

The combined 22nd, 23rd and 24th Report on the implementation of the provisions of the Convention on the Elimination of All Forms of Racial Discrimination by the Republic of Poland for the period between January 2012 and December 2017

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The aim of the *Report* is updating the materials included in the previous – *the combined 20th and 21st Reports* and the information provided during its presentation at the meeting of the Committee on the Elimination of Racial Discrimination on 10 and 11 February 2014. The *Report* presents the national legislation and practices related to the implementation of the Convention provisions by the Republic of Poland in the period between January 2012 and December 2017, including the changes in the Polish legislation implemented since the previous *Report*. The document was prepared in compliance with the *Guidelines for the CERD-specific document to be submitted by States Parties under Article 9, paragraph 1, of the Convention (CERD/C/2007/1)*. The *Report* is supplemented by the *Core Document*.

List of abbreviations:

ECHR – European Court of Human Rights	OSCE – Organization for Security and Co-operation in Europe
GPH – General Police Headquarters	CLI – Chief Labour Inspectorate
NBC – National Broadcasting Council	PHCC – Public Health Care Centres
MNE – Ministry of National Education	PFA – Polish Football Association
MCNH – Ministry of Culture and National Heritage	CHR – Commissioner for Human Rights
MFLSP – Ministry of Family, Labour and Social Policy	BG – Border Guard
MST – Ministry of Sport and Tourism	SLO – Supporters Liaison Officers
MIA – Ministry of the Interior and Administration	SC – Supreme Court
	CT – Constitutional Tribunal
	OFF – Office for Foreigners

Information on the implementation of recommendations provided by the Committee on the Elimination of Racial Discrimination after reviewing the last *Report of Poland*

Despite noting the relative homogeneity of the Polish population, the Committee requests that the State party provide detailed updated statistical data on the ethnic composition of the population in view of its revised reporting guidelines (CERD/C/2007/1). It requests that the State party share the findings of the post-census study on the national identity of the population. Regarding the latter, and in light of its General recommendation No. 8 (1990) on the interpretation and application of article 1 of the Convention, the Committee underlines the utmost importance of self-identification of individuals belonging to particular racial or ethnic groups.

1. Starting with March 2012 – in the course of compiling the results of the National Census of 2011 – the data on national and ethnic identity of Poland's population was gradually made public. In that period, extensive and detailed comparisons of data concerning national and ethnic minority communities enumerated in the *Act of 6 January 2005 on national and ethnic minorities and regional language* were made available, as well as the information about all national and ethnic identifications and the data about the languages used at home and native languages. Eventually, the post-census research was not conducted on national-ethnic matters, because of the need to retain financial discipline.

2. In December 2015, a special publication was released with the aim of presenting the results of the census in the context of ethnicity, language and religion entitled *National-ethnic, Linguistic and Religious Structure of Poland's Population (Struktura narodowo – etniczna, językowa i wyznaniowa ludności Polski. NSP 2011)*. The publication includes descriptions, analyses and detailed comparisons of data on national-ethnic identity of the country's population, which encompasses, amongst others the complexity of ethnic identifications, as well as the types of languages used at home and native languages. The data on ethnic identity is depicted in the territorial profile, as well as in relation to nationality, the languages used at home and native languages. The publication includes extensive correlation tables which include particular ethnic variables in relation to socio-demographic characteristics. The entirety of the study with the statistical tables is available on the website of Statistics Poland¹. Since the study is available only in Polish, presented below is only the most crucial information involved in the aforementioned analysis.

3. In the 2011 population census, for the first time in the history of Polish population censuses, the inhabitants of Poland were allowed to declare complex national-ethnic identities which has been achieved through asking two questions about national-ethnic identity. Based on the results of the 2011 national census, it can be concluded that uniform Polish national identity, encompassing 36 522 200 people representing 94.83% of the Polish population, dominates among the Polish citizens. Furthermore, 871 400 (2.26%) people have declared both Polish national-ethnic identity and an identity other than Polish. Based on the census data, it can be concluded that the population declaring Polish national identification included a total of 37 393 700 people representing 97.10% of the entire population of Poland, and the remaining group consisted of people who either exclusively named a national-ethnic identity (or identities) other than Polish (596 300 – 1.55%) or people for whom determining national-ethnic belonging was not possible (521 500 – 1.35%).

¹ <http://stat.gov.pl/spisy-powszechne/nsp-2011/nsp-2011-wyniki/struktura-narodowo-etniczna-jezykowa-i-wyznaniowa-ludnosci-polski-nsp-2011,22,1.html>

4. The declarations of national-ethnic belonging to a group other than Polish totalling to 1 467 700 (3.81%) were divided into two groups:

- coexisting with Polish national-ethnic declaration – 871 400 (2.26%),
- only non-Polish – 596 300 (1.55%) people, including 45 900 double non-Polish declarations.

In total, the census includes 846 700 Silesian declarations (including 430 800 (50.9%) declarations coexisting with Polish identity), 232 500 people declaring Kashubian identity (including 215 800 (92.8%) alongside Polish declarations), slightly less people than in the last census declaring German identity – 147 800 (including 63 800 (43.2%) with Polish identity). The larger groups declaring a non-Polish national-ethnic identity are the Ukrainians (51 000, including 20 800 (40.8%) also declaring Polish identity) and Belarussians (46 800, including 15 600 (33.3%) also declaring Polish identity). Also in the following, smaller national-ethnic groups described below, between 27.5% and 100% of people declared Polish identity as the second identity. The next three national groups are: The Roma (17000), the Russians (13 000), the Americans (11 800), the British and the Lemko (10 500 each). Groups with slightly less than 10 000 people are the Italians (almost 9000), the French, the Lithuanians and the Jews (approximately 8000 each). Groups of people identifying themselves with other national-ethnic communities did not exceed 5000 people, out of which the groups declaring the following nationalities: the Spanish, Vietnamese, Dutch, Greek and Armenians totalled to approximately 4000 people. Slightly smaller groups (of approx. 3000 people) were made up of the Czech, Slovaks and Canadians as well as two groups who declare identification – for the first time in the history of national censuses – to regional groups –the Kocievians and Gorals. Furthermore, approximately 2000 of the following national-ethnic identifications were noted: the Bulgarian, Irish, Tatar, Swedish, Hungarian, Austrian, Australian and Chinese.

5. Based on the results of the census, it can be concluded that the vast majority of Poland's population use Polish at home. The use of Polish was declared by over 37 815 600 people representing 98.19% of the entire population, with a vast majority – 37 043 600 (96.19%) – using it as the only language. The people using a language different than Polish at home totalled to 948 500 (2.46%), whereas usually it is used alternately with Polish – 772 000 (2.00%). Considerably less frequently, the respondents indicated the exclusive use of one or two languages other than Polish at home – 176 500 (0.46%). The first language used at home after Polish, used by over half-a-million people was the Silesian ethnolect (529 400). In this context, the second language other than Polish was Kashubian (108 100), English (103 500) and German (96 500). Smaller groups were made up of people using the following languages at home: the Belarussian (26 400), Ukrainian (24 500), Russian (19 800), Romani (14 500), French (10 700), Italian (10 300), Lemko (6300), Spanish (5800), Lithuanian (5300) and Vietnamese (3400).

6. At the same time it should be noted that the national-ethnic structure in the National Census of 2011 was based on auto-identification of the respondents – the answer to the question was not closed and provided for the possibility of auto-identification of a national or ethnic group.

The Committee recommends that the State Party disseminate the content of the Convention when training judges and lawyers, and apply the provision of the Constitution about the direct application of international agreements whenever appropriate.

7. The issues covered in the *Convention on the Elimination of all Forms of Racial Discrimination*, including racist crimes and preventing racial discrimination are addressed during training sessions on human rights and prohibition of discrimination for judges, prosecutors, judicial and prosecutorial trainees.

8. At the same time, it is worth mentioning that cases of national courts appealing against this Convention were noted. One of the examples may be the Decision of the Supreme Court of 17 August 2016, case No. IV KK 53/16. In this decision, the Supreme Court notes the restrictions in exercising constitutional freedoms (including freedom of expression) existing in Polish legal system which derive from the Constitution. At the same time, the SC emphasises that the prohibition of racial and national discrimination results from the instruments of international law that form part of the national legislation, including the *Convention on the Elimination of all Forms of Racial Discrimination*. Another example may be the Decision of the Constitutional Court of 25 of February 2014, case No. SK 65/12. As a result of reviewing an appeal in cassation, the CT examined the conformity to the Constitution of a provision from the national Criminal Code penalising, amongst others, incitement to hatred based on national, ethnic, racial differences or religious denomination or because of the lack of religious beliefs (Article 256). The analysis of constitutionality of this provision was conducted also on the basis of the provisions of the *Convention on the Elimination of all Forms of Racial Discrimination*.

The Committee recommends that the State Party amend its criminal code expressly making racial motivation an aggravating circumstance allowing for enhanced punishment to combat the occurrence of such acts.

9. In the opinion of the Polish authorities, Article 53 of the *Criminal Code* clearly obliges courts to include the motivations of perpetrators while sentencing, including racist motivations. Such motivation constitutes a reasonable cause for aggravation of penalty. The character of this regulation is not casuistic (i.e. it does not contain an enumeration of specific elements), as it constitutes the general directive of imposing scale of penalties in accordance with Polish legislative technique and the scheme of the national criminal law. It should be noted that such form of the provision makes it universal and applicable when deciding on level of penalties in every case. Moreover, the offences of racist nature are penalised directly in a number of specific provisions of the *Criminal Code* (i.e. Articles 119, 256 and 257). An analysis of the national practice demonstrates that the courts effectively use the tools that were provided in criminal procedure law, and the offences motivated by racism are met with an adequate reaction from the justice.

The Committee recommends that the State provide adequate human and financial resources to the Ombudsman and ensure that it deals with racial discrimination both in public and private areas. The Committee further requests that the State party provide it with information on concrete results obtained by the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance through its Framework Programme of Actions and explain how the State party enhances coordination and synergy between all national human rights bodies.

Ensuring adequate human and financial resources for the Commissioner for Human Rights

10. As regards the financial measures for the Commissioner for Human Rights, Polish authorities wish to underline that under Article 139(2) of the Act of 27 August 2009 on *public finance*, the Commissioner for Human Rights is entitled to budgetary autonomy. It finds expression in the obligation of the Ministry of Finance to include the revenue and expenditure declared by the Commissioner for Human Rights into the draft of the Finance Act for the following year. The institutions enlisted in the Article 139(2) of the abovementioned Act, including the Commissioner for Human Rights, are independent from the executive, and the projects of their financial plans are included by the Ministry of Finance into the estimates (including the budget projects without negotiation). Only the Parliament can modify the revenue and expenditure plans of the abovementioned institutions. It means that, normally (unless the Parliament does not decide otherwise), the Commissioner for Human Rights does not have to modify his financial plans, bearing in mind the necessity of the fulfilment of statutory tasks, as well as the limited abilities of the state budget.

11. Taking into account the special character of the Commissioner's activities, including fighting all forms of discrimination, in previous years, the budgets of the Commissioner for Human Rights were given priority and constituted exceptions to the general rules provided in the acts on budget implementation (the so-called "budget-related" acts).

12. In the Act of 22 December 2011 on *amending certain acts related to budget implementation*, Article 24(3)(3) provides for additional funds for remuneration of PLN 1,000,000 (i.e. approx. EUR 235,916) to the budget of the Commissioner for Human Rights related to the creation of new FTEs in 2012. In the Act of 7 December 2012 amending certain acts related to budget implementation, Article 16(3)(1a) also provides for additional funds for remuneration of PLN 667,000 (approx. EUR 157,356) for the purpose of creating new FTEs in 2013. According to the justification of the draft of the resolution, the salary increases were linked to the implementation of the tasks given to the CHR, including those deriving from the UN Convention on the Rights of Persons with Disabilities.

13. In 2017, the Commissioner for Human Rights has a budget of PLN 37,182,000 for execution of statutory tasks. The total number of planned FTEs in the budget part of the Commissioner for Human Rights totalled to 320.

14. In the opinion of the Commissioner, the allocated funds were insufficient to efficiently protect human rights and freedoms, in particular the principles of equal treatment and non-discrimination.

Statutory mandate of the Commissioner for Human Rights for fighting racial discrimination in the public and private sphere

15. The question of Commissioner's for Human Rights mandate to act on the so-called horizontal cases (with regard to relations between private parties) was already considered during legislative work on the Act on *implementation of certain provisions of the European Union in the field of equal treatment*. At that time, it was concluded that the Commissioner's broad mandate – even though it is actualised primarily in the context of vertical relations – fulfils the requirement of helping the victims of discrimination of the equality directives of the European Union.

16. Furthermore, the Act of 15 July 1987 *on the Commissioner for Human Rights* (i.e. Polish Journal of Laws 2017 item 958) was extended by the provision according to which the Commissioner may take measures of indicating the procedures available for the applicants in the context of implementing the equal treatment principle between private parties. It should also be pointed out that it is possible for

the Commissioner to act indirectly, i.e. by causing the action of other competent authorities with respect to the case (e.g. Chief Labour Inspectorate, Office of Competition and Consumer Protection, law enforcement). It should be noted that the Commissioner has broad mandate in respect of participating in proceedings, including civil cases, in which both parties are a part of the private sector. It is crucial given that in the cases relating to the infringement of the equal treatment principle, claims for compensation or protection of personal goods are of critical importance.

17. It is worth noting that the Commissioner's competences in the context of the cases concerning the relations between private parties were the subject of the complaint brought against the European Commission (EU PILOT No. 3276/2012/JUST). The Commission, after examining the case, decided that the Act *on the Commissioner for Human Rights* – in relation to the CHR's competences as an independent authority for equal treatment – does not breach the minimum standards contained in the equality directives of the European Union. The position was transmitted by the Commission in writing dated on 13 September 2013. (Ref. Ares(2013)3D42546).

18. The way of fulfilling the Commissioner's mandate as an independent authority for equal treatment remains –within the limits of the law – a sovereign decision of the Commissioner. The extensive published reports on the CHR's realisation of the tasks relating to preventing discrimination and the implementation of the equal treatment principle present numerous actions undertaken in that context.

The results obtained by the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance.

19. The Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance was created by the Regulation No. 6 of 13 February 2013 of the Prime Minister. In total, the Council met 10 times during its term. Apart from the entities enumerated in the Regulation establishing the Council, the Chairman invited voivode plenipotentiaries for national and ethnic minorities and experts of discrimination matters, as well as representatives of non-governmental organisations to join the meetings. On 6 November 2013, the *Framework Action Programme* was established in the form of a resolution in order to lay down directions, manners and areas for activities: monitoring, reacting, providing and educating.

