz. U. [Journal of Laws] No. 7, item 38, as further amended)
110	Regulation of the Minister of National Education of 27 May 2009 on types of other forms of pre-school upbringing, conditions of creation and organisation of these forms and their manner of operation (Dz. U. [Journal of Laws] No. 83, item 693)
111	Regulation of the Minister of National Education of 31 August 2010 on types of other forms of pre-school upbringing, conditions of creation and organisation of these forms and their manner of operation (Dz. U. [Journal of Laws] No. 161, item 1080)
112	Regulation of the Minister of National Education and Sport of 22 February 2005 on terms of conveying of special subsidy to communes for subsidizing material aid benefits of social character, and the manner of determination of the amount of this subsidy (Dz. U. [Journal of Laws] No. 36, item 319)
113	Regulation of the Minister of National Education of 21 January 1997 on conditions to be fulfilled by organisers of recreation for school children and youth, and on principles of organising and supervising thereof (Dz. U. [Journal of Laws] No. 12, item 67)
114	Regulation of the Minister of National Education of 9 December 2009 amending the regulation on conditions to be fulfilled by organisers of recreation for school children and youth, and on principles of organising and supervising thereof (Dz. U. [Journal of Laws] No. 218, item 1696)

<i>Item</i>	<i>ACTS</i>
115	Regulation of the Minister of National Education of 4 October 2001 on admitting persons who are not Polish citizens to public kindergartens, schools, teacher training facilities and establishments (Dz. U. [Journal of Laws] No. 131, item 1458)
116	Regulation of the Minister of National Education of 1 April 2010 on admitting persons who are not Polish citizens to public kindergartens, schools, teacher training facilities and establishments and on organisation of additional Polish language lessons, additional leg-up programmes and learning of language and culture of the country of origin (Dz. U. [Journal of Laws] No. 57, item 361)
117	Regulation of the Minister of National Education of 17 November 2010 on the principles of granting and organisation of psychological and pedagogical support in public kindergartens, schools and establishments (Dz. U. [Journal of Laws] No. 228, item 1487)
118	Regulation of the Minister of National Education of 14 November 2007 on the conditions and manner of performance of tasks, by kindergartens, schools, and public facilities, making it possible to preserve the sense of national, ethnic and linguistic identity of students belonging to national and ethnic minorities and communities using regional language (Dz. U. [Journal of Laws] No. 214, item 1579, as further amended)
119	Regulation of the Minister of National Education and Sport of 7 March 2005 on types and detailed principles of operation of public establishments, conditions of stay of children and youth at these establishment, and the amount and principles of contributions made by parents for the stay of their children at those establishments (Dz. U. [Journal of Laws] No. 52, item 467, as further amended)
120	Regulation of the Minister of National Education and Sport of 26 July 2004 on the detailed principles of referring, accepting, transferring, releasing, and stay of minors in youth upbringing centre and youth sociotherapy centre (Dz. U. [Journal of Laws] No. 178, item 1833)
121	Regulation of the Minister of National Education of 10 December 2010 amending the regulation on the detailed principles of referring, accepting, transferring, releasing, and stay of minors in youth upbringing centre and youth sociotherapy centre (Dz. U. [Journal of Laws] of 2011 No. 9, item 41)
122	Regulation of the Minister of National Education of 21 May 2001 on framework charters of public kindergartens and public schools (Dz. U. [Journal of Laws] No. 61, item 624, as further amended)
123	Regulation of the Minister of National Education and Sport of 12 February 2002 on framework plans of education at public schools (Dz. U. [Journal of Laws] No. 15, item 142, as further amended)
124	Regulation of the Minister of National Education of 18 January 2005 on conditions of organising of education, upbringing and care for disabled or socially maladjusted children and youth at generally accessible or integration kindergartens, schools and units (Dz. U. [Journal of Laws] No. 19, item 167)