20. It is worth noting that the Council was cooperating with the Consultative Council created in 2013 which was a permanent consultative and advisory group which consisted of people who actively work for fighting racial discrimination, xenophobia and related intolerance. Joint discussion supported the agendas of the Council's meetings, and the social party was able to receive relevant information from the government party. Its main aim was creating a good model for cooperation between non-governmental organisations and experts who were members of the Consultative Council and the representatives of the government who participated in the Council's work. In total, the Consultative Council met 7 times during its term.

21. The Council's tasks included monitoring, that is observing and analysing the phenomena which could stem from intolerance towards the minorities living in the territory of Poland. The Consultative Council also performed monitoring and gathered information on incidents related to hate speech. Its members exchanged information about such alerts and then presented reports on the events concerned on the forum of the Council.

22. One of the educational activities in Poland is the conference *Where does the responsibility lie: Hate speech in public debate*. It was held in Warsaw between 18 and 19 September 2013. One of the speakers at the conference was Mr Thorbjørn Jagland, Council of Europe Secretary General. Furthermore, in June 2015, the then Ministry of Administration and Digitisation organised a two-day training for voivode plenipotentiaries for national and ethnic minorities. The free-of-charge training was organised on the premises of the Mazovia Voivodeship Office in the form of a series of lectures and workshops and it was conducted by three organisations: The Never Again Association, the Pro Humanum Association and the Dialog-Pheniben Foundation. The topics discussed were: racism, fascism, education for tolerance, identifying intolerance phenomena and notions, anti-discriminatory provisions in Poland and the EU, cultural diversity and the Roma minority. The training was attended by 13 plenipotentiaries and representatives of the Border Guard, the Police and other institutions involved in the fight against discrimination. Furthermore, all voivodeships hosted numerous meetings and workshops for fighting discrimination and hate speech dedicated to plenipotentiaries, employees of voivodeship offices and inhabitants.

23. A significant element of the Council's activity was organising support for the local authorities of Białystok after the incidents committed against persons of different ethnic backgrounds. In 2013, the then Chairman of the Council visited Białystok on behalf of the entire Council and discussed the ways of solving the problem. He also allocated funds for activities related to education and integration of the local community. Also in 2014, the Chairman of the Council decided to provide financial aid to the Podlachia Voivode of PLN 50,000 (approx. 11,938 EUR) for activities related to education and integration of the local community. The continued financing of programmes aimed to integrate the local community resulted from a series of incidents which had occurred in Białystok between 2013 and 2014 and the fact that the programme financed in the previous year was popular among the local community. In 2015, under the agreement concluded with the Ministry of Administration and Digitisation, the Voivode implemented the programme *Partnerstwo na Rzecz Aktywnego Osiedla (Partnership for Active Estates)*. The programme consisted of a series of integration meetings for the inhabitants and school pupils with the foreigners living in the voivodeship, sporting events for primary and secondary school pupils, culinary events for the inhabitants of estates to depict the culinary richness of national minorities.

24. The last quarter of 2014 saw the establishment of two work groups. The first one was a work group on creating a repository of reports and statistical data. The group's activity was aimed to create a system for collecting data on groups discriminated against and a subsequent risk analysis of discrimination and hate crimes on the areas concerned. The system was aimed to facilitate prevention of hate crimes through directed educational activities on the areas on which a marked escalation of attitudes can be observed. The second group was working on creating a dictionary of hate-speech-related notions. The aim of the group was collecting examples of verbal discrimination in the public space and their subsequent qualifying. The people constituting the team were scientists, i.e. culture experts, sociologists, linguists, psychologists and representatives of public administration.

25. Under the Regulation No. 53 of 27 April 2016 of the Prime Minister, the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance was liquidated. Despite the undertaken initiatives, in the opinion of the Government, the Council did not effectively perform its function of preventing xenophobia, intolerance and discrimination and it was difficult to show tangible results of its activity.

Enhancing coordination and synergy between all national human rights bodies on the national level.

26. The Government Plenipotentiary for Equal Treatment acting under the provisions of the Act of 3 December 2010 on *implementation of certain provisions of the European Union in the field of equal treatment* (Polish Journal of Laws 2016, item 1219) is responsible for implementing government policy on equal treatment. Thus, the Plenipotentiary is a part of the national governmental system for preventing discrimination and implementing the equal treatment principle. In realising his tasks, the Plenipotentiary cooperates on a regular basis with numerous public and non-governmental institutions.

27. The Government Plenipotentiary for Equal Treatment in cooperation with 16 Voivodeship Plenipotentiaries for Equal Treatment (appointed in all voivodeships) and Equal Treatment Coordinators appointed in 18 out of 19 ministries constitute the national mechanism for equal treatment and conduct activities to, amongst others, eliminate discrimination and systematically include the equal treatment principle to government policies. Extending the government structures responsible for enforcing the equal treatment principle was targeted to strengthen the capacities of the government administration to formulate the aims of the equal treatment policy and their effective implementation (both on the regional and the local level). By appointing Coordinators and Voivode Plenipotentiaries for Equal Treatment, the Government Plenipotentiary for Equal Treatment gained important partners who significantly increase his ability to act on the national level. The mechanism functions on a permanent basis starting with its pilot phase initiated in 2011 and will be supported by the actions planned for the years to come.

28. The mechanism for equal treatment will be strengthened by, amongst others, implementing the Knowledge, Education, Development Operational Programme. Coordinated by the Government Plenipotentiary for Equal Treatment, the project aims to create and promote a cooperation system for the horizontal implementation of the equal treatment policy in the governmental administration institutions of the central, regional and local government involving non-governmental organisations and social partners. It will increase the effectiveness and efficiency of the policy in that context. The implementation of the project is scheduled for the period between 2017 and 2020.

29. The strategic governmental document for implementing activities related to equal treatment and non-discrimination is the *National Action Programme of Equal Treatment*. The document sets out medium-term aims and the instruments of governmental policy for equal treatment. The first edition of the programme was implemented between 2013 and 2016. The equal treatment principle is of horizontal nature, thus, the activities foreseen in the *Programme* were conducted by all ministries, voivodeship offices and other chosen public administration entities, according to their competences and in cooperation with non-governmental organisations, social partners and local government units. In order to ensure effective monitoring of the *Programme* and to create a standing forum of cooperation in that respect, the interministerial Group for Monitoring the National Action Programme of Equal Treatment was established under the Order No. 29 of 13 April 2015 of the Prime Minister and its amendment (changing the composition of the Group) of the Prime Minister of 22 March 2016.

30. It is worth noting that the interministerial Group for the European Court of Human Rights was established in 2007 in Poland. The Group's responsibility is developing projects for enforcing the judgements of the ECHR in relation to Poland, and subsequent monitoring of their implementation.

Bearing in mind its General recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

- (a) Seek efficient means to combat racism in sport, including imposing fines on clubs for the racist acts of their supporters and continue working with sport associations in promoting tolerance and diversity;*
- (b) Undertake further measures in conformity with its legislation and article 4 of the convention, in addition to the General Prosecutor's initiatives, to better tackle hate speech on the internet;*
- (c) Take action against websites promoting racial hatred;*
- (d) Ensure effective enforcement of the State Party's laws declaring illegal parties or organizations which promote or incite racial discrimination, in conformity with article 4(b) of the Convention.*

Activities for combating racism in sport

31. In the first place, it should be emphasised that during the reporting period, i.e. between 2012 and 2017, no incidents of racial discrimination occurred in the great majority of sporting disciplines. Racist incidents occurred only during football matches. The scale of the occurrences is specified annually in Reports on security and organisation of matches on the central level, prepared by the Department of Organising Events, Security and Infrastructure of the Polish Football Association, it is, however, limited (during the reporting period, the percentage of the matches with racist incidents varied between 2.27% and 0.66%). The observation conducted by Match Delegates of the PFA suggests that the law enforcement and information services in football clubs prevent the majority of racist incidents by prohibiting the exhibition of offensive banners. Each racist incident is assessed by the Disciplinary Commission of the PFA, whereby the Disciplinary Rules of the PFA allow the Commission to investigate such cases through the accelerated and simplified procedure. The minimum penalty for the offence is PLN 5,000 (approx. 1,180 EUR). Between 2012 and 2017, the Disciplinary Spokesperson of the PFA dealt with 44 racist incident which ended with disciplinary rulings.

32. The data collected by the Prosecution General also show a low percentage of cases relating to the behaviour of supporters and athletes during sporting events or to events in relation to the total number of cases for a given year, which, during the reporting period, significantly decreased each year and in 2016, it amounted to approx. 1.4% of the total number of hate crime cases for the year.

33. Despite the small scale of the phenomenon, PFA organises a series of projects aiming to prevent racism which can be divided into two areas. Firstly, the association has a system for monitoring and preventing incidents, which enables it to respond to undesirable events. Secondly, PFA organises events and campaigns to draw the attention to racism and intolerance in sport.

34. In the context of the first area (monitoring), the sporting association developed a license system for stewards and speakers employed in 52 clubs of the three biggest football leagues. One of the training modules contains information of preventing and reacting to racist incidents on stadiums, in particular presenting flags and banners with offensive slogans. Since 2011, 15 000 law enforcement and information services officers as well as 200 speakers were trained. The PFA also organises training workshops for Match Delegates, Security Managers and Supporters Liaison Officers during

which they learn about, amongst others, the ways of reacting to discriminatory incidents. Each match of the Ekstraklasa, the First and the Second League and the Polish Cup is observed by Match Delegates, and all incidents are described in the documentation, which is then transmitted to the Disciplinary Commission of the PFA. Similar reports which are an additional source of information for disciplinary authorities are also prepared by Supporters Liaison Officers.

35. In the second area (events and information campaigns), the PFA realises, amongst others, presenting T-shirts with anti-discriminatory messages worn by the players' escort, which assists the players during their entrance to the field at selected matches of the First and the Second Leagues and at the final matches of the Polish Cup. Additionally, four children present a special banner. In the social media and on the official websites of the two clubs participating in the match, group photographs of children, teams, coaches and referees are presented.

36. Even though no racial discrimination incidents were noted in the majority of sports in Poland, many Polish sports associations' disciplinary rules contain provisions on preventing and penalising all manifestations of racism. A part of sporting federations also conducts preventive and educational measures for players, coaches, referees, delegates and fans, monitoring the behaviour of fans and players during sport events, as well as preventive measures against hate speech in the Internet.

37. Additionally, the Polish Ministry of Sport and Tourism has been implementing preventive and educational actions for years to prevent all forms of discrimination in sport. As a part of preparation to organise the final match of the UEFA EURO 2012 in Poland, the Minister of Sport and Tourism commissioned the project SUPPORTERS TOGETHER (KIBICE RAZEM) in order to create durable structures for cooperation with supporters and systematically support positive initiatives of sports fans. The year 2015 saw the introduction of the *Programme of the Minister of Sport and Tourism SUPPORTERS TOGETHER on enhancing the organisation and security of sports events in Poland by creating structures of dialogue and cooperation with supporters for 2016 – 2018*. The aim of the Programme is to educate future generation of supporters of a different character who solve their problems through discussion and dialogue, not violence and racism or xenophobia. Between 2010 and 2013, the social project was implemented in four cities: Warsaw, Gdynia, Gdańsk, Wrocław through establishing new meeting places for supporters (local centres of SUPPORTERS TOGETHER). Between 2014 and 2017 new places were opened. Each location is operated by qualified coordinators. The employees of the Programme conduct pedagogical and preventive activities for supporters, including workshops, meetings with experts which aim to develop the value of "positive patriotism" based on respect for tradition and history without elements of violence and intolerance. Currently, the Ministry of Sport and Tourism Programme SUPPORTERS TOGETHER is implemented in 15 cities in Poland. The long-term continuation of the Programme will be based on developing a national network of local centres in order to increase their effect on sport supporters.

38. The Minister of Sport and Tourism also took the honorary patronage over the events aiming to fight discrimination in sport, including the annual football matches organised under the name of "Let's Kick Racism out of the Stadiums".

39. The Ministry of Sport and Tourism prepared a list of measures for preventing discrimination in sport included in its strategic documents. The issues related to preventing all forms of discrimination were included in the directions for intervention and the guidelines of the *Sports Development Programme to 2020 (SDP 2020)* adopted by the Council of Ministers on 31 August 2015 and the *National Programme for equal treatment for 2013–2016* was adopted in 2013. On 14 June 2016, The

Minister of Sport and Tourism adopted the *Implementation Document of the Sports Development Programme to 2020* (ID SDP 2020) containing a catalogue of measures to implement the aims of SDP 2020, including projects for preventing all forms of discrimination and enforcing the equal treatment principle in sport, e.g.: equal treatment during decision-making processes (concerning financing sport projects); ensuring non-discriminatory conditions for realising sport projects; joint development of a code of proceeding and good practices of fighting discrimination in sport with supporters; monitoring and propagating good practices in sports organisations in order to ensure disciplinary responsibility for discriminatory behaviours, etc.

40. Furthermore, in the recent years, the Ministry of Sport and Tourism commissioned research on negative phenomena in various areas of sport, including discriminatory attitudes. The research includes, amongst others, a report on chosen manifestations of discrimination (racism, antisemitism, xenophobia, homophobia) in Polish sport, especially including sports fans. The aim of the research was attempting to measure the scale of discrimination, especially among football fans and indirectly among sports activists, coaches and players and characterising the measures aimed at combating this phenomenon implemented by public institutions, non-governmental organisations (national and international), clubs and sporting federations. The report contains recommendations for preventing discrimination through, for example training sessions for representatives of sporting federations.

Actions for efficient fighting hate speech in the Internet

41. The Prosecution General undertakes consecutive activities to efficiently fight hate speech in the Internet. On 29 October 2012, the Prosecutor General issued guidelines for the involvement of prosecutors in the cases related to private accusations. The guidelines refer to prosecuting the instances of hate speech in the Internet (i.e. the offences of slandering and insulting of a person for various reasons, including discrimination), which do not belong to the group of the offences prosecuted *ex officio* by a prosecutor, however, which are prosecuted by private indictment. The guidelines note in particular that the prosecutor's justification for *ex officio* prosecution of these offences may be constituted by objective difficulties in identifying the personal data of the offender by the victim, especially if the offence was committed by telephone or through the Internet. In such cases, it is also recommended for the prosecutor to re-evaluate the existence of public interest of *ex officio* prosecution after revealing the personal data of the offender which allows the victim to submit private indictment.

42. Furthermore, on 27 October 2014, the Public Prosecutor General has signed guidelines for prosecutors for hate crimes committed through the Internet. They included, amongst others, advice about the ways of securing and recording evidence, the possibilities of cooperation with other institutions and government and non-government authorities, as well as non-punitive measures undertaken by prosecutors.

43. However, in relation to fighting hate crimes in the Internet, it is worth noting the existence of objective reasons (independent of the Polish law enforcement) which influence the effectiveness of conducting these proceedings. For example, prosecuting the perpetrators of the offences of incitement to hatred committed through websites owned by companies registered in other countries where because of, amongst others, legal constraints no help is provided to requests for legal assistance in such cases. Simultaneously, when such a website is closed, it is "reactivated" under a different address.

44. On 1 December 2016, within the General Police Headquarters, the Bureau for the Fight against Cybercrime was created as a replacement of the former Department for Fighting Cybercrime of the Crime Intelligence Service as well as the later Department for Fighting Cybercrime of the Criminal Bureau. The Bureau is comprised of the General Department, the Operational Department, the Recognition Department formed by 24-hour Operational Service Section as well as the Recognition and Analysis Team and the Support and Research Department. The regular tasks of the officers working at the substantial Departments of the Office include monitoring social media, web forums, web services of the particular national groups and other web pages that might contain relevant content. In case of a discovery of hate speech crime penalised in the *Criminal Code*, further reconnaissance is conducted in order to establish the personal data of the users of the Internet responsible for its propagation. Subsequently, the personal data is transmitted to the organisational units of the Police of factual of local and substantial relevance which take further steps in the proceedings. Furthermore, the Recognition Department disposes of a 24-hour Operational Service Section, through which the Internet users can communicate any inappropriate content on the Internet.

45. Since 1 October 2014, the voivodeship Police headquarters and the Metropolitan Police Headquarters also have specialised units for fighting cybercrime. Their responsibilities include monitoring the resources of the Internet to detect criminal offences, including hate crimes.

46. Furthermore, pursuant to the Decision of 31 August 2017, a coordinator for fighting hate crimes in the cyberspace was appointed in the Bureau for the Fight against Cybercrime. Additionally, since 28 September 2017, coordinators for fighting hate crimes (one for each voivodeship) have been appointed in organisational units for fighting cybercrime in the voivodeship Police headquarters and the Metropolitan Police Headquarters. The activity aims to strengthen fighting hate crimes in the cyberspace on the areas of the Police authorities. The activities will be conducted during operational work with the aim of detecting and identifying the perpetrators of hate crimes in the cyberspace.

The action against the owners of websites promoting racial hatred.

47. In the case of identifying websites with the content which qualify as offences listed, amongst others, under Articles 119, 190, 255, 256 i 257 of the *Criminal Code*, action is taken in order to identify the owner of the Internet domain. The information with subscriber data is transmitted to prosecution to be evaluated and for substantive decisions about further proceedings to be made. One of the difficulties of prosecuting the perpetrators of the described offences are the legal restrictions relating to the fact that the head office and the servers of the companies owning popular social media websites are on the territory of other countries. The effectiveness of the actions against the owners of the websites promoting racial hatred depends on realising requests for legal assistance in such cases by the authorities of other countries.

Ensuring effective enforcement of the laws of the State party declaring illegal parties or organizations which promote or incite racial discrimination, in conformity with article 4 (c) of the Convention.

48. Under Article 13 of the Act of 2 April 1997 *The Constitution of the Republic of Poland* (Polish Journal of Laws No. 78, item 483, as amended), political parties and other organizations whose programmes are based upon totalitarian methods and the modes of activity of Nazism, fascism and

communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership, shall be forbidden.

49. Article 188 of the *Constitution* reserves assessing the consistency of the aims or behaviour of political parties with the Basic Law as a competence of the Constitutional Tribunal (CT). The Constitution also regulates a catalogue of entities which may submit such a request (amongst others, the President, the Speaker of the Parliament or the Senate, the Prime Minister, 50 Members of Parliament, 30 Senators, the Human Rights Defender, the First President of the Supreme Court, the President of the Supreme Administrative Court, the Prosecutor General, the President of the Supreme Chamber of Control). The detailed procedure in that matter is regulated by the provisions of the Act on *the Constitutional Tribunal* (Polish Journal of Laws 2016 item 1157, as amended). The applications directed to the Tribunal regarding the compliance of the activities of the political parties with the Constitution are to be considered in accordance to the regulations of the Code of Criminal Procedure and it is the applicant who is to prove the incompatibility with the Constitution and to provide the evidence indicating such non-compliance. Such application should comprise the indication of activities carried out by the political party that are not compliant with the Constitution. The mechanism does not depend on prior criminal proceedings, however, the Constitutional Tribunal may request the Prosecutor General to conduct an investigation in the relevant matter in order to gather and record evidence. The respective provisions of the *Code of Criminal Procedure* are applied to the proceeding. Applications concerning the conformity to the *Constitution* of the purposes of a political party, which are specified in its statutes as well as its programme, shall be considered by the Tribunal in accordance with the rules and procedure for the consideration of applications concerning the conformity of normative acts to the *Constitution*. The result of the declaration of unconstitutionality of the purposes and activities of a political party is its immediate deletion from the register (Article 44(1) of the Act on *political parties*, (i.e. Polish Journal of Laws 2017, item 876, as amended). It should be indicated that, in the light of the Constitutional Tribunal case law, only the activities carried out by the authorities or lower structures a political party give ground for lodging an application requesting the declaration of the non-constitutionality of the activities of a political party. However, individual activities carried out by the party members beyond the scope of the programme of the political party cannot give ground for lodging such application.

50. In the Prosecution General, the Committee on Constitutional Affairs is responsible for the disputes on the constitutionality of the purposes and activities of political parties, which takes action on the basis of the data received from the operational units of the Prosecution General monitoring particular kinds of crime, as well as on the basis of information received from external authorities.

51. Furthermore, the Act on *political parties* in Article 14 endows the District Court in Warsaw (keeping the political parties register) with a right to lodge an application to the Constitutional Tribunal for an evaluation of constitutionality of the purposes and activities of a political party during its registration proceeding. A similar review is possible in the case of changes in its statutes. The ruling of the Constitutional Tribunal of unconstitutionality of the purposes and activities of a political party results in a rejection of registration or deletion from the register.

52. At the same time, the provision of the Article 29(1)(3) of the Act of 7 April 1989 of *the Law on associations* provides that, upon a request lodged by a supervisory body of the association, a court or the public prosecutor may dissolve an association if its activities demonstrate serious or persistent

violations of the law or the provisions of its statute and there are no prerequisites of reinstatement of activities compliant with the law or the provisions of its statutes. Such activity may take the form described in aforementioned Article 13 of *the Constitution of the Republic of Poland*. At the same time, this mechanism does not depend on the criminal prosecution of the case in question.

53. The applicable law and organisational measures provide a legitimate option for eliminating political parties and organisations which encourage racial discrimination from public life, and prosecution offices take measures to determine whether there are reasons for such a State interference.

The Committee recommends that the State party continue with its training programmes for prosecutors, police officers and judges about racially motivated offences and the importance of dealing with them with due seriousness. In light of its General recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the State party should remind public prosecutors of the general importance of prosecuting all racist acts and imposing sanctions that are proportionate to the gravity of such acts. Finally, the Committee recommends that the State party establish an independent body to receive complaints on police violence or abuse and take necessary measures to ensure the recruitment of persons belonging to minority groups in the police.

54. It should be noted that in the context of hate crimes in 2016, in respect of earlier year i.e. 2012-2015, the total number (absolute number and the percentage) of the indictments and applications directed to courts for proceeding to judgement without a proceeding under Article 335(1) of the Code of Criminal Procedure and conditional discontinuance of proceedings increased. In 2016, the cases which were concluded in that manner constituted approx. 20% of all cases concluded in that period, while between 2012 and 2015, the percentage varied between 15.4 and 18.6%.

55. An analysis of the gathered data on hate crimes for the period 2014-2016 demonstrates that the prosecution of the offences became more effective (e.g. the number of cases discontinued due to the failure to find the perpetrators decreased, detection increased, more cases were concluded than registered). It is worth noting that the number of hate crimes in Poland may be related to the reduction of the hidden number caused by the raising social awareness and high confidence in the Police.

56. At the same time, training actions are conducted in all the institutions responsible for the prosecution of the offences. Since 2009, training sessions devoted to human rights for judges and prosecutors are conducted by the National School of Judiciary and Public Prosecution. Some of them are of general nature (e.g. *Systemic training in respect of protecting human rights and banning discrimination*), others focus on specific issues (especially penal and civil substantive and procedural issues). Training sessions devoted to similar matters are also conducted as a part of educating judicial and prosecutorial trainees. The possibility of taking part in international training is also available. During all training courses the subject of the *Convention on the Elimination of all Forms of Racial Discrimination* is raised, including racist offences and preventing racial discrimination.

57. Prosecutors' offices host training sessions and conferences devoted to raising the competences of prosecutors in prosecuting hate crimes and raising their awareness of the necessity of dealing with the offences in with due consideration. One of the examples is the conference entitled *Hate crimes*

victims which was organised on 13 June 2012 in the Prosecution General. Its effect is the publication, a part of the *Prosecutor for victims of crimes* series, dedicated to protecting hate crimes victims, published under the eponymous title. During the reporting period, training sessions for prosecutors were also conducted at the local level. Furthermore, in September 2015, the National School of Judiciary and Public Prosecution signed an agreement with the OSCE Office for Democratic Institutions and Human Rights in order to jointly conduct the *Prosecutors and Hate Crimes Training* in Poland. The programme is meant as a supplement to the already existing training sessions at the national level. The detailed content was adapted to the applicable laws and national practice taking into account the needs of the Polish law enforcement authorities. The training sessions took place in September 2015 and March 2016.

58. Police officers are also regularly educated. Between 2012 and 2016, the training programme dedicated to hate crimes was continued. From 29 April 2016, a new version of the programme is conducted under the title *Training Against Hate Crimes for Law Enforcement* (TAHCLE). A new version of the programme is a result of the revision and update of previously conducted *Law Enforcement Officer Programme on combating hate crimes* (LEOP). The aim of the TAHCLE is ensuring that all Police officers who may face hate crimes during their service are equipped with adequate knowledge to efficiently combat them. The training which covers the issues of recognising hate crimes, proper conduction of detection activities, adequate responses, prevention and dealing with victims of such crimes is organised in the entire country. Apart from transferring of expert knowledge, the aim of the training is to raise awareness of the officers on discrimination matters – including discrimination perpetrated by Police officers themselves. Up to the end of June 2017, almost 100,000 Police officers in total were educated in the framework of the programme.

59. One of the initiatives of the Criminal Bureau of the General Police Headquarters aimed to combat hate crimes was introducing a series of training sessions in 2015 which were organised with the Ministry of Interior and Administration which were held in the form of workshops entitled *Combating racist and xenophobic offences*. The aforementioned training programmes were dedicated to the Police officers of investigative units of criminal service realising activities in the cases related to subject categories of crime. The training focuses on the legal aspects of fighting crimes motivated by prejudices, including offences committed through the Internet. An important element of the training is discussing international legal and constitutional regulations referring to hate speech and freedom of expression. Furthermore, officers have the opportunity to familiarise themselves with stereotypes and prejudices which may influence their on-duty activities. The practical aspects of detection activities in the cases relating to hate crimes committed in cyberspace are also presented. The information on the ways of securing digital evidence are transmitted in such cases. The training sessions involve speakers representing governmental institutions such as the Ministry of the Interior and Administration, the Ministry of Justice, the Prosecution General, the Office of the Commissioner for Human Rights and social organisations dealing with human rights and discrimination in a broad sense. In total, between 2015 and 2017, the training workshops were attended by 119 Police officers from all Police garrisons, who conduct preparatory proceedings relating to hate crimes. The training is also attended by the Internal Security Agency, Border Guard and Military Criminal Police officers.

60. The training is supplemented by service meetings on combating hate crimes which are attended by the coordinators of the voivodeship Police headquarters and Metropolitan Police Headquarters for hate crimes and other representatives of public institutions and social organisations for defending

human rights and preventing hate crimes. During the meetings mentioned above, the coordinators attend lectures and exchange information on the cases conducted on the areas of the garrisons concerned.

61. In order to ensure viable hate crime prosecution, the cases categorised as such are constantly monitored by regional and district prosecutions and by the Preparatory Proceedings Department of the National Prosecutor's Office (the former General Prosecutor's Office). The scope of the monitoring includes regular (twice a year) transfers of information concerning hate crime prosecution cases to the National Prosecutor's Office. Next, the information is analysed by the coordinating prosecutor, who prepares a report on the ongoing proceeding of the aforementioned cases twice a year. The assessment of this information, along with comments and observations concerning present mistakes and irregularities in the cases which should be eliminated, is distributed to the regional prosecution offices and communicated to all the prosecution offices in the country, for the purpose of their use in daily work and in prosecutors' trainings. The assessments of particular cases (records examinations) are conducted as well.

62. At the same time, in order to increase the efficiency of conducting proceedings and the protection of victims' rights, the Preparatory Proceedings Department of the General Prosecutor's Office has prepared a report on hate crime, containing description of the international and national legal framework in this field, the extent of this phenomenon in Poland, and methodological guidance for prosecutors. The report has been published in the monthly *Prosecution and Law* in February 2012. Moreover, on 26 February 2014, the Prosecutor General issued *Guidelines on conducting proceedings concerning hate crimes* that regulate substantive provisions and the way of conducting proceedings and organisational issues.

63. In addition, a special organisational and institutional framework was created in regard to conducting proceedings concerning hate crimes based on national, ethnic, race or religious differences. Initially, every district prosecution office has designated one (or more, if necessary) unit among Regional Prosecution Offices to conduct this category of proceedings. Next, in each of those units two prosecutors were designated to conduct those proceedings. In consequence, a special group of prosecutors conducting those proceedings was distinguished (approx. 100-105 prosecutors).

64. In the Regional Prosecution Offices (previously Appellate Prosecution Offices) and in district prosecution offices, consultants and coordinators continue working on crimes from this category allowing the unification of the policy and the elimination of the errors committed therein. The consultants also conduct regular analyses of the cases conducted in their subordinate prosecution offices.