<i>Item</i>	<i>ACTS</i>
125	Regulation of the Minister of National Education and Sport of 18 January 2005 on conditions of organising education, upbringing and care for disabled or socially maladjusted children and youth at special kindergartens, schools, units and centres (Dz. U. [Journal of Laws] No. 19, item 166)
	ORDINANCES
126	Ordinance of the Minister of Health and Social Welfare of 29 June 1993 on the establishment of the Bureau for Drug Addiction (Dz. Urz. MZiOŚ [Official Journal of the MHSW] No. 7, item 16)
127	Ordinance of the Minister of Health of 13 November 2000 on the National Bureau for Drug Prevention (Dz. Urz. MZ [Official Journal of the MH] No. 2, item 44)
128	Ordinance of the Minister of Health of 28 June 2006 on the National Bureau for Drug Prevention (Dz. Urz. MZ [Official Journal of the MH] No. 9, item 38, as further amended)
129	Ordinance of the Minister of Health of 22 June 2010 on the National Bureau for Drug Prevention (Dz. Urz. MZ [Official Journal of the MH] No. 9, item 54)
130	Ordinance No. 32 of the Minister of National Education of 25 November 2008 on the appointment of the Coordination Team for implementation and monitoring of "Discovering Humanitarian Law" programme at schools and education establishments (Dz. Urz. MEN [Official Journal of the MNE] z 2009 No. 1, item 2)
131	Ordinance No. 2/04 of the General Head of Prison Service of 24 February 2004 on detailed principles of maintaining and organisation of penitentiary operation and the scope of operations of officers and employees at penitentiary and therapeutic departments (Dz. Urz. CZSW [Official Journal of the GHPS] z 2004 No. 1, item 2, as further amended)
132	Ordinance No. 81/03/DO of the Minister of Justice of 12 December 2003 on the organisation and the scope of operation of court secretariats and other departments of judicial administration (Dz. Urz. [Official Journal of the MS] No. 5, item 22, as further amended)
	DECISIONS
133	Decision No. 346 of the Police Commander-in-Chief of 9 August 2004 on duty of policemen at the police emergency centres for children (Dz. Urz. KGP [Official Journal of the NHP] No. 16, item 101)
134	Decision No. 54 of the Police Commander-in-Chief of 11 February 2009 on the curriculum of specialist course in the scope of counteracting domestic violence (Dz. Urz. KGP [Official Journal of the NHP] No. 4, item 17)
135	Decision No. 436/MON of the Minister of National Defence of 21 December 2009 on methodology of training of soldiers in the scope of "Citizenship education" and "Military prophylaxis and discipline" (Dz. Urz. MON [Official Journal of the MND] No. 24, item 265)



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136	Decision No. 342/MON of the Minister of National Defence of 7 October 2009 on the appointment of team for regulation of issues of training in the field of “International Humanitarian Law of Armed Conflicts” at the national defence department (Dz. Urz. MON [Official Journal of the MND] No. 19, item 214)
	INTERNATIONAL AGREEMENTS
137	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dz. U. [Journal of Laws] of 1989 No. 63, item 378)
138	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, prepared in Strasburg on 26 November 1987 (Dz. U. [Journal of Laws] of 1995 No. 46, item 238, as further amended)
139	Convention for the Protection of Human Rights and Fundamental Freedoms, prepared in Rome 4 November 1950 (Dz. U. [Journal of Laws] of 1993 No. 61, item 284, as further amended)
140	Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, prepared in The Hague on 29 May 1993 (Dz. U. [Journal of Laws] of 2000 No. 39, item 448, as further amended)
141	Council of Europe Convention on Action against Trafficking in Human Beings, prepared in Warsaw on 16 May 2005 (Dz. U. [Journal of Laws] of 2009 No. 20, item 107)
142	Convention on the civil aspects of international child abduction, prepared in The Hague on 25 October 1980 (Dz. U. [Journal of Laws] of 1995 No. 108, item 528, as further amended)
143	European Convention on adoption of children, prepared in Strasburg on 24 April 1967 (Dz. U. [Journal of Laws] of 1999 No. 99, item 1157)
144	International Covenant on Civil and Political Rights (Dz. U. [Journal of Laws] of 1977 No. 38, item 167)
145	Protocol No. 6 to the Convention on Protection of Fundamental Human Rights, concerning abolition of capital punishment (Dz. U. [Journal of Laws] of 2001 No. 23, item 266)
146	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted by the General Assembly of the United Nations on 15 November 2000 (Dz. U. [Journal of Laws] of 2005 No. 18, item 160)
147	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted in New York on 25 May 2000 (Dz. U. [Journal of Laws] of 2007 No. 91, item 608)
148	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography, adopted in New York on 25 May 2000 (Dz. U. [Journal of Laws] of 2007 No. 76, item 494)

<i>Item</i>	<i>ACTS</i>
149	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 18 December 2002 (Dz. U. [Journal of Laws] of 2007 No. 30, item 192)
150	Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Dz. U. [Journal of Laws] of 2000 No. 21, item 261)
151	Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Dz. U. [Journal of Laws] of 2000 No. 21, item 261)