65. Referring to the issue of establishing an independent authority responsible for receiving complaints from victims of violence and abuses directed from the Police, it should be emphasised that the Police and the Border Guard have a mechanism of transferring complaints and other information to the Commissioner for Human Rights as an independent authority responsible for investigating Police and Border Guard misconduct. The principle of the mechanism is transmitting two types of information to the CHR. The first type consists of the gravest violations of human rights included in repeated complaints submitted by the complainants in relation to the actions of Police and Border Guard officers. The second type is the information on the events during which the result of the actions or omissions of an officer was death, a violation of sexual freedom, excessive use of coercive means or using violence. As an independent authority, after receiving the information

mentioned above, the CHR may decide to investigate concrete cases under the powers granted to him by the *Act on the Commissioner for Human Rights*. The mechanism has been evaluated and developed by the MIA. In 2014, it was drawn up as a legal act.

66. Furthermore, in 2016, a group of border guards were selected to conduct investigations and disciplinary proceedings in human rights violations. The curriculum of the training course *Disciplinary procedure in the Border Guard in the context of violating human rights by the border guards* was prepared specifically for them.

67. However, it is worth noting that during the reporting period, no cases of forbidden ethnic profiling in day-to-day activities of the Police have been noted. No cases of trivialising racist offences by Police officers were remarked either.

68. The process of recruitment to the Police is open. Ethnic-, racial- and religion-related issues do not amount to a barrier in Police career. In turn, the idea behind the used model of recruitment is ensuring a level of security which is balanced in the whole country, which depends on psychological and motor capacities of a candidate, not his race, religion, etc. Therefore, the Police does not plan in the foreseeable future to implement any mechanisms, which could particularly facilitate the process of recruitment for national and ethnic minorities.

69. In turn, in 2016, a new profile of psychological requirements for candidates was developed. It also includes the elements which refer to the attitude of a candidate to other people. The new profile is annexed to the Decision No. 144 of the Chief Commandant of the Border Guard of 9 July 2014 on *conducting psychological tests of candidates for service in the Border Guard* which entered into force on 1 January 2017.

70. Furthermore, it is worth noting that during the second stage of the admission process of the candidates applying to the Border Guard, the commission assesses their predispositions and motivations during an interview. Zero points are given for the interview in case the candidate is found to hold xenophobic, racist, discriminatory views or views which otherwise infringe human rights, or prejudices or stereotypes evidencing a lack of respect for the dignity of others, their cultural values, symbols, language, customs or traditions. Furthermore, during psycho-physiological examination of the candidates for the Border Guard, they are assessed by the examiners for discriminatory attitudes and propagating or promoting stereotypes, discrimination or hostility to cultural or racial differences.

71. In 2016, the human rights advisor to the commandants of Border Guard units and training centres were required to take part in preliminary interviews or to conduct training sessions for recruitment coordinators in order to eliminate the candidates who demonstrate adverse attitudes, including racism. From October 2015 until the end of 2017, as a part of central and local training in the Border Guard, 10 editions of training sessions for the preliminary interviewers will be conducted in total. The attenders of the training will be made aware of the issues related to analysing and evaluating the attitudes towards others demonstrated by the candidates for service in the Border Guard.

72. The selection of officers for the guarded centres for foreigners is a priority for the Border Guard. Special emphasis is placed on the officers' language skills and their understanding of cultural distinctiveness of particular nations. In the recruitment process, the candidates' attitudes towards

foreigners are examined in order to choose the people with no prejudices based on race, religion, cultural customs and behaviours.

The Committee recommends that the State party enhances its awareness raising programmes among the general public on intercultural dialogue and tolerance as well as on ethnic and national minorities' history and culture. In view of the General recommendation No. 32 (2009) on the meaning and scope of special measures, the Committee recommends that the State party give serious consideration to the adoption of temporary special measures designed to secure to persons belonging to minority groups the full and equal enjoyment of human rights and fundamental freedoms, including the faithful implementation of the Convention provisions. The Committee requests that the State party provide more information about the group of Slowincy in the territory of Poland.

73. During the reporting period, different activities aimed to raise social awareness, increase tolerance and prevent hate speech were implemented. In June 2014, The Government Plenipotentiary for Equal Treatment organised the conference *Against hate speech – think globally, act locally*, which concluded the project *Equal Treatment as the Standard of Good Governance in the Regions*. In 2015, he also inaugurated a series of regional debates in chosen voivodeship capitals: *Hate speech in public space* (Kielce); *The characteristics of the "hate speech" phenomenon in the society and the media* (Kraków); *Education for tolerance – good practices* (Łódź); *Hate crimes – the role of education in preventing aggression and encouraging tolerance: Good practices in Lower Silesian institutions and organisations* (Wrocław). The aim of the debates was raising the level of legal protection of the groups vulnerable to discrimination. The conferences referred to the situation in particular voivodeships and assembled groups which actively oppose hate speech or – depending on the situations – groups which were absent from the debate on hate crimes up until then.

74. In 2014, the Ministry of the Interior and Administration conducted its project entitled *Immigrants against hate crimes – how to efficiently assert your rights*, co-financed from the funds of the European Fund for the Integration of third-country nationals. Between 1 March and 30 June 2014, within the framework of the project, a national information campaign entitled *Racism: Say it to fight it* was conducted. The aim of the campaign was the transfer of knowledge on hate crimes and the procedures of reporting the aforementioned crimes. Simultaneously, the campaign was aimed to encourage foreigners to report hate crimes to the law enforcement and to raise the awareness of the issue of the whole society. Even though the main addressees of the activity were foreigners, the campaign – which was available in public space and promoted (on a website and leaflets) information concerning hate crimes which affect various minority groups – also reached many other communities vulnerable to hate crimes. The campaign involved many different medias: leaflets, a website, billboards, city lights, posters and a video clip. The leaflets and the website, which contained the most important information about hate crimes and the entities which should be notified about them, were available in 10 languages most commonly used by foreigners residing in Poland. The website also included a contact form, which could be used to report hate crimes directly to the MIA. The second element of the project was the conference organised in November 2014, which was aimed to develop propositions of further activities which should be undertaken in order to efficiently prevent hate crimes and to discuss the ways of further cooperation in that regard.

75. In the same year, the Ministry of Administration and Digitisation also conducted a campaign to raise the awareness of the problems of minorities in the Polish society. The campaign promoted the

use of national and ethnic minority languages and regional languages. The entirety of campaign involved municipal authorities, national and ethnic minority organisations, schools, offices of education and the representatives of employers.

76. During the reporting period, the Office for Foreigners initiated and partnered activities targeted to raise the awareness of the society and support inter-cultural dialogue. These were:

a) Ethno league – a community of a few hundred people of different ages from four continents, men and women who play football together; each year the initiative gathers almost a thousand people from over 50 countries;

b) The project *Refugees – my neighbours* inaugurated in 2012 in partnership with the Polish Migration Forum and co-financed by the European Refugee Fund was aimed to inform local communities, acquaint them with refugee issues and raise the level of tolerance towards migrants. Within the framework of the project, posters were put in means of public transport, 30 meetings were organised in the cities which hosted or were planning to host centres for foreigners and study trips for the local media and non-governmental organisations were made to acquaint them with the system of protection of foreigners in a practical way in Poland.

c) The project *From tolerance to integration* developed in cooperation with the Polish Migration Forum, Foundation for Somalia and the Office for Foreigners in the framework of the EEA Financial Mechanism was directed to communities which host centres for foreigners applying for the refugee status. Carried out between 2014 and 2015, the project was aimed to promote openness and understanding towards foreigners, prevent all forms of discrimination, racism and xenophobia in the places in which Poles and refugees encounter each other most often.

77. Activities promoting intercultural awareness were also conducted by the Ministry of National Education as a part of the Polish-Israeli youth meeting programme *Preserving the Memory: History and Culture of Two Nations*. For more information on this project, refer to point 93 of the Report.

78. In the context of higher education, the so-called "faculty minimum" for ethno philology fields of study was decreased. The amendment in the Regulation of the Minister of Science and Higher Education of 3 October 2014 on the conditions of providing degree programmes in a given field and at a given level of study (Polish Journal of Laws item 1370) introduced less restrictive requirements related to the number and the composition of academic staff for the field of study. Pursuant to Article 14(5) of the Regulation, the faculty minimum for first-cycle degrees of ethno philology is five academic teachers with scientific background in the academic discipline related to the field of study, including at least one independent teacher and at least four teachers holding a doctoral degree, provided that among the group at least two academic teachers holding a doctoral degree specialise in a national and ethnic minority language which is related to the field of study.

79. It is worth noting that the Faculty of Languages of the University of Gdańsk launched a first-cycle programme "Kashubian Ethno philology". According to the data stored in the POL-on System of Higher Education Data, 58 students studied on this faculty during the 2016/2017 academic year.

80. In the context the adoption of special measures designed to secure the full and equal enjoyment of human rights and fundamental freedoms for members of minority groups, it is worth noting the adoption and implementation of the *Programme for integrating the Roma community in Poland* and the *National Action Plan for Equal Treatment*. Detailed information about these documents is presented respectively in points 82-87 and 117-119 of the Report.

81. No representatives of Slowincy inhabit contemporary Poland. However, it is worth noting that from a historical viewpoint, the language of the group is considered to be a dialect of the Kashubian language, which was accorded that status of a regional language in Poland under the Act of 6 January 2005 on *national and ethnic minorities and regional language* (i.e. Polish Journal of Laws 2017, item 823). Pursuant to the Act, with some simplification, it is granted the same protection as national and ethnic minority languages.

In light of its general recommendation 27 (2000) on discrimination against Roma, the Committee recommends that the State party intensify its special measures to promote the economic, social and cultural rights of Roma, ensuring that all policies and programmes affecting them are designed, implemented, monitored and evaluated with the full participation of organizations representing them. In this regard, the State party should speed the adoption of the new Programme for the Roma Community 2014-2020 and ensure that concrete measures are taken to improve Roma living conditions, including their access to mainstream and higher education, adequate housing, health services and employment. Further measures should be taken to address the root causes of poverty and marginalization of Roma community, including any indirect discrimination they may face as well as to promote the rights of Roma women often subject to double discrimination bearing in mind General Recommendation 25 (2000) on gender dimension of racial discrimination..

82. Pursuant to the Act No. 202/2014 of the Council of Ministers of 7 October 2014, the *Programme for integrating the Roma community in Poland for 2014-2020* was established. Its main aim was increasing the integration of the Roma community into the civic society through four-fold support: education (cultural, historical, civic), housing, healthcare and employment assistance. The Programme's annual budget amounts to PLN 10,000,000 (approx. 2,359,158 EUR).

83. The term "integration" used in the document is understood as a process of collectively developed and agreed upon necessary changes which will aid the Roma community to acquire the competence of exercising the existing rights, services and participation in the present-day society. The process of integration should not be considered equivalent to assimilation (which, moreover, is forbidden if it were to be implemented against the will of the members of a minority - in accordance to Article 5(1) of the Act of 6 January 2005 on *national and ethnic minorities and regional language*) – integration is understood as a socio-economic phenomenon which is unrelated to cultural identity.

84. The main aim of the activities undertaken in the area of education is raising the level of education of young Roma in Poland and increasing the involvement of school pupils and students in the education process. Some of the most important tasks undertaken in 2015 and 2016 are the tasks related to material assistance. The second group of tasks in this field, chiefly implemented in recreation rooms and educational centres, are pedagogical and educational programmes for Roma parents and children, including psychological and pedagogical guidance and extra-curricular and compensatory classes. Comprehensive aid for Roma students in contact with the school environment is provided by the assistants of Roma education, whose responsibilities include strengthening good contacts between students' parents and the school.

85. The area of housing mainly consists of rehabilitation of housing and allocation of housing.

86. The main aim of the activities undertaken in the area of employment is professional activation of the Roma. It is of particular importance in the situation when unemployment among the Roma

exhibits a long-term character and covers a significant part of the community. According to gathered data, between 2015 and 2016, 513 Roma people were employed as a result of the *Programme of integration*. It should be emphasised that almost 75% of the Roma were employed as a part of education measures of the *Programme of integration*. An important supplement to the activities was organising training with the aim of improving and changing professional qualifications and providing professional guidance. In the last two year, this form of professional activation was used by the total of 283 Roma people.

87. In the context of healthcare, in 2015 and 2016, 3075 Roma people profited from prophylactic tests and protective vaccinations in the entire country. Preventive healthcare in the broadest sense was realised by employing community nurses. They direct medical care, conduct medical counselling and distribute medicines and personal hygiene products purchased with grants.

88. According to the data published each year by voivodeship offices, the number of Roma children and youth covered by compulsory education gradually rises (for example, in the 2004/2005 school year the number was 2844, while in 2012/2013 – 3259). In the 2015/2016 school year, supplementary measures aimed to enhance education were provided to the total of 2360 children and youth who are members of the Roma minority. In the 2016/2017 school year, the aforementioned measures were provided to the total of 2348 children and youth who are members of the Roma minority.

89. It should be emphasised that the actions undertaken so far by the Government of the Republic of Poland in the context of promoting education among the Roma led to numerous systemic changes in the approach to education. The amendment of 4 April 2012 of the Regulation of the Minister of National Education of 14 November 2007 on *conditions and ways of performing tasks by public kindergartens, schools and institutions in order to support the sense of national, ethnic and linguistic identity of the students who belong to national and ethnic minorities and the communities using a regional language* allowed kindergartens to perform additional education tasks to support and develop the sense of ethnic identity of the Roma students and assist their education, in particular by conducting compensatory classes and employing an assistant of the Roma education (the option was already available to schools). Furthermore:

- a new model of funding additional activities for Roma students by local government units was introduced,
- the so-called "Roma classes" were closed in favour of integration classes,
- scholarship systems for extraordinarily talented Roma pupils, upper-secondary students and Roma students,
- a mechanism of financing tasks of ensuring school starter kits and textbooks for Roma students, as well as insurance, compensatory classes, summer holidays and community recreation rooms,
- acknowledging the special education needs of students, including Roma students, under the provisions Act of the Minister of National Education of 30 April 2013 *on the rules of granting and organising psychological and pedagogical aid in public kindergartens, schools and institutions* (Polish Journal of Laws item 532) and later under the provisions Act of the Minister of National Education of 9 August 2017 *on the rules of granting and organising psychological and pedagogical aid in public kindergartens, schools and institutions* (Polish

Journal of Laws item 1591) and assistant of Roma education, alongside the student, parent, teacher, class teacher or a specialist conducting classes with students, a psychological and pedagogical dispensary, including specialist dispensaries, was identified as one of the entities with the right to provide psychological and pedagogical aid to a student of a given institution.

90. A series of provisional measures to propagate knowledge about diagnosing Roma children and providing them with help adequate to their needs in the education system:

- In 2012, on the order of the MNE, the Education Development Centre cooperated with the Ministry of Administration and Digitisation to organise a seminar and a conference on the education system's relation to multilingual children of different cultural background, including Roma children,
- In 2012, two national conferences addressed to the workers of psychological-pedagogical dispensaries discussed the problem of issuing certificates and diagnoses which are culturally neutral and include the needs of multilingual children,
- in 2012 and 2013, the discussion about the subject was continued during regional meetings of voivodes and superintendents of education in voivodeships concerned,
- the conclusion of the activities was the publishing and propagating of a methodical guide in 2013, which was developed by a group of the Jagiellonian University psychologists, touching upon the issues related to psychological diagnosis of multilingual children and youth of different cultural background and organising training for workers of psychological and pedagogical dispensaries in this context.

91. Between 2012 and 2016, the Government Plenipotentiary for Equal Treatment continued to strengthen the social potential of the Roma. In April 2015, Chad Evans' photo exhibition *Roma Rising – Some of the many* was presented in the Chancellery of the Prime Minister. The heroes of the photos are simultaneously the heroes of the *Some of the many* social campaign organised by Prom Foundation for Social Integration, which aims to change the negative image of the Roma in the public awareness. It was joined by public figures held in high esteem by the community, co-workers and neighbours. The opening of the exhibition was connected with the International Roma Day celebrated on 8 April.

92. The Government Plenipotentiary for Equal Treatment continued to strengthen the social potential of the Roma women. In June 2015, the Chancellery of the Prime Minister hosted the second national conference *Romni 2015: The debate about the situation of the Roma women in Poland*. It gathered approx. 130 people from all over the country, including Romni from all Roma groups residing in Poland. During the conference, Silver Crosses of Merit were awarded for the first time by the President of the Republic of Poland to local Roma activists. After the ceremony, the conference participants watched a fragment of Agnieszka Arnold's documentary *Phuri Daj* about Alfreda Markowska-Noncia called the Roma Sendlarowa. Alfreda Markowska was awarded with the Commander's Cross of the Order of the Rebirth of Poland by the President of Poland for her courage, sacrifice and determination in saving not only Roma children from persecution during World War II. During the panel discussion about the situation of Roma women in Poland, Roma women of different generations highlighted the changes which have taken place in the last few decades and the increasing activity and effectiveness of young Roma people.

Bearing in mind the tragic experience of the Jewish community in Poland, the Committee emphasizes the particular responsibility of Polish polity and society to combat anti-Semitism. It recommends that the State party intensify its efforts to combat anti-Semitism and efficiently prosecute its manifestations by sensitizing prosecutors and judges in proactively applying the law and the Convention.

93. Education activities relating to the tragic experience of the Jewish community in Poland, particularly during the occupation in the Second World War are conducted in Poland. In Police, the activities are of a coalitional nature. Police officers are educated in the Museum of the History of Polish Jews in Warsaw, Auschwitz Jewish Centre in Oświęcim, the Former German Nazi Concentration and Death Camp Auschwitz-Birkenau and the House of the Wannsee Conference Educational and Memorial Site in Berlin. The training programme included the history of the Jewish community of Oświęcim, intergroup perception, threats to democracy – a case study of the Third Reich, social psychology in the context of the Holocaust, post-war antisemitism, preventing discrimination and fighting hate crimes. Close to 300 people were educated during the project. At present, cooperation in education and training is continued with the Museum of the History of Polish Jews in Warsaw.

94. During the analysed period, in the framework of the *Preserving the Memory: History and Culture of Two Nations* programme established in 2003 under the auspices of the Polish and Israeli ministries of education, bilateral meetings between Polish and Israeli youth were conducted. The programme fulfils the engagements of an agreement between the Government of the Republic of Poland and the Government of Israel on cultural, scientific and education cooperation. The aim of the programme was to promote education to prevent antisemitism, racism and intolerance, create a space of dialogue between young Israelis and Poles, strengthen the bonds through shared hobbies and developing contacts and enhance cooperation between schools. The aim is achieved through annual visits of Israeli school pupils to Poland as a part of education-oriented study visits. In 2016, more than 20,000 students and 450 teachers from more than 450 schools participated in the programme. Each year, 150 one-day meetings take place in Poland. As a result of earlier meetings, several Polish schools established regular exchanges of students and teachers, representatives of 15 Polish schools went to Israel as a part of parallel visits to partner schools. By the year 2016, 750 teachers from all over Poland took part in a two-week-long international seminar at Yad Vashem. An important component supporting the implementation of the programme is the website www.polska-izrael.edu.pl, which gathers materials about the organisation, the execution and evaluation of Polish and Israeli youth meetings as a part of the programme. The website hosts information about events, reports on the meetings, a database of schools taking part in the programme, programme descriptions, downloadable materials, press materials, activity scenarios, descriptions of relevant projects, reports on visits and bibliographic guidelines, links to institutions which carry out similar programmes.

The Committee recommends that the State party refrain from detaining asylum-seeking minors and fully implement the revised Law on the Educational System to tackle their educational difficulties by providing language classes or tutorial assistance on mother tongue. In light of its General recommendation no. 30 (2005) on discrimination against non-citizens, the Committee recommends that the state party remove obstacles to the enjoyment of economic, social and cultural rights by non-

citizens, strengthen its efforts to apply its legislation and the Convention to combat direct or indirect racial discrimination against them, in particular with regard to education, housing and employment.

95. According to the Act of 13 June 2003 on *providing protection to foreigners on the territory of the Republic of Poland* (i.e. Polish Journal of Laws 2016, item 1836, as amended), an unaccompanied minor who is staying in the refugee procedure may not be placed in a guarded centre for foreigners and shall be placed in a special education care centre or alternative care. The provision is in effect since the entry into force of the Act, i.e. since 1 September 2003 (at that time as Article 47(5), currently as Article 88a(3)(3)). In the case of minors accompanied by legal guardians (parents), it is possible to place them in guarded centres, however, when considering a request for placement, the court should be guided by the best interests of the minor (Article 401(4) of the Act of 12 December 2013 on *foreigners*, which is also applied in this context to foreigners in the refugee procedure).

96. In the context of detaining children in guarded centres, it would appear important to note introducing the so-called measures alternative to detention to the Polish legal system with the Act of 12 December 2013 on *foreigners*. The aforementioned Act also introduced appropriate amendments to the Act on *providing protection to foreigners on the territory of the Republic of Poland*, thus, ensuring the use of alternative measures also for people applying for international protection. Introducing measures alternative to detention to the Polish legal system significantly decreased the number of foreigners staying in detention centres and indirectly the number of minors in their care. Alternative means in the form of obligation to residing in a specified place, obligation to keep regular appointments with the designated Border Guard authority, or depositing a security may be applied already during proceeding by a Border Guard authority which has already detained a foreigner. However, if the Border Guard authority does not issue a decision on using alternative means but transmits a request to a court for placing a foreigner in a guarded centre, the court is obliged to consider issuing a decision of using alternative means before issuing a decision of using detention. It is a double safety measure which aims to ensure the implementation of procedures relevant to particular foreigners.

97. For unaccompanied minors, reunification with other family members is beneficial and should be effected as soon as possible, a measure often made possible by their return to the country of origin or by transferring other family members to the country of residence. In the case of minors accompanied by legal guardians, it is crucial to ensure the return of a minor and the guardians to the country of origin, which is often possible, when the entire family is staying in a closed institution.

98. Referring to the recommended implementation of a complete ban of detaining children, it is worth noting that the complete ban of placing minor foreigners in guarded centres could contribute to an increase of migration of a particular group of foreigners, i.e. families with children. Poland, a country in which families with children are a substantial part of migrants, does not consider the possibility of introducing a complete ban of placing minors in guarded centres for foreigners. Instead, the Border Guard endeavours to ensure that the minors' stay in guarded centres is the least distressing for them and that the inside conditions are child-friendly. For this purpose, three guarded centres have been established which allow the detention of families with children. They are the guarded centre in Kętrzyn, the guarded centre in Biała Podlaska and the guarded centre in Przemyśl (which is available exclusively for the families with children who are out of school). The centres have optimal conditions for the children's needs. The aim was funded by financial resources provided from the European funds.

99. In relation to the right to education in detention, it is worth noting that enforcing compulsory education for the children of foreigners is one of the basic elements which, according to the current legal order, should be ensured in a guarded centre, since pursuant to Article 70(1) of the *Constitution of the Republic of Poland* everyone has the right to education. During the reporting period, compulsory education applied – pursuant to the Act of 7 September 1991 on *education system* – to minor foreigners until reaching the age of 18 or until finishing an upper-secondary school, and since 1 September 2017, pursuant to the Act of 14 December 2016 – *Education law* – minors until reaching the age of 18 or until finishing a secondary school.

100. The right to education in detention is enforced by granting full access to education for all minors residing in guarded centres for foreigners (regardless of whether they are staying in the refugee procedure). At the beginning of 2013, the Border Guard decided to profile guarded centres and designate only two centres which can accommodate school-aged children (i.e. the guarded centre in Kętrzyn and the guarded centre in Biała Podlaska). The centres guarantee the implementation of compulsory education for children who are covered by it carried out by qualified teaching staff. The education is operated under agreements between the centres and schools (on both primary and secondary levels). In accordance to the provisions of the Act of 12 December 2013 on *foreigners*, the curriculum is adapted to the age of a minor and the length of his stay on the territory of the Republic of Poland. Since 1 September 2017, in case a school organises compulsory education classes in the preparatory centre for minors residing in a guarded centre, the specific conditions of cooperation between a school and the guarded centre are regulated by an agreement concluded between the authority operating the school and the competent authority of the Border Guard.

101. According to the current operating model, admitting children under compulsory education to guarded centres entails the immediate transfer of information to the Education Department of the City Hall and a school appropriate for the level of education concerned. Based on the information provided by guarded centres, the directors of designated schools provide qualification of the students to classes with adapted levels of education. The mode of informing a school is also applied when releasing a child under compulsory education from a guarded centre.

102. During the reporting period, compulsory education in guarded centres for foreigners was ensured through an individual programme or individualised schooling pursuant to the Act of 7 September 1991 on *the educational system* (Article 66) and the Act of 14 December 2016 – *Educational system* (Article 115). The classes took place every day and were divided into following groups: years 0-3 and 4-6 or in individualised schooling of 2 hours and encompassed Polish classes, elements of mathematics, physics and the geography of Poland and the world, as well as foreign language classes. The programmes were prepared by teachers in accordance with the current core curriculum of general education for a given level to correspond to the knowledge and competences of students and their Polish skills. Furthermore, the pupils could attend artistic and computer classes. The choice and appointment of qualified teachers staff remains a responsibility of local schools. The school pupils are provided with textbooks and necessary school materials. The centres have separate studying and computer rooms. Since 1 September 2017, when a school organises compulsory educational classes in a preparatory centre of minors staying in guarded centres, conducting the compulsory educational classes in the weekly class timetable is allotted with the following number of hours:

1) in primary school for years I-III – no less than 20 hours weekly;

- 2) in primary school for years IV–VI – no less than 23 hours weekly;
- 3) in primary school for years VII and VIII – no less than 25 hours weekly;
- 4) in secondary school – no less than 26 hours weekly;

including no less than 3 hours of Polish as a foreign language classes.

Education in preparatory centres is conducted according to the core curricula implemented in the school and the methods and the forms of their realisation are adapted to the development and education needs and the psychophysical capacities of the students. The classes are conducted by the teachers of the given school subjects.

103. Furthermore, officers and employees of educational-pedagogical sections in guarded centres holding a degree in pedagogy conduct recreational and pedagogical classes which are adjusted to the situation of the minors as well as compensatory classes for children (according to the needs), they teach Polish (as a foreign language) and English, which concerns adults as well. The work forms and methods are conditioned by the needs of the children and include the age of the pupils. The guarded centres have recreation rooms, which are equipped with learning aids, toys and board games. Recreational activities and educational classes are also conducted after noon and on public holidays as necessary. The libraries in the guarded centres are supplied with children's books for different ages.

104. An important change introduced by the regulation of the Minister of National Education of 9 September 2016 on *education of people who are not Polish citizens and Polish citizens who were educated in foreign education systems* (Polish Journal of Laws 2016 item 1453) and by the regulation of the Minister of National Education of 31 August 2017 on *education of people who are not Polish citizens and Polish citizens who were educated in foreign education systems* (Polish Journal of Laws 2017 item 1655) is allowing the authorities which operate schools to create preparatory centres for people from abroad. This is crucial for schools, including regional schools which educate students who reside in centres for foreigners. The preparatory centres may be also created in the Border Guard guarded centres. The centres provide education for students who are subject to compulsory education or compulsory schooling who have no command of the Polish language or whose command is inadequate for education, as well as the students who require adapting the education process to education needs and organisation form assisting the education. The core curriculum is followed in the centres. The number of hours for the centres is 20 in year 1 of primary school up to 25 in upper-secondary school, including no less than three compulsory hours of Polish as a foreign language classes. The preparatory centres may be established by an authority operating a public school during school year as well. This solution is important in the case of a concomitant influx of a large number of students from abroad to a school, for example children applying for international protection or evacuated persons.

105. Through the Ministry of the Interior and Administration, the Border Guard Headquarters requested the MNE to consider the possibility of taking action which could ensure the best possible access to education while simultaneously including the specific needs and real capacities of minor foreigners who stay in guarded centres, including the specificity, the short-term nature and the aim of the stay (which, in the majority of cases, is returning to the country of origin), the occurring issues with adequate classification to the right education level and the lack of education's continuity, as well as linguistic and cultural diversity of the minors residing in the guarded centres. With reference

to the above demands, the Minister of National Education precised – through amending of the above regulation on *education of people who are not Polish citizens and Polish citizens who were educated in foreign education systems* – the rules of organising preparatory centres on the premises of guarded centres for foreigners, in which schools conduct compulsory educational classes for minors who reside in the centre, thus, encompassing the necessity of responding to individual educational needs of each student of the group. The regulations on the matter were introduced on 1 September 2017.

106. The Chief Labour Inspectorate conducts controls over adherence to provisions of labour law, including the provisions on the legality of employment. The verification of the legality of employment and other gainful employment of foreigners is enforced during each control of an entity in which the delegated work is performed by foreigners from third countries (outside the territory of the EU/EEA) was recorded. Apart from legality of employment and performing work by foreigners, CLI also controls enforcing labour law, including the principle of equal treatment of foreigners concerning work conditions and other conditions of employment in comparison with Polish citizens. The controls apply to foreign employers who delegate employees to work on the territory of the Republic of Poland, e.g. in export services. When infringements of provisions are detected, a labour inspector applies legal means – claims (or verbal orders), injunctions, fines in form of penalty notices or filing a motion for a fine to a court with reference to the offences under the Act of 20 April 2004 on *employment promotion and labour market institutions* (i.e. Polish Journal of Laws 2017 item 1065, as amended) or the Act of 15 June 2012 on *the effects of delegating work to foreigners unlawfully residing on the territory of the Republic of Poland* (Polish Journal of Laws item 769).

107. Preventive actions are also undertaken in the context of employment. The Ministry of Family, Labour and Social Policy publishes leaflets for employers and foreigners which concern the rules of legal employment of foreigners translated into the languages of the countries which can profit from the simplified procedure (Ukraine, Russia, Belarus, Moldova, Georgia, Armenia). The leaflets contain contact details of supportive institutions, for example CLI. The leaflets are distributed in Poland and abroad: in county employment offices, umbrella organisations for employers, non-governmental organisations dealing with migration, consulates. The information is also available on the websites of MFLSP.

108. CLI also supplies information on labour law and the legality of employment during inspections, job fairs, conferences, seminars and meetings with representatives of trade unions and employers who hire foreigners. CLI cooperates with non-governmental organisations which provide help to foreigners. Foreigners and entities employing foreigners receive booklets and leaflets containing information about legal employment of foreigners and legally undertaken work. A guidebook for foreigners was translated into the languages of the countries of origin of the biggest number of foreigners (Ukrainian, Belarussian, Russian, Vietnamese and Chinese). Furthermore, every person, including a foreigner, having an issue with a dishonest employer may receive free legal advice from the Chief Labour Inspectorate on labour law and the legality of employment. In case of infringing labour law by an employer, every employee, including foreigners, may submit a written complaint to a labour inspectorate or a branch of the Chief Labour Inspectorate competent for the employer's head office. Based on the complaint, a control of the employer concerned is conducted and its results are presented to the complainant. The action undertaken by labour inspectors with regard to the controlled employers aim primarily at eliminating by the employer the irregularities detected during the control.

109. In the framework of the currently-implemented project *The Laws of Migrants in Practice 2*, a hotline providing advice through telephone and e-mail was opened in July 2014. Furthermore, hotlines were launched in the major origin-countries of migrants – in Belarus, Ukraine and Vietnam. In addition to the hotlines, an information portal for migrants was opened under the address www.migrant.info.pl. The website contains information about, among others, entering and staying in Poland, employment and self-employment, arrival of a spouse, tax system and housing. The website also provides tips about every-day life in Poland, for example living costs, education system and healthcare. The website is available in Polish, English, Chinese, French, Russian, Ukrainian, Armenian and Vietnamese.

110. It is worth noting that prohibition of discrimination as regards access to housing was regulated in the Act of *implementation of certain EU provisions on the equal treatment*. During the reporting period, the Government Plenipotentiary for Equal Treatment did not note any complaints to the access to housing made by foreigners.

111. The issues related to eliminating discrimination on the ground of race, nationality and ethnic origin were included in the *National Programme of Action for Equal Treatment for 2013-2016* coordinated by the Government Plenipotentiary for Equal Treatment and implemented, according to competences, by ministries, voivodeship offices and other public administration entities.

Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular those treaties, the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

112. Ratification of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* is not planned. According to the analysis of the provisions of the convention and their comparison with the solutions of the Polish law conducted in 2005 and updated in 2013, ratification of the convention would entail certain changes in the regulations concerning migrant workers legally employed in Poland and implementing far-reaching changes in the status of illegally working people. Amending the Polish legislation in order to fulfil the requirements of the convention would change the approach to the immigration of foreign workers to Poland and its implementation would lead to considerable costs to the public budget.

In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, which was held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

113. In order to create a broad space for coordinating the activities of governmental administration authorities in the context of combating racism, xenophobia and related discrimination and

intolerance, the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance was established as an assisting authority to the Council of Ministers. The Council was created under the Regulation No. 9 of the Prime Minister of 28 February 2011 and its Chairman was the Government Plenipotentiary for Equal Treatment. In turn, the Regulation No. 6 of 13 February 2013 of the Prime Minister introduced some changes to the composition of the Council and the chairmanship was transferred to the minister competent for digitisation. The aim of the Council was coordinating the activities of the governmental administration authorities and their cooperation with local government units and other entities in order to prevent and fight racial discrimination, xenophobia and related intolerance. On 6 November 2013, the *Framework Action Programme* was established in the form of a resolution in order to lay down directions, manners and areas for activities: monitoring, reacting, providing and educating. Under the Regulation No. 53 of 27 April 2016 of the Prime Minister, the Council was dissolved. Detailed information about the functioning of the Council is presented in points 19 – 25.

The Committee recommends that the State party consult and expand its dialogue with civil society organizations working in the area of the protection of human rights, in particular in combating racial discrimination, in connection with the implementation of the present concluding observations and the preparation of the next periodic report.

114. The Government of the Republic of Poland regularly works with non-governmental organisation, also in the adoption of the present Convention. In the context of the cooperation, the Government communicates the drafts of Reports to non-governmental organisations for consultation, and their comments are later analysed by the Government of the Republic of Poland.

The Committee commends the State party for its efforts and recommends that its reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to those reports continue to be widely disseminated in the official and other commonly used languages, as appropriate..

115. Work is currently ongoing to create a tab on the MIA's website on the protection of fundamental rights which will include both the present report, as well as previous reports and other documents relating to reporting to the Committee on the Elimination of Racial Discrimination by the Republic of Poland.

Detailed part containing information about the implementation of the provision of the Articles 1-7 of the Convention

Article 2

116. Detailed information on the ban on racial discrimination in Polish law, including the *Constitution of Poland*, the *Criminal Code*, the *Labour Code*, the Act on *employment promotion and labour market institutions*, the Act on *implementation of certain provisions of the European Union in the field of equal treatment* and the Act on *national and ethnic minorities and regional language* were submitted in previous reports.

117. Under Article 22 of the Act of 3 December 2010 on *implementation of certain provisions of the European Union in the field of equal treatment*, the Government Plenipotentiary for Equal Treatment is obliged to prepare and submit the *National Action Plan for Equal Treatment* to the Council of Ministers. The Programme identifies the aims and the priorities of measures for equal treatment and the ways of preventing discrimination based on gender, race, ethnic origin, nationality, religion, creed, belief, disability, age and sexual orientation. The Programme for 2013-2016 was the first governmental horizontal strategy of equal treatment in all areas of social life. It was implemented – according to competences – by all ministries and chosen central offices, voivodes and other public administration authorities in cooperation with local government units and non-governmental organisations. The Government Plenipotentiary for Equal Treatment was the Programme's coordinator.

118. Many actions foreseen in the Programme were horizontal and concerned all or many groups potentially at risk of discrimination (including members of national and ethnic minorities and foreigners). Examples include the measures aimed at enhancing anti-discriminatory policy (Policy: Antidiscrimination policy), promoting and disseminating content relating to equal treatment and diversity in school curricula, education and didactic materials (Policy: Equal treatment in education system) and changing the stereotypical and discriminatory image of people at the risk of discrimination in media coverage (Policy: Equal treatment in access to goods and services). The Programme also included activities which could potentially benefit the members of national and ethnic minorities and foreigners, especially in the policies (chapters): Equal treatment in labour market and social security system, Preventing violence, Equal treatment in education system, Equal treatment in access to goods and services. Detailed reports on executing the Programme in particular years adopted by the Council of Ministers are also available on the website of the Government Plenipotentiary for Equal Treatment (www.rownetraktowanie.gov.pl).

119. The first edition of the National Action Plan for Equal Treatment was implemented in 2016. Its evaluation was conducted in the second half of 2016, as planned. The key role was played by the interministerial Monitoring Team of the National Action Plan for Equal Treatment, appointed under the Regulation No. 29 of the President of the Council of Ministers of 13 April 2015, and its amending Regulation (regarding the Team composition) of the President of the Council of Ministers of 22 March 2016. On the basis of the assessment, a decision has been made to continue the Programme and to start the currently ongoing preparation of its next edition.

120. The equal treatment, among others, regardless of race, nationality and ethnic origin was also included in the priority projects implemented by the Government Plenipotentiary for Equal Treatment for 2012-2014, i.e.:

- The project *Equal Treatment as a Standard for Good Governance*, implemented under the priority 5 of the Human Capital Operational Programme;
- The project *Equal Treatment as a Standard for Good Regional Governance*, co-financed by the UE programme for Employment and Social Solidarity (PROGRESS);
- The project *Media of Equal Opportunities*, co-financed by the UE programme for Employment and Social Solidarity (PROGRESS);

Article 5

The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

121. On 30 August 2014 and on the 13 of November 2015, the amendments of the Act on *granting protection to foreigners within the territory of the Republic of Poland and some other Acts* entered into force. The amendments mentioned above introduced a variety of solutions aiming to ensure the rights of foreigners requesting international protection, especially those with specific needs. The second amendment provides, among others, the possibility to submit a written declaration of intent of lodging an application for international protection by postal operator, when an elder, a pregnant woman, a single parent, a child in foster care, a person that is disabled, hospitalised, imprisoned, or detained on remand cannot appear in person at a Border Guard authority office. Moreover, the amendment streamlined the procedure of identifying persons with special needs and limited the possibility of submitting manifestly unfounded application (accelerated procedure) in case of unaccompanied minors.

122. Furthermore, the amendment provided for the foreigners the possibility of requesting a hearing by a person of the same sex and introduced an information and legal advice system for the applicants that is free of charge.

Other civil rights

123. Pursuant to the Act of 12 of December 2013 on *foreigners* (Polish Journal of Laws of 2016 item 1990, as amended, hereinafter referred to as the Act on foreigners), the foreigners, who allegedly are victims of trafficking of human beings, as defined in Article 115(22) of the *Criminal Code*, shall be issued a certificate confirming this presumption that is valid for 3 months, or 4 months, in case of a foreign minor. During the period of validity of the certificate, the stay of the foreigner on the Polish territory shall be considered legal. The Act provides also that during a proceeding for granting or withdrawing a permit of temporary residence for the purpose of family reunion, the best interests of minor children, the nature and solidity of the family relationships, the duration the foreigner's residence in the territory of the Republic of Poland, as well as the existence of family, cultural and social ties with their country of origin shall be taken into account.

124. The Act also includes provisions that defend the rights of the foreigners whose stay is illegal from obligation to return to their country of origin under particularly justified circumstances. Along these lines, the foreigner is granted an authorisation to stay for humanitarian reason if the obligation to return could be effected only to a country where, within the meaning of the *Convention for the Protection of Human Rights and Fundamental Freedoms* prepared in Rome on 4 November 1950, their right to life, freedom and personal safety could be under threat, where they could be subjected to torture or inhumane or degrading treatment or punishment, or could be forced to work or deprived the right to fair trial, or could be punished without any legal grounds, as well as if it would violate the right to family life and privacy, or the rights of the child adopted in the *Convention on the Rights of the Child* by the United Nations Assembly General on 20 of November 1989, to a degree that would significantly endanger the child's physical and mental development.

The permit for stay for humanitarian reasons shall not be granted if there are valid grounds for believing that a foreigner has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international law, has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the *Charter of the United Nations*, has committed a crime in the territory of the Republic of Poland or outside the Republic of Poland (under laws of Poland), constitutes a threat to the defence or security of the state or to public safety and order, has instigated or otherwise participated in the commission of the crimes or acts mentioned above. However, when there are still reasons to grant such permit (but excluding the reasons regarding family life, privacy and child rights), the grounds for granting a permit for tolerated stay shall apply.

125. Furthermore, permits for tolerated stay are granted when the foreigner's commitment to return is impossible to fulfil for reasons beyond the control of the authority mandatorily executing the decision of committing the foreigner to return and beyond the control of the foreigner and when the return may only be effected to a country to which extradition is not possible due to a court's judgment or other prohibiting conditions.

126. The act in question also reinforced the obligation related to informing the parties to the proceedings on committing to return about their rights and freedoms, including the reasons for expulsion. Under Article 7(1) of the Act on *foreigners*, an authority conducting the proceedings on obliging a foreigner to return or performing investigation activities with respect to a foreigner instructs the foreigner in writing in a language he understands about the rules and the procedure and his rights and obligations. Pursuant to Article 304 of the above-mentioned Act, the authority that conducts the proceedings on the issue of the decision imposing the return obligation on a foreigner shall provide a foreigner who does not have sufficient command of the Polish language with the assistance of an interpreter. The authority that issued the decision imposing the obligation to return on a foreigner shall provide oral or written translation of the grounds for the decision, the decision and the instruction on available appeal against the decision into a language understood by the foreigner. Furthermore, pursuant to Article 328 of the Act, the authority that conducts the proceedings on the issue of the decision on imposing the return obligation on a foreigner shall inform a foreigner about non-governmental organisations that provide assistance to foreigners, including legal assistance.

127. The Act also introduced amendments with respect to the use of detention measures towards foreigners (guarded centre for foreigners and pre-trial detention centre for foreigners), including the

possibility for the competent authorities of the Border Guard to release foreigners from the guarded centres and pre-trial detention centres for foreigners at the request of a foreigner or ex officio, without the need to apply to the court, and the introduction of measures alternative to detention of a foreigner (the decisions in this regard issued by the authorities of the Border Guard and by district courts) in the form of an obligation to appear at specified intervals at the authority of the Border Guard, an obligation to pay a monetary deposit of a specified amount, not lower than double minimum remuneration specified in the provisions on minimum remuneration for work, and obligation to submit the travel document to deposit to a specific authority, an obligation to reside at a specific place until the decision imposing the return obligation on the foreigner is enforced.

128. Finally, the provisions of the said Act transposed the following into the national legal system: 15 EU directives, including Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 *on common standards and procedures in Member States for returning illegally staying third-country nationals*. The Directive abandons the previous institution of forced removal of foreigners and puts an emphasis on voluntary return of illegally staying third-country nationals to their countries of origin. Taking into account the solutions established at the level of the EU law, the new act stipulates that foreigners shall receive a single removal order, i.e. decision imposing the return obligation on a foreigner.

129. Since the Act on foreigners transferred the competences related to granting the so-called protection against removal to the exclusive competence of the Border Guard authorities, in April 2014 the coordinators for protection against removal of foreigners from the territory of the Republic of Poland were appointed in all branches of the Border Guard and in the Specialist Training Centre of the Border Guard in Lubań and the national coordinator for protection against removal was appointed at the National Headquarters of the Border Guard. The tasks of the coordinators include the extension of knowledge on application of the provisions of the *Convention for the Protection of Human Rights and Fundamental Freedoms* and the case law of the Court in the extent necessary to conduct proceedings which may end with granting protection against removal to a foreigner. The coordinators also perform an advisory role in identifying the reasons for granting such protection to foreigners and conducting administrative proceedings in cases involving the granting of protection to foreigners, and also a supportive role in obtaining and verifying information about the countries of origin of foreigners, with a particular attention paid to the social and political situation and observance of human rights in the countries of origin of foreigners.

130. Furthermore, the *Rules of procedure followed by the Border Guard with respect to foreigners who are vulnerable persons* were implemented. The document was approved by the Deputy Commander-in-Chief of the Border Guard on 17 September 2015. The document has been drawn up, because the provisions of the Act of 12 December 2013 *on foreigners* do not include the definition of vulnerable persons, and do not specify the methods for their identification and the procedure to be followed with respect to such persons. The category of such persons is provided for in Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 *on common standards and procedures in Member States for returning illegally staying third-country nationals*. The document replaced the document entitled *Algorithm of conduct of the Border Guard with respect to foreigners who are vulnerable persons*, which had been in force since February 2015. In October 2017, a decision was made to include the so-called observation sheets in the procedure described above. The observation sheet are the outcome of cooperation with the Różnosfera Foundation under the project entitled *I see, I help – integration and development of actions and*

procedures of the Office for Foreigners and the Border Guard regarding comprehensive identification of vulnerable persons among persons seeking international protection within the territory of the Republic of Poland. Observation sheets will be filled in by social carers as part of their monitoring/observation of vulnerable persons. The important aspect is that the sheets will include observations of not only the social carers, but also of other persons working at the centre and having contact with the foreigners.

131. Pursuant to Article 70(1) of the *Act on granting protection to foreigners within the territory of the Republic of Poland*, the Head of the Office for Foreigners may provide assistance in voluntary return. Pursuant to Article 75 of the abovementioned Act, assistance may be provided to the foreigner to whom a decision was issued on discontinuation of proceedings for granting of international protection in the case referred to in Article 40(1)(1), i.e. to a foreigner applying for international protection, who resigned from applying for international protection after submitting the application. Assistance in voluntary return may be provided once in 2 years and includes covering the costs of travel of the foreigner, covering the administrative fees related to obtaining a travel document and the required visas and permits, covering the costs of board during travel and covering the cost of medical care during travel.

132. The Act of 2 April 2009 on Polish citizenship (Dz.U. of 2017, item 1462), which regulates the rules, conditions and procedure for acquiring and losing the Polish citizenship, entered into force on 15 August 2012. Pursuant to the above Act, each foreigner may apply for the Polish citizenship to the President of the Republic of Poland (Article 18 and 19(1) of the Act). The application for Polish citizenship is submitted via a voivode or a consul, in person or by correspondence, with an officially certified signature. The abovementioned authorities transfer the application along with their own opinion to the President of the Republic of Poland via the minister competent for internal affairs, who also prepares an opinion on the application, based on, among others, the information obtained by way of consultation with the authorities specified in the Act. The voivode, consul and minister competent for internal affairs transfer the application for Polish citizenship directly to the President of the Republic of Poland in each case when the President makes such decision, regardless of the stage of proceedings. In line with Article 137 of the Constitution of the Republic of Poland, granting Polish citizenship falls under the exclusive competence of the President of the Republic of Poland. The President of the Republic of Poland grants Polish citizenship or refuses to grant this citizenship by way of decision. A foreigner acquires Polish citizenship on the day on which the President of the Republic of Poland issues a decision on granting of Polish citizenship.

133. Apart from the above procedure, the provisions of the *Act on Polish citizenship* stipulate that a foreigner may acquire Polish citizenship by being recognized as a Polish citizen. The relevant decision is issued, at the request of the person concerned, by the voivode competent for the place of residence of the foreigner. Pursuant to Article 30(1) of the above-mentioned Act, the following persons are recognized as Polish citizens:

(1) a foreigner residing continuously on the territory of the Republic of Poland for at least 3 years, pursuant to a permanent residence permit, a long-term EU-resident permit or permanent residence right, having a stable and regular source of income in the Republic of Poland as well as a legal title to the living premises;

(2) a foreigner residing continuously on the territory of the Republic of Poland for at least 2 years, pursuant to a permanent residence permit, a long-term EU-resident permit or permanent residence right, who:

(a) has been married to a Polish citizen for at least 3 years, or

(b) has no citizenship;

(3) a foreigner residing continuously on the territory of the Republic of Poland for at least 2 years, pursuant to a permanent residence permit obtained because of having a refugee status granted in the Republic of Poland;

(4) a minor foreigner residing on the territory of the Republic of Poland pursuant to a permanent residence permit, a long-term EU-resident permit or permanent residence right, whose one parent is a Polish citizen, whereas the other parent, not being a Polish citizen, has given consent to the citizenship recognition of the minor;

(5) a minor foreigner residing on the territory of the Republic of Poland pursuant to a permanent residence permit, a long-term EU-resident permit or permanent residence right, whose at least one parent had the Polish citizenship restored, whereas the other parent, not being a Polish citizen, has given consent to the citizenship recognition of the minor;

(6) a foreigner residing continuously and legally on the territory of the Republic of Poland for at least 10 years, who fulfils jointly the following conditions:

(a) is a holder of a permanent residence permit, a long-term EU-resident permit or permanent residence right;

(b) has a stable and regular source of income in the Republic of Poland as well as a legal title to the living premises;

(7) a foreigner residing continuously on the territory of the Republic of Poland for at least a year, pursuant to a permanent residence permit obtained in relation to his/her Polish origin or having the Polish Card.

A foreigner applying for Polish citizenship, excluding a minor, must have the command of Polish confirmed by an official certificate, a report from a Polish school or a report from a foreign school where Polish is the language of instruction.

134. Administrative decisions on recognition as a Polish citizen are subject to means of appeal provided for in the Code of Administrative Procedure and to control of administrative courts. This procedure allows foreigners residing in Poland based on residence permits for an unspecified period of time and having the command of Polish to acquire Polish citizenship. The recognition as a Polish citizen, entailing the necessity to fulfil specific requirements by the persons concerned, ensuring at the same time the court and administrative control of the issued decisions, is supplementary to the main form of acquiring Polish citizenship by a foreigner by way of granting the citizenship by the President of the Republic of Poland, which does not depend on fulfilment of any requirements related to legal status, the period of stay in Poland, the form of stay, etc. by the foreigners.

135. The freedom of assembly is guaranteed in Article 57 of the Constitution of the Republic of Poland, pursuant to which the freedom of peaceful assembly and participation in such assemblies shall be ensured to everyone. Limitations upon such freedoms may be imposed by an act. The term

“shall be ensured to everyone” allows to conclude that the purpose of the legislator was to stipulate that all legal entities have the right to freedom of assembly.

136. Detailed issues related to organisation of assemblies were regulated in the Act of 24 July 2015 – *Law on assemblies* (Dz.U. item 1485, as amended). It must be emphasized that the provisions do not restrict the right to use the freedom of assembly on grounds of nationality, ethnic origin or worldview.

Economic, social and cultural rights

137. As a result of amendments to the law in the years 2012-2015, pursuant to Article 5 of the Act of 12 March 2004 *on social assistance* (i.e. Dz.U. 2016, item 930, as amended), the right to social assistance benefits, unless international agreements stipulate otherwise, is currently vested in:

- holders of Polish citizenship, having the place of residence and staying on the territory of the Republic of Poland;
- foreigners having the place of residence and staying on the territory of the Republic of Poland:
 - on the basis of a permanent residence permit, a residence permit for a long-term resident of the European Union, a temporary residence permit granted in connection with the circumstances referred to in Article 159(1)(1)(c) or (d) or in Article 186(1)(3) of the Act on foreigners, or in connection with obtaining a refugee status or subsidiary protection in the Republic of Poland;
 - in relation to obtaining consent for stay for humanitarian reasons or consent for tolerated stay in the Republic of Poland – assistance in the form of shelter, meal, necessary clothes and special purpose benefit;
 - citizens of the EU Member States, EFTA member countries – parties to the European Economic Area Agreement or Swiss Confederation having their place of residence and residing on the territory of the Republic of Poland and members of their families within the meaning of Article 2(4) of the Act *on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members*, having the residence right or the right to permanent residence on the territory of the Republic of Poland.”

138. Furthermore, pursuant to Article 5a of the Act *on social assistance*, the right to benefits in the form of crisis intervention, shelter, meal, necessary clothing and special purpose benefit is granted to foreigners staying on the territory of the Republic of Poland based on the certificate referred to in Article 170 of the Act *on foreigners* (i.e. certificate confirming that a given person is a victim of trafficking in human beings), or based on a permit referred to in Article 176 of the Act *on foreigners* (temporary residence permit for victims of trafficking in human beings).

139. Foreigners who have a refugee status or subsidiary protection status in Poland, who are not insured obligatorily (e.g. not employed, not having an unemployed status) or voluntarily because of very low income, have, pursuant to the Act of 24 August 2004 *on health care benefits financed from public funds* (i.e. Dz.U. 2016, item 1793, as amended), the right to use all health care benefits financed from public funds (state budget), the same as the insured persons. The necessary

requirement, as in the case of Polish citizens, is to reside on the territory of the Republic of Poland and to fulfil the income criterion, laid down in the provisions on social assistance.

140. The right to health care benefits financed from public funds is granted also to children under 18 years of age, who have a refugee status or subsidiary protection status in the Republic of Poland, or have a temporary residence permit granted for the purpose of family reunification, in this case a foreigner residing on the territory of Poland in relation to having received a refugee status or a subsidiary protection status. The right to free-of-charge health care services is also available to persons who are pregnant, are about to deliver a child or are during their confinement period, who obtained a refugee status or subsidiary protection status, or a temporary residence permit for the purpose of family reunification in Poland.

141. Thus, foreigners covered by international protection, who are not subject to compulsory health insurance or cannot insure themselves voluntarily due to low income, were granted the same rights as Polish citizens in an analogous legal (no entitlement to be covered by compulsory health insurance), financial and health-related situation.

142. Foreigners legally residing/staying on the territory of the Republic of Poland, who fulfil the conditions for being covered by compulsory health insurance or who insure themselves voluntarily, have the same rights to use the system of universal health insurance in Poland as Polish citizens covered by compulsory health insurance or who insure themselves voluntarily. The family members of those persons may also be insured.

143. The non-insured persons, including third country nationals residing/staying on the territory of the Republic of Poland (including persons covered by international protection), have in Poland the right to free-of-charge health care services (financed from public funds) related to treatment of addiction to alcohol, drugs and psychoactive substances, treatment of mental diseases and treatment of infectious diseases. They also have the right to free-of-charge medical care provided by medical rescue teams, if their health or life is in danger.

144. The restrictions on access to health care services financed from public funds apply to foreigners with an unregulated residence status on the territory of the Republic of Poland. However, such persons receive medical assistance in the case of sudden illness and threat to their life or health – thus their humanitarian rights are guaranteed.

145. Pursuant to Article 73(2) of the Act *on granting protection to foreigners within the territory of the Republic of Poland*, the Office for Foreigners signed, on 30 June 2015, a civil law contract with a medical operator for the provision of medical care services for foreigners applying for protection on the territory of the Republic of Poland. The medical care services are provided at medical points in all centres for foreigners. Each point employs a physician, a nurse and a psychologist who provide basic medical care and refer patients to specialist examinations. Medical care for foreigners living far from the centres for foreigners is provided at establishments in voivodeship cities.

146. All persons staying at guarded centres and pre-trial detention centres for foreigners are provided with health care services financed by the Border Guard. Public Health Care Centres of individual branches of the Border Guard are responsible for the quality and organisation of the provided health care services. The services are provided by the personnel of the Centres or by external entities based on a civil law contract. The access to (basic and specialist) medical assistance at guarded centres for foreigners, which is provided to foreigners, is the same in terms of access

procedure (several stages of access to specialist services) and quality as the medical assistance available to the citizens of the Republic of Poland.

147. Pursuant to the Act of 12 December 2013 *on foreigners*, a foreigner admitted to a guarded centre or a pre-trial detention centre for foreigners is immediately subject to medical examination and undergoes sanitary procedures, if necessary. One of the rights of foreigners is the right to use health care and be placed at a health care centre, if it is required because of their health status. Pursuant to § 25 of the Rules of organisation and order governing the stay of foreigners at a guarded centre or a pre-trial detention centre for foreigners, constituting an annex to the Ordinance of the Minister of the Interior of 24 April 2015 *on guarded centres and pre-trial detention centres for foreigners*, a foreigner is subject to medical control examinations at least once in three months and right before his/her release, and, if possible, when the foreigner must be transported to another place.

148. The consultations with a psychologist take place based on referral by a physician or instruction of a social carer or return carer, or at the request of the foreigner concerned. Furthermore, education and instruction teams of the guarded centres employ psychologists of the Border Guard who were trained in identification of vulnerable persons by specialists in the field. In addition, twice a week (or more often, if necessary) the foreigners may also consult a psychologist employed under a contract of mandate. A foreigner may be classified as a vulnerable person at any moment of his/her stay at a guarded centre.

149. In order to improve the situation of foreign children who undergo compulsory schooling, the Office for Foreigners suggested to introduce amendments in the education law concerning the first stage of education of foreigners at school. The issues were regulated in the Ordinance of the Minister of National Education of 9 September 2016 *on education of persons who are not Polish citizens or persons who are Polish citizens and were educated at schools functioning within the educational systems of other countries*. The Ordinance introduced a possibility to organise a preparatory branch at school for pupils/students who do not speak Polish or their command of Polish is insufficient to use the education services and require adjustment of the education process to their educational needs and to adjust the organisational form supporting the effectiveness of their education. Currently, those issues are regulated in the regulation of the Minister of National Education of 23 August 2017 *on education of persons who are not Polish citizens or persons who are Polish citizens and were educated at schools functioning within the educational systems of other countries*.

150. Foreign children attending kindergartens, primary schools and secondary schools, who are subject to proceedings for granting of international protection, receive free textbooks (this applies to pupils who do not receive textbooks from their school financed from a special purpose grant of the state budget), other materials and necessary learning aids. The Office for Foreigners covers also, to the extent possible, the costs of extra classes and recreation and sport activities for children. The Office also provides Polish lessons for children in the form of help in doing homework and compensatory classes. Usually at every centre for foreigners there are two groups of younger children and one group of older children covered by the abovementioned support. Each of those groups receives 5 hours of Polish lessons a week. The number of hours increases gradually.

151. Public schools follow the same procedure when preparing all students to select their future professional career. The vocational education system in Poland ensures in practice equal access to

education. There are no restrictions on access to counselling on the choice of career and further education.

152. The Minister of Culture and National Heritage supervises the state-owned and co-owned cultural institutions, such as dramatic theatres, philharmonics, opera theatres, contemporary art galleries, libraries, museums, as well as interdisciplinary institutions, such as art centres and creative work centres. At those institutions, equal treatment principles in all fields of activity constitute the basis for shaping the social coexistence principles. Full, non-discriminatory and public access to cultural and educational offer of those institutions is also a standard. Some institutions which perform their statutory tasks within one field, e.g. music, inform that due to specificity of their activities they do not include special actions aimed specifically at implementing and promoting the above values as part of their thematic programme. However, their programme offer, including educational offer, is prepared in line with the principles of equality before the law, non-promotion of xenophobic attitudes and negative stereotypes with respect to national and ethnic minorities, skin colour, religion, etc.

153. In the context of fight against all forms of discrimination, it should be emphasized that thematic programmes of some cultural institutions were prepared in a way directly addressing the concept of equality and cooperation between nations and cultures. The Minister of Culture and National Heritage, as the co-organiser, provides funds for the functioning of two such institutions, i.e. The Centre “Borderland of Arts, Cultures and Nations” in Sejm and The Centre for Theatre Practices Gardzienice. Their statutory tasks refer directly to multiculturalism and to forms of international contacts and cooperation on a local and supralocal scale.

154. At the same time, theatres, opera houses and philharmonics, as well as galleries and art centres reporting to the Ministry of Culture and National Heritage employ (under employment contracts and temporary contracts) foreign artists from various fields – musicians, dancers, singers, conductors, also at managerial posts.

155. The Ministry of Culture and National Heritage makes every effort to counteract all forms of discrimination, including racial discrimination, in its activities. The main document defining the priorities of the Ministry’s policy by 2020, i.e. *Social Capital Development Strategy 2020*, adopted the following as one of seven horizontal principles to be taken into account during implementation of all objectives, priorities and directions: “combating all forms of discrimination on grounds of sex, age, race, skin colour, ethnic or social background, genetic traits, language, religion or beliefs, political views or any other views, being a member of a national minority, economic status, birth, disability, age or sexual orientation.”

156. Furthermore, each year the Minister of Culture and National Heritage announces calls for proposals for the Minister’s programmes (it is a type of financial support) for tasks related to artistic creation and cultural education, literature and reading promotion, cultural heritage and infrastructural programmes and others. The beneficiaries of the Minister’s programmes may also be organisations or minority associations which perform the above activities. For example, the support under the programme of the Minister of Culture and National Heritage entitled *Music* was granted to the Shalom Foundation, the Association of Roma Culture Artists and Friends or the Association “Jewish Culture Festival” in Kraków.

157. At the same time, the Ministry of Culture and National Heritage, under the following two programmes of the Minister, i.e.:

1. *Support for care over places of remembrance and permanent commemorations in Poland*
 2. *Support for local government cultural institutions – guardians of the places of remembrance*
- offers a possibility for organisations, associations, foundations of national and ethnic minorities, cultural institutions and local government units to apply for funding for projects concerning places of remembrance that are of importance for the minorities. Applications submitted to the programmes may concern „initiatives aimed at preserving the identity of national and ethnic minorities.”

Article 6

158. Implementing the tasks imposed by the *Act on implementation of certain EU provisions on equal treatment*, in particular with respect to monitoring of the situation concerning the observance of the equal treatment principle, the Government Plenipotentiary for Equal Treatment undertakes actions based on requests and information from citizens, groups of citizens or non-governmental organisations. Regardless of the received requests, the Plenipotentiary intervenes into some matters upon own initiative or based on media reports. The Plenipotentiary conducts certain cases suggesting e.g. amendments to the existing legislation or requesting to abandon discriminatory activity, in other cases the Plenipotentiary explains to the applicant the available legal remedies or options for taking action. The Plenipotentiary transfers some cases to be examined by the authorities responsible for taking relevant actions or providing the relevant information, requesting them to provide the relevant clarifications on a given matter.

159. Requests, complaints and letters submitted to the Government Plenipotentiary for Equal Treatment are classified according to the grounds of discrimination (areas of discrimination). In 2012 their number was 460, in 2013 – 566, in 2014 – 377, in 2015 – 365, and in 2016 – 127. In 2017 (from 1 January to 15 October), 143 cases were submitted. The cases classified into the “national and ethnic origin” category accounted for approx. 3% of all cases in the years 2013-2015, and for 7.8% cases in 2016. Four such cases were received between January and 15 October 2017. The cases classified into the “race” category were isolated cases in subsequent years (from 1 to 3, except for 2012, when there were 9 such cases). The largest number of cases still concerns discrimination on the grounds of sex, disability and age.

Article 7

160. The issues concerning the respect for and protection of human rights, as well as tolerance and multicultural dialogue, are included in the current core curriculum of general education and in the new core curriculum which will be implemented successively in primary schools starting from the 2017/2018 school year, and in secondary schools from the 2019/2020 school year.

161. The educational system also develops cultural competences and animates leisure time of children and youth by implementing the tasks specified for non-school care centres (youth clubs, youth cultural centres, interschool sports centres, non-school work centres, playgrounds for children and non-school specialist centres) and school youth shelters. Through systemic implementation of educational, upbringing, cultural, preventive, care, health-promoting, sports and recreational tasks, those institutions contribute to promoting the attitudes of openness, including anti-discriminatory attitudes. In 2016, the Minister of National Education recommended that during organisation of

holidays for children and youth priority should be given to i.a. activities promoting compliance with social and cultural values to inspire the participants to follow those values in their everyday life.

162. In addition, the Ministry promotes the development of social and citizen competences of the teaching staff by implementing the project called *School of Democracy - School of Self-Government*, based on the publication entitled *Citizen education and education for human rights*. One of the competences developed in teachers is counteracting all form of discrimination (*Strategies to counteract all forms of prejudice and discrimination and promoting anti-racist attitudes*). The trainings for teaching staff covered topics related to elimination of inequality and discrimination at school. Between September and December 2014, 64 trainings were delivered for 1327 persons, while between March and May 2015 there were 11 trainings for approx. 130 persons.

163. In 2014, the Ministry of National Education, in cooperation with the Anti-discrimination Education Association and the Stefan Batory Foundation organised the conference entitled *School without discrimination – safe school*, addressed to 80 teachers, representatives of the education community from all over Poland. The participants discussed how to implement anti-discriminatory activities addressed to the entire school community, as well as how to combine prevention of discrimination with the solutions aimed at ensuring the safety of pupils and students. During the workshop session, the experts, representatives of non-governmental organisations presented the examples of good practices and educational materials to counteract discrimination, hate speech and violence motivated by prejudice.

164. In February 2017, the training entitled *To learn, to understand, to accept*, addressed to consultants/specialists from teacher continuous education establishments, advisors and teachers interested in the subject was organised. The purpose of the training was to raise awareness of the community about issues related to education for equality, anti-discrimination, intercultural and citizen education, as well as education on human rights.

165. The project called *Diversity among/in us*, started in June 2014, was aimed at building the Polish Intercultural Competence Framework for the education system. The Polish Framework is to constitute a comprehensive, coherent system of concepts, objectives, standards, regulations, programmes for education and training of teaching staff and guidelines for schools and the school-related environment to develop intercultural competences of pupils and students at all levels of education, within the framework of formal education. The Framework is to prepare the young generation to co-existing a culturally and ethnically diverse world. The following action were completed in relation to the project implementation:

- the Council of Europe’s publication entitled *Intercultural competence for all* was translated into Polish;
- an interdisciplinary team of experts for intercultural education was established to develop the Polish Intercultural Competence Framework for the education system. The team consists of representatives of various circles involved in intercultural education, including the Ministry of National Education, the Office of the Government Plenipotentiary for Equal Treatment, headmasters of schools, including intercultural schools, teaching consultants and advisors employed at teacher training institutions, academic staff dealing with such issues, non-governmental organisations and intercultural education practitioners. Thus far two seminars dedicated to the work of the team have been organised;

- in 2015, trainings for 16 regional coordinators for intercultural education, preparing them to run a network supporting the schools in 16 regions of Poland were conducted;
- in 2016, 14 trainings entitled *Intercultural and anti-discriminatory education. Diversity among/in us* for 203 teachers were organised.

166. Within the reporting period, numerous trainings on counteracting discrimination and promoting tolerance were organised also at public institutions. Equal treatment is one of the training blocks during preparatory service at the civil service.

167. The Order No 19/16 of 14 April 2016 of the General Director of the Prison Service *on detailed rules of performing and organising penitentiary work and the scopes of activities of officers and employees of penitentiary and therapeutic wards* introduced for the first time a provision on conducting activities aimed at shaping appropriate mutual relations between the inmates and officers in prisons, due to the need to integrate and promote tolerance towards cultural and religious diversity. The part regulating penitentiary activities with respect to inmates who are foreigners and inmates with disabilities includes the following:

- counteracting social marginalisation of culturally diverse people and undertaking anti-discriminatory actions through active involvement in cultural, educational and sports activities, employment and vocational training which are available to all inmates;
- rehabilitation activities promoting tolerance and allowing to get to know other cultures and customs, addressed to inmates from various cultural circles;
- organisation of educational activities aimed at promoting knowledge on human rights and prohibition of any discrimination on the grounds of sex, age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, religious convictions, sexual orientation.

168. Within the reporting period, penitentiary establishments regularly implemented programmes including the issues of intercultural integration, tolerance, human rights, international standards and counteracting racial discrimination, xenophobia and the related intolerance. Over 14,000 inmates in total took part in those programmes from January 2012 to the end of July 2017. The above programmes are targeted at specific groups of persons deprived of liberty and aimed at promoting tolerant attitudes, teaching convicts non-aggressive methods of solving conflicts and respecting other people's rights. Disciplinary measures are taken against inmates infringing social standards in this respect.

169. Anti-discriminatory content is also included in the programmes of trainings for officers, ensigns and junior officers of the Prison service. Psychologies also conduct situational workshops attended by all participants of vocational and specialist trainings. During the workshops, the officers learn how to act when confronted with diversity, how to understand and tolerate it, and practice interpersonal contacts in the spirit of tolerance and acceptance. The trainings for penitentiary personnel of penitentiary establishments disseminate knowledge on rights of inmates, prohibition of discrimination based on i.a. ethnic origin, religious beliefs, sex or sexual orientation. During the courses for the position of an educator or a senior educator, the problems of physical and psychological violence, including the behaviour and attitudes resulting from racial differences, are discussed in detail and presented during workshops.

170. In the years 2014-2016, the General Headquarters of the Border Guard and the Office for Foreigners jointly implemented the project entitled *Increase of competences and qualifications of public services in the scope of asylum and migration, with particular interest in the field of counteracting illegal migration* from the funds provided by the Norwegian Financial Mechanism 2009-2014. Under the project, the employees of the Office and an officer from the Border Guard took part in a series of trainings on social and cultural aspects of communication with foreigners from selected countries (5 editions for various regions of the world) and on shaping and developing intercultural competences. In the first quarter of 2017, intercultural competence trainings, co-financed from the Swiss funds, were organised for the employees of the Office.

171. The programme of basic training for newly employed Border Guard officers, as well as the programme of training from the scope of junior officer school, include (as part of *Professional ethics* and *Basics of social communication*) issues related to protection of human rights, shaping of anti-discriminatory attitudes and basics of intercultural communication. In addition the Specialist Training Centre of the Border Guard in Lubań runs numerous trainings and workshops on multiculturalism, equal treatment, strategy of communication with foreigners, shaping and developing intercultural competences, as well as social and cultural aspects of communication with foreigners from selected regions of the world - countries where migrants come from. The trainings also cover such topics as international protection of foreigners, identification and procedure to be followed in contacts with persons from vulnerable groups (including unaccompanied minors, persons with physical or mental disabilities, elderly persons, pregnant women, single parents, victims of trafficking in human beings, chronically ill persons, persons subject to tortured, persons subject to mental and/or physical violence, including sexual violence, and victims of violence due to their sex, race, sexual orientation and/or gender), solving conflicts in relations between officers and foreigners, or team management in emergency situations related to foreigners.

172. The trainings which included the issues within the scope of counteracting racial discrimination, xenophobia and related intolerance were also attended by the Customs Service officers. The programme of the training, which is compulsory for each officer, includes the issues related to stereotypes and prejudice, as well as counteracting discrimination, racism, xenophobia and intolerance. In addition, in the second half of 2013, customs chambers began to implement the module entitled *Behaviour culture of an officer/employee as an element of the service/work at the Customs Service*, including classes on counteracting racial discrimination, xenophobia and intolerance. The trainings covered all officers in permanent service who have contacts with external customers.

173. To combat prejudices leading to racial discrimination and to support mutual understanding and tolerance, the National Broadcasting Council, performing supervision stemming from the Act of 29 December 1992 *on radio and television* (i.e. Dz.U. 2017 item 1414), conducts investigation proceedings based on complaints and requests submitted to the Council and concerning dissemination of discriminatory content. Such proceeding were conducted also in the reporting period and concerned, among others, the charges of dissemination of discriminatory content on the grounds of race, national origin or religious beliefs. In the proceedings confirmed the charges, fines were imposed on broadcasters. Another form of supervision comprises systematic controls of radio and television programmes. Between January 2012 and April 2017, 136 radio programmes and 59 television programmes were controlled. Each monitored material consisted of 168 hours. No content that could be deemed discriminatory on the grounds of race was found in any of the programmes.

174. The National Broadcasting Council also monitors whether public broadcasters comply with the statutory obligation to “take into account the needs of national and ethnic minorities, as well as the community speaking the regional language, including broadcasting news in languages of national and ethnic minorities, and in the regional language” (Article 21(1a)(8a) of the Act *on radio and television*). In 2016 alone, regional programmes of the public radio included approx. 100 hours of programmes aimed at promoting tolerance by means of presenting the customs, traditions and history of Ukrainian, Belarussian, German, Lithuanian, Roma, Lemko and Jewish minorities and by broadcasting programmes addressed to those communities. In 2016, in the public television programmes (mainly regional) such broadcasts lasted 175 hours.